#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
1023	Documentation Required for Last Name Changes	**3.5.F Reporting Social Security Number, Date of Birth, and First Name Changes or Corrections** **9.1 Reporting Social Security Number, Date of Birth, and First Name Changes or Corrections** Establishes an industry standard that states that the same documentation that is required for a change in the borrower's first name is acceptable for a change to a borrower's last name.	Guarantor	Last name change requests received by the school or lender on or after July 1, 2008 unless implemented earlier by the guarantor.
1024	**Spouses and Parents of September 11, 2001 Victims Loan Discharge**	**Figure 2-1 The Life of a Stafford Loan** **Figure 2-2 The Life of a Parent PLUS Loan** **2.2.C Repayment** **2.3.C Common Forms** **3.5.C Credit Bureau Reporting** **10.10.A Permitted Capitalization** **Figure 11-2 Forbearance Eligibility Chart** **11.20.P Total and Permanent Disability** **12.4.E Endorser Due Diligence** **13.8.F Total and Permanent Disability** **Figure 13-4 Timely Filing Deadlines for Claims and Discharges** **14.2.D Timely Claim Filing Violations** **14.3.B Non Default Claims** **14.4.B Refile Deadline** **15.2 Borrower Eligibility and Underlying Loan Holder Requirements** **15.5.F Delinquency, Claim Filing, Loan Forgiveness, and Discharge** **A.1.B When Federal Interest Benefits Will Be Paid** **Appendix G** Incorporates into the Manual loan discharge provisions applicable to the spouses and parents of September 11, 2001 victims contained in the Third Higher Education Extension Act of 2006 (P. L. 109-292), and regulations published in the *Federal Registers* dated December 28, 2006, and	Federal	Loan discharges granted to spouses and parents of September 11, 2001 victims on or after October 29, 2007.

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		September 28, 2007.		
1025	Federal Trade Commission Holder Rule Expanded	**3.4.D Borrower Defenses** Provides that a borrower may assert certain claims and defenses against repayment of a loan received for attendance at any post-secondary school, if the loan was made by the school or a school-affiliated organization, or was made by a lender that was designated by the school, affiliated with the school, or provided improper inducements to obtain the loan business.	Federal	July 1, 2008.
1026	Identity Theft — Early Implementation	**3.5.C Credit Bureau Reporting** **11.20.D False Certification as a Result of the Crime of Identity Theft** **13.8.E False Certification as a Result of the Crime of Identity Theft** **A.1.B When Federal Interest Benefits Will Be Paid** **A.2.B Termination of Special Allowance** Provides for the suspension of credit bureau reporting and administrative forbearance for 120 days on any loan for which the lender receives a valid identity theft report or notification from a credit bureau of an allegation of identity theft. The lender must determine the legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the loan is nonetheless legally unenforceable against that individual, the lender must notify the credit bureau of the determination.	Federal	Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*
1027	Identity Theft — July 1, 2008 Implementation	**3.5.C Credit Bureau Reporting** **12 Due Diligence in Collecting Loans** **13.8.E False Certification as a Result of the Crime of Identity Theft** **A.1.B When Federal Interest Benefits Will Be Paid** **A.2.B Termination of Special**	Federal	Deletion of loans from credit bureau records, loans discharged on or after July 1, 2008. *This aligns with the suggested trigger event recommendation*

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		Allowance States that if a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative or inaccurate information regarding that loan from an individual's credit history. States that federal due diligence requirements in collecting any delinquent loan payments, as well as federal credit bureau reporting requirements, do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to an individual while a lender determines the legal enforceability of a loan when the lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft. States that for an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft by a perpetrator named in the verdict or judgment. States that the Department also ends its obligation to pay federal interest benefits and special allowance to a lender on the date the lender determines a loan to be legally unenforceable based on the receipt of an identity theft report or notification from a credit bureau of an alleged identity theft.		*document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.* Due diligence activities performed on or after July 1, 2008. False certification identity theft loan discharge claims processed by the lender on or after September 8, 2006. Interest benefits and special allowance billing discontinuance, loans deemed unenforceable on or after July 1, 2008. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*
991	Servicing Parameters for a Consolidation Loan with Multiple Loan Records	**3.5.E Reporting Loan Assignments, Sales, and Transfers** **11.1.A General Deferment Eligibility Criteria** **11.19 Forbearance** **12.4 Due Diligence Requirements** **13.1.A Claim Filing Requirements** **15.2 Borrower Eligibility and**	Federal	Consolidation loan applications received by the lender on or after November 13, 1997.

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		Underlying Loan Holder Requirements **15.4 Disbursement** **15.5.B Disclosing Repayment Terms** **15.5.F Delinquency, Claim Filing, Loan Forgiveness, and Discharge** Clarifies that although the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan may appear as separate loan records on the lender's system, the lender must ensure that the Consolidation loan is administered as a single Consolidation loan. Due diligence must be performed at a loan level, and should the Consolidation loan default, all portions of the loan must default on the same date and be filed in the same claim or at least simultaneously with the guarantor.		
1028	Entrance Counseling for Grad PLUS Borrower	**4.4 Providing Information to Students** **4.4.B Entrance Counseling** **4.4.C Exit Counseling** **Figure 8-3 School Requirements before Delivering a FFELP Loan** **Appendix G** Incorporates entrance counseling requirements for graduate or professional student PLUS loan borrowers. In addition, redundant text has been removed and other language has been added to improve the clarity of the school counseling requirements. Also, Appendix G's definition of "Debt Management Counseling" is modified by removing reference to entrance counseling, and the definitions of "Entrance Counseling" and "Exit Counseling" have been expanded.	Federal	Entrance and exit counseling performed by the school on or after July 1, 2008, unless implemented earlier by the school. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*
1029	Required Notices and Authorizations	**4.4.B Entrance Counseling** **4.5 Recordkeeping Requirements** **7.2.A Lender Responsibilities Under a Master Promissory Note** **8.2.A Initial Notice of Funds** **8.2.B School Notice of Credit to Student Account** **8.2.C Borrower Notice to Cancel Loan**	Federal	Loans disbursed on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. For the retention of documentation of the confirmation

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		8.2.D Notification and Confirmation Requirements for the Multi-Year Feature of the MPN Outlines two standards for notifying the borrower of his or her right to cancel a loan at the time of disbursement, depending on whether the borrower provided affirmative confirmation of his or her desire to receive the loan. Also includes in the school record-keeping requirements the indefinite retention period for documentation of the confirmation process, which first appeared in the 04-05 FSA Handbook.		process, the publication date of the 04-05 FSA Handbook.
1030	Scheduled and Borrower-Based Academic Year in Standard Term-Based Credit-Hour Programs	**6.1 Defining an Academic Year** **6.3.C Standard Term-Based Programs Offered in Modules** **Appendix G** Clarifies that a school may use a SAY or BBAY to determine Stafford annual loan limit frequency and determine the parent or Grad PLUS loan period for a student who is enrolled in a standard term-based program that is offered in a traditional academic year calendar, including such a program that is comprised of modules. Revised policy also broadens the definition of a BBAY to acknowledge its use in all types of programs and provides new detail concerning the use of a BBAY in standard term-based programs that do, and do not, have a traditional academic year calendar.	Federal	Publication date of the 05-06 FSA Handbook.
1031	Enrollment Status Definitions	**6.9 Defining Enrollment Status** **Appendix G** For an undergraduate program, a school's definition of half-time enrollment must amount to at least half of the academic workload of the applicable minimum full-time enrollment definition for that program. More clearly states that a school must define full-time enrollment status for each of its undergraduate, graduate, or professional programs.	Federal	Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If*

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		Aligns Section 6.9 with glossary information about the enrollment status for a student enrolled solely in a correspondence program, and further expands that section to include regulatory updates that address enrollment status for a student who is enrolled in a non-correspondence program and combines correspondence with regular coursework.		*the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.* Retroactive to the implementation of the *Common Manual* for the following: • Determining enrollment status for a student enrolled solely in a correspondence program. • Defining full-time enrollment for each of a school's undergraduate, graduate, and professional programs.
1032	Stafford Interest Rates	**7.4.A Current Stafford Interest Rates** **7.4.C Previous Stafford Interest Rates** **Figure 7-1** States that the interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows: • On or after July 1, 2008, and before July 1, 2009, the fixed interest rate is 6%. • On or after July 1, 2009, and before July 1, 2010, the fixed interest rate is 5.6%.	Federal	Subsidized Stafford loans at a fixed interest rate of 6% that are first disbursed to undergraduate borrowers on or after July 1, 2008, and before July 1, 2009. Subsidized Stafford loans at a fixed interest rate of 5.6% that are first disbursed to undergraduate borrowers on or after July 1, 2009, and before July 1,

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		• On or after July 1, 2010, and before July 1, 2011, the fixed interest rate is 4.8%. • On or after July 1, 2011, and before July 1, 2012, the fixed interest rate is 3.4%.		2010. Subsidized Stafford loans at a fixed interest rate of 4.8% that are first disbursed to undergraduate borrowers on or after July 1, 2010, and before July 1, 2011. Subsidized Stafford loans at a fixed interest rate of 3.4% that are first disbursed to undergraduate borrowers on or after July 1, 2011, and before July 1, 2012.
1033	Simplified Deferment Processing	**11.4 Economic Hardship Deferment** **11.5 Graduate Fellowship Deferment** **11.7 Internship/Residency Deferment** **11.8 Military Deferment** **11.17 Unemployment Deferment** Allows, but does not require, a lender to grant certain types of deferments to a new borrower (i.e., first borrowed on or after July 1, 1993) based on a deferment granted by another FFELP loan holder or the Department. A lender may grant the deferment using the simplified process if the borrower requests it verbally or in writing and based on information from the other FFELP loan holder, the Department, or an authoritative electronic database maintained or authorized by the Department.	Federal	Deferment requests granted by the lender on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*
996	Death Claim Documentation	**13.1.D Claim File Documentation** **13.1.E Missing Claim File Documentation** **13.8.C Death** **Figure 13-3 Timely Filing Deadlines**	Federal	Death discharge requests filed by the lender based on determinations or re-determinations of

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		for Claims and Discharges Specifies that a lender must submit an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate when filing a death claim.		eligible photocopies on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*
997	Servicing of a Consolidation Loan with Multiple Loan Records	**14.1.E Violations Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records** **14.5.E Cures Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records** Clarifies that although the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan may appear as separate loan records on the lender's system, the lender must ensure that the Consolidation loan is administered as a single Consolidation loan. If the lender fails to perform due diligence activities on a single accurate payment amount and due date, the lender will incur due diligence violations and penalties sufficient to cause a loss of guarantee on the loan. Also clarifies what a lender may do to cure these violations.	Federal	Claims filed by the lender on or after July 1, 2008, unless implemented earlier by the guarantor.
1034	Special Allowance Rates and Formulas	**A.2.A Special Allowance and Excess Interest Rates** **Figure A-1 Special Allowance Formulas** **Figure A-2 Examples of Special AllowanceCalculations**	Federal	Loans first disbursed on or after October 1, 2007.

