#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
950	School as Lender Change	<u>3.2 Schools Acting as Lenders</u> <u>3.8.A Annual Compliance Audits</u> Revised policy clarifies that a school lender makes loans only to students enrolled at that school; that the proceeds used for need-based grants exclude reimbursement of reasonable and direct administrative expenses which do not include costs associated with securing financing, offering reduced origination fees, reduced interest rates to borrowers, or reduced default fees; and that the annual lender compliance audit is required for any fiscal year beginning on or after July 1, 2006.	Federal	In order for a school to participate as a lender, the school must have met eligibility criteria as of February 7, 2006, and must have made a FFELP loan(s) on or before April 1, 2006. On or after July 1, 2006, existing school lenders must meet specific requirements.
951	Eligible Lender Trustee Relationships	<u>3.2 Schools Acting as Lenders</u> Revised policy adds a new subheading and text that addresses new and existing eligible lender trust (ELT) relationships with a school lender or an organization affiliated with the school.	Federal	Requirements regarding an eligible lender making or holding a FFELP loan as a trustee for a school or for an organization affiliated with a school are effective September 30, 2006. For loans disbursed on or after January 1, 2007, the lender, school, and school-affiliated organization involved in an existing Eligible Lender Trustee relationship must meet applicable school-as-lender requirements.
952	Telecommuni-cations Program of Study	<u>5.12.A Telecommunications Program of Study</u> <u>appendix G</u> Revised policy provides information regarding an exception to the accreditation requirements for certain distance education programs, clarifies the use of telecommunications technologies in a foreign school program for the purposes of Title IV eligibility, and modifies the definition of "telecommunications course."	Federal	Loans disbursed on or after September 8, 2006**.**

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
953	Defining an Academic Year	6.1 Defining an Academic Year figure 6-2 Frequency of Stafford Annual Loan Limits 6.11.A Stafford Annual Loan Limits Revised policy states that only *standard* term-based, credit-hour programs may use a scheduled academic year to determine the frequency of annual loan limits, and clarifies the effect of grade level progression in the middle of the academic year.	Federal	Publication date of the 2005-2006 *Federal Student Financial Aid Handbook*, unless implemented earlier by the school.
954	Stafford Annual Loan Limits for Transfer Students	6.1 Defining an Academic Year 6.11.A Stafford Annual Loan Limits Revised policy clarifies the annual loan limit calculation for students who transfer to a non-term or non-standard term-based credit hour program or clock-hour program, and for students who transfer to a standard term-based program.	Federal	Publication date of the 2005-2006 *Federal Student Financial Aid Handbook*, unless implemented earlier by the school.
955	Stafford Loan Limits	6.11.A Stafford Annual Loan Limits figure 6-4 Stafford Undergraduate Annual and Aggregate Loan Limits Revised policy updates the manual with the annual Stafford loan limits that become effective for loans first disbursed on or after July 1, 2007.	Federal	Stafford loans first disbursed on or after July 1, 2007.
956	Total and Permanent Disability Loan Discharges for Comakers and Endorsers	11.1.A General Deferment Eligibility Criteria 11.19 Forbearance 11.19.F Forbearance of Delinquent Loans 11.19.G Forbearance of Defaulted Loans 11.19.H Borrower Contact during Forbearance 11.19.I Establishing Repayment after Forbearance figure 11-2 11.20.P Total and Permanent Disability 11.8 Discharge 13.8.F Total and Permanent Disability Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan, when the lender	Federal	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		retains the loan and how the loan is serviced until an eligibility determination is final, and how the loan balance may be affected by the comaker's or endorser's final discharge.		
957	Discharging Underlying Loans of a Consolidation Loan	13.8 Discharge Revised policy requires that the lender of a Consolidation loan submit to the guarantor of the Consolidation loan a request for partial discharge of the portion of the Consolidation loan that represents any underlying loans that are eligible for discharge.	Federal	Partial discharge requests filed by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.
958	Recapture of Excess Interest	A.2 Special Allowance Revised policy requires lenders to remit excess interest to the Department on any loan, first disbursed on or after April 1, 2006, for any quarter in which the applicable interest rate on the loan exceeds the defined special allowance support level.	Federal	Effective for quarterly lender reporting and payment of excess interest on FFELP loans first disbursed on or after April 1, 2006.
959	Special Allowance	A.2 Special Allowance figure A-3 LaRS Special Allowance and Interest Rate Reporting for FFELP Loans Revised policy states that PLUS loans first disbursed on or after January 1, 2000, for any period prior to April 1, 2006, are only eligible for special allowance if the loan is accruing at the cap and the interest rate calculated prior to applying the cap exceeds the maximum interest rate for the loan.	Federal	Special allowance payments made on or after April 1, 2006.
960	Excess Interest Calculation	A.2.A Special Allowance Rates Revised policy includes formulas and explanations of the calculation of excess interest to be remitted to the Department by a lender.	Federal	Effective for the quarterly calculation of excess interest to be remitted by lenders on FFELP loans first disbursed on or after April 1, 2006.

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
961	Waiver for Deferment-Active Duty and Military ***Deferred for further development***	H.4 Statutory and Regulatory Waivers Figure H-2 Revised policy reflects waivers that are applicable to borrowers who have loans deferred by the Armed Forces deferment and the Military deferment.	Federal	Military deferment waivers granted on or after July 1, 2006.
962	Partial Discharge of a Consolidation Loan	15.5.F Delinquency, Default, and Claim Filing Revised policy acknowledges that in certain cases, a portion of a Consolidation loan may be discharged based on the total and permanent disability of one of the co-borrowers. Revised policy also provides information and cross-references regarding the circumstances under a Consolidation loan may be partially discharged or forgiven.	Correction	Closed school and false certification provisions retroactive to the implementation of the *Common Manual.* Teacher loan forgiveness provisions for Consolidation loans that do not include a FFELP or FDLP loan first disbursed before October 1, 1998. Death discharge provisions effective July 1, 2003. Unpaid school refunds granted on or after July 1, 2000, for loans disbursed in whole or in part on or after January 1, 1986. Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **School as Lender Change**

AFFECTED SECTIONS: **3.2 Schools Acting as Lenders**
3.8.A Annual Compliance Audits

POLICY INFORMATION: **950/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: In order for a school to participate as a lender, the school must have met eligibility criteria in effect on February 7, 2006, and must have made a FFELP loan(s) on or before April 1, 2006.

On or after July 1, 2006, existing school lenders must meet specific requirements.

BASIS:
Preamble to the *Federal Register* dated November 1, 2006, pages 64390-64391and 64399.

CURRENT POLICY:
Current policy requires an eligible school lender to comply with all of the following requirements:

- The school may make Stafford loans, subsidized or unsubsidized, only to graduate and professional students.
- The school must employ at least one person to administer financial aid programs at the school.
- The school must offer origination fees or interest rates, or both, that are less than the statutory maximums for those fees or rates for any loan first disbursed on or after July 1, 2006.
- The school must ensure that the proceeds from special allowance and interest payments and from the sale or other disposition of its FFELP loans are used to supplement non-federal funds that the school otherwise would use for need-based grants.
- The school must not be a home-study school.
- The school's cohort default rate may not exceed 10% for each of the two most recent fiscal years for which data are available.
- The school must award any contract for financing, servicing, or administering its FFELP loans on a competitive basis.
- The school must submit to the Department of Education an annual lender compliance audit of its lender function for any year in which it engages in any activities as a FFELP lender.

REVISED POLICY:
Revised policy clarifies language within these requirements to specify that the school lender makes loans only to students enrolled at that school; that the proceeds used for need-based grant programs exclude reimbursement of reasonable and direct administrative expenses which do not include costs associated with securing financing, offering reduced origination fees, reduced interest rates to borrowers, or reduced default fees; and that the annual lender compliance audit is required for each fiscal year beginning on or after July 1, 2006.

In addition, revised policy has added a paragraph to subsection 3.8.A, Annual Compliance Audits stating that for each fiscal year beginning on or after July 1, 2006, a school lender must submit an annual compliance audit on its FFELP lending activities.

REASON FOR CHANGE:
This change is made to comply with the regulatory changes published in, and guidance derived from the Preamble to the *Federal Register* dated November 1, 2006.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise section 3.2, page 2, column 1, paragraph 2, as follows:

Note: This subsection is also being updated by Proposal 951 within Batch 141.

3.2
Schools Acting as Lenders

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

- The school makes loans only to students enrolled at the school.
[HEA 435(d)(2)(A)(iii)(II); §682.601(a)(3)(iii)]

- The school makes only subsidized and unsubsidized Stafford loans.
[HEA 435(d)(2)(A)(iii)(II); §682.601(a)(3)(ii)]

- The school makes loans only to graduate and professional students.
[HEA 435(d)(2)(A)(iii)(I) and (III); §682.601(a)(3)(i)]

- The school employs at least one person whose full-time responsibilities are limited to the administration of the school's financial aid programs for students attending that school.
[HEA 435(d)(2)(A)(i); §682.601(a)(1)]

- The school offers an origination fee~~s~~ and/or interest rate~~s, or both,~~ that ~~are~~ is ~~less~~ lower than the statutory maximum~~s~~ for those fees or rates.
[HEA 435(d)(2)(A)(v); §682.601(a)(5)]

- The school uses the proceeds from its interest benefits and special allowance payments from the Department and from interest payments from its borrower, as well as proceeds from the sale or other disposition of its loans, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loans, and the cost of charging origination fees and/or interest rates that are lower than the statutory maximum for those fees or rates) for need-based grant programs, except for reimbursement of reasonable and direct administrative expenses. Administrative expenses do not include costs associated with securing financing or offering reduced origination fees, interest rates, or federal default fees to the school's borrowers. The school must ~~ensure~~ demonstrate that funds for need-based grants are used to supplement, rather than replace, the non-federal funds the school would otherwise use for need-based grant~~s~~ programs.
[HEA 435(d)(2)(A)(viii); HEA 435(d)(2)(B) and (C~~c~~); §682.601(a)(~~7~~8); (b)and (c)]

- The school is not a home-study school.
[HEA 435(d)(2)(A)(ii); §682.601(a)(2)]

- The school does ~~has~~ not ~~had~~ have a cohort default rate~~s~~ that exceeds 10%~~ for each of the two most recent fiscal years—unless it has received a waiver on this restriction from the Department.~~
[HEA 435(d)(2)(A)(vi); §682.601(a)(6)]

- The school awards any contract for financing, servicing, or administration of its FFELP loans on a competitive basis.
[HEA 435(d)(2)(A)(iv); §682.601(a)(4)]

- The school submits to the Department an annual lender compliance audit for ~~any~~ each fiscal year beginning on or after July 1, 2006, in which the school engages in

activities as an eligible lender. This requirement applies regardless of the size of the school's loan portfolio or annual loan volume. (See subsection 3.8.A for more information regarding the annual compliance audit.)
[HEA 435(d)(2)(A)(vii); §<u>682.601(a)(7)</u>]

Revise section 3.8.A, page 18, column 1, by adding a new paragraph 5, as follows:

3.8.A
Annual Compliance Audits

. . .

. . .

<u>For each fiscal year beginning on or after July 1, 2006, a school lender must submit an annual compliance audit that includes its FFELP lending activities regardless of the size of the school's loan portfolio or annual loan volume. A school lender subject to the Single Audit Act is required to include its FFELP lending activities in the annual audit and to include information on those activities in the audit report, whether or not the lending activities or the student financial aid programs are considered a "major program" under the Single Audit Act. Other school lenders must arrange for a separate audit of their lending activities using the Lender Audit Guide.</u>
<u>[HEA 435(d)(2)(A)(vii); §682.601(a)(7)]</u>

PROPOSED LANGUAGE - COMMON BULLETIN:
School as Lender Changes
The *Common Manual* has been revised to incorporate regulatory changes contained in, and clarifications from the Preamble to the *Federal Register* dated November 1, 2006, regarding the eligibility requirements for school as lender. Revised policy clarifies that:

- The school lender must make loans only to students enrolled at that school.
- The net proceeds used for need-based grants exclude the amount necessary for reimbursement of reasonable and direct administrative expenses and that the definition of administrative expenses does not include the costs associated with securing financing, offering reduced origination fees, interest rates, or federal default fees to borrowers.
- The annual lender compliance audit of the school's FFELP portfolio is required for each fiscal year beginning on or after July 1, 2006.

In addition, revised policy adds a paragraph to subsection 3.8.A, Annual Compliance Audits, stating that for each fiscal year beginning on or after July 1, 2006, a school lender must submit an annual compliance audit that includes its FFELP lending activities regardless of the size of the school's loan portfolio or annual loan volume that includes information on required annual compliance audits for Schools as Lenders.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
Graduate and professional student borrowers will be eligible for Stafford Loans offered by their school if it is an existing School Lender. Need-based grant aid at schools acting as FFELP lenders may increase.

School:
A school will not include costs associated with securing financing or offering reduced origination fees, interest rates, or default fees to the school's borrowers for reimbursement of reasonable and direct administrative expenses. A school must demonstrate that funds for need-based grants are used to supplement, rather than to replace, the non-federal funds the school would otherwise use for need-based grants. A school acting as a lender must schedule and have performed an annual lender compliance audit of its administration of the FFELP, regardless of its loan volume.

Lender/Servicer:
None.

Guarantor:
The guarantor may be required to amend program review parameters.

U.S. Department of Education:
The Department may be required to amend its program review parameters. The Department may be required to update the A-133 report for use by schools acting as lenders or may be required to track receipt and its own review of the annual compliance reviews submitted by schools.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
October 17, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

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

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language, and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
Two commenters requested adding page 64399 of the Preamble to the *Federal Register* dated November 1, 2006, to the basis.

Response:
The Committee agrees.

Change:
The basis has been revised as requested.

COMMENT:
Two commenters requested that a note be added to the proposed language stating that this subsection is also being amended by proposal 951 included with this batch.

Response:
The Committee agrees.

Change:
The note has been added.

COMMENT:
Several commenters requested placing the word “must” within each bullet to qualify that each of the criteria are mandated and not optional.

Response:
The Committee appreciates the commenters' word smithing intentions; however, the first paragraph of this subsection states that the eligible school must meet all of the following criteria. Adding must to each bullet would be repetitive.

Change:
None.

COMMENT:
Several commenters requested correcting the regulatory cites in section 3.2, page 2, column 1, paragraph 2, bullet 2 to §682.601(a)(3)(ii)] and bullet 3 to §682.601(a)(3)(i~~i~~)].

Response:
The Committee agrees.

Change:
The regulatory cites have been corrected.

COMMENT:
Several commenters requested revising the regulatory citations listed under section 3.2, page 2, column 1, paragraph 2, bullet 6 for more direct citations and accuracy. Several commenters noted that §682.601(b)(9) is an invalid citation.

Response:
The Committee agrees.

Change:
The citations have been revised as follows:

> [HEA 435(d)(2)(A)(viii); HEA 435(d)(2)(B) and (C~~c~~); §682.601(a)(~~7~~8), (b)~~(9)~~and (c)].

COMMENT:
One commenter suggested revision of section 3.2, page 2, column 1, paragraph 2, bullet 5, as follows

- The school offers an origination fee~~s~~ and/or interest rate~~s, or both~~, that ~~are~~ is ~~less~~ lower than the ~~statutory~~ maximum~~s~~ ~~for those fees or rates~~ provided in the HEA.
  [HEA 435(d)(2)(A)(v); §682.601(a)(5)]

The commenter felt this revision more clearly and precisely conveyed the intent of the HEA.

Response:
The Committee feels that it is implicit that the maximum rates are provided for in the HEA when we describe them as statutory and support them by citations. *Common Manual* convention is to avoid incorporating verbiage such as "as set forth in regulations" or "as provided for in the Act" when supporting citations are included. However, the Committee did incorporate other word smithing recommendations.

Change:
The text has been revised as follows:

- The school offers an origination fee~~s~~ and/or interest rate~~s, or both~~, that ~~are~~ is ~~less~~ lower than the statutory-maximum~~s~~ for those fees or rates.
  [HEA 435(d)(2)(A)(v); §682.601(a)(5)]

COMMENT:
Three commenters noted that the text in section 3.2, page 2, column 1, paragraph 2, bullet 6 did not include the programmatic expenses that may be excluded from proceeds before deducting reasonable and direct administrative expenses. This clarification was provided by the Department in the preamble language to the November 1, 2006 final rule (page 64390). Each commenter provided language and word smithing suggestions they felt more accurately reflected regulatory intent. In addition, one of these

commenters noted that current manual language refers to need based grant programs, not need based grants.

Response:
The Committee agrees that the proposed language should be clarified to more accurately reflect regulatory language.

Change:
The text has been revised as follows:

- The school uses the proceeds from its interest benefits and special allowance payments from the Department and from interest payments from its borrowers, as well as proceeds from the sale or other disposition of it loans, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loans, and the cost of charging origination fees and/or interest rates that are lower than the statutory maximum for those fees or rates), for need based grant programs, except for reimbursement of reasonable and direct administrative expenses. Administrative expenses do not include costs associated with securing financing or offering reduced origination fees, interest rates, or federal default fees to the school's borrowers. The school must demonstrate that funds for need-based grant programs are used to supplement, rather than replace, the non-federal funds the school would otherwise use for need based grant~~s~~ programs.

COMMENT:
One commenter requested adding the work "net" to the second bullet of the common bulletin language to more accurately reflect regulatory language.

Response:
The Committee agrees.

Change:
The second bullet of the common bulletin language has been revised as requested.

COMMENT:
Several commenters noted that some of the language shown did not accurately reflect current *Common Manual* language with the changes in strike-out and underline.

Response:
The Committee agrees.

Change:
The language has been corrected to accurately reflect all current *Common Manual* language with strike-out and underline.

COMMENT:
Several commenters requested revising the phrase "for any year" to "for each fiscal year" to the policy language to clarify that the requirement for the annual lender compliance audit is based on the school lender's fiscal year as well as being effective July 1, 2006.

Response:
The Committee agrees.

Change:
The text has been revised as requested throughout the proposal.

COMMENT:
Two commenters requested revision to 3.2, page 2, column 1, paragraph 2, bullet 8 as follows:

- The school <u>does</u> ~~has~~ not ~~had~~ <u>have a</u> cohort default rate~~s~~ that exceed<u>s</u> 10% ~~for each of the two most recent fiscal years—unless it has received a waiver on this restriction from the Department.~~
  [HEA 435(d)(2)(A)(vi); §682.601(a)(6)]

Both commenters felt this more accurately reflects the language in the statutory and regulatory cites provided by the bullet.

One of these commenters also stated that the 10% rate is calculated under the cohort default rate provisions and has always erroneously been based upon the termination provisions in §682.608. The calculation in §682.608 is not the official cohort default rate calculation as it is based on the principal amount of loans, not on the number of borrowers. In face, this termination calculation remains at 15% as it was not changed due to HERA or the subsequent regulatory changes. They felt that this regulatory provision may need to be added to section 3.2.

Response:
The Committee agrees to strike the existing language to more accurately reflect the language in the statutory and regulatory cites. The Committee believes that adding regulatory citation dealing strictly with the official cohort default rate calculation in text that focuses on school lender participation may produce more confusion than benefit. Because the Committee has removed language that erroneously infers the termination provisions of §682.608, we believe that clarity is best preserved by citing regulation that set forth the cohort default rate threshold for school lender participation §682.601(a)(6). That regulation directly cross-references the official cohort default rate calculation described in subpart M of Part 668.