#	Subject	Summary of Change to *Common Manual*	Type of Update	Effective Date
		Figure A-3 Excess Interest Formulas **Figure A-4 Example of Excess Interest Calculations** **Appendix G** States that the special allowance factors used to calculate special allowance payments on loans first disbursed on or after October 1, 2007, are based on whether or not the lender is an eligible not-for-profit holder. As prescribed in the CCRAA, an eligible not-for-profit holder is entitled to a higher special allowance payment.		
1035	Undergraduate, Graduate, and Professional Students	**Appendix G** Clarifies the definitions of "undergraduate student," and "graduate or professional student," and provides a new definition of a professional degree.	Federal	Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*
1036	HEROES Waiver Extension	**H.4.A HEROES Act Waivers** Extends current HEROES waivers through September 30, 2012.	Federal	Affected individuals eligible for waivers of statutory and regulatory provisions on or after October 1, 2007.

COMMON MANUAL - GUARANTOR POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Documentation Required for Last Name Changes**

AFFECTED SECTIONS:

3.5.F **Reporting Social Security Number, Date of Birth, and First Name Changes or Corrections**

9.1 **Reporting Social Security Number, Date of Birth, and First Name Changes or Corrections**

POLICY INFORMATION: **1023/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Last name change requests received by the school or lender on or after July 1, 2008 unless implemented earlier by the guarantor.

BASIS:

None.

CURRENT POLICY:

Current policy lists acceptable documentation for a change to a borrower's first name based on NSLDS requirements, but does not address the documentation that is needed to change a borrower's last name. No federal guidance has been issued on this subject.

REVISED POLICY:

Revised policy establishes an industry standard that states that the same documentation that is required by NSLDS for a change in the borrower's first name is acceptable for a change to a borrower's last name.

REASON FOR CHANGE:

The *Common Manual* is being updated to provide an industry standard last-name change documentation requirement in an effort to ensure the integrity of the student loan data and to aid in skip-tracing efforts.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection 3.5.F, page 14, column 1, paragraph 1, as follows:

> **Reporting Social Security Number, Date of Birth, and First or Last Name Changes or Corrections**
>
> At any time during the life of the loan, if a lender becomes aware of a discrepancy in a borrower's Social Security number (SSN), date of birth, ~~or~~ first or last name, or it discovers that it had previously reported an incorrect SSN, date of birth, or first or last name, the lender must report the correct information to the guarantor and appropriate credit reporting agencies.
>
> The lender must retain a copy of the document substantiating the SSN, date of birth, or first or last name change or correction. This documentation may be requested in a program review or may be required in a claim submission. The guarantor reserves the right to request this or other supporting documentation or information before changing an ~~Social Security number~~ SSN, date of birth, or first or last name on its system.
>
> If a lender identifies an SSN, date of birth, or first or last name discrepancy, exhausts its efforts to verify the correct information, and fails to obtain a copy of an acceptable source document, the lender should notify the guarantor of the discrepancy. The guarantor may be able to offer assistance.

If a lender learns that the SSN, date of birth, or first or last name is incorrect due to a data entry error, the lender may change the incorrect information using the original documentation submitted. The lender must document the reason it made the change.

. . .

. . .

Acceptable Source Documents for Reporting a First or Last Name Change

A guarantor considers any of the following documents a valid source for reporting a first or last name change:

- Court order.
- Marriage certificate.
- Certificate of Naturalization.

Acceptable Source Documents for Reporting the Correction of a First or Last Name

A guarantor considers any of the following documents a valid source for reporting the correction of a first or last name:

- Social Security card.
- Current driver's license.
- Birth certificate.
- State ID.
- U.S. Certificate of Naturalization (Form N-550 or N-570).
- Court order.
- Marriage certificate.
- W-2 Form.
- Passport.
- Unexpired U.S. military ID.
- U.S. military discharge papers (Form DD214).
- U.S. Certificate of Citizenship (Form N-560 or N-561).
- Alien Registration Card (Form I-551 or I-151).

Revise Section 9.1, page 1, column 1, paragraph 1, as follows:

Reporting Social Security Number, Date of Birth, and First or Last Name Changes or Corrections

If a school becomes aware of any issues related to the accuracy of a student's or parent borrower's Social Security number (SSN), date of birth, or first or last name, the school is expected to confirm the accuracy of this information by obtaining a copy of an acceptable source document. The school must report changes to a student's or parent borrower's SSN, date of birth, or first or last name to the guarantor. If the guarantor requires the supporting documentation, the school must provide it.

If a school identifies a discrepancy, exhausts its efforts to verify the correct SSN, date of birth, or first or last name and fails to obtain a copy of an acceptable source document, the school should notify the guarantor of the discrepancy. In such cases, the school should indicate the source of the discrepancy and provide its reason for reporting the change. If the guarantor has information suggesting that the identified SSN, date of birth, or first or last name change is incorrect, it will notify the school.
[§668.36]

- ▲ Schools may contact individual guarantors for more information on procedures for reporting SSN, date of birth, and first name changes or corrections. See ~~s~~Section 1.5 for contact information.

If a school learns that the SSN, date of birth, or first or last name is incorrect due to a data entry error, the school may change the incorrect information using the original documentation submitted. The school must document the reason it made the change.

Acceptable Source Documents for Reporting a First or Last Name Change

A guarantor considers any of the following documents a valid source for reporting a first or last name change:

. . .

Acceptable Source Documents for Reporting the Correction of a First or Last Name

A guarantor considers any of the following documents a valid source for reporting the correction of a first or last name:

. . .

PROPOSED LANGUAGE - COMMON BULLETIN:

Documentation Required for Last Name Changes

The *Common Manual* has been revised to establish an industry standard last-name change documentation requirement stating that the documentation that is needed to make a first name change is also needed when making a last name change.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will need to provide acceptable documentation when requesting a last name change.

School:

A school will need to collect and retain acceptable documentation and may need to supply that documentation to the lender and/or guarantor if there is a last name discrepancy.

Lender/Servicer:

A lender will need to change its procedures to receive and retain acceptable documentation when a last name change is requested and to report the last name change to the guarantor and appropriate credit reporting agencies.

Guarantor:
A guarantor may need to receive and retain acceptable documentation of last name changes and may be required to amend its reporting processes.

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:
November 20, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

djo/edited-aes

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Spouses and Parents of September 11, 2001 Victims Loan Discharge**

AFFECTED SECTIONS:

Figure 2-1	**The Life of a Stafford Loan**
Figure 2-2	**The Life of a Parent PLUS Loan**
2.2.C	**Repayment**
2.3.C	**Common Forms**
3.5.C	**Credit Bureau Reporting**
10.10.A	**Permitted Capitalization**
Figure 11-2	**Forbearance Eligibility Chart**
11.20.P	**Total and Permanent Disability**
12.4.E	**Endorser Due Diligence**
13.8.F	**Total and Permanent Disability**
Figure 13-4	**Timely Filing Deadlines for Claims and Discharges**
14.2.D	**Timely Claim Filing Violations**
14.3.B	**Non Default Claims**
14.4.B	**Refile Deadline**
15.2	**Borrower Eligibility and Underlying Loan Holder Requirements**
15.5.F	**Delinquency, Claim Filing, Loan Forgiveness, and Discharge**
A.1.B	**When Federal Interest Benefits Will Be Paid**
Appendix G	

POLICY INFORMATION: **1024/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Loan discharges granted to spouses and parents of September 11, 2001 victims on or after October 29, 2007.

BASIS:
Third Higher Education Extension Act of 2006 (P. L. 109-292); *Federal Registers* dated December 28, 2006, and September 28, 2007.

CURRENT POLICY:
Current policy does not reflect loan discharge provisions for the spouses and parents of September 11, 2001 victims.

REVISED POLICY:
Revised policy reflects loan discharge provisions for the spouses and parents of September 11, 2001 victims.

REASON FOR CHANGE:
This change is necessary to incorporate into the Manual loan discharge provisions applicable to the spouses and parents of September 11, 2001 victims contained in the Third Higher Education Extension Act of 2006 (P. L. 109-292), and regulations published in the *Federal Registers* dated December 28, 2006, and September 28, 2007.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Figure 2-1, page 3, phase 3, second to the last row of boxes, by adding a new text box, as follows:

> <u>Borrower applies or is determined eligible for spouses and parents of September 11, 2001 victims discharge</u>

Revise Figure 2-2, page 4, phase 3, second to the last row of boxes, by adding a new text box, as follows:

Borrower applies or is determined eligible for spouses and parents of September 11, 2001 victims discharge

Revise Subsection 2.2.C, page 10, column 2, paragraph 1, by adding a new 4th bullet, as follows:

- The borrower qualifies for spouses and parents of September 11, 2001 victims discharge.

Revise Subsection 2.3.C, page 14, column 2, paragraph 1, by adding a new 5th bullet, as follows:

- Loan Discharge Application: Spouses and Parents of September 11, 2001 Victims

Revise Subsection 3.5.C, page 12, column 2, paragraph 1, bullet 5, as follows:

- The date the loan is discharged due to the borrower's death, disability, ~~or~~ bankruptcy or the loan is discharged under the spouses and parents of September 11, 2001 victims provisions (to be reported within 90 days of the date the loan is discharged).

Revise Subsection 10.10.A, page 18, column 2, bullet 2, as follows:

- When collection activities on a loan were suspended pending *(a)* the outcome of a bankruptcy action, closed school, false certification, ~~or~~ unpaid refund, or spouses and parents of September 11, 2001 victims discharge determination or *(b)* receipt of documentation of a death, disability, closed school, false certification, ~~or~~ unpaid refund, or spouses and parents of September 11, 2001 victims claim or discharge request.

Revise Figure 11-2, page 28, by adding a new row 5 under "Administrative," as follows:

Spouses and Parents of September 11, 2001 Victims[6]	60 days from date application sent to borrower if application is not received by lender, and from date guarantor receives documentation to date of determination

Revise Subsection 11.20.P, page 32 by inserting the following text and moving existing text to subsequent subsections as applicable:

11.20.P
Spouses and Parents of September 11, 2001 Victims

If a lender receives information from a borrower or a borrower's representative that the borrower claims to qualify for discharge under the spouses and parents of September 11, 2001 victims discharge provisions, the lender must grant a forbearance for the borrower, or any endorser as applicable, on the borrower's eligible loan(s). The lender must advise the borrower, or the borrower's representative, to submit a Loan Discharge Application: Spouses and Parents of September 11, 2001 Victims form and all required documentation.
[§682.407(c)(2)]

If the lender determines that the borrower does not qualify for a discharge, or does not receive the required documentation within 60 days of the notification that he or she claims to qualify for the discharge, the lender must resume collection. The lender is considered to have exercised forbearance from the date of the borrower's notification. The lender may capitalize any interest accrued and not paid during the forbearance period.
[§682.407(c)(3)]

If the lender receives the required documentation and determines that the borrower qualifies for a discharge, the lender must file a discharge claim with the guarantor and the lender must

continue the forbearance until the date that the guarantor makes the discharge determination.
[§682.407(c)(7)]

Revise Subsection 12.4.E, page 15, column 1, paragraph 1, by adding a new bullet 4, as follows:

Note: This subsection was previously revised by policy 983, batch 144.

Releasing the Endorser

A lender may release an endorser from his or her repayment obligation on a loan in any of the following cases. If the loan is only partially discharged, the endorser remains obligated for the undischarged portion of the loan.

- The borrower receives a spouses and parents of September 11, 2001 victims discharge.

Revise Subsection13.8.F, page 40, column 1, paragraph 1, by inserting the following text and moving existing text to subsequent subsections as applicable:

13.8.F
Spouses and Parents of September 11, 2001 Victims

The Third Higher Education Extension Act (THEEA) of 2006, provides for loan discharge for spouses and parents of eligible public servants and certain other eligible victims of the September 11, 2001, terrorist attacks. The discharge is available to the spouses of eligible public servants and parents of eligible public servants and eligible victims who died or became permanently and totally disabled due to injuries suffered in the attacks. The discharge is authorized for FFEL loan amounts which were owed on September 11, 2001, and Consolidation loans incurred to pay off loan amounts that were owed on September 11, 2001. The statute does not authorize a refund of payments made by a borrower prior to the date the loan is discharged.
[§682.407(b)]

To qualify for the discharge, the borrower or the borrower's representative must submit a Loan Discharge Application: Spouses and Parents of September 11, 2001 Victims form and all required documentation to the lender.
[§682.407(c)(2) and (4)(ii)]

Eligibility Requirements

A borrower's obligation to make further payments on an eligible loan is discharged if the borrower was, at the time of the terrorist attacks on September 11, 2001, and currently is the spouse of an eligible public servant, unless the eligible public servant has died. If the eligible public servant has died, the borrower must have been the spouse of the eligible public servant at the time of the terrorist attacks and until the date the eligible public servant died.
[§682.407(b)(1)]

A borrower's obligation to make further payments towards the portion of a joint Consolidation loan attributable to the eligible victim is discharged if the borrower was, at the time of the terrorist attacks, and currently is, the spouse of an eligible victim, unless the eligible victim has died. If the eligible victim has died, the borrower must have been the spouse of the eligible victim at the time of the terrorist attacks and until the date the eligible victim died.
[§682.407(b)(2)]

The obligation of a parent borrower and any endorser to make any further payments on a PLUS loan incurred on behalf of an eligible public servant or eligible victim is discharged. The obligation of the parent borrower to make any further payments towards the portion of a

Consolidation loan that repaid a FFEL or Direct PLUS loan incurred on behalf of an eligible public servant or eligible victim is also discharged.
[§682.407(b)(3)(i) and (ii)]

Definitions Applicable to the Spouses and Parents of September 11, 2001 Victims Loan Discharge

Solely in the context of the spouses and parents of September 11, 2001 victims loan discharge, the following definitions apply:

Eligible public servant means an individual who served as a police officer, firefighter, other rescue or safety personnel, or as a member of the Armed Forces and died or became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.
[§682.407(a)(1)]

Eligible victim means an individual who died or became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001.
[§682.407(a)(2)]

Eligible parent means the parent of an eligible public servant or eligible victim if the parent owes a FFEL PLUS Loan incurred on behalf of an eligible public servant or eligible victim if the parent owes a FFEL Consolidation Loan that was used - in whole or in part - to repay a FFEL or Direct PLUS Loan incurred on behalf of an eligible public servant or eligible victim.
[§682.407(a)(3)]

Died due to injuries suffered in the terrorist attacks on September 11, 2001 means the individual was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001, and the individual died as a direct result of these crashes.
[§682.407(a)(4)]

Became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001 means the individual was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes on September 11, 2001 and the individual became permanently and totally disabled as a direct result of these crashes.
[§682.407(a)(5)]

An individual is considered permanently and totally disabled for this discharge if each of the following criteria are met:

- The disability is the result of a physical injury to the individual that was treated by a medical professional within 72 hours of the injury having been sustained or within 72 hours of the rescue.

- The physical injury that caused the disability is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

- The individual is unable to work and earn money due to the disability and the disability is expected to continue indefinitely or result in death.

If the physical injuries suffered due to the terrorist-related aircraft crashes did not make the individual permanently and totally disabled at the time of or in the immediate aftermath of the attacks, the individual may be considered to be permanently and totally disabled if the

individual's medical condition has deteriorated to the extent that the individual is permanently and totally disabled.
[§682.407(a)(5)]

Immediate aftermath for an eligible victim means, the period of time from the aircraft crashes until 12 hours after the crashes. Immediate aftermath for an eligible public servant means the period of time from the aircraft crashes until 96 hours after the crashes.
[§682.407(a)(6)]

Present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site means physically present at the time of the terrorist-related aircraft crashes or in the immediate aftermath at any one of the following sites:

- In the buildings or portions of the buildings that were destroyed as a result of the terrorist-related aircraft crashes.

- In any area contiguous to the crash site that was sufficiently close that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses. Generally, this includes the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons.

- On board American Airlines flights 11 or 77 or United Airlines flights 93 or 175 on September 11, 2001.

[§682.407(a)(7)]

Discharge Documentation

A borrower or the borrower's representative must provide the lender with certain documentation in order for the lender to process the loan discharge.

Documentation for death of an eligible public servant

Documentation that an eligible public servant died due to injuries suffered in the terrorist attacks on September 11, 2001, must include a certification from an authorized official that the individual was a member of the Armed Forces, or was employed as a police officer, firefighter, or other safety or rescue personnel, and was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.

In addition, the borrower must provide either of the following:

- The inclusion of the individual on an official list of the individuals who died in the terrorist attacks.

- If the individual is not included on an official list of the individuals who died in the terrorist attacks, the borrower must provide all of the following documentation:

  - The certification described in the preceding paragraph.

  - The lender may substitute an original or certified copy or an accurate and complete photocopy of the original or certified copy of the individual's death certificate. If the individual owed a FFEL, Direct, or Perkins loan at the time of the terrorist attacks, documentation that the individual's loans were discharged by the lender, the Secretary, or the institution due to death may be substituted for the original or certified copy or a death certificate.

- A certification from a physician or a medical examiner that the individual died due to injuries suffered in the terrorist attacks.

[§682.407(d)(1)-(3)]

If the borrower is the spouse of an eligible public servant, and has been granted a discharge on a FFEL Program Loan held by another FFEL lender, a Direct Loan, or a Perkins loan because the eligible public servant died due to injuries suffered in the terrorist attacks, documentation of the discharge may be used as an alternative to the documentation required in the preceding paragraph.
[§682.407(d)(6)]

Under exceptional circumstances and on a case-by-case basis, the determination that an eligible public servant died due to injuries suffered in the terrorist attacks may be based on other reliable documentation approved by the chief executive officer of the guarantor.
[§682.407(d)(4) and (5)]

Documentation for death of an eligible victim

Documentation that an eligible victim died due to injuries suffered in the terrorist attacks on September 11, 2001, must include a certification signed by the borrower that the eligible victim was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.

In addition, the borrower must provide any one of the following:

- Inclusion of the individual on an official list of the individuals who died in the terrorist attacks.

- If the eligible victim is not included on an official list of the individuals who died in the terrorist attacks, the borrower must provide all of the following documentation:

  - The lender may substitute an original or certified copy or an accurate and complete photocopy of the original or certified copy of the individual's death certificate. If the individual owed a FFEL, Direct, or Perkins loan at the time of the terrorist attacks, documentation that the individual's loans were discharged by the lender, the Secretary, or the institution due to death may be substituted for the original or certified copy or a death certificate.

  - A certification from a physician or a medical examiner that the individual died due to injuries suffered in the terrorist attacks.

- If the individual owed a FFEL Program loan, a Direct Loan, or a Perkins Loan at the time of the terrorist attacks, documentation that the individual's loans were discharged by the lender, the Secretary, or the institution due to death may be substituted for the original or certified copy or a death certificate.

[§682.407(d)(1)-(3)]

If the borrower is the parent of an eligible victim, and has been granted a discharge on a FFEL Program Loan held by another FFEL lender, or a Direct Loan, because the eligible victim died due to injuries suffered in the terrorist attacks, documentation of the discharge may be used as an alternative to the documentation required in the preceding paragraph.
[§682.407(d)(7)]

Under exceptional circumstances and on a case-by-case basis, the determination that an eligible victim died due to injuries suffered in the terrorist attacks may be based on other reliable documentation approved by the chief executive officer of the guarantor.