Change:
The language has been revised as follows:

- The school <u>does</u> ~~has~~ not ~~had~~ <u>have a</u> cohort default rate~~s~~ that exceed<u>s</u> 10%. ~~for each of the two most recent fiscal years—unless it has received a waiver on this restriction from the Department.~~
  [HEA 435(d)(2)(A)(vi); §682.601(a)(6)]

om/edited-rb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Eligible Lender Trustee Relationships**

AFFECTED SECTIONS: **3.2 Schools Acting as Lenders**

POLICY INFORMATION: **951/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Requirements regarding an eligible lender making or holding a FFELP loan as a trustee for a school or for an organization affiliated with a school are effective September 30, 2006.

For loans disbursed on or after January 1, 2007, the lender, school, and school-affiliated organization involved in an existing Eligible Lender Trustee relationship must meet applicable school-as-lender requirements.

BASIS:
Dear Colleague Letter GEN-06-21/FP-06-17.

CURRENT POLICY:
Current policy does not address eligible lender trustee (ELT) relationships.

REVISED POLICY:
Revised policy adds a new subheading and text in section 3.2 that addresses new statutory mandates regarding new and existing ELT relationships.

- Effective September 30, 2006, an eligible lender may not enter into a new relationship to make or hold a FFELP loan as a trustee for a school or for an organization affiliated with a school.

- If an ELT relationship was established prior to September 30, 2006, it may continue, and be renewed, as long as the relationship remains in effect after September 30, 2006, and the ELT held at least one loan on behalf of the school as of that date.

- Effective January 1, 2007, a school involved in an ELT relationship must meet the eligibility requirements applicable to a school-as-lender, with the exception of the requirement to award servicing contracts on a competitive basis.

- A school-affiliated organization involved in an ELT relationship must meet the same eligibility requirements as a school involved in an ELT relationship, except the cohort default rate requirement, the prohibition against being a home school, and the requirement to employ at least one person whose responsibilities are limited to the administration of its financial aid programs do not apply to the school-affiliated organization.

- A lender involved in an ELT relationship must meet the same eligibility requirements as a school involved in an ELT relationship, except that the cohort default rate requirement, the prohibition against being a home school, the requirement to employ at least one person whose responsibilities are limited to the administration of its financial aid programs, and the requirement to use loan proceeds for need-based grants do not apply to the lender.

REASON FOR CHANGE:
This change is made to comply with the changes outlined in *Dear Colleague Letter* GEN-06-21.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Note: This section is also being updated by Proposal 950 in Batch 141.

Revise section 3.2, page 2, column 2, by adding a new subheading and text as follows:

3.2
Schools Acting As Lenders and Eligible Lender Trustee Relationships

Special rules apply for a school that acts as a lender or for any party in an Eligible Lender Trustee (ELT) relationship.

Schools Acting as Lenders

- . . .
- . . .
- . . .
- . . .
- **. . .**
- . . .
- . . .
- **. . .**
- **. . .**
- **. . .**

Eligible Lender Trustee (ELT) Relationships

Effective September 30, 2006, a school may not enter into a new relationship with an eligible lender to make and/or hold a FFELP loan as a trustee for the school or for an organization affiliated with the school, also known as an Eligible Lender Trustee relationship. ELT relationships established prior to September 30, 2006, may continue, and may be renewed, as long as the relationship remains in effect after September 30, 2006, and the ELT held at least one loan in trust on behalf of the school or organization as of that date.

Effective January 1, 2007, all parties involved in an ELT relationship must meet the following eligibility requirements:

- A school directly involved in, or affiliated with an organization directly involved in an ELT relationship:
  - Must employ at least one person whose full-time responsibilities are limited to the administration of the school's financial aid programs for students attending that school.
  - Must not be a home study school.
  - Must have a cohort default rate of 10% or less.
  - May lend only to its own students.
  - May make only Stafford loans to graduate and professional students.
  - Must offer an origination fee and/or interest rate that is lower than the statutory maximum for that fee or rate.

- Must use the proceeds from interest payments from borrowers, interest subsidy and special allowance payments on the loans made and held in trust, and proceeds from the sale or other disposition of the loans, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loan, and the cost of charging an origination fee and/or interest rate that is lower than the statutory maximum for that fee or rate), for need-based grants if the school receives these proceeds directly or indirectly

- Must ensure that ELT loans are included in the school's annual compliance audit.

• An "organization affiliated with the school" is defined as any organization that is directly or indirectly connected to the school, including, but not limited to, an alumni association, athletics organization, or social, academic or professional organizations. An organization affiliated with the school and involved in an ELT relationship:

  - May lend only to students attending the school with which it is affiliated.

  - May make only Stafford loans to graduate and professional students.

  - Must offer an origination fee and/or interest rate that is lower than the statutory maximum for that rate or fee.

  - Must use the proceeds from interest payments from borrowers, interest subsidy and special allowance payments, on the loans made and held in trust and proceeds from the sale or other disposition of the loans, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loan, and the cost of charging an origination fee and/or interest rate that is lower than the statutory maximum for that fee or rate), for need-based grants if the school receives these proceeds directly or indirectly.

  - Must ensure that ELT loans are included in the annual lender compliance audit.

• An eligible lender acting as trustee:

  - May lend only to students attending the school for which it is a trustee.

  - May make only Stafford loans to graduate or professional students on behalf of that school.

  - Must offer an origination fee and/or interest rate that is lower than the statutory maximum for that rate or fee.

  - Must ensure that ELT loans are included in the annual lender compliance audit.

[DCL GEN-06-21]

PROPOSED LANGUAGE - COMMON BULLETIN:

Eligible Lender Trustee Relationships

The *Common Manual* has been revised to add a new subheading and text in subsection 3.2 that addresses new statutory mandates regarding new and existing eligible lender trustee (ELT) relationships.

• Effective September 30, 2006, an eligible lender may not enter into a new relationship to make or hold a FFELP loan as a trustee for a school or for an organization affiliated with a school.

• If an ELT relationship was established prior to September 30, 2006, it may continue, and be renewed, as long as the relationship remains in effect after September 30, 2006 and the ELT held at least one loan on behalf of the school as of that date.

• Effective January 1, 2007, a school involved in an ELT relationship must meet the eligibility requirements applicable to a school-as-lender, with the exception of the requirement to award servicing contracts on a competitive basis.

- A school-affiliated organization involved in an ELT relationship must meet the same eligibility requirements as a school involved in an ELT relationship, except that the cohort default rate requirement, the prohibition against being a home school, and the requirement to employ at least one person whose responsibilities are limited to the administration of its financial aid programs do not apply to the school-affiliated organization.

- A lender involved in an ELT relationship must meet the same eligibility requirements as a school involved in an ELT relationship, except that the cohort default rate requirement, the prohibition against being a home school, the requirement to employ at least one person whose responsibilities are limited to the administration of its financial aid programs, and the requirement to use loan proceeds for need-based grants do not apply to the lender.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A graduate or professional student borrower will be eligible to borrow Stafford loans from his or her school if it is an existing school lender or making loans under an ELT agreement. Need-based grant aid at a school acting as a FFELP lender or with ELT agreement may increase.

School:
A school may not enter into an ELT relationship on or after September 30, 2006. An ELT relationship established prior to September 30, 2006, may continue, and be renewed, as long as it remains in effect after September 30, 2006 and the ELT holds at least one loan on behalf of the school as of that date. Effective January 1, 2007, the ELT must meet applicable school-as-lender eligibility requirements.

Lender/Servicer:
A lender may not enter into a new relationship to make or hold a FFELP loan as a trustee for a school or for an organization affiliated with a school effective September 30, 2006. An ELT relationship established prior to September 30, 2006, may continue, and be renewed, as long as it remains in effect after September 30, 2006 and the ELT held at least one loan in trust on behalf of the school or organization as of that date. Effective January 1, 2007, an eligible lender acting as trustee must meet all applicable eligibility requirements.

Guarantor:
A guarantor may be required to update its program review parameters.

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

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
January 17, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

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

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language, and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
Three commenters requested that both the General (GEN) and Financial Partners (FP) DCL references be listed in the basis.

Response:
The Committee agrees.

Change:
FP-06-17 has been added to the basis.

COMMENT:
Three commenters noted that section 3.2 “Schools Acting as Lenders” was also being updated in a separate proposal within this batch, and requested a clarification be included in this proposal.

Response:
The Committee agrees.

Change:
A note has been added at the beginning of the Proposed Language stating that this section is also being updated by policy proposal 950 within batch 141.

COMMENT:
One commenter requested revising the first sentence under the Revised Policy statement to read:

> Revised policy adds a new subheading and text in section 3.2 that addresses new ~~regulatory~~ statutory mandates regarding new and existing ELT relationships.

The commenter stated that the regulations for ELT, specifically for relations with school lenders, are a topic of negotiated rule making and have not been finalized. Exisiting language is only statutory.

Response:
The Committee agrees.

Change:
The text has been changed as requested.

COMMENT:
One commenter noted that statute also provides that ELT relationships established prior to September 30, 2006, may continue, and be renewed, as long as the relationship remains in effect after September 30, 2006, and the ELT held at least one loan in trust on behalf of the school or organization as of that date.

Response:
The Committee agrees.

Change:
The language has been added as requested for each instance within the proposal in which the language

occurs.

COMMENT:
Several commenters noted that the text in bullet 3 under the subheading "Schools Acting as Lenders" did not read as existing *Common Manual* language nor proposed language in Policy Proposal 950.

Response:
The Committee agrees. These bullets were inserted as place markers to show that section 3.2 is being re-titled and the subheading "School Acting As Lenders" precedes the new subheading Eligible Lender Trustee (ELT) Relationships.

Change:
The text in the third bullet under the subheading "Schools Acting as Lenders" has been deleted. This language is being updated in Policy Proposal 950, Batch 141, that accompanies this proposal.

COMMENT:
One commenter noted that the text in each sub-bullet that describes the eligibility requirements of the use of proceeds from interest payments from borrowers, interest subsidy and special allowance payments, and proceeds from the sale or other disposition of the loans made or held in trust for need-based grants was missing essential statutory clarification that is being updated in policy proposal 950. They requested the sub-bullets be revised to incorporate these regulatory changes within this policy as well.

Response:
The Committee agrees.

Change:
The text in each of the sub-bullets has been revised as follows:

- Must use the proceeds from interest payments from borrowers, interest subsidy and special allowance payments on the loans made and held in trust, and proceeds from the sale or other disposition of the loans<u>, (exclusive of return of principal, any financing costs incurred by the school to acquire funds to make the loan, and the cost of charging an origination fee and/or interest rate that is lower than the statutory maximum for that fee or rate),</u> for need-based grants <u>if the school receives these proceeds directly or indirectly</u>**.**

COMMENT:
One commenter suggested reorganizing the subsection "Eligible Lender Trustee (ELT) Relationships" to improve flow of text and maintain parallel bullet construction. Within this reorganization, they recommended making all of the sub-bullet requirements begin with "Must", replacing the "Mays" currently within the text. They also suggested moving the first sentence of the second bullet to the first paragraph under the subtitle.

Response:
The Committee disagrees. The Committee believes the language should be as representative of statutory language as possible and the bullets are written as presented in statute. The Committee also feels it helpful to place the descriptive language which provides the technical description of an "organization affiliated with the school" with the bullets that describe their specific requirements. However, *Common Manual* convention is to avoid incorporating verbiage such as "as set forth in regulations" or "as provided for in the HEA" and revised the bullets to conform with this convention.

Change:
None.

om/edited-bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Telecommunications Program of Study**

AFFECTED SECTIONS: **5.12.A Telecommunications Program of Study**
appendix G

POLICY INFORMATION: **952/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Loans disbursed on or after September 8, 2006.

BASIS:
Interim Final Rules published in the *Federal Register* on August 9, 2006, page 45667-45668, 45689, 45692, 45693, and 45696; Final Rules published in the *Federal Register* on November 1, 2006, pages 64378 and 64379, *Dear Colleague Letter* GEN-06-17.

CURRENT POLICY:
Current policy states that an otherwise eligible student enrolled in a telecommunications program is eligible for Title IV aid if the program leads to a recognized certificate or degree, and the school is accredited by an agency recognized by the Department as having the evaluation of distance education programs within its scope of recognition.

Current policy also states that a program offered by a foreign school is ineligible if it includes even a single telecommunications course; however, telecommunications technologies may be used within the foreign school classroom to supplement and support instruction.

REVISED POLICY:
Revised policy provides information regarding an exception to the accreditation requirements published by the department for certain distance education programs published by the Department.

Revised policy also clarifies that telecommunications technologies used to supplement and support instruction in a foreign school program must be used in a classroom where the students and instructor are physically present in order for students in the program to be eligible for Title IV aid.

In addition, revised policy modifies the definition of "telecommunications course" to clarify that the telecommunications technologies must be used to support regular and substantive interaction between the students and the instructor.

REASON FOR CHANGE:
The *Common Manual* is being revised to provide clarifications to the accreditation requirements for programs offered in whole or in part through telecommunications published in the Interim Final Rules dated August 9, 2006 and a *Dear Colleague Letter* published September 28, 2006.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise subsection 5.12.A, page 15, column 1, paragraph 2, as follows:

5.12.A
Telecommunications Program of Study

An otherwise eligible student enrolled in a program of study offered in whole or in part through telecommunications is eligible for Title IV aid ~~program assistance~~ if each of the following applies:

- The program leads to a recognized certificate, or to an associate, bachelor's, or graduate degree.

[HEA 484(l)(1); ~~§668.38(b)(1)(i);~~ DCL GEN-06-05]

- The ~~student's~~ school providing the program has been evaluated by an accrediting agency recognized by the Department as having the evaluation of distance education programs within its scope of recognition. ~~and~~ The accrediting agency must determine~~d~~ ~~to have~~ that the school has the capability to effectively deliver distance education programs. ~~by an accrediting agency that is recognized by the Department and has the evaluation of distance education programs within its scope of recognition.~~ Beginning July 1, 2006, the Department provides an 18-month waiver of the distance education evaluation component. The waiver applies to certain distance education programs that were offered as of July 1, 2006, but for which the Department did not recognize the accrediting agency as having the evaluation of distance education programs within its scope of recognition. [HEA 481(b)(3); §668.8(m); DCL GEN-06-05; GEN-06-17]

If a foreign school offers a program of study that includes even a single telecommunications course, that program of study is ineligible for Title IV aid ~~funds~~. Telecommunications technologies may be used in the foreign school classroom to supplement and support instruction offered as part of an otherwise eligible program, as long as the student and instructor are physically present in the classroom.
[§600.51(d)(4); §668.8(m); DCL GEN-06-11]

Revise appendix G, page 18, column 2, as follows:

Telecommunications Course: A course offered during an award year that principally uses one technology or a combination of technologies including television, audio, or computer transmission, ~~including~~ through open broadcast, closed circuit, cable, microwave or satellite, audio conferencing, computer conferencing, or video cassettes or discs. These technologies may be used to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between these students and the instructor, either simultaneously or at different times. A course is not considered to be a telecommunications course if the course is delivered using video cassettes or discs unless that same course is also delivered to students who are physically attending classes at the school providing the course during the same award year.

PROPOSED LANGUAGE - COMMON BULLETIN:

Telecommunications Program of Study

The *Common Manual* has been revised to provide information regarding an exception published by the Department to the accreditation requirements for certain distance education programs published by the Department.

Revised policy also clarifies that telecommunications technologies used to supplement and support instruction in a foreign school program must be used in a classroom where the students and instructor are physically present in order for students in the program to be eligible for Title IV aid.

In addition, revised policy modifies the definition of "telecommunications course" to clarify that the telecommunications technologies must be used to support regular and substantive interaction between the students and the instructor, by either simultaneous communications or by communications that occur at different times.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

The borrower may be eligible for Title IV aid for the 18-month waiver period for enrollment in a program offered in whole or in part by telecommunication technology, even if the school's accrediting agency does not have the review of telecommunications courses in its scope.

School:

The school must ensure that Title IV aid is awarded to students enrolled in a telecommunication program only if that program meets the regulatory definition of "telecommunications course" and is accredited by an agency recognized by the Department as having the evaluation of distance education programs within its scope of recognition (or meets the accreditation exception granted by the Department through December 31, 2007).

Lender/Servicer:
None.

Guarantor:
The 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:
February 28, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

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

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language, and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
Multiple commenters suggested adding to the basis additional information from the *Federal Register* dated November 1, 2006, on pages 64378 and 64379. They believe that these pages provide commentary regarding the reasoning behind the definition. Also multiple commenters suggested adding page 45689 from the *Federal Register* dated August 9, 2006 stating that this information identifies the actual change made to the regulatory language.

Response:
The Committee agrees.

Change:
The additional information has been added to the basis.

COMMENT:
Multiple commenters suggested reorganizing subsection 5.12.A, bullet 2 and paragraph 2 to improve flow of text and for clarity.

Response:

The Committee agrees in concept, but has revised commenters suggestion slightly for clarity.

Change:
The text has been revised as follows:

- The ~~student's~~ school providing the program has been evaluated by an accrediting agency recognized by the Department as having the evaluation of distance education programs within its scope of recognition. ~~and has been~~ The accrediting agency must determine~~d~~ ~~to have~~ that the school has the capability to effectively deliver distance education programs. ~~by an accrediting agency that is recognized by the Department and has the evaluation of distance education programs within its scope of recognition.~~ Beginning July 1, 2006, the Department provides an 18-month waiver of the distance education evaluation component. The waiver applies to certain distance education programs that were offered as of July 1, 2006, but for which the Department did not recognize the accrediting agency as having the evaluation of distance education programs within its scope of recognition.
  [HEA 481(b)(3); §668.8(m); DCL GEN-06-05; GEN-06-17]

If a foreign school offers a program of study that includes even a single telecommunications course, that program of study is ineligible for Title IV funds. Telecommunications technologies may be used in the foreign school classroom to supplement and support instruction offered as part of an otherwise eligible program ~~in a classroom where the students and instructor are physically present.~~ , as long as the student and instructor are physically present in the classroom.
[§600.51(d)(4); §668.8(m); DCL GEN-06-11]

kb/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Defining an Academic Year**

AFFECTED SECTIONS:
6.1 Defining an Academic Year
figure 6-2 Frequency of Stafford Annual Loan Limits
6.11.A Stafford Annual Loan Limits

POLICY INFORMATION: **953/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Publication date of the 2005-2006 *Federal Student Aid Handbook*, unless implemented earlier by the school.

BASIS:
2005-2006 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pages 3-66 through 3-75.

CURRENT POLICY:
Current policy states that for term-based credit-hour programs, a school may use either the scheduled academic year (SAY) or the borrower-based academic year (BBAY) to determine the frequency of Stafford annual loan limits; for clock-hour and non-term-based credit-hour programs, a school is required to use the BBAY.

REVISED POLICY:
Revised policy states that the school may use the SAY only for *standard* term-based credit-hour programs; for all other programs, including *nonstandard* term-based and non-term-based credit-hour programs and clock-hour programs, the school must use the BBAY to determine the frequency of annual loan limits.

Revised policy also clarifies the effect of grade level progression in the middle of the academic year.

REASON FOR CHANGE:
The *Common Manual* is being revised to include a distinction between standard term-based, credit-hour programs and nonstandard term-based, credit-hour programs in determining the academic year and the frequency of Stafford annual loan limits. This distinction first appeared in the 2005-2006 *Federal Student Aid Handbook*.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise section 6.1, page 2, column 1, paragraph 1 as follows:

> Both the SAY and BBAY must meet the statutory requirements of an academic year as defined by the Department. ~~Schools with~~ For clock-hour programs and nonstandard term-based and non-term-based credit-hour programs, a school must use a BBAY. ~~Schools with~~ For standard term-based credit-hour programs, a school may use either a SAY or a BBAY. [2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pp. 3-66 to 3-71]
>
> **Standard Term-Based Credit-Hour Programs**
>
> A school with standard term-based credit-hour programs using a SAY must designate the summer term as either a "leader" (precedes the academic year) or a "trailer" (follows the academic year). The school has the following options:
>
> - . . .
> - . . .
> - . . .