[§682.407(d)(8)]

Documentation for a permanently and totally disabled eligible public servant

Documentation that an eligible public servant became permanently and totally disabled due to injuries suffered in the terrorist attacks on September 11, 2001, must include all of the following:

- A certification from an authorized official that the individual was a member of the Armed Forces, or was employed as a police officer, firefighter, or other safety or rescue personnel, and was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.

- Copies of contemporaneous medical records created by or at the direction of a medical professional who provided medical care to the individual within 24 hours of the injury having been sustained or within 24 hours of the rescue.

- A certification by a physician who is a doctor of medicine or osteopathy and legally authorized to practice in a state, that the individual became permanently and totally disabled due to injuries suffered in the terrorist attacks.

[§682.407(e)(1)]

If the borrower is the spouse of an eligible public servant, and has been granted a discharge on a FFEL Program Loan held by another FFEL lender, a Direct Loan, or a Perkins loan because the eligible public servant died due to injuries suffered in the terrorist attacks, documentation of the discharge may be used as an alternative to the documentation required in the preceding paragraph.
[§682.407(e)(3)]

Documentation for a permanently and totally disabled eligible victim

Documentation that an eligible victim became permanently and totally disabled due to injuries suffered in the terrorist attacks must include all of the following:

- A certification signed by the borrower that the eligible victim was a member of the Armed Forces, or was employed as a police officer, firefighter, or other safety or rescue personnel, and was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site at the time of the terrorist-related aircraft crashes or in the immediate aftermath of these crashes.

- Copies of contemporaneous medical records created by or at the direction of a medical professional who provided medical care to the individual within 24 hours of the injury having been sustained or within 24 hours of the rescue.

- A certification by a physician who is a doctor of medicine or osteopathy and legally authorized to practice in a state, that the individual became permanently and totally disabled due to injuries suffered in the terrorist attacks.

[§682.407(e)(1)]

If the borrower is the parent of an eligible victim, and has been granted a discharge on a FFEL Program Loan held by another FFEL lender, or a Direct Loan, because the eligible victim died due to injuries suffered in the terrorist attacks, documentation of the discharge may be used as an alternative to the documentation required in the preceding paragraph.
[§682.407(e)(4)]

Additional documentation

A lender or guarantor may require the borrower to submit additional information that it deems necessary to determine the borrower's eligibility for a discharge.
[§682.407(f)(1)]

Documentation establishing that the eligible public servant or eligible victim was present at the World Trade Center in New York City, New York, at the Pentagon in Virginia, or at the Shanksville, Pennsylvania site may include but is not limited to any one of the following:

- Records of employment.
- Contemporaneous records of a federal, state, city, or local government agency.
- An affidavit or declaration of the eligible victim's or eligible public servant's employer.
- A sworn statement (or an unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the eligible public servant or eligible victim at the site.

[§682.407(f)(2)]

To establish that the disability of the eligible public servant or eligible victim is due to injuries suffered in the terrorist attacks, such additional information may include but is not limited to any one of the following:

- Contemporaneous medical records of hospitals, clinics, physicians, or other licensed medical personnel.
- Registries maintained by federal, state, or local governments.
- Records of all continuing medical treatment.

[§682.407(f)(3)]

To establish the borrower's relationship to the eligible public servant or eligible victim, such additional information may include but is not limited to any one of the following:

- Copies of relevant legal records including court orders, letters of testamentary or similar documentation.
- Copies of wills, trusts, or other testamentary documents.
- Copies of approved joint Consolidation loan applications or approved FFEL or Direct Loan PLUS loan applications.

[§682.407(f)(4)]

Discharge Limitations

Each of the following loans that had an outstanding balance owed on September 11, 2001, are eligible for discharge:

- Federal SLS loans.
- Federal Stafford loans.
- Federal PLUS loans.
- Federal Consolidation loans.
- Federal Consolidation loans incurred to repay loan amounts that were owed on September 11, 2001.

[§682.407(g)(1)]

Eligibility for a discharge under the provisions applicable to the spouses and parents of September 11, 2001 victims loan discharge *does not* qualify a borrower for a refund of any payments made on the borrower's loan prior to the date the loan was discharged.
[§682.407(g)(2)(i)]

A borrower may apply for a partial discharge of a joint Consolidation loan due to death or total and permanent disability as described in Subsections 13.8.C and 13.8.G, respectively. If a borrower is granted a partial discharge under those provisions, the borrower may qualify for refund of payments made between the date the borrower died, or the date that a qualified physician certified that the borrower became totally and permanently disabled.
[§682.407(g)(2)(ii)]

A borrower may apply for a discharge of a PLUS loan due to the death of the student for whom the borrower received the PLUS loan under the provisions described in Subsections 13.8.C and 13.8.G, respectively. If the borrower is granted a discharge under these provisions, the borrower may qualify for a refund of payments in accordance with those provisions.
[§682.407(g)(2)(iii)]

A determination by a lender or a guarantor that an eligible public servant or eligible victim became permanently and totally disabled due to injuries suffered in the terrorist attacks for purposes of this discharge does not qualify the eligible public servant or the eligible victim for a discharge based on total an permanent disability as described under Subsection 13.8.G.
[§682.407(g)(3)]

The spouse of an eligible public servant or eligible victim may not receive a spouses and parents of September 11, 2001 victims loan discharge if the eligible public servant or eligible victim has been identified as a participant or conspirator in the terrorist-related aircraft crashes that occurred on September 11, 2001. Further, an eligible parent may not receive a discharge on a FFEL PLUS loan or a Consolidation loan that was used to repay a FFEL or Direct Loan incurred on behalf of an individual who has been identified as a participant or conspirator in the related aircraft crashes on September 11, 2001.
[§682.407(g)(4)]

Suspending Collections

When a lender receives information from a borrower or the borrower's representative that the borrower claims to qualify for a discharge, the lender must suspend collection activity on the borrower's eligible loan(s). The lender must advise the borrower, or the borrower's representative, to submit a Loan Discharge Application: Spouses and Parents of September 11, 2001 Victims form and all required documentation.
[§682.407(c)(2)]

If the lender determines that the borrower does not qualify for a discharge, or does not receive the required documentation within 60 days of the notification that he or she claims to qualify for the discharge, the lender must resume collection and shall be deemed to have exercised forbearance of payment of both principal and interest from the date of the borrower's notification. The lender may capitalize any interest accrued and not paid during this period.
[§682.407(c)(3)]

Processing an Approved Discharge

If a lender determines that the borrower qualifies for a discharge, the lender must file a discharge claim within 60 days of the date that the lender determines that the borrower qualifies for a discharge.
[§682.407(c)(5)]

For a spouses and parents of September 11, 2001 victims claim, any failure by the lender to satisfy due diligence requirements prior to the filing of the claim that would have resulted in the loss of reinsurance on the loan in the event of default are waived, provided the loan was held by an eligible loan holder at all times.
[§682.407(c)(12)]

Claim File Documentation

The lender must provide the guarantor with all of the following claim documentation:

- The lender must submit the application, if a separate loan application was provided to the lender. The lender also must submit the original promissory note, or a true and exact copy of the promissory note, with any signed promissory note addenda. If the guarantor retains the application or promissory note on the lender's behalf, the lender is expected to submit only the imaged copy of the document that it receives from the guarantor or a facsimile of the document.

- The completed discharge form, and all accompanying documentation supporting the discharge request that formed the basis for the determination that the borrower qualifies for a discharge.

[§682.407(c)(4)]

The guarantor will review a discharge claim promptly. If the guarantor determines that the borrower does not qualify for a discharge, the guarantor must return the claim to the lender with an explanation of the basis for the guarantor's denial of the claim. Upon receipt of the returned claim, the lender must notify the borrower that the application for the discharge has been denied, provide the basis for the denial, and inform the borrower that the lender will resume collection on the loan. The lender is considered to have exercised forbearance until the next payment due date. The lender may capitalize any interest accrued and not paid during the forbearance period.
[§682.407(c)(7)]

If the guarantor determines that the borrower qualifies for a discharge, the guarantor will pay the claim no later than 90 days after the claim was received by the guarantor.
[§682.407(c)(8)]

Denying the Discharge

If the lender determines that the borrower does not qualify for a discharge, or the lender does not receive the completed discharge request form from the borrower within 60 days of the borrower or borrower's representative notifying the lender that the borrower claims to qualify for a discharge, the lender shall resume collection and shall be deemed to have exercised forbearance of payment of both principal and interest from the date the lender was notified.

The lender must notify the borrower that the discharge has been denied, provide the basis for the denial, and inform the borrower that the lender will resume collection on the loan. The lender may capitalize any interest accrued and not paid during this period.
[§682.407(c)(3)]

Claim Payment

The claim payment amount includes the sum of the remaining principal balance and interest accrued on the loan, unpaid collection costs incurred by the lender and applied to the borrower's account within 30 days of the date those costs were actually incurred, and unpaid interest up to the date the lender should have filed the claim.

In the case of a partial discharge of a Consolidation loan, the claim payment includes the

amount specified in the preceding paragraph for the portion of the Consolidation loan attributable to the eligible victim or eligible public servant.
[§682.407(c)(9)]

The amount payable on an approved claim includes the unpaid interest that accrues during each of the following periods:

- During the period before the claim is filed, not to exceed 60 days from the date the lender determines that the borrower qualifies for a discharge.

- During a period not to exceed 30 days following the date the lender receives a claim returned by the guarantor for additional documentation necessary for the claim to be approved by the guarantor.

- During the period required by the guarantor to approve the claim and to authorize payment or to return the claim to the lender for additional documentation, not to exceed 90 days.

[§682.407(c)(10)]

Notifying the Borrower and Any Endorser

After being notified that the guarantor has paid a discharge claim, the lender must notify the borrower that the loan has been discharged, or partially discharged in the case of a Consolidation loan. Except in the case of a partially discharged Consolidation loan, the lender must return to the sender any payments received by the lender after the date the guarantor paid the discharge claim and notify the borrower and any endorser that there is no further obligation to repay the loan(s).
[§682.407(c)(11)]

Revise Figure 13-4, page 47, by adding a new section 6, as follows:

Spouses and Parents of September 21, 2001 Victims (Subsection 13.8.F)

Within 60 days of receiving a complete discharge application and documentation.