. . .

. . .

Clock-Hour Programs and Nonstandard-Term-Based and Non-Term-Based Credit-Hour Programs

~~At a school with~~ For clock-hour programs and nonstandard term-based and ~~or~~ non-term-based credit-hour programs, the BBAY begins when the student enrolls and does not end until the student completes both the required number of weeks and the required number of clock or credit hours in the academic year. A student who does not attend on a full-time basis will take longer to complete the academic year than a full-time student.

. . .

Revise figure 6-2, page 4, as follows:

Frequency of Stafford Annual Loan Limits **Figure 6-2**

	Scheduled Academic Year (SAY)	**Borrower-Based Academic Year (BBAY)**
Standard Term-Based Credit-Hour Programs	. . .	. . .
Nonstandard Term-Based and Non-Term-Based Credit-Hour Programs, and Clock-Hour Programs	. . .	. . .

Revise subsection 6.11.A, page 18, column 2, paragraph 5, as follows:

In determining the appropriate Stafford annual loan limit for an undergraduate student, including a transfer student or a student who has completed a program of study at the same school or a different school, schools and lenders must adhere to the following additional parameters:

- . . .
- . . .
- . . .
- . . .
- In a standard term-based program, a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level, minus any loan funds already received for that academic year. In a nonstandard term-based or non-term-based credit-hour program, or clock-hour program, the school may not certify the higher loan limit associated with the next grade level until the student completes both the minimum number of weeks and the minimum number of credit or clock hours in the program's defined academic year.

- . . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Defining an Academic Year

The *Common Manual* has been revised to include a distinction between standard term-based credit-hour programs and nonstandard term-based credit-hour programs in determining the academic year and the frequency of Stafford annual loan limits. This distinction first appeared in the 2005-2006 *Federal Student Aid Handbook*, and clarifies that a school may use the scheduled academic year to determine the frequency of annual loan limits only for standard term-based credit-hour programs. For nonstandard term-based and non-term-based credit-hour programs, as well as clock-hour programs, the school must use the borrower-based academic year to determine the frequency of annual loan limits.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower enrolled in a nonstandard term-based credit-hour program may have reduced loan eligibility.

School:

A school may need to update its procedures for determining the frequency of Stafford annual loan limits for students enrolled in nonstandard term-based credit-hour programs.

Lender/Servicer:

None

Guarantor:

A guarantor may need to update program review procedures.

U.S. Department of Education:

The Department may need to update program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

November 16, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2007

PROPOSAL DISTRIBUTED TO:

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

Comments Received From:

AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language, and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:

One commenter requested that section 6.1, page 2, column 1, paragraphs 1 and 5, be revised to clarify that a school may not necessarily have both clock-hour programs and nonstandard term-based or non-term-based credit-hour programs, as follows:

> Both the SAY and BBAY must meet the statutory requirements of an academic year as defined by the Department. Schools with clock-hour programs and schools with nonstandard term-based or non-term-based credit-hour programs must use a BBAY.
> . . .
>
> At a school with clock-hour programs~~, or~~ and a school with nonstandard term-based or non-term-based credit-hour programs . . . .

Response:
The Committee agrees that the proposed text may be misconstrued to mean that the use of the BBAY is only required if the school has *some combination* of clock-hour and nonstandard term-based or non-term-based credit-hour programs. In order to alleviate this possibility, the Committee has elected to shift the focus of the text from the *school* in question to the *program* in question.

Change:
The text of section 6.1, page 2, column 1, paragraphs 1 and 5 has been revised as follows:

> Both the SAY and BBAY must meet the statutory requirements of an academic year as defined by the Department. ~~Schools with~~ For clock-hour programs and nonstandard term-based and non-term-based credit-hour programs, a school must use a BBAY. ~~Schools with~~ For standard term-based, credit-hour programs, a school may use either a SAY or a BBAY.
> . . .
>
> ~~At a school with~~ For clock-hour programs, and nonstandard term-based or non-term-based credit-hour programs . . . .

COMMENT:
One commenter requested the following revision to the new bullet in subsection 6.11.A:

- In a standard term-based program, a student who experiences a grade level change within the academic year becomes eligible for the loan limits that are applicable to the new grade level, minus any loan funds already received for that academic year. In a nonstandard term- or non-term-based program, the student may not borrow an additional loan for progress to the next grade level until the student completes both the minimum number of weeks and the minimum number of credit/clock hours in the program's defined academic year.

The commenter believed that, as written, some schools may apply minimum federal standards as opposed to the program's defined academic year. A second commenter also requested the insertion of the phrase "The minimum number of".

Response:
The Committee agrees.

Change:
The text has been revised as suggested.

COMMENT:
One commenter requested the following revision to the new bullet in subsection 6.11.A:

- In a standard term-based program, a student who experiences a grade level change within the academic year becomes eligible for the loan limits that are applicable to the new grade level, minus any loan funds already received for that academic year. In a nonstandard term-based or non-term-based program, or clock-hour program, the student may not borrow ~~an~~ additional ~~loan~~ funds for progress to the next grade level until the student completes both the minimum number of weeks and credit/clock hours in the academic year.

The commenter requested that "an additional loan" be replaced with "additional funds" to avoid the possibility that "an additional loan" may be interpreted to mean increasing the amount of an existing loan; e.g., through a change transaction.

Response:
The Committee agrees that the insertion of the word "based" and the phrase "or clock-hour program" add clarity to the text. The Committee also recognizes the commenter's concern regarding the phrase "an additional loan", and feels that the best solution is to shift the focus from "what the student may borrow" to "what the school may certify".

Change:
The new bullet has been revised as follows:

- In a standard term-based program, a student who experiences a grade level change within the academic year becomes eligible for the Stafford annual loan limits that are applicable to the new grade level, minus any loan funds already received for that academic year. In a nonstandard term-based or non-term-based credit-hour program, or clock-hour program, the ~~student~~ school may not ~~borrow~~ certify ~~an additional~~ the higher loan ~~for progress to~~ limit associated with the next grade level until the student completes both the minimum number of weeks and credit~~/~~ or clock hours in the program's defined academic year.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Stafford Annual Loan Limits for Transfer Students**

AFFECTED SECTIONS:
6.1 Defining an Academic Year
6.11.A Stafford Annual Loan Limits

POLICY INFORMATION: **954/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Publication date of the 2005-2006 *Federal Student Aid Handbook*, unless implemented earlier by the school.

BASIS:
Dear Guaranty Agency Director Letter dated March 16, 1994; NCHELP Q&A Frequency of Annual Loan Limits dated June 15, 1994; 2005-2006 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pages 3-72 through 3-77.

CURRENT POLICY:
Current policy outlines rules for defining the academic year and determining the Stafford annual loan limits for a transfer student with overlapping loan periods in two programs of study.

REVISED POLICY:
Revised policy clarifies that the Stafford loan eligibility for a transfer student is the annual loan limit applicable to the student's current grade level *minus* the loan amount the student has already received for the final academic year of the prior program. For a student who transfers to a standard term-based credit-hour program, the student's Stafford loan eligibility for a subsequent term that begins within the initial academic year of the new program, but after the end of the final academic year of the prior program, is the annual loan limit applicable to the student's current grade level *minus* the outstanding loan amount the student has already received for that academic year in the new program.

REASON FOR CHANGE:
Frequent inquiries from schools regarding the application of the annual loan limit policy for transfer students indicate that clarification is needed.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise section 6.1, page 2, column 2, paragraph 2, as follows:

Transfer Students

If a student borrows Stafford <u>loan</u> funds to attend one school and then transfers to a new school, the new school is not permitted to certify a <u>Stafford</u> loan until it determines whether the student's new ~~loan period~~ <u>academic year</u> will overlap with the ~~loan period~~ <u>final academic year</u> at the prior school. This requires the new school to determine the student's academic year at the prior school. The <u>new</u> school may use either of the following methods to make this determination:

- Obtain documentation from the prior school about its academic year.

- Make assumptions about the prior school's academic year based on information obtained from the National Student Loan Data System (NSLDS). Schools that use this method must determine that the academic year at the prior school ended on the *later* of the following:

  - 30 weeks after the first day of the most recent loan period listed.

- The end date of the loan period for all loans made in the academic year.

If the final academic year of the prior school does not overlap with the academic year of the new school, the new school may certify a loan not to exceed the amount of the student's current annual loan limit.
[*Dear Guaranty Agency Director Letter* March 16, 1994]

If the ~~loan periods~~ final academic year of the prior school does overlap with the initial academic year of the new school, the new school must not certify a Stafford loan for more than ~~subtract the gross amount of the loan (less any refunds or cancellations for that loan period) that the student received at the prior school from~~ the student's current annual loan limit *minus* the loan amount the student received at the prior school for the prior school's final academic year. If the student's grade level decreases as a result of the transfer, the new school must not certify a Stafford loan for more than the annual loan limit applicable to the student's current (i.e., decreased) grade level *minus* the outstanding loan amount the student received at the prior school during the prior school's final academic year.

Example: Transfer to a Standard Term-Based Program

A student received a base Stafford loan in the amount of $2,000 as a grade level 3 student at School A for the loan period August 21, 2006 to December 20, 2006. The student then enrolled in School B, where he was classified as grade level 1 in a standard term-based credit-hour program. School B wishes to certify a loan from his start date, January 5, 2007 through the end of that term, May 11, 2007.

School B opts to use the "assumption" method of determining the academic year at School A. The most recent loan period at School A began August 21, 2006; the end date of the minimum 30-week academic year, based on that date, would be March 18, 2007. When compared to the end date of School A's loan period, the later of these two dates is March 18, 2007; therefore, the assumed end date of School A's final academic year is March 18, 2007.

Because School B's academic year begins prior to the assumed end date of the final academic year at School A, School B may certify a base Stafford loan of no more than $625 (the student's base Stafford annual loan limit as a grade level 1 student at School B, $2,625, minus the $2,000 received at School A.).

For a subsequent term that begins after the end of School A's final academic year, but within School B's initial academic year, School B may certify a base Stafford loan of no more than $2,000 (the student's base Stafford annual loan limit as a grade level 1 student at School B, $2,625, minus the $625 already received at School B for its initial academic year).

Example: Transfer to a Clock-Hour-, Non-term-, or Nonstandard Term-Based Program

A student received a base Stafford loan in the amount of $2,000 as a grade level 3 student at School A for the loan period August 21, 2006 to December 20, 2006. The student then enrolled in School B, where he was classified as grade level 1 in a clock-hour, non-term-based credit-hour, or nonstandard term-based credit hour program. School B wishes to certify a loan from his start date, January 5, 2007 through the end of his initial academic year in the new program of study, August 20, 2007.

School B contacts School A and determines that the final academic year at School A ends May 11, 2007. Because School B's initial academic year begins prior to the end date of the final academic year at School A, School B may certify a base Stafford loan of no more than $625 (the student's base Stafford annual loan limit as a grade level 1 student at School B, $2,625, minus the $2,000 received at School A) until the completion of the initial academic year at the new school.

~~If the loan periods do not overlap, the new school may process a loan up to the amount of the student's current annual loan limit.~~

These same principles apply when a student transfers from one program of study to another program of study within the same school.
[*Dear Guaranty Agency Director Letter* March 16, 1994; 2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pp 3-75 to 3-77]

Revise subsection 6.11.A of the *Common Manual*, page 19, column 1, by modifying the 2nd bullet as follows:

- . . .

- A student who transfers from one program of study to another at the same school or a different school is eligible for Stafford loan funds not to exceed the annual loan limits applicable to the student's grade level in the student's new program of study (even if that student is at a lower grade level in the new program or has previously obtained an undergraduate degree in a different program), as determined by the school, minus any outstanding loan funds received in the prior program for the prior academic year~~--even if that student previously obtained an undergraduate degree in a different program~~. For a student who transfers to a standard term-based credit-hour program, the student's Stafford loan eligibility for a subsequent term(s) that begins within the initial academic year of the new program, but after the end of the final academic year in the prior program, is the annual loan limit applicable to the student's current grade level minus the outstanding loan amount the student has already received in that academic year in the new program. See section 6.1 for detailed information about defining an academic year and calculating Stafford annual loan amounts for a student who transfers. See section 6.10 for information about determining a student's grade level.
[2006-2007 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pp. 3-75 to 3-77]

PROPOSED LANGUAGE - COMMON BULLETIN:

Stafford Annual Loan Limits for Transfer Students

The *Common Manual* has been revised to clarify that the Stafford loan eligibility for a transfer student is the annual loan limit applicable to the student's current grade level *minus* the loan amount the student has already received for the final academic year of the prior program. For a student who transfers to a standard term-based credit-hour program, the student's Stafford loan eligibility for a subsequent term that begins within the initial academic year of the new program, but after the end of the final academic year of the prior program, is the annual loan limit applicable to the student's current grade level *minus* the outstanding loan amount the student has already received for that academic year in the new program.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower who transfers may have his or her Stafford loan eligibility decreased based on outstanding loan funds previously received for a prior, overlapping academic year.

School:

A school may need to revise its policy and procedures for determining remaining loan eligibility for a transfer student.

Lender/Servicer:

None.

Guarantor:

A guarantor may need to modify program review procedures.

U.S. Department of Education:

The Department may need to modify program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
November 14, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

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

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language, and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
One commenter requested that the words "loan period" be replaced with the words "academic year" in section 6.1, as the *Federal Student Aid Handbook*, page 3-75, refers to an overlap of academic years, rather than an overlap of the loan period with the academic year.

Response:
The Committee agrees.

Change:
The words "loan period" have been replaced with the words "academic year" throughout the policy, when referring to the overlap with the prior school's academic year.

COMMENT:
One commenter requested that the word "subsidized" be stricken from the examples in section 6.1, because this is potentially confusing.

Response:
The Committee agrees with the commenter that the referral to the student's receipt of a "subsidized" Stafford loan is potentially confusing, as this example would be applicable to the *base* Stafford loan amount, whether or not that amount was subsidized.

Change:
The word "subsidized" has been replaced with "base" in the examples.

COMMENT:
One commenter requested that the examples in section 6.1 be based on the new Stafford annual loan limits to avoid a technical correction later.

Response:
The Committee agrees with the commenter that the examples in section 6.1 and other parts of the *Common Manual* will need to be updated to reflect the new annual loan limits, but prefers that all loan amounts be updated through a thorough review of the *Common Manual* for publication of the new printed version July 1.

Change:
None.

COMMENT:
One commenter requested the following revision to the first sentence of subsection 6.11.A, page 19, column 1, bullet 2, to improve clarity:

- A student who transfers from one program of study to another at the same school or a different school ~~is~~ may be eligible for Stafford loan funds in the new program of study. The student's Stafford loan eligibility may not ~~to~~ exceed the annual loan limits applicable to the student's current grade level, as determined by the school, in the ~~student's~~ new program of study~~, as determined by the school,~~ minus any outstanding loan funds received in the prior program for the current academic year—even if that student previously obtained an undergraduate degree in a different program ~~has a lower grade level in the new program~~.

The commenter requested that the existing phrase, "previously obtained an undergraduate degree in a different program" not be changed to "has a lower grade level in the new program" because the existing statement is still accurate.

Response:
The Committee agrees that the first sentence of the bullet, as proposed, lacks clarity. The Committee also agrees that the phrase, "previously obtained an undergraduate degree in a different program" is still accurate. The change was proposed because the Committee felt it encompassed a broader range of potential situations in which a school may have questions.

Change:
Bullet 2 has been revised as follows:

- A student who transfers from one program of study to another at the same school or a different school is eligible for Stafford loan funds not to exceed the annual loan limits applicable to the student's grade level in the student's new program of study (even if that student is at a lower grade level in the new program or has previously obtained an undergraduate degree in a different program), as determined by the school, minus any outstanding loan funds received in the prior program for the prior ~~current~~ academic year~~--even if that student previously obtained an undergraduate degree in a different program has a lower grade level in the new program~~. For a student who transfers to a standard term-based credit-hour program, the student's Stafford loan eligibility for a subsequent term(s) that begins within the initial ~~first~~ academic year of the new program, but after the end of the final ~~last~~ academic year in the prior program, ~~a student who transfers to a standard term-based program may receive the remainder of the applicable grade level~~ is the annual loan limit applicable to the student's current grade level minus the ~~any~~ outstanding loan amount the student has ~~funds~~ already received in that ~~the current~~ academic year in the new program. See section 6.1 for detailed information about defining an academic year and calculating Stafford annual loan amounts ~~limits~~ for a student who transfers. See section 6.10 for information about determining a student's grade level.

COMMENT:
Two commenters requested that examples be added to subsection 6.11.A, similar to the examples provided in section 6.1.

Response:
The Committee agrees that examples may be appropriate in subsection 6.11.A, but that such a substantive change should be presented to the community for comment. Therefore, the Committee will review this suggestion for a possible future policy proposal.

Change:
None.

kke/edited-chh

***COMMON MANUAL* - FEDERAL POLICY PROPOSAL**

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Stafford Loan Limits**

AFFECTED SECTIONS: **6.11.A Stafford Annual Loan Limits**
figure 6-4 Stafford Undergraduate Annual and Aggregate Loan Limits

POLICY INFORMATION: **955/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Stafford loans first disbursed on or after July 1, 2007.

BASIS:
Higher Education Act of 1965, Sections 425(a)(1)(A), 428(b)(1)(A), and 428H(d), as amended by the Higher Education Reconciliation Act (HERA) of 2005; §682.204; *Dear Colleague Letter* GEN-06-02/FP-06-01 and GEN-06-03/FP-06-02.

CURRENT POLICY:
Current policy reflects the Stafford annual loan limits in effect through June 30, 2007.

REVISED POLICY:
Revised policy updates the manual with the Stafford annual loan limits effective for loans first disbursed on or after July 1, 2007.

REASON FOR CHANGE:
These changes are made to comply with the statutory changes derived from the HERA.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise subsection 6.11.A, page 18, column 2, paragraph 5, as follows:

> In determining the appropriate Stafford annual loan limit for an undergraduate student, including a transfer student or a student who has completed a program of study at the same school or a different school, schools and lenders must adhere to the following additional parameters:
>
> - . . .
> - . . .
> - . . .
> - . . .
> - . . .
> - A <u>dependent</u> student who has a bachelor's degree and is enrolled or accepted for enrollment in coursework necessary for a professional credential or certification from a state that is required for employment as a teacher in an elementary or secondary school in that state is eligible <u>to borrow the base Stafford annual loan limit of $5,500</u> ~~for Stafford loan funds not to exceed the annual loan limits applicable to fifth year undergraduate students~~. <u>An independent student, or a dependent student whose parent is not eligible for a PLUS loan, is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to $12,500. Of the total amount borrowed for the year, no more than $5,500 may consist of subsidized Stafford loan funds (see figure 6-4).</u> The loan limits for this category of student are not prorated ~~if the program is less than an academic~~

~~year~~.
[§682.204(a)(7) and (d)(6)(iii)]

- . . .