Total and Permanent Disability Discharge (subsection 13.8.~~F~~ G)
. . .

Unpaid Refund Discharge (subsection 13.8.~~G~~ H)
. . .

Revise Subsection 14.2, page 2, column 2, by adding a new bullet 3, as follows:

- Spouses and parents of September 11, 2001 victims discharge claim within 60 days after receiving a complete loan discharge application and required documentation.

Revise Subsection 14.3.B, page 6, column 1, by adding a new paragraph 3, as follows:

Spouses and Parents of September 11, 2001 Victims Claims

For a spouses and parents of September 11, 2001 victims claim, any failure by the lender to satisfy due diligence requirements prior to the filing of the claim that would have resulted in the loss of reinsurance on the loan in the event of default are waived, provided the loan was held by an eligible loan holder at all times.

Revise Subsection 14.4.B, page 8, column 1, paragraph 3, as follows:

Closed School, Death, False Certification, Ineligible Borrower, Spouses and Parents of September 21, 2001 Victims, and Total and Permanent Disability Claims

Failure to refile a closed school, death false certification, ineligible borrower, spouses and parents of September 21, 2001 victims, or total and permanent disability claim by the 30th day after the lender's receipt of the original return will result in the loss of eligibility for interest, interest benefits, and special allowance payments beyond such 30th day. . . .

Revise Section 15.2, page 4, column 1, paragraph 1, as follows:

For purposes of this policy, an active loan is any loan that has not been paid in full, canceled, discharged (e.g., due to death, spouses and parents of September 11, 2001 victims, disability, closed school, or false certification), or subrogated by the Department. . . .

Revise Subsection 15.5.F, page 12, column 1, paragraph 1, by adding a new bullet 4, as follows:

For Consolidation loan discharge provisions due to spouses and parents of September 11, 2001 victims discharge, see Subsection 13.8.F.

Revise A. 2, page 4, column 1, paragraph 1, bullet 3, as follows:

The date the lender receives a notice of the guarantor's determination that the loan is eligible for discharge under closed school, false certification, spouses and parents of September 11, 2001 victims, or unpaid refund provisions. If only a portion of the loan is discharged, the remaining portion of the loan remains eligible for interest benefits.

Revise Appendix G, page 6, column 1, paragraph 8, as follows:

Discharge: The release of a borrower or any comaker from all or a portion of his or her loan obligation, as applicable, due to bankruptcy, school closure, death, spouses and parents of September 11, 2001 victims, total and permanent disability, an unpaid refund by the school, or the school's false certification of a FFELP loan. See section 13.8.

PROPOSED LANGUAGE - COMMON BULLETIN:

Discharge Provisions For Spouses and Parents of September 11, 2001 Victims

The *Common Manual* has been updated to include eligibility requirements, definitions applicable to the discharge, documentation requirements, discharge limitations, claim procedures and notification requirements for spouses and parents of September 11, 2001 victims discharge.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower may be eligible for loan discharge under the spouses and parents of September 11, 2001 victims provisions.

School:

None.

Lender/Servicer:

A lender may need to update procedures to accommodate processing the spouses and parents of September 11, 2001 victims discharge claims.

Guarantor:

A guarantor may need to update procedures to accommodate processing the spouses and parents of September 11, 2001 victim discharge and claim filing provisions. A guarantor may also need to update its

program review procedures.

U.S. Department of Education:
The Department may need to update its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
October 23, 2006

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

ma/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No	

SUBJECT: **Federal Trade Commission Holder Rule Expanded**

AFFECTED SECTIONS: **3.4.D Borrower Defenses**

POLICY INFORMATION: **1025/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: July 1, 2008.

BASIS:
§682.209(k).

CURRENT POLICY:
Current policy provides that a borrower may assert certain claims and defenses against repayment of a loan only if the loan was made at a for-profit postsecondary school.

REVISED POLICY:
Revised policy provides that a borrower may assert certain claims and defenses against repayment of a loan received for attendance at any post-secondary school, if the loan was made by the school or a school-affiliated organization, or was made by a lender that was designated by the school, affiliated with the school, or provided improper inducements to obtain the loan business.

REASON FOR CHANGE:
This change is necessary to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, p. 62001.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection 3.4.D, page 10, column 1, paragraph 1, as follows:

3.4.D
Borrower Defenses

In some cases, a loan held by a lender may be subject to borrower claims and defenses that the borrower might otherwise assert against the school (such as poor quality of education). This may result in the borrower being released from his or her obligation to repay the loan, if the loan meets ~~either~~ any one of the following criteria:

- The loan was made by ~~a for-profit postsecondary~~ the school or a school-affiliated organization.
- The loan was made by a lender that provided improper inducements to the school or to another party in the making of the loan. (See subsection 3.4.C for more information regarding improper lender activities.)
- The loan was made for attendance at a school that referred the borrower to the lender.
- The loan was made for attendance at a school that was affiliated with the lender that made the loan by common control, contract, or other business arrangement.

- ~~The proceeds of the loan were used to pay tuition and other charges at a for-profit postsecondary school that refers loan applicants to the lender—or that is affiliated with the lender by common control, contract or business arrangement~~.

PROPOSED LANGUAGE - COMMON BULLETIN:

Federal Trade Commission Holder Rule Expanded

The *Common Manual* has been updated to include new provisions regarding borrower defenses based on relationships between the school and the lender. Previously, the borrower could assert certain defenses against repayment of the loan solely in the situation where he or she attended a for-profit postsecondary school.

New regulations expand the range of borrower defenses against repayment of the loan to loans made for attendance at all postsecondary schools if any of the following circumstances apply:

- The loan was made by a for-profit postsecondary the school or a school-affiliated organization.
- The loan was made by a lender that provided improper inducements to the school or to another party in the making of the loan.
- The loan was made for attendance at a school that referred the borrower to the lender.
- The loan was made for attendance at a school that was affiliated with the lender that made the loan by common control, contract, or other business arrangement.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower will have expanded recourse in the repayment of his or her loans if certain activities occurred between the school the borrower attended and the lender who made a loan for attendance at that school, even if the borrower was not attending a for-profit school.

School:

None.

Lender/Servicer:

A lender may see increased legal action from borrowers based on the expansion of the available defenses to borrowers attending all postsecondary schools.

Guarantor:

A guarantor may see additional legal action in its post-claim collection portfolios as borrowers assert defenses against the repayment of their loans at any postsecondary school.

U.S. Department of Education:

The Department may receive additional legal filings regarding loans subrogated to them as borrowers assert defenses against the repayment of their loans at any postsecondary school.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 12, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

bg dt/edited -

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Identity Theft — Early Implementation**

AFFECTED SECTIONS:

3.5.C	**Credit Bureau Reporting**
11.20.D	**False Certification as a Result of the Crime of Identity Theft**
13.8.E	**False Certification as a Result of the Crime of Identity Theft**
A.1.B	**When Federal Interest Benefits Will Be Paid**
A.2.B	**Termination of Special Allowance**

POLICY INFORMATION: **1026/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Reports received on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

BASIS:

Preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pages 61962 and 61984-61986; §682.208(b)(3); §682.211(f)(6).

CURRENT POLICY:

Current policy states that a lender must report certain information on each loan it makes or holds to at least one national credit bureau.

Current policy states that a lender must grant an administrative forbearance for a period not to exceed 60 days on any loan potentially eligible for a false certification discharge as a result of the crime of identity theft.

Current policy states that the Department's obligation to pay federal interest benefits and special allowance on a loan ends on the date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report.

REVISED POLICY:

Revised policy states that if a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, a lender shall suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines the legal enforceability of the loan. Revised policy also states that if a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the loan is nonetheless legally unenforceable against that individual, the lender must notify the credit bureau of the determination.

Revised policy states that a lender must grant an administrative forbearance for a period not to exceed 120 days on any loan potentially eligible for a false certification discharge as a result of the crime of identity theft.

Revised policy states that if, within 3 years of the date the lender determines a loan to be legally unenforceable, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan.

REASON FOR CHANGE:

The *Common Manual* is being updated to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72., No. 211.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection 3.5.C, page 13, column 1, paragraph 4, as follows:

Note: This Subsection is also updated by Proposal 1027, Batch 149.

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

If a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, the lender must suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines the legal enforceability of the loan. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft (see Subsection 13.8.E), but the lender still determines the loan to be legally unenforceable, the lender must notify the credit bureau of the determination. [§682.208(b)(3)]

Revise Subsection 11.20.D, page 30, column 1, paragraph 1, as follows:

False Certification as a Result of the Crime of Identity Theft

If a guarantor or the Department notifies a lender, or the lender receives reliable information from another source (such as a telephone call or letter from the individual named as the borrower) that an individual may be eligible for a false certification loan discharge as a result of the crime of identity theft, the lender must grant an administrative forbearance on any potentially eligible loan for a period not to exceed ~~60~~ 120 days, while the lender determines the legal enforceability of the loan. The forbearance period begins no earlier than the date that the loan discharge eligibility requirements are sent to the individual. If the individual fails to return the discharge documentation within the required time frame, the lender must end the administrative forbearance and the loan's delinquency resumes at the point at which collection activity was suspended.
[§682.211(f)(~~7~~6); 682.402(e)(12)]

Revise Subsection 13.8.E, page 37, column 2, paragraph 2, as follows:

If an individual submits incomplete documentation, the lender or guarantor must send the individual an explanation of why the documentation is incomplete. If the individual's signature is missing, the lender or guarantor must return the request to the individual. The lender or guarantor must document the loan history accordingly. In either situation, the administrative forbearance period described previously in this Subsection must not exceed a total of ~~60~~ 120 days from the date on which the loan discharge information was originally sent to the individual. [§682.211(f)(6)]

Revise Subsection A.1.B, page 4, column 1, paragraph 1, bullet 9, as follows:

Note: This Subsection is also updated by Proposal 1027, Batch 149.

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

- ...
- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report. If, within 3 years of this date, a lender receives evidence that the

loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan.
[§682.208(b)(4); §682.300.(b)(2)(ix)]

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

Note: This Subsection is also updated by Proposal 1027, Batch 149.

- ...

- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report. If, within 3 years of this date, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan.
[§682.208(b)(4); §682.302(d)(1)(viii)]

PROPOSED LANGUAGE - COMMON BULLETIN:
Identity Theft — Early Implementation
The *Common Manual* has been revised to comply with the regulatory changes published in the *Federal Register* dated November 1, 2007, that relate to situations in which an individual has been the victim of, or alleged victim of, the crime of identity theft.

If a lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft, a lender must suspend credit bureau reporting on a loan for a period not to exceed 120 days while the lender determines legal enforceability of the loan. A lender must also grant an administrative forbearance for a period not to exceed 120 days on any loan that is potentially eligible for a false certification discharge as a result of the crime of identity theft. If a lender determines that a loan does not qualify for a false certification loan discharge as a result of the crime of identity theft, but the lender still determines the loan to be legally unenforceable, the lender must notify the credit bureau of the determination.

If, within 3 years of the date the lender determines a loan to be legally unenforceable, a lender receives evidence that the loan was made as the result of the crime of identity theft, the lender may submit a claim and receive federal interest benefits and special allowance payments that would have accrued on the loan.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower who has been the victim of, or alleged victim of, the crime of identity theft will receive relief from credit bureau reporting on a related loan for up to 120 days while a lender determines legal enforceability of the loan. A borrower will also be granted a longer period of administrative forbearance.

School:
None.

Lender:
A lender will need to update its credit bureau reporting and administrative forbearance policies as it relates to loan discharges as a result of the crime of identity theft.

Guarantor:
A guarantor may be required to adjust program review procedures.

U.S. Department of Education:
The Department may need to adjust program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
November 1, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

sf/edited-bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Identity Theft — July 1, 2008 Implementation**

AFFECTED SECTIONS:

3.5.C	**Credit Bureau Reporting**
12	**Due Diligence in Collecting Loans**
13.8.E	**False Certification as a Result of the Crime of Identity Theft**
A.1.B	**When Federal Interest Benefits Will Be Paid**
A.2.B	**Termination of Special Allowance**

POLICY INFORMATION: **1027/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT:

Deletion of loans from credit bureau records, loans discharged on or after July 1, 2008. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

Due diligence activities performed on or after July 1, 2008.

False certification identity theft loan discharge claims processed by the lender on or after September 8, 2006.

Interest benefits and special allowance billing discontinuance, loans deemed unenforceable on or after July 1, 2008. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

BASIS:

Preamble to the November 1, 2007 *Federal Register*, Vol. 72, No. 211, pages 61984-61986; §682.300(b)(2)(ix); §682.302(d)(1)(viii); §682.402(e)(2); §682.411(o).

CURRENT POLICY:

Current policy states that if a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative information regarding that loan from an individual's credit history.

Current policy states that a lender must adhere to federal due diligence requirements in collecting any delinquent loan payments. Current policy also states that federal due diligence requirements preempt any state law—including state statutes, regulations, or rules—that would conflict with or hinder a lender's satisfaction of the requirements or frustrate the purpose of these requirements.

Current policy states that for an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft.

Current policy outlines the instances in which the Department ends its obligation to pay federal interest benefits and special allowance to a lender.

REVISED POLICY:
Revised policy states that if a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative or inaccurate information regarding that loan from an individual's credit history.

Revised policy states that federal due diligence requirements in collecting any delinquent loan payments, as well as federal credit bureau reporting requirements, do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to an individual while a lender determines the legal enforceability of a loan when the lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft.

Revised policy states that for an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft by a perpetrator named in the verdict or judgment.

Revised policy states that the Department also ends its obligation to pay federal interest benefits and special allowance to a lender on the date the lender determines a loan to be legally unenforceable based on the receipt of an identity theft report or notification from a credit bureau of an alleged identity theft.

REASON FOR CHANGE:
The *Common Manual* is being updated to comply with regulatory changes published in the November 1, 2007, *Federal Register*, Vol. 72., No. 211.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection 3.5.C, page 12, column 2, paragraph 1, bullet 6, as follows:

> The date the loan is discharged due to a closed school or false certification (to be reported within 30 days of the date the lender is notified that the loan is discharged). The lender also must request that the credit bureau remove any negative or inaccurate information regarding a loan discharged due to a closed school or false certification. For more information on closed school and false certification claims, see Subsections 13.8.B, ~~and~~ 13.8.D, and 13.8.E.
> [§682.402(d)(7)(iv) and (e)(2)(iv)]

Revise Subsection 3.5.C, page 13, column 1, paragraph 4, as follows:

Note: This Subsection is also updated by Proposal 1026, Batch 149.

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

Revise Chapter 12, page 1, column 1, paragraph 3, as follows:

> The lender must adhere to the federal requirements to ensure prompt collection of any delinquent loan payments and to preserve the guarantee on the loan. These requirements preempt any state law—including state statutes, regulations, or rules—that would conflict with

or hinder a lender's satisfaction of the requirements or frustrate the purposes of these requirements. However, these requirements do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to a borrower while a lender determines the legal enforceability of a loan after receiving a valid identity theft report or notification from a credit bureau of an alleged identity theft.
[§682.411(o)]

Revise Subsection 13.8.E, page 36, column 1, paragraph 2, as follows:

If the guarantor determines that an individual is eligible for a loan discharge, the discharge cancels the obligation of the individual to repay the applicable outstanding principal, accrued interest, collection costs, and late fees. It also qualifies the individual for reimbursement of any amounts paid voluntarily or through forced collection on the amount discharged. The lender and guarantor must ensure that the discharge is reported to credit bureaus such that any adverse or inaccurate credit history associated with the amount discharged is removed.
[§682.402(e)(2)]

Revise Subsection 13.8.E, page 37, column 1, bullet 2, as follows:

- ...

- Provides to the lender a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft by a perpetrator named in the verdict or judgment.

  [§682.402(e)(3)(v)]

Revise Subsection A.1.B, page 4, column 1, paragraph 1, bullet 9, as follows:

Note: This Subsection is also updated by Proposal 1026, Batch 149.

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

- ...

- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report.
  [§682.300(b)(2)(ix)]

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

Note: This Subsection is also updated by Proposal 1026, Batch 149.

- ...

- The date the lender determines the loan is legally unenforceable based on the receipt of a valid identity theft report.
  [§682.302(d)(1)(viii)]

PROPOSED LANGUAGE - COMMON BULLETIN:
Identity Theft — July 1, 2008 Implementation
The *Common Manual* has been revised to comply with the regulatory changes published in the *Federal Register* dated November 1, 2007, that relate to situations in which an individual has been the victim of, or alleged victim of, the crime of identity theft.

If a loan is discharged due to closed school or false certification, a lender must request that the credit bureau remove any negative or inaccurate information regarding that loan from an individual's credit history.

Federal due diligence requirements in collecting any delinquent loan payments, as well as federal credit bureau reporting requirements, do not preempt the provisions of the Fair Credit Reporting Act (FCRA) that provide relief to an individual while a lender determines the legal enforceability of a loan when the lender receives a valid identity theft report or notification from a credit bureau of an alleged identity theft.

For an individual to qualify for a loan discharge due to false certification as a result of the crime of identity theft, the individual must provide the lender with a copy of a local, state, or federal court verdict or judgment that conclusively determines that the individual who is named as the borrower or endorser of the loan was the victim of a crime of identity theft by a perpetrator named in the verdict or judgment.

The Department ends its obligation to pay federal interest benefits and special allowance to a lender on the date a lender determines a loan to be legally unenforceable based on the receipt of an identity theft report or notification from a credit bureau of an alleged identity theft.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
None.

School:
None.

Lender:
A lender will be able to better comply with the requirements of the Fair Credit Reporting Act (FCRA). A lender will need to adjust system calculations for the payment of federal interest benefits and special allowance.

Guarantor:
A guarantor may be required to adjust program review procedures.

U.S. Department of Education:
The Department may need to adjust program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
November 1, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

sf/edited-bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Servicing Parameters for a Consolidation Loan with Multiple Loan Records**

AFFECTED SECTIONS:

3.5.E	**Reporting Loan Assignments, Sales, and Transfers**
11.1.A	**General Deferment Eligibility Criteria**
11.19	**Forbearance**
12.4	**Due Diligence Requirements**
13.1.A	**Claim Filing Requirements**
15.2	**Borrower Eligibility and Underlying Loan Holder Requirements**
15.4	**Disbursement**
15.5.B	**Disclosing Repayment Terms**
15.5.F	**Delinquency, Claim Filing, Loan Forgiveness, and Discharge**

POLICY INFORMATION: **991/Batch 149 (originally distributed in batch 146)**

EFFECTIVE DATE/TRIGGER EVENT: Consolidation loan applications received by the lender on or after November 13, 1997.

BASIS:

Emergency Student Loan Consolidation Act (ESLCA) of 1997 (P.L. 105-78); §682.301(a)(3)(iii).

CURRENT POLICY:

A Federal Consolidation loan made from an application received by the lender on or after November 13, 1997, is 1) eligible for interest subsidy during authorized periods of deferment on any portion of the Consolidation loan that paid an underlying subsidized FFELP loan or an underlying subsidized Direct loan, and 2) subject to a variable interest rate on any portion of the Consolidation loan that repaid a HEAL loan. Current policy does not specify how to calculate repayment terms, perform due diligence, or file claims for a single Consolidation loan that is recorded on a lender's system as separate portions of the loan. In addition, current policy does not clarify that the first disbursement date of such a loan is used to determine the loan's terms and conditions.

REVISED POLICY:

Revised policy clarifies that although the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan may appear as separate loan records on the lender's system, the lender must ensure that the Consolidation loan is administered as a single Consolidation loan. Thus, the loan must be administered with a single payment amount and payment due date which must cover all separately serviced portions of the Consolidation loan. The status applicable to the Consolidation loan must be reflected consistently across all portions of the loan. Deferments and forbearances must be applied to the single Consolidation loan. That is, the same deferment or forbearance benefit must apply to each portion of the loan. If the Consolidation loan becomes delinquent, the number of days the loan is delinquent must be reflected consistently across the lender's system for each portion of the Consolidation loan. Due diligence must be performed at a loan level, and should the Consolidation loan default, all portions of the loan must default on the same date and be filed in the same claim or at least simultaneously with the guarantor.