- A <u>dependent</u> student who is taking preparatory coursework that the school has determined and documented to be necessary for the student to enroll in a graduate or professional program is eligible <u>to borrow the base Stafford annual loan limit of $5,500</u> ~~for Stafford loan funds not to exceed the annual loan limits applicable to fifth-year undergraduate students~~. <u>An independent student, or a dependent student whose parent is not eligible for a PLUS loan, is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to $12,500. Of the total amount borrowed for the year, no more than $5,500 may consist of subsidized Stafford loan funds (see Figure 6-4).</u> Preparatory coursework required for admission into a graduate or professional program may be taken at a school that is not generally permitted to certify loans at the fifth-year undergraduate loan level. A student is eligible for loans for one period of 12 consecutive months beginning on the first day of the loan period for which the student is enrolled. The loan limits for this category of student are not prorated ~~if the program is less than an academic year~~.
[§682.204(a)(6)(ii) and (d)(6)(ii); DCL GEN-98-2]

Revise subsection 6.11.A, page 19, column 2, paragraph 2 as follows:

Graduate and Professional Students

A student enrolled in a graduate or professional program of study is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to ~~$18,500~~ <u>$20,500</u> for each academic year. Of the total amount borrowed for the year, no more than $8,500 may consist of subsidized Stafford loan funds. If a student is ineligible for subsidized Stafford loan funds, the student may borrow the entire ~~$18,500~~ <u>$20,500</u> Stafford annual loan limit in unsubsidized Stafford loan funds.
[§682.204(a)(5) and (d)(5)]

Revise figure 6-4, Stafford Undergraduate Loan Limits, as follows:

<u>**Preparatory Coursework for Undergraduate Program**</u>

<u>Base Stafford eligibility (subsidized and unsubsidized)</u>	<u>$2,625</u>	

First-Year Undergraduates

Base Stafford eligibility (subsidized and unsubsidized)	~~$2,625~~ <u>$3,500</u>	

. . .

Second-Year Undergraduates

Base Stafford eligibility (subsidized and unsubsidized)	~~$3,500~~ <u>$4,500</u>	

. . .

<u>**Teacher Certification or Preparatory Coursework for Graduate or Professional Program**</u>

<u>Base Stafford eligibility (subsidized and unsubsidized)</u>	<u>$5,500</u>	<u>N/A</u>
<u>Additional unsubsidized Stafford eligibility</u>	<u>$7,000</u>	<u>N/A</u>

. . .

Proportional Proration Calculation #2
Multiply the lesser of the following ratios by ~~$2,625~~ <u>$3,500</u> for base ~~annual~~ Stafford <u>annual</u> loan limit and by $4,000 for additional ~~annual~~ unsubsidized Stafford <u>annual</u> loan limit:
. . .

PROPOSED LANGUAGE - COMMON BULLETIN:
Stafford Annual Loan Limits
The *Common Manual* has been revised to reflect the new Stafford annual loan limits effective for loans first disbursed on or after July 1, 2007. Changes to the Stafford annual loan limits include:

- First-year undergraduate base Stafford eligibility has been increased from $2,625 to $3,500.*
- Second-year undergraduate base Stafford eligibility has been increased from $3,500 to $4,500.
- Additional unsubsidized Stafford eligibility for a student who has a bachelor's degree and is enrolled or accepted for enrollment in coursework necessary for a professional credential or certification from a state that is required for employment as a teacher in an elementary or secondary school in that state has been increased from $5,000 to $7,000.
- Additional unsubsidized Stafford eligibility for a student who is taking preparatory coursework that the school has determined and documented to be necessary for the student to enroll in a graduate or professional program has been increased from $5,000 to $7,000.
- Additional unsubsidized Stafford eligibility for a graduate or professional student has been increased from $10,000 to $12,000.

*The base Stafford loan eligibility of $2,625 for preparatory coursework for an undergraduate program remains unchanged.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
The borrower will have increased Stafford annual loan eligibility at various educational levels for loans first disbursed on or after July 1, 2007, but will be limited to the same aggregate loan limit.

School:
The school may begin awarding the increased Stafford annual loan limits for loans first disbursed on or after July 1, 2007, but must ensure that the student does not exceed the unchanged aggregate loan limits.

Lender/Servicer:
The lender may need to make system adjustments to allow processing of the higher annual loan limits.

Guarantor:
The guarantor may need to make system adjustments to allow guarantee of the higher annual loan limits.

U.S. Department of Education:
None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
February 8, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

Comments Received From:
AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA,

PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity to the proposed language, and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
One commenter requested that the effective date/trigger event be revised as follows:

> Loans first disbursed on or after July 1, 2007 with loan periods that include July 1, 2007 or ~~later dates~~ that begin on or after July 1, 2007.

A second commenter requested the phrase "with loan periods that include July 1, 2007 or later dates" be completely stricken. The commenter stated that 34 CFR 682.204(a)-(d) use the date of loan disbursement as the sole trigger date for the borrower qualifying for the higher loan limits under the HERA, and that guarantors are bound by this because of 34 CFR 682.401(b)(2)(i), which states that the maximum amount that may be guaranteed for a borrower for an academic year may not exceed the amounts set forth in 34 CFR 682.204(a), (c), and (d). Because the Higher Education Act and 34 CFR 682.204(a)-(d) do not mention loan periods encompassing July 1, 2007, the commenter believes that language should not be included in the *Common Manual*, and that guarantors would be in violation of their agreements with the Department if anything is put in the *Common Manual* to further limit borrowers that is not in the federal regulations.

Response:
The Committee agrees that there is not sufficient written basis for including the additional qualifier in the effective date/trigger date requiring that the loan periods include July 1, 2007 or later dates. As a result, the *Common Manual* will remain silent regarding the loan period in order to accurately reflect the regulation as currently written.

Change:
The qualifier, "with loan periods that include July 1, 2007 or later dates" has been deleted from the effective date/trigger event.

COMMENT:
Two commenters requested that FP-06-02 be added to the basis, to provide both DCL identifications for reference.

Response:
The Committee agrees.

Change:
FP-06-02 has been added to the basis.

COMMENT:
One commenter stated that the new text on loan limits in subsection 6.11.A, page 18, column 2, paragraph 5, seems to be implying that all of these student are eligible for the additional unsubsidized funds, when only those students who are independent can get the additional unsubsidized funds.

Response:
The Committee agrees that the wording in subsection 6.11.A could lead to the incorrect conclusion that *all* students enrolled in teacher certification and preparatory coursework for a graduate or professional program are eligible for a total of $12,500, regardless of dependency status.

Change:
The new text in subsection 6.11.A, page 18, column 2, paragraph 5 has been revised as follows:

- A dependent student who has a bachelor's degree and is enrolled or accepted for enrollment in coursework necessary for a professional credential or certification from a state that is required for employment as a teacher in an elementary or secondary school in that state is eligible to borrow a

base Stafford annual loan limit of up to $5,500 ~~$12,500~~. ~~Subsidized Stafford loans may comprise no more than $5,500 of the total amount borrowed for the year~~. An independent student, or a dependent student whose parent is not eligible for a PLUS loan, is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of up to $12,500. Of the total amount borrowed for the year, no more than $5,500 may consist of subsidized Stafford loan funds (see figure 6-4). The loan limits for this category of student are not prorated if the program is less than an academic year.
[§682.204(a)(7) and (d)(6)(iii)]

- . . .

- A dependent student, or a dependent student whose parent is not eligible for a PLUS loan, who is taking preparatory coursework that the school has determined and documented to be necessary for the student to enroll in a graduate or professional program is eligible to borrow a base ~~a combined subsidized and unsubsidized~~ Stafford annual loan limit of up to $5,500 ~~$12,500~~. ~~Subsidized Stafford loans may comprise no more than $5,500 of the total amount borrowed for the year.~~ An independent student, or a dependent student whose parent is not eligible for a PLUS loan, is eligible to borrow a combined subsidized and unsubsidized Stafford annual loan limit of $12,500. Of the total amount borrowed for the year, no more than $5,500 may consist of subsidized Stafford loan funds (see figure 6-4). Preparatory coursework required for admission into a graduate or professional program may be taken at a school that is not generally permitted to certify loans at the fifth-year undergraduate loan level. A student is eligible for loans for one period of 12 consecutive months beginning on the first day of the loan period for which the student is enrolled. The loan limits for this category of student are not prorated if the program is less than an academic year.
[§682.204(a)(6)(ii) and (d)(6)(ii); DCL GEN-98-2]

COMMENT:
One commenter recommended that the phrase, "if the program is less than an academic year" be stricken from the end of bullets 6 and 8 in subsection 6.11.A, page 18, column 2, paragraph 5. The commenter pointed out that, per the 2006-2007 *Federal Student Aid Handbook*, page 3-80, teacher certification and preparatory coursework for a graduate or professional program are not considered programs for FSA purposes.

Response:
The Committee agrees.

Change:
The final sentence of bullets 6 and 8 has been revised as follows:

> The loan limits for this category of student are not prorated i~~f the program is less than an academic year~~.

COMMENT:
One commenter requested that based on page 7 of *Dear Colleague Letter* GEN-06-02/FP-06-01, figure 6-4, Stafford Undergraduate Annual and Aggregate Loan Limits, be revised by inserting the following:

> **Preparatory Coursework for Undergraduate Program**
> Base Stafford eligibility (subsidized and unsubsidized) $2,625

Response:
The Committee agrees.

Change:
The base Stafford loan eligibility of $2,625 for preparatory coursework for an undergraduate program has been included in figure 6-4, and *Dear Colleague Letter* GEN-06-02/FP-06-01 has been added to the basis.

kke/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Total and Permanent Disability Loan Discharges for Comakers and Endorsers**

AFFECTED SECTIONS:

11.1.A	**General Deferment Eligibility Criteria**
11.19	**Forbearance**
11.19.F	**Forbearance of Delinquent Loans**
11.19.G	**Forbearance of Defaulted Loans**
11.19.H	**Borrower Contact during Forbearance**
11.19.I	**Establishing Repayment after Forbearance**
figure 11-2	
11.20.P	**Total and Permanent Disability**
11.8	**Discharge**
13.8.F	**Total and Permanent Disability**

POLICY INFORMATION: **956/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.

BASIS:

Conditional Disability Discharge: Joint Consolidations, PLUS Co-Borrowers, and Disabled Endorsers dated August 2006, developed by the Department in coordination with NCHELP's Default Aversion and Claims Standardization (DACS) subcommittee. The document is located on the Department's Conditional Disability Discharge Unit's (CDD) website at http://www.fsacollections.ed.gov/contractors/ga/cdd/index.asp. The document was updated with minor revisions and republished in November 2006.

CURRENT POLICY:

Current policy does not specify the applicability of total and permanent disability (TPD) loan discharges to joint Consolidation comakers, PLUS comakers, or PLUS loan endorsers. Also, current policy does not establish the effect on the non-disabled comaker's alternate repayment agreements, or forbearance or deferment eligibility if a disabled comaker is in a conditional discharge period.

REVISED POLICY:

Revised policy specifies when a comaker or endorser may be eligible for TPD discharge of a portion of the loan or of his or her obligation to repay the loan; when the lender retains the loan rather than assigning it to the Department as part of the discharge claim process; how the lender should service the loan until a discharge eligibility determination is final; and how the loan balance may be effected by the disabled comaker's or endorser's final discharge.

Revised policy provides that if a comaker of a joint Consolidation loan or PLUS loan applies for a total and permanent disability loan discharge, the lender must continue servicing the loan for the non-disabled comaker. The lender must protect the status of the loan during the conditional discharge period so that the loan does not become delinquent or more delinquent. The lender may apply an administrative forbearance on the entire loan if the non-disabled comaker is not eligible for or does not choose another repayment option, deferment, discretionary forbearance, or reduced-payment forbearance. The administrative forbearance may begin on the date the lender receives the disabled comaker's loan discharge application, or the date the lender receives the notification from the guarantor that one comaker is totally and permanently disabled, whichever is earlier. The forbearance ends on the date that the lender receives notice of the disabled comaker's final discharge determination.

Revised policy also provides that the non-disabled comaker may qualify for a deferment on the loan for the period during which the disabled comaker is in a conditional discharge status. The deferment may begin no earlier than the date that the lender receives the disabled comaker's loan discharge application and ends on the date of the disabled comaker's final discharge determination, or the date that the non-disabled comaker would become otherwise ineligible for additional deferment.

Further, revised policy states that the lender must report the correct status of the non-dischargeable portion in a timely manner so that the guarantor can ensure accurate NSLDS reporting. The NSLDS currently reports joint Consolidation loans under one primary borrower only. However, to ensure proper reporting during the conditional discharge period, the lender should report the non-dischargeable portion under the non-disabled comaker's name and Social Security number. If the borrower on record with the NSLDS is the disabled comaker, the guarantor will update the NSLDS to reflect the non-disabled comaker as the borrower of record. If the discharge is denied, the lender and guarantor may continue reporting the full balance under the borrower currently being reported. If a final discharge is granted, the lender continues to report the non-discharged portion of the Consolidation loan under the non-disabled comaker's name and Social Security Number.

REASON FOR CHANGE:

The Department issued guidance regarding various aspects of loan servicing for comade Consolidation and PLUS loans, and for PLUS loans with an endorser when one of the comakers or the endorser asserts that he or she is totally and permanently disabled. Regulations do not provide guidance for servicing a loan in the above situations.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise subsection 11.1.A, page 1, column 2, paragraph 3, bullet 4, by inserting a new subbullet, as follows:

11.1.A
General Deferment Eligibility Criteria

There are several conditions under which borrowers qualify for deferment. In granting a deferment, the lender should be aware of the following general characteristics of deferments:

- . . .
- . . .
- . . .
- If a PLUS loan is made to two parents as comakers (as applicable to PLUS loans made prior to April 16, 1999), or a Consolidation loan is made to spouses as comakers, the loan may not be deferred unless each comaker requests deferment and satisfies applicable eligibility requirements for deferment. If each comaker qualifies under a separate deferment provision, the lender may defer the loan under one of those deferment types.
    - <u>If a PLUS loan is made to two parents as comakers or a Consolidation loan is made to spouses as comakers, and if the disabled comaker is in a conditional discharge status, the lender must defer the entire loan based solely on the non-disabled comaker's deferment eligibility. The deferment period for the non-disabled comaker may not begin prior to the date the lender receives the disabled comaker's loan discharge application, or the notification from the guarantor that a loan discharge application was submitted to the guarantor, whichever is earlier. The deferment ends on the date that the non-disabled comaker's deferment eligibility ends, or the date on which the lender receives notice of the final discharge determination for the disabled comaker, whichever is earlier.</u>
- . . .

Revise section 11.19, page 23, column 2, paragraph 4, as follows:

If two individuals are jointly liable for repayment of a PLUS loan or Consolidation loan, a lender may grant forbearance on repayment of the loan only if the ability of each individual to make scheduled payments has been impaired based on the same or differing conditions

–except in cases when one comaker has applied for a total and permanent disability loan discharge (see subsection 11.19.F, Forbearance of a Loan for a Comaker during the TPD Conditional Period).
[§682.210(a)(3)]

Revise subsection 11.19.F, page 25, column 2, by moving the current language to 11.19.G and inserting a new paragraph in 11.19.F, and reassigning new, sequential subsection numbers to subsequent subsections, as follows:

11.19.F
Forbearance of a Loan for a Comaker during the TPD Conditional Period

When one comaker of a joint Consolidation loan or a comade PLUS loan applies for a total and permanent disability loan discharge, the forbearance eligibility requirements apply only to the non-disabled comaker during the conditional discharge period. The lender must ensure that the delinquency on a comade loan, if any, at the time the conditional discharge period begins does not worsen.

A lender may grant discretionary forbearance on the repayment of the entire loan if the ability of the non-disabled comaker to make payments is impaired during the conditional discharge period for the disabled comaker.

The lender must explore with the non-disabled comaker any other available options such as alternative repayment agreements, deferments, discretionary forbearance, or reduced payment forbearance. As a last resort, the lender may apply an administrative forbearance to ensure that the loan does not become delinquent or that an existing delinquency does not increase during the conditional discharge period. (See subsection 10.6.C for repayment options; sections 11.2 to 11.18 for deferment information; section 11.21 for information on discretionary forbearance; and subsection 11.21.A for information on reduced-payment forbearance.)

11.19.~~F~~G
Forbearance of Delinquent Loans

11.19.~~G~~H
Forbearance of Defaulted Loans

11.19.~~H~~I
Borrower Contact during Forbearance

11.19.~~I~~J
Establishing Repayment after Forbearance

Revise figure 11-2, page 27, row 5, as follows:

Total and Permanent Disability [6]	Date the lender receives reliable . . . Date lender receives physician's . . . 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.

Revise subsection 11.20.P, page 31, column 1 by inserting a new paragraph after paragraph 4, as follows:

If a comaker of a joint Consolidation loan or PLUS loan applies for a total and permanent disability loan discharge, the lender must continue servicing the loan for the non-disabled comaker. The lender must protect the status of the loan during the conditional discharge period so that the loan does not become delinquent or more delinquent. The lender may apply an administrative forbearance on the entire loan if the non-disabled comaker is not eligible for or does not choose another repayment option, deferment, discretionary forbearance, or reduced-payment forbearance. The administrative forbearance may not begin prior to the date the lender receives the disabled comaker's loan discharge application, or the date the lender receives the notification from the guarantor that one comaker is totally and permanently disabled, whichever is earlier. The forbearance ends on the date that the lender receives notice of the disabled comaker's final discharge determination.

Revise section 13.8, page 16, column 1, paragraph 3, as follows:

Comakers and Endorsers

If a PLUS loan was obtained by two parents as comakers (as applicable to PLUS loans made prior to April 16, 1999), or a Consolidation loan was obtained by ~~a married couple~~ two spouses as comakers and one of the borrowers is eligible for the discharge, one or both comakers ~~the other borrower~~ remain~~s~~ obligated to repay the loan. However, if each comaker on a loan meets the eligibility criteria for a discharge –under the same type or a different discharge type–discharge can be granted on the loan.
[§682.402(a)(2) and (3)]

If a comaker on a joint Consolidation loan is determined to be totally and permanently disabled, the disabled comaker's underlying loans are discharged but the disabled comaker and the non-disabled comaker both remain jointly and severally liable for the repayment of the balance of the loan. For a comade PLUS loan, if one comaker is determined to be totally and permanently disabled, that comaker's obligation on the loan is discharged and the non-disabled comaker assumes responsibility for repayment of the entire loan balance.

If the lender has begun collection activities with respect to the endorser's obligation on a PLUS loan, and if the endorser is determined to be totally and permanently disabled, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance.

Revise subsection 13.8.F, page 34, column 2, paragraph 2, as follows:

13.8.F
Total and Permanent Disability

If any party to a loan claims to be totally and permanently disabled ~~borrower~~, ~~claims to be totally and permanently disabled,~~ the lender must request that ~~the borrower~~ party to provide certification of the disability from a physician. 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.

The lender may request that the borrower's, comaker's, or endorser's representative provide the physician's certification if the borrower, comaker, or endorser is unable to do so. The borrower, comaker, or endorser, or his or her ~~the borrower's~~ representative must submit a completed Loan Discharge Application: Total and Permanent Disability or other form(s) approved by the Department. The certification must include the date the borrower, comaker, or endorser became unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death.
[§682.402(c)(2)]

Suspending Collection

If a lender receives reliable information indicating that a borrower or one of two comakers on a PLUS or Consolidation loan has become totally and permanently disabled, the lender may ~~grant the borrower~~ apply an administrative forbearance to the loan, not to exceed 60 days, until the lender receives certification of the ~~borrower's~~ total and permanent disability. If the lender does not grant the ~~borrower an~~ administrative forbearance, the lender must continue collection activit~~y~~ies until it receives the certification—or until it receives a written request from the physician requesting additional time to determine whether the borrower or comaker is totally and permanently disabled. If the lender receives reliable information indicating that an endorser has become totally and permanently disabled, the lender may not apply an administrative forbearance to the PLUS loan pending receipt of the required forms. [§682.211(f)(10); §682.402(c)(3)]

If the lender receives a written request from the borrower's or comaker's physician requesting additional time to make a determination, the lender must suspend collection activity on the loan for up to 60 days or until the certification is received, whichever is earlier. If the lender determines that the borrower or comaker does not meet the definition of totally and permanently disabled, or if the lender does not receive the physician's certification of total and permanent disability within 60 days of the receipt of the physician's written request for additional time, the lender must resume collection activity and treat the loan as though forbearance had been granted during this period. A signed forbearance agreement is not required for this administrative forbearance period. The delinquency status, if any, that existed on the loan before the lender suspended its due diligence remains. The lender must resume due diligence immediately at the level of delinquency at which it was suspended. For more information on the use of administrative forbearance in conjunction with the lender's receipt of a physician's written request for additional time, see subsection 11.20.P. [§682.402(c)(5)]

For a comade Consolidation loan on which one comaker's loan discharge application will not result in the discharge of the entire loan balance, the lender must continue to service the portion of the loan that is not eligible for loan discharge. The lender must ensure that when the comaker who is claiming to be totally and permanently disabled resumes repayment on the remaining balance of the loan, the loan itself has not become delinquent or more delinquent during the conditional discharge period. The lender may apply an administrative forbearance to the entire Consolidation loan for the conditional discharge period, after first exploring with the non-disabled comaker any other available options, such as alternative repayment agreements, deferment, discretionary forbearance, or reduced-payment forbearance.

For a comade PLUS loan on which one comaker is applying for loan discharge, the lender must continue to collect on the full balance of the loan from the non-disabled comaker. The lender must ensure that the loan status does not deteriorate during the conditional discharge period, and should work with the non-disabled comaker to discuss deferment options or to negotiate forbearance terms. The lender may apply an administrative forbearance to the entire loan balance if the non-disabled comaker is not eligible for other repayment options or does not choose to defer or forbear the loan.

For a PLUS loan on which the endorser is applying for loan discharge, the lender may not collect from the endorser but must continue to collect the entire loan amount from the borrower.

General Requirements for Total and Permanent Disability Loan Discharge

If a doctor of medicine or osteopathy, legally authorized to practice in a state, certifies that the borrower, the comaker, or the endorser on a PLUS loan is totally and permanently disabled, the borrower's, comaker's or endorser's obligation to repay all or a portion of the loan may be discharged. If a comaker on a joint Consolidation loan is determined to be totally and permanently disabled, the disabled comaker's underlying loans are discharged but the disabled comaker and the non-disabled comaker both remain jointly and severally liable for repayment of the balance of the loan. For a comade PLUS loan, if one comaker is determined to be totally and permanently disabled, that comaker's obligation on the loan is

discharged and the non-disabled comaker assumes responsibility for repayment of the entire loan balance. If the lender has begun collection activities with respect to the endorser's obligation on a PLUS loan, and if the endorser is determined to be totally and permanently disabled, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance.
[§682.402(a)(2) and (3)]

For these purposes, a borrower, comaker, or endorser is considered totally and permanently disabled if he or she is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. A borrower, comaker, or endorser is not considered totally and permanently disabled on the basis of a condition that existed at the time the loan was made, unless that condition has substantially deteriorated to the point of total and permanent disability since the loan was made. In this situation, ~~the borrower should ensure that~~ the physician must clearly note~~s~~ that the condition became totally and permanently disabling after the date on which the loan was made.
[§682.402(c)(1)(iii)]

If a borrower, comaker, or endorser receives a new loan under the Perkins, FFEL, or Direct Loan Program (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status) within 3 years of the date ~~the borrower~~ he or she became unable to work and earn money, the borrower, comaker, or endorser is not eligible for discharge on ~~that~~ the loan on which he or she is a signatory or any loan made prior to that date. This 3-year period, i.e., the conditional discharge period, begins on the date the borrower, comaker, or endorser became unable to work and earn money, as certified by the physician. The lender must review its records for any new loan(s) made to the borrower, comaker, or endorser on or after the date ~~the borrower~~ he or she became totally and permanently disabled. If the lender's records indicate (or the lender is otherwise aware) that a new loan(s) was made during the 3-year conditional discharge period, the lender must deny the discharge and inform the borrower, comaker, or endorser. For information regarding a borrower's eligibility for a new loan(s) after the conditional period, see section 5.4.
[§682.402(c)(1)(ii)(B)]

For a Consolidation loan made to a single borrower, the borrower must be certified totally and permanently disabled according to FFELP discharge criteria for *all* underlying loans—including any non-FFELP loans. In other words, all of the underlying loans would be eligible for discharge due to total and permanent disability had these loans not been consolidated. A borrower is considered totally and permanently disabled based on a condition that existed at the time the borrower's underlying loans were made only if the borrower's condition substantially deteriorated to the point that the borrower was rendered totally and permanently disabled after the loans were made. If requested, a borrower seeking to discharge a Consolidation loan obligation must provide the lender with the disbursement dates of the underlying loan(s), if that information is not available in the lender's servicing records.
[§682.402(c)(1)(iv)]

~~If a Consolidation loan is made jointly to a married couple as comakers, and one of the borrowers becomes totally and permanently disabled, the portion of the Consolidation loan attributable to the disabled borrower may be discharged. However, both borrowers remain jointly and severally liable for any remaining balance after the discharge.~~
~~[§682.402(a)(2)]~~

~~If a PLUS loan is made to two borrowers as comakers, the loan is dischargeable due to total and permanent disability only if both borrowers become disabled, or if one borrower becomes disabled and the other has his or her obligation to repay the loan discharged on another basis (such as death or bankruptcy). If only one comaker has his or her obligation discharged, the other comaker is obligated for repayment of the remaining loan balance.~~
~~[§682.402(a)(3)]~~

. . .

Conditional Discharge Due to Total and Permanent Disability

Total and permanent disability loan discharge determinations made by the lender on or after July 1, 2002, and subsequently paid as a claim by the guarantor, ~~are~~ may be permanently assigned to the Department. The Department then determines if the certification and information provided by the borrower, comaker, or endorser support the conclusion that ~~the borrower~~ he or she meets the criteria for a total and permanent disability loan discharge. If the Department determines that the certification and information provided by the borrower, comaker, or endorser do not support the conclusion that ~~the borrower~~ he or she meets the criteria for a total and permanent disability loan discharge, the Department notifies the borrower, comaker, or endorser that the application for a total and permanent disability loan discharge has been denied and that the loan is due and payable under the terms of the promissory note.

If the Department makes an initial determination that the borrower, comaker, or endorser is totally and permanently disabled, the Department ~~notifies the borrower~~ sends notification to the borrower, comaker or endorser that the loan—or the comaker's or endorser's obligation on the loan—is conditionally discharged and that the conditional discharge period will last for up to 3 years after the date ~~the borrower became~~ that he or she became totally and permanently disabled, as certified by the physician. The Department's notification specifies that all or part of the 3-year period may predate the Department's initial determination, and identifies the following conditions that apply during the 3-year conditional discharge period:

- The disabled borrower, comaker, or endorser is not required to make any payments on the loan.

- The disabled borrower, comaker, or endorser is not considered delinquent or in default on the loan, unless ~~the borrower~~ he or she was delinquent or in default at the time the conditional discharge was granted.

- The disabled borrower, comaker, or endorser must promptly notify the Department of any changes in address or phone number.

- The disabled borrower, comaker, or endorser must notify the Department if his or her annual earnings from employment exceed 100 percent of the poverty line for a family of two.

- The disabled borrower, comaker, or endorser must provide the Department, upon request, with additional documentation or information related to ~~the borrower's~~ his or her eligibility for a total and permanent disability loan discharge.
  [§682.402(c)(14)]

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

The Department also notifies the disabled borrower, comaker, or endorser, for those loans assigned to the Department, that~~,~~ if at any time during the 3-year conditional discharge period ~~the borrower~~ he or she does not continue to meet the eligibility requirements for a total and permanent disability discharge, the Department or the loan holder, as applicable, will resume collection activity on the loan but will not require the borrower to pay any interest that accrued on the loan from the date of the initial determination of total and permanent disability through the end of the conditional discharge period.
[§682.402(c)(16)]

NSLDS Reporting during the Conditional Period for Comade Loans

In cases where a comaker of a joint Consolidation or PLUS loan has applied for a total and permanent disability loan discharge, the lender must ensure accurate reporting to the guarantor for NSLDS purposes. The lender must report the correct status of the non-dischargeable portion to the guarantor for subsequent reporting to the NSLDS in a timely manner. The NSLDS currently reports joint Consolidation loans and comade PLUS loans under one primary borrower only. However, to ensure proper reporting during the conditional discharge period, the lender should report the non-dischargeable portion under the non-disabled borrower's name and Social Security number (SSN) to the guarantor. If the borrower on record with the guarantor and the NSLDS is the disabled borrower, the guarantor's records and the NSLDS must be updated to reflect the non-disabled borrower as the borrower of record. If the discharge is denied, the lender may resume reporting the full balance of the loan under the borrower currently being reported. If a final discharge is granted, the lender continues to report the non-discharged portion of the Consolidation loan under the non-disabled borrower's name and SSN.

Total and Permanent Disability Loan Discharge Payment

Federal regulations require a guarantor to determine if the borrower, comaker, or endorser meets the eligibility criteria for a total and permanent disability (TPD) discharge. If the guarantor determines that the borrower, comaker, or endorser meets the criteria, the guarantor will take the following action, as appropriate:

- For a loan made solely to the borrower, or a PLUS loan with an endorser where the borrower is the party applying for the loan discharge, the guarantor will pay the lender the remaining balance on the loan and assign the loan to the Department.

- For a comade (spousal) Consolidation loan, the guarantor will pay the lender the amount that represents the disabled comaker's portion of the Consolidation loan. The guarantor will forward the disability documentation to the Department for determination of the final discharge eligibility.

- For a comade PLUS loan or a PLUS loan with an endorser where the endorser is the party applying for the loan discharge, the guarantor will forward the documentation to the Department for a determination of final discharge eligibility. The guarantor will not remit a claim payment to the lender.

Revise subsection13.8.F, page 36, column 2, paragraph 4, as follows:

Notification Requirements after Claim Filing or Filing of a Partial Discharge Request

~~If the guarantor determines that the borrower is eligible, the guarantor pays the total and permanent disability claim to the lender.~~ After the lender receives payment of ~~the~~ a total and permanent disability claim for a loan made solely to a single borrower or for a portion of a Consolidation loan attributable to a comaker, the lender must notify the borrower or comaker that the loan or a portion of the loan will be assigned to the Department for determination of eligibility for a total and permanent disability loan discharge. After the lender receives notification from the guarantor that the loan discharge application has been forwarded to the Department for a determination of total and permanent discharge eligibility, the lender must notify the PLUS loan borrower that the comaker's or endorser's discharge application has been forwarded to the Department.
[§682.402(c)(8)]

If the guarantor determines that the borrower, comaker, or endorser is not eligible for loan discharge, the guarantor will notify the lender ~~claim will be returned to the lender~~ with an explanation of the reason for the denial. The lender must notify the borrower, comaker, or endorser that the application for a disability discharge has been denied, provide the basis for the denial, and inform the borrower, comaker, or endorser that the lender will resume collection activities on the loan.
[§682.402(c)(7)]

Resuming Loan Servicing on Comade or Endorsed Loans

If the Department grants a final discharge to a comaker for a portion of a Consolidation loan, the lender must resume collection activities on the remaining loan balance, collecting that balance from both the disabled and non-disabled spouses. If the Department denies the final loan discharge, the lender must refund to the guarantor the amount of the discharge payment previously received and return the loan to repayment with the corrected loan balance. No interest accrues on the disabled comaker's portion of the loan during the conditional discharge period.

If the Department grants a final discharge to a comaker of a PLUS loan, there is no reduction of the loan's principal and the lender must resume loan collection activities on the full loan amount. The disabled comaker's obligation on the loan is discharged and lender may bill only the non-disabled comaker. If the Department denies the final discharge, the lender must resume collection activities with both comakers.

If the Department grants a final discharge for a PLUS loan endorser, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance. If the Department denies the final discharge is denied, the lender ma resume billing both the borrower and endorser, as appropriate.

PROPOSED LANGUAGE - COMMON BULLETIN:

Total and Permanent Disability (TPD) Loan Discharges for Comakers and Endorsers

The *Common Manual* has been revised to provide policies related to the servicing of a comade Consolidation or PLUS loan, or a PLUS loan with an endorser when a comaker or endorser may be eligible for a TPD loan discharge.

Revised policy provides that if a comaker of a joint Consolidation loan or PLUS loan applies fora total and permanent disability loan discharge, the lender must continue servicing the loan for the non-disabled comaker. The lender must protect the status of the loan during the conditional discharge period so that the loan does not become delinquent or more delinquent during the conditional discharge period. The lender may apply an administrative forbearance on the entire loan if the non-disabled comaker is not eligible for or does not choose another repayment option, deferment, discretionary forbearance, or reduced-payment forbearance. The administrative forbearance for the non-disabled comaker may begin no earlier than the date that the lender receives the disabled comaker's loan discharge application, or the date the lender receives the notification from the guarantor that one comaker is totally and permanently disabled, whichever is earlier. The forbearance ends on the date that the lender receives notice of the disabled comaker's final discharge determination. Deferment may begin no earlier than the date that the lender receives the disabled comaker's loan discharge application and ends on the date of the disabled comaker's final discharge determination, or the date that the non-disabled comaker otherwise would become ineligible for additional deferment, whichever is earlier.

Provisions for the discharge of the endorser's obligation apply only if the lender has begun collection activities against the endorser. If the lender is pursuing collection activities from the endorser and the endorser applies for a total and permanent disability loan discharge, the lender may not collect from the endorser but must continue to collect the entire loan amount from the borrower. The lender may not apply a conditional discharge administrative forbearance on the borrower's loan in this case. The lender may permit the loan to become more delinquent or to default if the borrower does not make payments or other repayment arrangements.

If the Department grants a final discharge on a comade Consolidation loan, the lender must resume collection activities on the remaining loan balance, collecting that balance from both the disabled and non-disabled spouses. If the Department denies the final loan discharge, the lender must refund to the guarantor the amount of the discharge payment previously received and return the loan to repayment with the corrected loan balance. No interest accrues on the disabled comaker's portion of the loan during the conditional discharge period.

If the Department grants a final discharge on a comade PLUS loan, there is no reduction of the loan's principal and the lender must resume loan collection activities on the full loan amount. The lender may bill only the non-disabled comaker. If the Department denies the final discharge, the lender may resume collection activities with both comakers.

If the Department grants a final discharge for a PLUS loan endorser, the endorser's obligation on the loan is discharged and the primary borrower assumes sole responsibility for repayment of the entire loan balance. The lender may not pursue collection activities against the endorser. If the endorser's final discharge is denied, the lender may resume collection activities with both the borrower and endorser, as appropriate.

The lender must ensure accurate that it reports the correct status of the non-dischargeable portion of the loan to the guarantor in a timely manner. The NSLDS currently reports joint Consolidation loans under one primary borrower only. However, to ensure proper reporting during the conditional discharge period, the lender should report the non-dischargeable portion under the non-disabled borrower's name and Social Security number. If the borrower on record with the NSLDS is the disabled borrower, the guarantor will update the NSLDS to reflect the non-disabled borrower as the borrower of record. If a final discharge is denied, the lender and guarantor may resume reporting the full balance of the loan under the borrower currently being reported. If a final discharge is granted, the lender continues to report the non-discharged portion of the Consolidation loan under the non-disabled borrower's name and Social Security number.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower, comaker, and endorser will receive more consistent treatment with respect to applications for total and permanent disability loan discharge, and with respect to the remaining responsibility for making payments on the balance of the loan, if any.

School:
None.

Lender/Servicer:
A lender may be required to amend claim filing procedures, borrower/endorser notifications rules, due diligence procedures, and deferment and forbearance procedures, and loan reporting procedures and systems. A lender may also be required to amend procedures for counseling borrowers of comade loans or PLUS loans on which there is an endorser regarding TPD provisions.

Guarantor:
A guarantor may be required to amend TPD claim review and payment protocols for loans with comakers and endorsers, procedures for providing information on TPD claims to the Department, lender payment and notification processes, NSLDS reporting processes, and program review procedures.

U.S. Department of Education:
The Department may receive additional TPD loan discharge requests for comakers and endorsers, and may be required to amend program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee
Default Aversion and Claims Standardization (DACS) Subcommittee

DATE SUBMITTED TO CM POLICY COMMITTEE:
September 21, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

Comments Received from:
AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Several commenters recommended word smithing and editorial suggestions that made no substantive changes to the policy statement but that added clarity and reduced duplicative text. These comments and suggestions were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
Two commenters noted that the "revised policy" statement misstates the deferment start date that is applicable for a loan on which one spouse has applied for total and permanent disability loan discharge. The commenters further noted that the deferment may begin no earlier than the date that the lender received the disabled comaker's loan discharge application, but that the deferment eligibility, and thus the deferment start date, may be after that date. One commenter noted a similar issue with proposed language in subsection 11.20.P.

Response:
The Committee agrees.

Change:
The revised policy statement and subsection 11.20.P have been amended to clarify that the deferment may begin no earlier that the lender's receipt date for the loan discharge application.

COMMENT:
Two commenters requested that the effective date and triggering event be updated with respect to the reference to the DACS matrix, referring to the more recent publication of the updated matrix in the Department's website. The commenters noted that the Department had published in November 2006 an updated matrix to address the TPD loan discharge of loans with comakers and endorsers.

Response:
The DACS subcommittee reviewed the most recent Department updates to the TPD matrix in the Department's Website and determined that the updates did not impact the substance of the policy statements in policy 962, or by association, this policy. Thus the text in both policies relate most specifically to the earlier document, and the Committee believes that the earliest official publication date is the most accurate reflection of the policy changes since many guarantors implemented policies based on the earlier publication.

Change:
None.

COMMENT:
Two commenters noted that the language in several sections and subsections as written presumes that the loan on which the conditional discharge is granted is already delinquent when the discharge is put in place. The commenters suggested that the language be changed to state that the lender may not permit the loan to become "delinquent or more delinquent" to acknowledge that the loan may be current when the loan discharge application is processed.

Response:
The Committee agrees.

Change:
The language is changed in all applicable sites to advise that the lender may not let the Consolidation loan become delinquent or more delinquent during the conditional discharge period.

COMMENT:
One commenter suggested that the word "comaker" be spelled "co-maker," and that the word "comade" be spelled "co-made."

Response:

The Committee disagrees. The *Common Manual* style convention for “comaker” is not hyphenated, and the word is used in numerous contexts within the policy text throughout the manual. The word comade will not be hyphenated for consistency with other forms of the word in the manual.

Change:
None.

COMMENT:
Two commenters requested that language be inserted into subsection 13.8.F, paragraph ,1 to indicate that the borrower’s, comaker’s, or endorser’s obligation to repay may be discharged on all or a portion of the loan. As written, the text implies that the discharge would apply only to the full loan, and referred only to the borrower.

Response:
The Committee agrees.

Change:
The text has been revised to state that all or a portion of the loan may be discharged and to refer to all potential parties to the loan.

COMMENT:
Three commenters noted several instances where revised policy text refers to the borrower, comaker, or endorser being “certified” as being totally and permanently disabled. The commenters noted correctly that the borrower, comaker, or endorser must be determined by the Department to fulfill the requirements of total and permanent disability. The commenters recommended that the word “certified” be changed to “determined.” Other commenters noted additional cites in which policy text should clarify that the provisions are applicable only after the final discharge “determination.”

Response:
The Committee agrees.

Change:
As appropriate, the word “certified” is changed to “determined,” or the word “determination” has been added.