REASON FOR CHANGE:

These changes are being incorporated into the *Common Manual* to add clarity to existing policy.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection 3.5.E, page 13, column 2, paragraph 3, as follows:

3.5.E
Reporting Loan Assignments, Sales, and Transfers

. . .

The assignment, sale, or transfer of a loan should be reported on the appropriate guarantor form or by an equivalent electronic process. If the holder wants to report an assignment, sale, or transfer using its own form or process, the format must contain all data elements required by the guarantor. If one holder acquires the entire portfolio of another holder due to a merger, acquisition, bank closing, or similar situation, it may not need to complete a guarantor form or list each of the loans being sold, but may work with the guarantor to establish an efficient and effective method of ensuring that the guarantor's records are updated to reflect the most current holder information.

A consolidating lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portions of the loan, must report the assignment, sale, or transfer transaction simultaneously for the entire Consolidation Loan.

Revise Subsection 11.1.A, page 2, column 1, by inserting a new bullet after bullet 1, 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:

. . .

- Endorsers are not entitled to deferment. If an endorser is repaying the loan and has temporary difficulty in continuing repayment, he or she may request a forbearance. [§682.210(a)(11)]

- A consolidating lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portions of the loan, must grant a deferment on the entire loan. That is, the same deferment benefit must be applied for the same period of time to each portion of the loan when the lender grants the deferment.

Revise Section 11.19, page 24, column 1, by inserting a new paragraph after last paragraph as follows:

11.19
Forbearance

. . .

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)]

A consolidating lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portions of the loan, must grant a forbearance on the entire loan. That is, the same forbearance benefit must be applied for the same period of time to each portion of the loan when the lender grants the forbearance.

Revise Section 12.4, page 4, column1, by adding new paragraph after paragraph 1, as follows:

12.4
Due Diligence Requirements

To satisfy due diligence requirements, a lender must perform the collection activities specified in the schedules in subsections 12.4.A and 12.4.B. A lender may perform the required activities in the manner that is most effective—provided the minimum number of written contacts and telephone attempts are made and no gap of greater than 45 days (60 days in the case of a loan sale or transfer) in activity occurs through the 270th day of delinquency (330th day for loans with repayment obligations less frequent than monthly). A violation occurs if a lender fails to complete any of the required activities within the corresponding time frame or if the lender permits a gap of greater than 45 days (60 days in the case of a loan sale or transfer) between activities. If a violation occurs, the lender may incur interest penalties or jeopardize the guarantee on the loan. If the guarantee on a loan is lost, the lender also loses the right to collect interest benefits and special allowance payments otherwise payable by the Department from the date of the earliest unexcused violation. See chapter 14 for more information regarding violations and the assessment of penalties.
[§682.411(b)(2); §682.411(k); §682, Appendix D; DCL FP-04-08]

A consolidating lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portionf of the loan, must perform due diligence activities at the loan level. That is, the lender must perform due diligence activities on a single, accurate payment amount, payment due date, etc. for the single Consolidation loan that contains multiple loan servicing records. If the guarantor identifies a Consolidation loan serviced as separate loan servicing records and submitted for claim with different interest rates, it will return the claim for correction of interest accruals, payment application, and loan balances, as appropriate, except if the difference in interest rates is because of a HEAL loan. If the claim is submitted with different payment due dates on one or more portions of the loan, the claim will be returned to the lender as an uninsured loan.

Revise Subsection 13.1.A, page 1, column 1, by adding a new paragraph after paragraph 2, as follows:

13.1.A
Claim Filing Requirements

If a lender submits a claim with any required documentation that is missing, incomplete, or inaccurate, the guarantor may attempt to obtain the necessary information from its own system or request the information from the lender. The lender must provide the requested information and, if applicable, refile the claim by the refile deadline (refer to subsection 13.2.A).

A consolidating lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portions of the loan, must perform due diligence activities at the loan level. That is, the lender must perform due diligence activities on a single payment amount, payment due date, etc., for the single Consolidation loan that contains multiple loan servicing records. For claim filing purposes, including loan discharges, all loan records related to a single Consolidation loan promissory note must be filed as one claim package with the guarantor based on a single payment due date. The guarantor may cancel the guarantee on the entire loan if the guarantor identifies loan records that have been serviced separately based on inconsistent loan servicing parameters such as payment due dates, repayment terms, interest rates (except interest rates applicable to underlying HEAL loans), application of deferment or forbearance, or other key loan servicing activities. (See Subsection 14.1.E, Violations Associated with Unsyncronized Servicing of a Consolidation Loan with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records.)

Revise Section 15.2, page 5, column 2, paragraph 2, as follows:

15.2

Borrower Eligibility and Underlying Loan Holder Requirements
Adding Loans after Consolidation

. . .

Lenders ~~and borrowers~~ should note and inform borrowers that the interest rate and repayment terms on a Consolidation loan may be affected by adding loans. The lender must disclose new repayment terms to the borrower, if the terms of the borrower's Consolidation loan change due to the addition of loans within the 180-day add-on period. A consolidating lender that establishes an additional loan servicing record for the add-on portion must perform due diligence activities at a loan level. That is, the lender must perform due diligence activities on a single payment amount, payment due date, etc. for the single Consolidation loan that contains multiple loan servicing records. (See Section 12.4 for more information on due diligence requirements.) For portions of the Consolidation loan attributable to HEAL loans, the variable interest rate is based on the average of the 91-day Treasury bill rate plus 3%, with no cap. [HEA 428C(c)(1)(D)]

Revise Section 15.4, page 9, column 2, by adding a new paragraph after paragraph 3, as follows:

15.4
Disbursement

A Consolidation loan is considered to be disbursed on the date of the first individual or master check, payment advice, or noncash transfer that transfers funds from the consolidating lender to the holder of the loans to be consolidated. For funds disbursed by EFT, the Consolidation loan is considered disbursed on the first date that funds are transferred. If the loan funds for multiple underlying loans are disbursed on multiple days, including funds issued through the end of the 180-day add-on period, those disbursements are considered "subsequent disbursements." The loan's first disbursement date, or the application receipt date is used to determine its terms and conditions.

A consolidating lender that establishes an additional loan servicing record for the add-on portion of the loan must perform due diligence activities on a single payment amount, payment due date, etc. for the single Consolidation loan. In addition, a consolidating lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portions of the loan, must establish a single repayment schedule with a single payment due date for all portions of the loan. The disbursement date for the first loan, or the application receipt date, establishes the terms and conditions for every loan servicing record established under a single promissory note for the borrower. For loan guarantee purposes, the single Consolidation loan promissory note and addendums represent a single Consolidation loan. The lender must ensure that all servicing aspects for the multiple portions of the loan remain synchronized throughout the life of the loan. Failure to establish and maintain a single, accurate repayment schedule, first and next payment due date, accurate interest rate, and to consistently apply deferment and forbearance or loan discharge provisions may result in the loss of the entire loan's guarantee. (See Subsection 14.1.E, Violations Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records.)

Revise Subsection 15.5.A, page 10, column 1, by adding a new paragraph after paragraph 1, as follows:

15.5.A
Establishing the First Payment Due Date

A lender must establish the first payment due date on a Consolidation loan that is no later than:

- 60 days after the date of the last disbursement that pays underlying loans in full.

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

- 60 days after the last day of a deferment or forbearance period, unless the borrower makes a prepayment during this period that advances the due date (see subsections 10.11.B and 10.11.D). For more information about establishing repayment after a deferment or forbearance period, see subsections 11.1.I and 11.19.J, respectively.

[§682.209(a)(3)(ii)(B)]

A consolidating lender that establishes an additional loan servicing record for the add-on portion of the loan must perform due diligence activities on a single payment amount, payment due date, etc. for the single Consolidation loan. In addition, a consolidating lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portions of the loan, must establish a single repayment schedule with one first payment due date. The lender must ensure that all servicing aspects for the multiple portions of the loan remain synchronized throughout the life of the loan.

Revise Subsection 15.5.B, page 10, column 2, paragraph 2, as follows:

15.5.B
Disclosing Repayment Terms

If the terms of a borrower's Consolidation loan change due to the addition of a loan(s) within the 180-day add-on period, a lender must disclose new repayment terms to the borrower. A lender may establish a new effective date for a revised payment amount that is no more than 60 days after the last disbursement that paid the add-on loan(s) in full. The lender must disclose to the borrower a single accurate payment amount, payment due date, etc., for the single Consolidation loan that contains multiple records.
[§682.102(e)(5)]

PROPOSED LANGUAGE - COMMON BULLETIN:
Servicing Parameters for a Consolidation Loan with Multiple Loan Records
Guarantors recognize that a lender may load a Consolidation loan into multiple, separate loan servicing records on its system in order to better track the interest subsidy and interest rate. Guarantors also recognize that a lender may create a new loan servicing record when a loan or loans are added through the 180-day add-on process. Lenders may also provide the guarantor with two loan records for the single Consolidation loan to separate the unsubsidized and subsidized portions of the loan. However, the two separate records really comprise a single Consolidation loan, made under a single loan application and promissory note. Generally, this single loan will have a single interest rate (the exception is the underlying portions of the Consolidation loan attributable to a HEAL loan), repayment schedule, first and next payment due date, and one set of deferment and forbearance criteria and eligibility. A Consolidation lender that establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portions of the loan must perform due diligence activities at the loan level. That is, the lender must perform due diligence activities on a single, accurate payment amount, payment due date, etc. for the single Consolidation loan is recorded on the lender's system as multiple, separate loan servicing records.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower is ensured that his or her Consolidation loan will be serviced as a single loan.

School:
None.

Lender/Servicer:
A lender must ensure that a Consolidation loan with multiple loan servicing records is administered as a single Consolidation loan. Lenders must ensure that all aspects for the multiple portions of the Consolidation loan remain synchronized throughout the life of the loan.

Guarantor:
A guarantor may need to modify claim review procedures to ensure that a Consolidation loan with multiple loan servicing records is administered as a single Consolidation loan. A guarantor may need to modify program review parameters.