COMMENT:
Two commenters noted that revisions to subsection 13.8.F do not clearly state that if the endorser’s obligation to repay a PLUS loan is discharged, the primary borrower becomes solely responsible for the repayment of the loan and that the endorser’s responsibility is discharged.

Response:
The Committee agrees.

Change:
The policy has been revised to state more clearly that if the endorser’s obligation on the loan is discharged, the primary borrower assumes sole responsibility for repayment of the entire loan balance.

COMMENT:
Five commenters noted that the guarantor reports to the NSLDS, lenders do not. The commenters suggested re-writes to the text under the NSLDS subheading to indicate that the lender is responsible for accurate reporting to the guarantor and that the guarantor does the NSLDS reporting.

Response:
The Committee agrees.

Change:
The text under this subheading is amended to reflect accurately that the guarantor does the NSLDS reporting and that the lender’s obligation is to ensure accurate reporting of status the parties responsible for the loan and the discharge status.

COMMENT:
Two commenters noted that some of the text under the subheading “Notification Requirements . . .” is

unnecessary. The commenters further noted that the text here is intended to explain only applicable lender notification requirements, not when the discharge will be paid or what the guarantor may do with the loan discharge application. Another commenter suggested changes to more closely align similar topics within the text of this subheading.

Response:
The Committee agrees that the language under this subheading should be limited to the topic for which the text is intended, and all references to issues not related directly to notification should be eliminated. While restructuring the paragraph to more closely align similar text would make the text more coherent, the Committee believes that eliminating unrelated text will more directly improve the information provided.

Change:
Unnecessary text is eliminated and the text is revised to focus solely on the lender notification requirements.

COMMENT:
Two commenters noted that NSLDS reporting of comade loans under one primary borrower applies to both Consolidation and PLUS loans. The commenters recommended a change to the third sentence of the first paragraph under the "NSLDS" subheading to insert a reference to comade PLUS loans.

Response:
The Committee agrees.

Change:
The third sentence is revised to refer also to comade PLUS loans.

COMMENT:
One commenter noted that the terms used in this policy are not formatted in the politically correct manner of referring first to the entity and then to any disability. The commenter requested that the policy text be revised to be more compliant with current conventions for referring to parties with disabilities by referring first to the entity (borrower, comaker, endorser, etc.) and then to the disabled status.

Response:
The Committee agrees that the terminology in the current proposal is formatted succinctly. The Committee's discussions and research indicate a number of opinions regarding appropriate terminology, and it is not able in its current time frames or discussions to reach consensus on appropriate methods for correcting this proposal or text in the existing manual.

Change:
The Committee has added this issue to its list of topics for additional review and development.

COMMENT:
Two commenters noted that the instructions are confusing on NSLDS reporting for instances where the loan discharge is denied on a comade loan. The commenters noted that as written, it is unclear whether NSLDS reporting resumes under the original primary borrower but at the full loan balance or if the reporting continues under the name and Social Security number of the borrower being reported since the loan discharge application was filed, and again, is reported at the full loan balance. The commenters requested clarification.

Response:
The Committee agrees that the text as written is unclear. Additional research appears to indicate that the Department intends that the lender and guarantor not be required to "switch back" to the original, primary borrower. Further, when the discharge is denied, the entire balance is collectible, so the lender should report the entire loan balance. Such a policy would be consistent with the fact that both borrowers are jointly and severally, thus equally, liable for the loan's full repayment.

Change:
The policy has been revised to state that if the loan discharge is denied, the lender and guarantor may continue to report the loan under the name and Social Security number of the borrower whose information has been reported since the loan discharge application was filed. The lender should revert to reporting the full loan balance.

COMMENT:
One commenter noted that the information in the policy is lengthy and complex and requested that the Policy Committee consider the development of a table or some graphic method of presenting the information.

Response:
The Committee agrees that the subject matter is complex and the various types of loans and signatories creates a variety of policy issues. The Committee will consider the development of a graphic representation of the loan servicing requirements for these loans, and will consult with other community experts to determine the feasibility of such a graphic device.

Change:
None.

COMMENT:
One commenter noted that the text is confusing when it mixes references to "borrower" and "comaker" in a single passage, when the policy is really addressing the loan servicing requirements for a comade loan. The commenter asked that the policy be revised to consistently refer to the borrower as a comaker in cases where the loan is comade.

Response:
The Committee agrees.

Change:
Instances where the policy text refers to "borrower" have been changed to refer to "comaker" when the policy focuses on comade loans.

COMMENT:
One commenter noted that the updated matrix on the Department's website includes a question and answer related to the dischargeability of a Stafford borrower's endorser. The Department indicates that the same rules apply to the discharge of a Stafford endorser's obligation as apply to the discharge of an endorser on a PLUS loan. The commenter requested that the proposal be updated to include appropriate references to Stafford loan endorsers.

Response:
The *Common Manual* does not develop or publish policy for exceptional issues. The Policy Committee believes the frequency of the applicability of the policy would be very small, based on the following analysis:

- The outstanding population of Stafford loans made with endorsers is small.
- The population of Stafford loans with endorsers from whom the lender is collecting the loan is significantly smaller.
- The population of Stafford loan endorsers who are subject to collections from the lender and who file for total and permanent disability loan discharge is still smaller.

Change:
None.

COMMENT:
One commenter noted that the statement throughout the proposal that the lender must "'retain the same status" on the loan is incorrect. The commenter noted that the intent of the provision is clearly to ensure that the loan does not become delinquent or more delinquent while in the conditional discharge period. However, the comaker who remains responsible for the loan's repayment may improve the loan's status by bringing it more current.

Response:
The Committee agrees.

Change:
The text has been revised to state clearly that the loan may not become more delinquent and to eliminate references to "retaining the same status."

COMMENT:
One commenter noted that the provisions that state that the lender may apply an administrative forbearance to the comade loan should not state that the non-disabled comaker is eligible for administrative forbearance only after being determined ineligible for the various repayment options, but rather that the lender must explore alternatives prior to applying an administrative forbearance.

Response:
The Committee agrees.

Change:
The text has been revised to denote more clearly that the non-disabled borrower may be ineligible for the options or may simply not choose any repayment alternative to protect the loan's status. However, the lender remains obligated to explore repayment options with the borrower prior to applying the administrative forbearance.

COMMENT:
One commenter noted that much of the text related to forbearance of the loan during the conditional discharge period does not actually pertain directly to the forbearance of the loan. The commenter provided extensive suggested language to eliminate information that is not pertinent and to make the remaining text more succinct. Two commenters suggested that the reference to "reduced-payment forbearance" is unnecessary since this is a type of discretionary forbearance. Two additional commenters suggested language revisions to clarify how the lender resumes billing on the loan after the end of the conditional discharge period.

Response:
The Committee agrees that the text includes information that is not directly pertinent to the application of the forbearance, and appreciates all of the commenters' careful consideration and development of alternative language. However, the Committee has elected to leave the reference to reduced-payment forbearances since it is addressed in a separate subsection of the manual. Further, after removing unnecessary text, there is no need to clarify the way in which the lender must collection activities on the loan. However, the resumption of repayment is addressed in text under subsection 13.8.f, subheading "Resuming Loan Servicing . . .."

Change:
Text that is not pertinent to the granting of forbearance during the conditional discharge period has been removed, and the remaining language has been revised to be more succinct and efficient.

COMMENT:
Two commenters noted that the Department will resume collection activities on loans that are assigned to it if the borrower obtains a new loan during the conditional discharge period, or the borrower's income exceeds allowable limits. However, in some instances, the loan holder retains the loan and the loan holder may be the one responsible for resumption of the repayment terms.

Response:
The Committee agrees.

Change:
The text in the last paragraph under "Conditional Discharge Due to . . ." is amended to acknowledge that the Department or the loan holder may return the loan to repayment.

COMMENT:
Under the subheading "Total and Permanent Disability Loan Discharge Payment" one commenter noted that if the PLUS loan was made with an endorser, but the borrower is the one applying for the loan discharge, then the loan may be paid as a claim and assigned to the Department through normal processing. Also, with that clarification, the final bullet also needs language to clarify that if the PLUS loan is made with an endorser and the endorser is the party applying for the loan discharge, then the circumstance in that bullet applies.

Response:
The Committee agrees.

Change:
Language has been added to both bullets to clarify which party is applying for loan discharge on the loan

made with an endorser.

COMMENT:
One commenter noted that the policy fails to mention the release of the endorser on a PLUS loan when the borrower receives a final determination of total and permanent disability loan discharge. The commenter noted that it may be beyond the scope of this policy, but also observed that subsection 12.4.E provides guidance for the release of the endorser when the borrower dies. The commenter asked that the policy issue be added to the Committee's list of issues to discuss.

Response:
The Committee agrees that this issue is outside the scope of this policy. The Committee will add the issue to the list of issues to discuss for future development.

Change:
None.

COMMENT:
Two commenters asked that the lender and guarantor implications statements be revised to indicate potential changes to reporting protocols. One commenter provided very specific language.

Response:
The Committee agrees. The changes in this policy may require lenders and guarantors to revise reporting procedures and/or systems to accommodate accurate reporting of the status of comade and endorsed loans. However, implications statements are generally crafted at a very high level to direct the community participant to the potential for change but not specify what those changes might be, acknowledging the many differences in processing systems, terminology, and procedures.

Change:
The implications statements are revised to provide a general reference to necessary reporting changes.

bg/edited-tmh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Discharging Underlying Loans of a Consolidation Loan**

AFFECTED SECTIONS: **13.8 Discharge**

POLICY INFORMATION: **957/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Partial discharge requests filed by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.

BASIS:
Private letter guidance letter from the Department (Pam Moran) dated April 9, 1997.

CURRENT POLICY:
Current policy does not specify that a lender should file a request for partial discharge of a Consolidation loan with the guarantor of the Consolidation loan when an underlying loan is eligible for discharge due to closed school, death, disability, false certification, unpaid refund, or another discharge type.

REVISED POLICY:
Revised policy requires that the lender of a Consolidation loan submit to the guarantor of the Consolidation loan a request for partial discharge of the portion of the Consolidation loan that represents any underlying loans that are eligible for discharge due to disability (only for comade Consolidation loans), closed school, death, false certification, unpaid refund, or another discharge type. Upon approval of the discharge, the guarantor will process a payment for the discharged principal and interest portion of the Consolidation loan and forward the payment to the Consolidation loan lender.

REASON FOR CHANGE:
This change is necessary to align the manual with the Department's guidance regarding partial discharge for any underlying loan of a Consolidation loan that is eligible for discharge due to disability (only for comade Consolidation loans), closed school, death, false certification, unpaid refund, or another discharge type.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise section 13.8, page 16, column 1, by adding a new paragraph 2, as follows:

13.8
Discharge

A loan discharge is a release of a borrower's or any comaker's obligation to repay his or her loan, either in whole or in part. There are several circumstances under which a borrower's or comaker's loan may be discharged. Each of these circumstances and its corresponding borrower eligibility criteria are outlined in this section. <u>In certain circumstances, a lender that discharges all or a portion of an eligible borrower's loan may be reimbursed by the guarantor by filing a claim. For information about claim filing procedures, see section 13.1.</u>

<u>Partial Discharge of a Consolidation Loan</u>

<u>The lender of a Consolidation loan must submit to the guarantor of the Consolidation loan a request for partial discharge of the portion of the Consolidation loan that represents any underlying loans that are eligible for discharge due to disability (only for comade Consolidation loans), closed school, death, false certification, unpaid refund, or another discharge type. Upon approval of the discharge, the guarantor will process a payment for the discharged principal and interest portion of the Consolidation loan and forward the payment to the Consolidation loan lender.</u>

▲ Lenders may contact the guarantor of the Consolidation loan for information on how to file the request for partial discharge.

~~In certain circumstances, a lender that discharges all or a portion of an eligible borrower's loan may be reimbursed by the guarantor by filing a claim. For information about claim filing procedures, see section 13.1.~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Discharging Underlying Loans of a Consolidation Loan

The *Common Manual* has been revised to state that the lender of a Consolidation loan must submit to the guarantor of the Consolidation loan a request for partial discharge of the portion of the Consolidation loan that represents any underlying loans that are eligible for discharge due to disability (only for comade Consolidation loans), closed school, death, false certification, unpaid refund, or another discharge type. Upon approval of the discharge, the guarantor will process a payment for the discharged principal and interest portion of the Consolidation loan and forward the payment to the Consolidation loan lender.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will be ensured that his or her eligible underlying loans of a Consolidation loan will be discharged in a timely manner.

School:

None.

Lender/Servicer:

A lender may need to update its procedures for filing requests for partial discharges of underlying loans of a Consolidation loan, using the appropriate processes directed by the guarantor of the Consolidation loan, to ensure all borrowers' discharges are processed timely and consistently.

Guarantor:

A guarantor may need to update its procedures for processing requests for partial discharge of underlying loans of a Consolidation loan to ensure that it processes these requests for all Consolidation loans it guarantees.

U.S. Department of Education:

None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

Default Aversion and Claims Standardization (DACS) subcommittee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 6, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2007

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:
AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
Two commenters suggested that all references to the term “disability” should be removed from the proposal because with the exception of comade Consolidation loans, regulations prohibit the filing of a total and permanent disability claim on a portion of a Consolidation loan.

Response:
The Committee thanks the commenters for pointing out that, as written, the policy implies that any Consolidation loan may be eligible for partial discharge in the case of disability. The Committee believes that the manual should reflect that only comade Consolidation loans are subject to partial discharge for permanent disability.

Change:
The revised policy statement, proposed language, and bulletin language have been revised to reflect that partial discharge of a Consolidation loan due to disability is applicable only to comade Consolidation loans.

COMMENT:
One commenter suggested including similar updates in section 13.9, Teacher Loan Forgiveness.

Response:
The Committee thanks the commenter for researching the applicability of partial forgiveness of a Consolidation loan in the case of teacher loan forgiveness. Prior to distributing the proposal for community comment, the Committee discussed with the Default Aversion and Claims Standardization subcommittee (DACS) whether this policy is applicable to claim filing for teacher loan forgiveness amounts. DACS expressed that teacher loan forgiveness is handled differently than discharges. In the case of forgiveness, a specific amount of money is sent to the lender to reduce the outstanding balance of the loan. Discharges, on the other hand, are usually directly related to a specific underlying loan(s) of a Consolidation loan.

Change:
None.

COMMENT:
One commenter noted that the term “current Consolidation loan” should be changed to “existing Consolidation loan” because the term “current” is subject to multiple interpretations and could easily be misinterpreted, and possibly seen as restrictive. Two commenters suggested that it is unclear what is meant by “the current Consolidation loan.” These two commenters proposed language to more accurately reflect that because underlying loans have been paid by consolidation, it is appropriate to address the portion of the Consolidation loan they represent. The suggested language is as follows:

> “The lender <u>of a Consolidation loan</u> must submit to the guarantor of the ~~current~~ Consolidation loan a request for partial discharge ~~for any underlying loans~~ of the <u>portion of the</u> ~~a~~ Consolidation loan <u>that represents any underlying loans</u> that are eligible for discharge. . .”

Response:
The Committee understands the commenters’ concerns.

Change:
Proposed language in section 13.8 under “Partial Discharge of a Consolidation Loan” has been revised as suggested by the two commenters.

ma/edited-chh-kk

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Recapture of Excess Interest**

AFFECTED SECTIONS: **A.2 Special Allowance**

POLICY INFORMATION: **958/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Effective for quarterly lender reporting and payment of excess interest on FFELP loans first disbursed on or after April 1, 2006.

BASIS:
Higher Education Act of 1965, Section 438(b)(2)(I)(v), as amended by the Higher Education Reconciliation Act (HERA) of 2005; Interim Final Rules published in the *Federal Register* dated August 9, 2006, pages 45680, 45681, 45690, and 45705.

CURRENT POLICY:
Current policy does not address the collection of excess interest by the Department.

REVISED POLICY:
Revised policy addresses the requirement for lenders to remit excess interest to the Department on any loan first disbursed on or after April 1, 2006, for any quarter in which the applicable interest rate on the loan exceeds the defined special allowance support level.

REASON FOR CHANGE:
This change is necessary to comply with the statutory changes derived from the HERA and from the Interim Final Rules in the *Federal Register* dated August 9, 2006.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Note: Additional proposed changes to this section are reflected in proposal 960 also included in batch 141.

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

A.2
Special Allowance <u>and Excess Interest</u>

A lender may receive special allowance payments on most FFELP loans. The Department pays special allowance on a loan for any quarter in which the applicable calculation for that type of loan yields a positive number.

Special allowance is not paid on the following:

- Unconsummated loans.
  [§682.302(b)(3)]

- Nonsubsidized Stafford loans first disbursed on or after October 1, 1981, for periods of enrollment beginning before October 1, 1992.
  [§682.302(b)(1)]

- Any portion of a Consolidation loan derived from an underlying HEAL loan.
  [HEA 428C(d)(3)(A)]

<u>For a loan first disbursed on or after April 1, 2006, the Department will collect excess interest for quarters in which the applicable interest rate on the loan exceeds the special allowance support level</u>

(see subsection A.2.A).

The formulas used to calculate special allowance and excess interest, which are exhibited on the following pages, are based on the maximum applicable interest rates specified in law for each category of loan. If a lender charges a borrower an interest rate that is less than the statutory maximum rate applicable to that loan, the lender must report the loan at the statutory rate for special allowance purposes.

PROPOSED LANGUAGE - COMMON BULLETIN:

Recapture of Excess Interest

The *Common Manual* has been updated to include information related to the Department's collection of excess interest on any FFELP loan first disbursed on or after April 1, 2006, for quarters in which the applicable interest rate exceeds the special allowance support level.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Servicer:

A lender will need to revise procedures and update systems to report and remit excess interest to the Department.

Guarantor:

A guarantor may need to update program review procedures.

U.S. Department of Education:

The Department may need to develop procedures and systems to collect excess interest payments by lenders.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 23, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2007

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:

AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Special Allowance**

AFFECTED SECTIONS: **A.2 Special Allowance**
figure A-3 LaRS Special Allowance and Interest Rate Reporting for FFELP Loans

POLICY INFORMATION: **959/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Special allowance payments made on or after April 1, 2006.

BASIS:
§682.302(b)(2), as amended by the Higher Education Reconciliation Act (HERA) of 2005; *Dear Colleague Letters* FP-06-04 and FP-06-10.

CURRENT POLICY:
Current policy states that a PLUS loan first disbursed on or after July 1, 1998, is eligible for special allowance if the loan is accruing at the maximum interest rate specified in law (the cap) and the interest rate calculated prior to applying the cap exceeds the maximum interest rate for the loan.

REVISED POLICY:
Revised policy states that a PLUS loan first disbursed on or after January 1, 2000, for any period prior to April 1, 2006, is eligible for special allowance only if the loan is accruing at the cap and the interest rate calculated prior to applying the cap exceeds the maximum interest rate for the loan.

Revised policy also updates figure A-3, LaRS Special Allowance and Interest Rate Reporting for FFELP Loans, with the applicable changes.

REASON FOR CHANGE:
These changes align the manual with the statutory changes derived from the Higher Education Reconciliation Act (HERA) of 2005.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise section A.2, page 5, column 1, paragraph 1, as follows:

> Variable-rate PLUS or SLS loans first disbursed before July 1, 1994, and PLUS loans first disbursed on or after July 1, 1998<u>, or on or after January 1, 2000, for any period prior to April 1, 2006</u>, are eligible for special allowance only when the following criteria are met:
>
> . . .

Revise figure A-3, LaRS Special Allowance and Interest Rate Reporting for FFELP Loans, as follows:

Note: Some of the changes reflected in this chart were made within the text of the manual as part of Proposal 902 in Batch 133.

> See attached chart.

PROPOSED LANGUAGE - COMMON BULLETIN:

Special Allowance

The *Common Manual* has been revised to clarify that a PLUS loan first disbursed on or after January 1, 2000, for any period prior to April 1, 2006, is eligible for special allowance only if the loan is accruing at the maximum interest rate specified in law (the cap) and the interest rate calculated prior to applying the cap exceeds the maximum interest rate for the loan.

The manual has also been revised to include an updated version of figure A-3, LaRS Special Allowance and Interest Rate Reporting for FFELP Loans.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
None.

School:
None.

Lender/Servicer:
A lender is now eligible to receive special allowance on PLUS loans first disbursed on or after January 1, 2000, for any period beginning on or after April 1, 2006, as the special allowance limitations no longer apply.

Guarantor:
A guarantor may need to update program review procedures.

U.S. Department of Education:
The Department may need to update special allowance billing parameters, as well as program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
February 8, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

Comments Received from:
AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
Three commenters suggested adding *Dear Colleague Letter* (DCL) FP-06-04 as a reference in the basis because this DCL is referenced in DCL FP-06-10, and provides additional documentation to support this proposal.

Response:
The Committee agrees.

Change:

Dear Colleague Letter FP-06-04 has been added to the basis.

COMMENT:
One commenter noted that in figure A-3, a formula was added for PLUS loans to special allowance code SH that was not on the LaRS Special Allowance and Interest Rate Reporting for FFELP Loans chart that was prepared by NCHELP.

Response:
The updated version of figure A-3 that accompanies this proposal is based on the chart that was prepared by the NCHELP Regulations Committee, which contains the new PLUS formula in special allowance code SH.

Change:
None.

COMMENT:
One commenter stated that the change made to footnote 4 of figure A-3 – changing “Loans made or purchased” to “Loans attributable to” – does not seem to follow the Department’s new policy that eliminates the 9.5% floor income. The commenter also stated that this footnote refers to “minimum/maximum rules,” which are unfamiliar to the commenter.

Response:
The change implemented by the HERA, and subsequently defined by the Department in its DCL guidance, is two-fold: it eliminated a loan holder’s ability to receive 9.5% floor income (minimum special allowance payment) on such eligible loans when the special allowance interest rate is at a lower percentage; and it eliminated the restriction on such a loan holder to receive only half of the regular special allowance payment (maximum special allowance payment) on these loans when the special allowance interest rate is at a higher percentage.

The change in footnote 4 was made to better define what is meant by “minimum/maximum rules.” The elimination of the minimum/maximum rules was prospective. Many outstanding loans remain subject to the minimum/maximum rule if they are attributable to eligible bond funds from past transactions. Such loans remain subject to the minimum/maximum rule until they are paid off, sold, or transferred to other fundings.

Change:
None.

COMMENT:
Two commenters noted that figure A-3 contains the notation “Prepared by the NCHELP Regs Committee” and the date of October 2006. The commenters stated that it is not clear if the original chart or the revisions were the work of the Regulations Committee.

Response:
Figure A-3 is a chart that is maintained, and updated as needed, by the NCHELP Regulations Committee, and provided for inclusion in the manual. The Committee feels that the notation at the end of the chart provides a sufficient basis for how this chart is updated.

Change:
None.

sf/edited-bb

LaRS Special Allowance and Interest Rate Reporting for FFELP Loans — Figure A-3

LaRS Special Allowance and Interest Rate Reporting For FFELP Loans

Loan Type Code		Special Allowance Factor			
~~TG~~SF[1]	Subsidized Stafford and Subsidized FISL loans	SA	3.50% round up to 1/8%	SJ	2.20%
~~TP~~[5] PL	PLUS (parent) loans and Grad PLUS loans	SB	3.50%	SK	2.80%
~~TP~~[2, 5] PL[2]	PLUS (student) and ALAS loans	SD	3.25%	SL	3.10%
~~TU~~SU	Unsubsidized Stafford loans	SE	3.10%	CA, CE	1.74%
~~TS~~[5] SL	SLS loans	SG	3.10%	CB, CF	2.34%
~~TP~~[3, 5] SL[3]	PLUS (student) and ALAS loans	SH	2.50% / 3.10% (see below)	CC, CG	2.64%
~~TC~~CL	Consolidation loans	X✶	3.50%, tax exempt[4]	CD, CH	2.64%

Special Allowance Codes - For loans made or purchased with taxable funds or tax-exempt funds ~~originally issued on/after 10-1-1993~~ not subject to the minimum/maximum rules[4]

SA	All loans first disbursed prior to 10-1-1981. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4, rounded up to the nearest 1/8 percent)	SB	All loans first disbursed on/after 10-1-1981 through 10-16-1986 and loans first disbursed on/after 10-17-1986 through 11-15-1986 with a loan period begin date prior to 11-16-1986. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4)
SC	All loans first disbursed during sequester periods (1st four quarters after first disbursement). These sequester periods included 3-1-1986 to 9-30-1986 and 10-1-1989 to 12-31-1989. (Formulas no longer in effect)	SD	All loans first disbursed on/after 10-17-1986 through 11-15-1986 with a loan period begin date on/after 11-16-1986, and loans first disbursed on/after 11-16-1986 through 9-30-1992. (Formula: Average 90-day Tbill + 3.25% - Interest Rate / 4)
SE	All loans first disbursed on/after 10-1-1992 through 6-30-1994, and consolidation loans based on applications received by the lender prior to 11-13-1997. (Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)	SG	All Stafford and PLUS loans first disbursed on/after 7-1-1994 through 6-30-1998 (except Stafford loans first disbursed on/after 7-1-1995 through 6-30-1998 while in school, grace, or deferment status) and consolidation loans based on applications received by the lender on/after 11-13-1997 through 9-30-1998. (Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)
SH	All Stafford loans first disbursed on/after 7-1-1995 through 6-30-1998 while in school, grace, or deferment status, and PLUS loans first disbursed on/after 7-1-1998 through 12-31-1999. (Stafford Formula: Average 90-day Tbill + 2.50% - Interest Rate / 4) (PLUS Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)	SJ	All Stafford loans first disbursed on/after 7-1-1998 through 12-31-1999 while in school, grace, or deferment status. (Formula: Average 90-day Tbill + 2.20% - Interest Rate / 4)
SK	All Stafford loans first disbursed on/after 7-1-1998 through 12-31-1999 while in a status other than in-school, grace or deferment status. (Formula: Average 90-day Tbill + 2.80% - Interest Rate / 4)	SL	Consolidation loans based on applications received by the lender on/after 10-1-1998 through 12-31-1999. (Formula: Average 90-day Tbill + 3.10% - Interest Rate / 4)
CA	All Stafford loans first disbursed on/after 1-1-2000 through 3-31-2006 while in school, grace, or deferment status. (Formula: Average 3-month CP + 1.74% - Interest Rate / 4)	CB	All Stafford loans first disbursed on/after 1-1-2000 through 3-31-2006 while in a status other than in-school, grace, or deferment status. (Formula: Average 3-month CP + 2.34% - Interest Rate / 4)
CC	Consolidation loans based on applications received by the lender on/after 1-1-2000 through first disbursed on/before 3-31-2006. (Formula: Average 3-month CP + 2.64% - Interest Rate / 4)	CD	PLUS loans first disbursed on/after 1-1-2000 through 3-31-2006. (Formula: Average 3-month CP + 2.64% - Interest Rate / 4)
CE	All Stafford loans first disbursed on/after 4-1-2006 while in school, grace, or deferment status. (Formula: Average 3-month CP + 1.74% - Interest Rate / 4, subject to excess interest rebates)	CF	All Stafford loans first disbursed on/after 4-1-2006 while in a status other than in-school, grace, or deferment status. (Formula: Average 3-month CP + 2.34% - Interest Rate / 4, subject to excess interest rebates)
CG	Consolidation loans first disbursed on/after 4-1-2006. (Formula: Average 3-month CP + 2.64% - Interest Rate / 4, subject to excess interest rebates)	CH	PLUS loans first disbursed on/after 4-1-2006. (Formula: Average 3-month CP + 2.64% - Interest Rate / 4, subject to excess interest rebates)

Special Allowance Codes - For loans made or purchased with tax exempt funds ~~originally issued prior to 10-1-1993~~ subject to the minimum/maximum rules[4]

SA	All loans first disbursed prior to 10-1-1980. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4, rounded up to the nearest 1/8 percent)	XA	All loans first disbursed on/after 10-1-1980 through 9-30-1981. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)
XB	All loans first disbursed on/after 10-1-1981 through 9-30-1992. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XC	All loans first disbursed during sequester periods (1st four quarters after first disbursement). These sequester periods include 3-1-1986 to 9-30-1986 and 10-1-1989 to 12-31-1989. (Formulas no longer in effect)
XE	All loans first disbursed on/after 10-1-1992 through 6-30-1994, and consolidation loans based on applications received by the lender prior to 11-13-1997. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XG	All Stafford and PLUS loans first disbursed on/after 7-1-1994 through 6-30-1998 (except Stafford loans while in school, grace, or deferment) and consolidation loans based on applications received by the lender on/after 11-13-1997 through 9-30-1998. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)
XH	All Stafford loans first disbursed on/after 7-1-1995 through 6-30-1998 while in school, grace, or deferment, and PLUS loans first disbursed on/after 7-1-1998 through 3-31-2006. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XJ	All Stafford loans first disbursed on/after 7-1-1998 through 3-31-2006 while in school, grace, or deferment. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)
XK	All Stafford loans first disbursed on/after 7-1-1998 through 3-31-2006 while in a status other than in-school, grace or deferment. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)	XL	Consolidation loans based on applications received by the lender on/after 10-1-1998 through first disbursement on/before 3-31-2006. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)
XM	All Stafford loans first disbursed on/after 4-1-2006 while in school, grace, or deferment, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)	XN	All Stafford loans first disbursed on/after 4-1-2006 while in a status other than in-school, grace or deferment, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)

LaRS Special Allowance and Interest Rate Reporting for FFELP Loans — Figure A-3

XO	Consolidation loans first disbursed on/after 4-1-2006, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)		XP	PLUS loans first disbursed on/after 4-1-2006, held by lenders eligible for the HERA of 2005 special exemptions. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater, subject to excess interest rebates)
XQ	PLUS loans first disbursed on/after 1-1-2000 through 3-31-2006, for quarters beginning 4-1-2006 which would have been reported under the "XH" category for quarters prior to 4-1-2006. (Formula: Average 90-day Tbill + 3.50% - Interest Rate / 4 / 2, or 9.50% - Interest Rate, whichever is greater)			

Loan Type and Special Allowance Code Reporting Combinations			
~~TG~~	~~SA, SB, SC, SD, SE, SG, SH, SJ, SK, XA, XB, XC, XE, XG, XH, XJ, XK, CA, CB~~	~~TU~~	~~SE, SG, SH, SJ, SK, XE, XG, XH, XJ, XK, CA, CB~~
~~TC~~	~~SC, SD, SE, SG, SL, XB, XC, XE, XG, XL, CC~~	~~TS~~	~~SA, SB, SC, SD, SE, XA, XB, XC, XE~~
~~TP~~	~~SA, SB, SC, SD, SE, SH, XA, XB, XC, XE, XG, XH, CD~~		

Interest Rate Codes	
.07	Stafford loans at a fixed rate of 7% or less
.99999	Consolidation loans based on applications received by the lender on/after 10-1-1998 through 6-30-2003 where the fixed interest rate is a weighted average of the underlying loan interest rates rounded up to the nearest 1/8 of a percent
CVAR	PLUS loans and SLS loans made in 1986 and 1987 where the interest rate changes each January 1.
VAR	PLUS and SLS loans with first disbursements on or after 7-1-1987, but before 10-1-1992, where the interest rate changes each July 1.
EVAR	All FFELP loans that were guaranteed as variable rate loans with first disbursements on or after 10-1-1992 and Consolidation loans based on applications received by the lender between 11-13-1997 and 9-30-1998, inclusive, where the interest rate changes each July 1, and HEAL portions of Consolidation loans.
FVAR#	Stafford loans that were originally guaranteed as fixed rate loans, but were converted to a variable rate, where the interest rate now changes each July 1. Includes 8/10% loans except for those that fall under the FVARX category. FVAR# includes FVAR7, FVAR8, FVAR9, FVAR10.
FVARX	FFELP Stafford loans with a 8/10% interest rate first disbursed to prior borrowers on or after 7-23-1992 but before 10-1-1992, when such loans reach the 49th month of repayment and beyond.

~~Special Allowance and Interest Rate Code Reporting Combinations~~		
~~SA, XA~~	~~Stafford/PLUS/SLS/ALAS~~	~~7%, 9%~~
~~SB~~	~~Stafford/PLUS/SLS/ALAS~~	~~7%, 8%, 9%, 12%, 14%, CVAR~~
~~SC~~	~~Stafford/PLUS/SLS/ALAS~~	~~7%, 8%, 9%, 12%, 14%, CVAR~~
~~XB~~	~~Stafford/PLUS/SLS/ALAS/Consolidation~~	~~7%, 8%, 9%, 10%, 12%, 14%, CVAR, FVAR7, FVAR8, FVAR9, FVAR10, FVARX, VAR~~
~~SD~~	~~Stafford/PLUS/SLS/ALAS/Consolidation~~	~~7%, 8%, 9%, 10%, 12%, 14%, CVAR, FVAR7, FVAR8, FVAR9, FVAR10, FVARX, VAR~~
~~SC~~	~~Stafford/PLUS/SLS/ALAS/Consolidation~~	~~7%, 8%, 9%, 10%, 12%, 14%, CVAR, FVAR7, FVAR8, FVAR9, FVAR10, VAR~~
~~SE, XE~~	~~Stafford/PLUS/SLS/Consolidation~~	~~7%, 8%, 9%, 10%, FVAR7, FVAR8, FVAR9, FVAR10, EVAR~~
~~SG, XG~~	~~Stafford/PLUS/Consolidation~~	~~EVAR~~
~~SH, XH~~	~~Stafford/PLUS~~	~~EVAR~~
~~SJ, SK, XJ, XK~~	~~Stafford~~	~~EVAR~~
~~SL, XL~~	~~Consolidation~~	~~.99999~~
~~CA, CB~~	~~Stafford~~	~~EVAR~~
~~CC~~	~~Consolidation~~	~~.99999~~
~~CD~~	~~PLUS~~	~~EVAR~~

Valid Special Allowance, Loan Type, and Interest Rate Code Reporting Combinations

Subsidized Stafford		Unsubsidized Stafford		PLUS[5]		SLS[5]		Consolidation	
Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt
SA ~~TG~~ SF .07	SA ~~TG~~ SF .07	SE ~~TU~~ SU .07	XE ~~TU~~ SU .07	SA ~~TP~~ PL .09	XA ~~TU~~ PL .09	SA ~~TS~~ SL .09	XA ~~TS~~ SL .09	SC ~~TC~~ CL .09	XC ~~TC~~ CL .09
SA ~~TG~~ SF .09	XA ~~TG~~ SF .07	SE ~~TU~~ SU .08	XE ~~TU~~ SU .08	SB ~~TU~~ PL .14	XB ~~TU~~ PL .14	SB ~~TS~~ SL .14	XB ~~TS~~ SL .14	SC ~~TC~~ CL .10	XC ~~TC~~ CL .10
SB ~~TG~~ SF .07	XA ~~TG~~ SF .09	SE ~~TU~~ SU .09	XE ~~TU~~ SU .09	SB ~~TU~~ PL .12	XB ~~TU~~ PL .12	SB ~~TS~~ SL .12	XB ~~TS~~ SL .12	SC ~~TC~~ CL .11	XC ~~TC~~ CL .11
SB ~~TG~~ SF .08	XB ~~TG~~ SF .07	SE ~~TU~~ SU EVAR	XE ~~TU~~ SU EVAR	SB ~~TU~~ PL CVAR	XB ~~TU~~ PL CVAR	SB ~~TS~~ SL CVAR	XB ~~TS~~ SL CVAR	SC ~~TC~~ CL .12	XC ~~TC~~ CL .12
SB ~~TG~~ SF .09	XB ~~TG~~ SF .08	SE ~~TU~~ SU FVAR7	XE ~~TU~~ SU FVAR7	SC ~~TU~~ PL .12	XB ~~TU~~ PL VAR	SC ~~TS~~ SL .12	XB ~~TS~~ SL VAR	SD ~~TC~~ CL .09	XB ~~TC~~ CL .09
SC ~~TG~~ SF .07	XB ~~TG~~ SF .09	SE ~~TU~~ SU FVAR8	XE ~~TU~~ SU FVAR8	SC ~~TU~~ PL VAR	XC ~~TU~~ PL .12	SC ~~TS~~ SL VAR	XC ~~TS~~ SL .12	SD ~~TC~~ CL .10	XB ~~TC~~ CL .10
SC ~~TG~~ SF .08	XB ~~TG~~ SF .10	SE ~~TU~~ SU FVAR9	XE ~~TU~~ SU FVAR9	SD ~~TU~~ PL .12	XC ~~TU~~ PL VAR	SD ~~TS~~ SL .12	XC ~~TS~~ SL VAR	SD ~~TC~~ CL .11	XB ~~TC~~ CL .11
SC ~~TG~~ SF .09	XB ~~TG~~ SF	SE ~~TU~~ SU	XE ~~TU~~ SU	SD ~~TU~~ PL	XE ~~TU~~ PL	SD ~~TS~~ SL VAR	XE ~~TS~~ SL	SD ~~TC~~ CL .12	XB ~~TC~~ CL .12

LaRS Special Allowance and Interest Rate Reporting for FFELP Loans

Figure A-3

	FVAR7	FVAR10	FVAR10	CVAR	EVAR		EVAR		

Valid Special Allowance, Loan Type, and Interest Rate Code Reporting Combinations, cont'd									
Subsidized Stafford		Unsubsidized Stafford		PLUS[5]		SLS[5]		Consolidation	
Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt	Taxable	Tax-exempt
SD ~~TG~~ SF .07	XB ~~TG~~ SF FVAR8	SG ~~TU~~ SU EVAR	XG ~~TU~~ SU EVAR	SD ~~TU~~ PL VAR	XG ~~TU~~ PL EVAR	SD ~~TS~~ SL CVAR		SE ~~TC~~ CL .01-.25	XE ~~TC~~ CL .01-.25
SD ~~TG~~ SF .08	XB ~~TG~~ SF FVAR9	SH ~~TU~~ SU EVAR	XH ~~TU~~ SU EVAR	SE ~~TU~~ PL EVAR	XH ~~TU~~ PL EVAR	SE ~~TS~~ SL EVAR		SG ~~TC~~ CL EVAR	XG ~~TC~~ CL EVAR
SD ~~TG~~ SF .09	XB ~~TG~~ SF FVAR10	SJ ~~TU~~ SU EVAR	XJ ~~TU~~ SU EVAR	SG ~~TU~~ PL EVAR				SL ~~TC~~ CL .99999	XL ~~TC~~ CL .99999
SD ~~TG~~ SF .10	XB ~~TG~~ SF FVARX	SK ~~TU~~ SU EVAR	XK ~~TU~~ SU EVAR	SH ~~TU~~ PL EVAR				CC ~~TC~~ CL .99999	
SD ~~TG~~ SF FVAR7	XC ~~TG~~ SF .07	CA ~~TU~~ SU EVAR		CD ~~TU~~ PL EVAR					
SD ~~TG~~ SF FVAR8	XC ~~TG~~ SF .08	CB ~~TU~~ SU EVAR							
SD ~~TG~~ SF FVAR9	XC ~~TG~~ SF .09								
SD ~~TG~~ SF FVAR10	XE ~~TG~~ SF .07								
SD ~~TG~~ SF FVARX	XE ~~TG~~ SF .08								
SE ~~TG~~ SF .07	XE ~~TG~~ SF .09								
SE ~~TG~~ SF .08	XE ~~TG~~ SF EVAR								
SE ~~TG~~ SF .09	XE ~~TG~~ SF FVAR7								
SE ~~TG~~ SF EVAR	XE ~~TG~~ SF FVAR8								
SE ~~TG~~ SF FVAR7	XE ~~TG~~ SF FVAR9								
SE ~~TG~~ SF FVAR8	XE ~~TG~~ SF FVAR10								
SE ~~TG~~ SF FVAR9	XG ~~TG~~ SF EVAR								
SE ~~TG~~ SF FVAR10	XH ~~TG~~ SF EVAR								
SG ~~TG~~ SF EVAR	XJ ~~TG~~ SF EVAR								
SH ~~TG~~ SF EVAR	XK ~~TG~~ SF EVAR								
SJ ~~TG~~ SF EVAR									
SK ~~TG~~ SF EVAR									
CA ~~TG~~ SF EVAR									
CB ~~TG~~ SF EVAR									

Notes	
1	Stafford Nonsubsidized and FISL Nonsubsidized loans disbursed prior to 10-1-81 are included within SF loan types.
2	Loans disbursed prior to 10-17-86 and **unable** to distinguish from PLUS (parent) loans.
3	Loans disbursed prior to 10-17-86 and **able** to distinguish from PLUS (parent) loans.
4	Loans ~~made or purchased with~~ attributable to tax-exempt funds originally issued prior to 10-1-93 receive ½ the regular special allowance rate but not less than 9.5% minus the applicable interest rate. Loans ~~made or purchased with~~ attributable to tax-exempt funds originally issued on or after 10-1-93 receive regular special allowance and must be reported using the taxable special allowance codes.
5	PLUS and SLS loans first disbursed on/after 7-1-1987 but before 6-30-1994, and PLUS loans first disbursed on/after 7-1-1998 but before 6-30-2003 do not receive any special allowance if the annual interest rate calculation does not exceed the applicable maximum interest rate.

Prepared by NCHELP Regulations Committee October, 2006

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Excess Interest Calculation**

AFFECTED SECTIONS: **A.2.A Special Allowance Rates**

POLICY INFORMATION: **960/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Effective for the quarterly calculation of excess interest to be remitted by lenders on FFELP loans first disbursed on or after April 1, 2006.

BASIS:
Higher Education Act of 1965, Section 438(b)(2)(I)(v), as amended by the Higher Education Reconciliation Act (HERA) of 2005; Interim Final Rules published in the *Federal Register* dated August 9, 2006, pages 45680, 45681, 45690, and 45705.

CURRENT POLICY:
Current policy does not address the calculation of excess interest that lenders are required to remit to the Department.

REVISED POLICY:
Revised policy includes the requirement for the calculation and application of the excess interest rate. The excess interest rate is the applicable interest rate on any FFELP loan first disbursed on or after April 1, 2006, minus the appropriate special allowance support level. The special allowance support level is defined as the average of the bond equivalent rates of quotes of the 3-month commercial paper (financial) rates in effect for each of the days in the quarter (also called the 3-month commercial paper rate) as reported by the Federal Reserve in Publication H-15 for the 3-month period plus one of the following:

- 2.34% for a Stafford loan in repayment.
- 1.74% for a Stafford loan during the in-school, grace, or deferment period.
- 2.64% for a Consolidation or PLUS loan.

The quarterly amount of excess interest that the Department collects on a qualifying loan is determined by multiplying the average daily principal balance (not including unearned interest added to principal) of the loan by the appropriate excess interest rate, divided by four.

REASON FOR CHANGE:
This change is necessary to comply with the statutory changes derived from the HERA and from the Interim Final Rules in the *Federal Register* dated August 9, 2006.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise subsection A.2.A, page 5, column 1, paragraph 2, as follows:

A.2.A
Special Allowance <u>and Excess Interest</u> Rates

<u>Special Allowance Rates</u>

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. 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:

- . . .

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

If a special allowance rate calculation results in a negative number on a loan first disbursed prior to April 1, 2006, special allowance will not be paid for that loan type for that quarter. If a special allowance rate calculation results in a negative number on a loan first disbursed on or after April 1, 2006, the lender must remit the excess interest to the Department.

Revise subsection A.2.A, page 9, column 1, by adding a new subheading as follows:

Certain loan holders remain subject to the maximum/minimum special allowance rates on eligible loans until December 31, 2010, if all of the following apply:

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

Excess Interest Rates

The amount of excess interest that a lender must remit on a qualifying loan is determined by multiplying the average daily principal balance (not including unearned interest added to principal) of the loan by the applicable excess interest rate.

Excess Interest Formulas

FORMULA 1 (Applicable Interest Rate of the Loan - Average 3-month Commercial Paper Rate + 2.34%*) ÷ 4

- Stafford loans first disbursed on or after April 1, 2006, when such loans are in repayment.

FORMULA 2 (Applicable Interest Rate of the Loan - Average 3-month Commercial Paper Rate + 1.74%*) ÷ 4

- Stafford loans first disbursed on or after April 1, 2006, when such loans are in an in-school, grace, or deferment period.

FORMULA 3 (Applicable Interest Rate of the Loan - Average 3-month Commercial Paper Rate + 2.64%*) ÷ 4

- Consolidation and PLUS loans first disbursed on or after April 1, 2006.

*The average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in the quarter (also called the 3-month commercial paper rate) as reported by the Federal Reserve in Publication H-15 for each quarter plus the indicated percentage is known as the special allowance support level.

Example of Excess Interest Calculations

A PLUS loan is first disbursed on October 2, 2006, and is accruing interest at 8.5%. Excess interest for this loan is calculated using Formula 3.

For the quarter ending December 31, 2006, the average 3-month commercial rate is 5.38%. The special allowance support level is 8.02% (5.38% + 2.64%). The quarterly excess interest rate is calculated as follows:

(8.50% - 8.02%) ÷ 4 = 0 .12%

If the loan has an average daily principal balance for the quarter of $1,000, applying the above rate yields the following quarterly excess interest amount:

0.0012 X $1,000 = $1.20

PROPOSED LANGUAGE - COMMON BULLETIN:

Excess Interest Calculation

The *Common Manual* has been updated to include formulas and explanations of the calculation of excess interest that the lender must remit to the Department. The excess interest rate is the applicable interest rate on any FFELP loan first disbursed on or after April 1, 2006, minus the appropriate special allowance support level. The special allowance support level is defined as the average of the bond equivalent rates of quotes of the 3-month commercial paper (financial) rates in effect for each of the days in the quarter (also called the 3-month commercial paper rate) as reported by the Federal Reserve in Publication H-15 for the 3-month period plus one of the following:

- 2.34% for a Stafford loan in repayment.
- 1.74% for a Stafford loan during the in-school, grace, or deferment period.
- 2.64% for a Consolidation or PLUS loan.

The quarterly amount of excess interest that is collected by the Department on a qualifying loan is determined by multiplying the average daily principal balance (not including unearned interest added to principal) of the loan by the appropriate excess interest rate, divided by four.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

None.

School:

None.

Lender/Servicer:

A lender will need to develop procedures and update systems with the formulas to quarterly calculate the excess interest amount it must remit to the Department.

Guarantor:

A guarantor may need to update program review procedures.

U.S. Department of Education:

The Department may need to develop procedures to review excess interest calculations and payments.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

February 23, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

April 12, 2007

PROPOSAL DISTRIBUTED TO:

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

Comments Received from:
AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
One commenter requested that the last sentence in the Revised Policy section and the last sentence in the Proposed Language - Common Bulletin section be revised as follows to more accurately describe the calculation.

> The <u>quarterly</u> amount of excess interest that is collected by the Department on a qualifying loan is determined by multiplying the average daily principal balance (not including unearned interest added to principal) of the loan by the appropriate excess interest rate <u>divided by four</u>.

Response:
The Committee agrees.

Change:
The last sentences in the Revised Policy and in the Proposed Language - Common Bulletin sections were revised as requested.

COMMENT:
One commenter requested the following update to the text in subsection A.2.A, page 5, column 2, paragraph 1:

> If a special allowance rate calculation results in a negative number <u>on a loan made before April 1, 2006</u>, special allowance will not be paid for that loan type for that quarter. <u>If a special allowance rate calculation results in a negative number on a loan made on or after April 1, 2006, the loan will be subject to an excess interest rate rebate to the Department.</u>

Response:
The Committee agrees with the request to update existing manual text in subsection A.2.A.

Change:
The requested update, revised to provide language consistency within the manual, has been added to subsection A.2.A, page 5, column 2, paragraph 1, as follows:

> If a special allowance rate calculation results in a negative number <u>on a loan first disbursed prior to April 1, 2006</u>, special allowance will not be paid for that loan type for that quarter. <u>If a special allowance rate calculation results in a negative number on a loan first disbursed on or after April 1, 2006, the lender must remit the excess interest to the Department.</u>

ce/edited-tmh

COMMON MANUAL - CORRECTION POLICY PROPOSAL

Date: April 19, 2007

	DRAFT	Comments Due	
	FINAL	Consider at GB meeting	
X	APPROVED	with no changes	Apr 19

SUBJECT: **Partial Discharge of a Consolidation Loan**

AFFECTED SECTIONS: **15.5.F Delinquency, Default, and Claim Filing**

POLICY INFORMATION: **962/Batch 141**

EFFECTIVE DATE/TRIGGER EVENT: Closed school and false certification provisions retroactive to the implementation of the *Common Manual.*

Teacher loan forgiveness provisions for Consolidation loans that do not include a FFELP or FDLP loan first disbursed before October 1, 1998.

Death discharge provisions effective July 1, 2003.

Unpaid school refunds granted on or after July 1, 2000, for loans disbursed in whole or in part on or after January 1, 1986.

Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.

BASIS:

NCHELP/Default Aversion and Claims Standardization (DACS) subcommittee matrix of total and permanent disability (TPD) provisions for comakers and endorsers dated June 13, 2006; Final Rules published in the *Federal Register* on November 1, 2002, pages 67067 - 67069.

CURRENT POLICY:

Current policy states that the claim filing requirements for Consolidation loans are identical to those for other FFELP loans. Current policy also does not acknowledge that in some cases, a Consolidation loan may be partially discharged based on certain conditions pertinent to underlying loans.

REVISED POLICY:

Revised policy acknowledges that in certain cases, a portion of a Consolidation loan may be discharged based on the total and permanent disability of one of the co-borrowers. Revised policy is also amended to provide information and cross-references to appropriate text regarding the circumstances under which other full or partial loan discharge or loan forgiveness may apply to the Consolidation loan.

REASON FOR CHANGE:

Current text has been preempted by the November 1, 2002, final regulations and subsequent Department guidance regarding the applicability of loan discharge and forgiveness to portions of a Consolidation loan based on the eligibility of certain underlying loans or of one spouse for discharge of his or her portion of a comade Consolidation loan. Enhanced cross-references and explanations will make this subsection more useful to lenders and servicers in accessing appropriate information relevant to claim and discharge provisions, and claim-filing requirements for Consolidation loans.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise subsection 15.5.F, page 12, column 2, paragraph 1, as follows:

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

The due diligence, and default~~,~~ and bankruptcy claim filing requirements for a Federal Consolidation loan~~s~~ are identical to those applicable for other FFELP loans ~~guaranteed by the guarantor (see chapters 12 and 13)~~. 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 discharge provisions due to an unpaid school refund, see subsection 13.8.G.

- For Consolidation loan discharge provisions due to the death of one spouse in the case of a joint Consolidation loan, or for the portion of a Consolidation loan attributable to an underlying PLUS loan that was made for a dependent student who dies, see subsection 13.8.C.
  [§682.402(a)(2) and (b)(6)]

- For Consolidation loan discharge provisions due to total and permanent disability, the borrower must be considered totally and permanently disabled according to FFELP discharge criteria on all underlying loans included in the Consolidation loan–including any non-FFELP loans. The loan origination dates of the underlying loans will be used in determining a borrower's eligibility.

  If a Consolidation loan is made jointly to two spouses as comakers, the portion of the Consolidation loan attributable to one of the spouses may be discharged if that spouse becomes totally and permanently disabled. See subsection 13.8.F for more information regarding the discharge of all or a portion of a Consolidation loan due to total and permanent disability.
  [§682.402(a)(2) and (c)(1)(iv)]

PROPOSED LANGUAGE - COMMON BULLETIN:
Partial Discharge of a Consolidation Loan
The *Common Manual* subsection that references claim and discharge provisions applicable to Consolidation loans has been updated to include cross-references to the specific cites within the manual that address the special claim and discharge provisions applicable to Consolidation loans. Information has also been added to explain that if a Consolidation loan is made to two spouses as comakers, the portion of the Consolidation loan attributable to one of the spouses may be discharged if that spouse becomes totally and permanently disabled.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
None.

School:
None.

Lender/Servicer:
None.

Guarantor:
None.

U.S. Department of Education:
None.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
September 21, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
April 12, 2007

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

Comments Received from:
AES/PHEAA, ASA, EAC, Great Lakes, GSMR, HESAA, KHEAA, NASFAA, NCHELP, NSLP, OGSLP, OSFA, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

Note: Most commenters supported this policy as written. Other commenters recommended word smithing changes that made no substantive changes to the policy statement but that added clarity and were incorporated without comment. We appreciate the review of all commenters, their careful consideration of the policy, and their assistance in crafting clear, concise policy statements.

COMMENT:
Four commenters noted that, for purposes of teacher loan forgiveness discharge, the Consolidation loan may not include any FFELP or FDLP loan that was first disbursed before October 1, 1998. The commenters believe that this additional criterion is critical for accuracy, since other loans eligible for Consolidation with older disbursement dates , such as Perkins loans, may be included.

Response:
The Committee agrees.

Change:
The bullet has been amended to include the criterion that the Consolidation loan must not include a FFELP or FDLP loans first disbursed prior to October 1, 1998.

COMMENT:
One commenter suggested that the word “comaker” be spelled “co-maker.”

Response:
The Committee disagrees. The *Common Manual* style convention for this word is not hyphenated.

Change:
None.

COMMENT:
One commenter noted that the new 9/11 discharge will impact the discharge of underlying loans for Consolidation loans and for spousal Consolidation loans, and suggested changes to the policy to conform the policy with 9/11 discharge provisions.

Response:
The Committee agrees that some aspects of current policy will be changed by the anticipated regulations and common 9/11 discharge form. However, until the regulations and form are published, the Policy Committee will delay making updates to the manual with respect to that new discharge. Instead, when the new rules are available, the Committee will develop and publish a single policy to make all the necessary changes so that the community can review them all at once.

Change:
None.

COMMENT:
One commenter suggested that the policy proposal type be changed from “correction” to “federal.” The commenter noted that the changes in the policy go beyond the typical scope of a correction proposal.

Response:
The Committee disagrees. The policy proposal does not include new information in any of the bulleted statements, but simply restates existing common policy and refers the reader to more detailed information in the various new cross-references. As such, the policy statements that are added are simple restatements of existing policies. The use of the designation “federal” as a policy proposal type is meant to imply the publication of new federal policy or of federal policy that has not, to date, been published in the common policy forum. None of the policy statements in this policy meet that “not published in the *Common Manual*” standard.

Change:
None.

COMMENT:
Two commenters suggested changes to the effective date and trigger events. The commenters suggested that the first statement be amended to include bankruptcy rules as being effective retroactive to the implementation of the *Common Manual*, and that the second statement be corrected to refer only to FFELP and FDLP loans that were made prior to October 1, 1998. One commenter also suggested changes to the effective date and triggering event related to total and permanent disability discharges for underlying loans.

Two commenters noted that the common policy, also in Batch 141, implementing the majority of policies related to the discharge of underlying loans is effective July 1, 2007, unless implemented earlier by the guarantor.

Response:
The Committee agrees that the effective date/triggering event related to teacher loan forgiveness should be amended to clarify that the exclusion of loans made prior to October 1, 1998, should be clearly limited solely to FFELP and FDLP loans. However, there are no changes in this policy related to the loan servicing requirements for Consolidation loans on which a bankruptcy claim is filed. The initial statement explains that due diligence, default, and bankruptcy provisions for Consolidation loans are the same as for other FFELP loan types. This provision is the remainder of the original policy statement from this subsection and for those transactions, remains correct.

The Committee agrees that most of the policies related to the discharge of underlying loans of a comade Consolidation loan due to the total and permanent disability of one of the comakers are effective July 1, 2007, unless implemented earlier by the guarantor.

Change:
The effective dates and triggering events for teacher loan forgiveness and total and permanent disability are amended as noted. The statement regarding total and permanent disability is further amended to conform with the final effective date/triggering event language of the policy proposal in which these policies are implemented.

COMMENT:
Two commenters requested that the effective date and triggering event be updated with respect to the reference to the Default Aversion and Claims Standardization (DACS) matrix, referring to the more recent publication of the updated matrix in the Department’s website. The commenter noted that the Department had published recently an updated matrix to address the disability discharge of loans with comakers and endorsers.

Response:
The DACS subcommittee reviewed the most recent Department updates to the TPD matrix on the Department’s Website and determined that the updates did not impact the substance of the policy statements in policy 956, or by association, with this policy. Thus, the text in policy 956 and this policy relate most specifically to the earlier document, and the Committee believes that the earliest official publication date is the

most accurate reflection of the policy changes because many guarantors implemented the changes based on the original Departmental publication.

Change:
None.

COMMENT:
Two commenters suggested that the unpaid refund discharges be added to the effective date/triggering events as being retroactive to the implementation of the *Common Manual*. Commenters also suggested that the Committee develop an additional bullet to refer readers to the subsection regarding unpaid school refunds.

Response:
Unpaid refund discharges were effective in regulations July 1, 2000, and thus cannot be made effective retroactively to April 1, 1996. The Committee agrees that language regarding the unpaid school refund is pertinent to this text and should be added.

Change:
The Committee has added a new bullet referring the reader to information regarding loan discharge due to an unpaid school refund.

COMMENT:
Two commenters requested that the basis be updated to include a reference to Final Rules published November 1, 2002.

Response:
The Committee agrees that the addition of the *Federal Register* cite is helpful.

Change:
The *Federal Register* cite is added.

COMMENT:
One commenter noted that the title of the subsection does not clearly state what is included in the subsection, that it should more explicitly state that the subsection includes information regarding loan forgiveness and discharge in addition to claim filing.

Response:
The Committee agrees.

Change:
The subsection title is changed to include a reference to loan forgiveness and discharge.

COMMENT:
One commenter suggested expanding the text in the bullets to clarify the applicability of the discharge provisions to all or a portion of the Consolidation loan, and segregating the loan discharge types by assigning a separate bullet point for each discharge or forgiveness type.

Response:
The Committee disagrees. In an attempt to keep this subsection simple and to prevent unnecessary duplication of text, the Committee attempted to craft the changes to this subsection to minimize the text and to provide simple cross-references to the actual policy explanations.

Change:
None.

COMMENT:
One commenter questioned whether a reference should be inserted to refer to the applicability of child care provider loan forgiveness.

Response:
The Committee believes that the child care provider loan forgiveness is more of an exception in the FFELP

than the rule since the program has not been funded in a number of years. Only those borrowers who were approved previously for the loan forgiveness when funding was approved can continue to apply for any remaining eligibility. Further, its applicability to Consolidation loans is even more limited. As such, we do not believe that it is appropriate to amend the policy to include an update regarding this type of loan forgiveness at this time.

Change:
None.

bg/edited-tmh