U.S. Department of Education:
The Department may need to modify program review parameters to ensure that a Consolidation loan with multiple loan servicing records is administered as a single Consolidation loan.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
American Education Services
USA Funds

DATE SUBMITTED TO CM POLICY COMMITTEE:
September 24, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

Comments Received From:
AES/PHEAA, CFI, CSLF, EdFund, GHEAC, Great Lakes, HESAA, HESC, KHEAA, LOSFA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC

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

Comment:
Two commenters suggested that a prospective effective date/trigger event should be utilized for this proposal. The commenters stated that the November 13, 1997, date is the effective date of the Emergency Student Loan Consolidation Act of 1997 (P.L. 105-78) establishing that the Secretary will pay the interest on the portion of a consolidation loan that repaid subsidized FFEL loans and Direct Subsidized loans. The policy proposals included in Proposal 991 have significant servicing impacts including but not limited to servicing systems, diligence, claim filing and procedures. Thus a retroactive effective date for the policy changes is not appropriate and a prospective effective date is warranted.

One commenter stated that they could not support the proposal as written because there is no safe harbor or hold harmless clause for those who may be impacted by the retroactive effective date. The commenter also stated that while they concur that the underlying loans of a Consolidation loan should be administered as a single loan for servicing purposes, some FFELP participants may not have the systems or resources required to comply with, monitor, or enforce the provisions of the proposal.

Response:
The Committee understands the commenters' concerns. However, the Federal Consolidation Loan Program provides a borrower with the opportunity to consolidate into one debt with one promissory note all of the eligible federal education loans received from different lenders and/or under different education loan programs. This has been the premise since the Consolidation loan was introduced in statute and regulations. Thus, the consolidation process permits multiple debts to be combined into one monthly payment and promotes the

expectation that the borrower will have a single loan with a single payment due on a single date. In fact, the Consolidation promissory note, a single note loan by construction, does not contemplate multiple loans, and is itself, crafted in the singular to reflect the singularity of the loan that derives from the note. If the lender does not administer the Consolidation loan as a single loan, the lender has not complied with federal regulations or the terms of the promissory note. Since the Consolidation loan program predates the issuance of the *Common Manual* and implementation of common policy, the effective date of the policy should be retroactive to the date the *Common Manual* was implemented. However, the Committee believes that the issue of lenders servicing portions of the single Consolidation loan as separate loans really began with the implementation of the Emergency Student Loan Consolidation Act of 1997. It appears the implementation date of this Act is when lenders modified their systems or their processing protocols to accommodate the changes to loan subsidies. However, the Committee believes that although the lenders modified their systems to comply with this Act, the intent of the Act was not to permit lenders to split the Consolidation loan into several loans, or at least, that such divisions should not be apparent to the borrower who sought a single loan and signed a single note. Rather, the lender was required to monitor portions of the Consolidation loan with respect to interest application and adjustments. The fact that lenders made system accommodations to manage this and included the separate loan records to manage the diverse servicing needs does not mitigate the simple fact that the Consolidation loan is a single loan.

Change:
None.

Comment:
Several commenters stated that the revised policy is inconsistent with regulatory and statutory guidance regarding HEAL loans. The commenters stated that there are several regulatory references that prohibit a Consolidation loan from being administered as a single Consolidation loan if the Consolidation loan includes a HEAL loan. HEAL loans included in a Consolidation loan have variable interest rates that are mandated to remain variable and must be changed annually. HEAL loans are not eligible for Special Allowance (SAP), interest benefits, or teacher loan forgiveness benefits that FFEL loans are eligible for. The commenters referred to the following statutory and regulatory references:

HEA 428C(d)(3)(A) - HEAL portions of Consolidation loans not eligible for SAP
HEA 428C(d)(3)(B) and §682.301(a)(3) - HEAL portions of Consolidation loans not eligible for interest subsidy benefits
§682.301(a)(3) - HEAL portions of Consolidation loans not eligible for interest benefits during periods of authorized deferments
§682.215(d)(1) - HEAL portions of Consolidation loans not eligible for Teacher Loan Forgiveness
HEA 428C(d)(2)(B) and §682.202(a)(4)(v) - The portion of the Consolidation loan that is attributable to HEAL is a variable rate that is adjusted annually

Response:
The Committee agrees that HEAL portions of the Consolidation loan must be monitored with respect to interest application and adjustments. However, the Committee does not agree that the statement of revised policy is inconsistent with regulatory and statutory guidance and we do not agree that a lender can service portions of the loan differently. The borrower consolidated into one debt all eligible federal education loans received from different lenders and/or under different education programs with the agreement that multiple debts would be combined into one monthly payment with one general set of terms. Certainly the HEAL portion of the loan may be forborne and deferred in identical time frames and methods as the other eligible underlying portions of the loan, regardless of the interest accrual issues. This is emphasized in language contained in the Consolidation Loan Application and Promissory Note signed by the borrower. Therefore, we do not agree that the regulatory references prohibit a Consolidation loan from being administered as a single Consolidation loan. The very fact that the loan is supported by a single note supplants any premise that there are multiple loans, and the lender's servicing accommodations to manage the uniqueness of the HEAL portion are moot.

Change:
None.

Comment:

Several commenters suggested removing the word "simultaneously" from the last sentence of the last bullet in 11.1.A and 11.19 because many lenders/servicers must have the multiple loan records on their system for a Consolidation loan in order for the system to calculate the interest correctly. The commenters note that there could be reasons why a deferment/forbearance may not be applied exactly at the same time to the different portions of the Consolidation loan, but using the word simultaneously implies that it must be processed at the exact same time. Another commenter stated that the word simultaneously is relative to the processing procedures used by the lender or servicer, and the *Common Manual* should not govern those types of procedures. The fact that the deferment or forbearance is applied for the same period of time to the various portions/servicing records of the loan is what is important.

One commenter stated that "simultaneously" is an overly restrictive term in their view. While servicers strive to process deferments on a borrower's entire Consolidation loan at the same time to gain efficiencies and reduce borrower confusion, human errors can occur on this. Some servicers have processes in place to catch these errors that may lead to the deferments on the individual records not being processed on the same day. Whether or not the lender applies the deferment to the various portions/servicing records that comprise the single Consolidation loan simultaneously is irrelevant. The policy should not govern processing procedures by the lender. The key is that the deferment is applied for the same time period to the various portions/servicing records of the loan. Requiring that processing occur "simultaneously" may result in penalties or a loss of guarantee in cases where there is no violation or servicing gap.

Response:
The Committee understands that there are apparently system constraints with tracking the single Consolidation loan as separate portions on the lender's system. The intent of the proposed policy language is to ensure that the deferment or forbearance is applied for the same period of time to various portions/servicing records that make up the single Consolidation loan. Therefore, the lender must ensure that the deferment or forbearance is granted for the entire loan for the same period of time, regardless of any delay in processing the transaction across all portions of the single Consolidation loan.

Change:
The Committee has modified language to reflect that the same deferment or forbearance benefit must be applied for the same period of time to each portion of the loan when the lender grants the deferment or forbearance and to eliminate the implication that the deferment or forbearance transaction must be applied/processed at the same time.

The last sentence of the last bullet in 11.1.A has been changed as follows:

> "That is, the same deferment benefit must be applied <u>for the same period of time</u> ~~simultaneously~~ to each portion of the loan <u>when the lender grants the deferment</u>."

The last sentence of the last bullet in 11.19 has been changed as follows:

> "That is, the same forbearance benefit must be applied <u>for the same period of time</u> ~~simultaneously~~ to each portion of the loan <u>when the lender grants the forbearance</u>."

Comment:
Several commenters suggested removing the word "single" throughout the proposal where it refers to "single payment amount." The proposed policy change indicates that it is permissible for servicers to utilize separate records for the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan. In this event, most servicing systems will amortize payment amounts based on the separate loan segments. The commenters note that the payment amount for the Consolidation loan will be the rolled up payment amounts for the separate records. Also, according to §682.209(b)(2)(i) and (ii), the borrower may prepay the whole or any part of a loan at any time without penalty. Per this regulation, a borrower could prepay and request that the prepayments be posted only to the unsubsidized portion of the Consolidation loan. The commenters suggest that if the Consolidation loan is serviced as separate loan records, borrower prepayments could advance the due date on the unsubsidized portion of the Consolidation loan. Other commenters noted that the Consolidation loan is a single loan and should be serviced accordingly; however, the commenters assert that the verbiage in this policy proposal is unduly restrictive and punitive. If a servicer has performed reasonable and prudent business

practices and the payment due dates between separate portions of the loan have become unsynchronized due to inadvertent circumstances (not missed diligence activities), i.e. borrower prepayments, the loan should not lose its guarantee.

Additionally, the first disbursement date of a Consolidation loan does not necessarily determine the loan's terms and conditions. There are numerous regulatory cites that distinguish Consolidation loan terms and conditions (eligibility for SAP, interest subsidy benefits, interest rates, etc.) based on the date that the Consolidation loan application was received, including but not limited to: §682.202(a)(4)(ii), (iii), (iv) and (v), §682.301(a)(3), and §682.302(c)(1)(iii)(A)(3) and (iii)(B)(6).

Response:
According to §682.209(b)(2)(I), the borrower may prepay the whole or any part of a loan at any time without penalty. If the prepayment amount equals or exceeds the "**monthly payment amount**" under the repayment schedule established for "**the loan**", the lender shall apply the prepayment to future installments by advancing the next "**payment due date**", unless the borrower requests otherwise. The lender must either inform the borrower in advance using a prominent statement in the borrower coupon book or billing statement that any additional full payment amounts submitted without instructions to the lender as to their handling will be applied to future scheduled payments with the borrower's "**next scheduled due date**" advanced consistent with the number of additional payments received, or provide a notification to the borrower after the payments are received informing the borrower that the payments have been so applied and the date of the borrower's "**next scheduled due date**".

The Committee reasserts that there is a single loan made under a single Consolidation loan promissory note. Since the Consolidation loan permits multiple debts to be combined into "**one monthly payment**"—and a single payment due date, regardless of how the payment is applied, the Consolidation loan can have only one payment due date. A lender may find it necessary to utilize separate records to track portions of the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan as it relates to interest subsidy. However, despite this operational work-around, at no time may the lender's records reflect different payment due dates since the borrower and the lender agreed to the terms of the promissory note which provide that the borrower consolidated loans into one debt with one monthly payment. If a prepayment applies to any portion of the Consolidation loan, it applies to the entire loan, and if it advances the due date, since the loan itself has only one due date, it advances that single due date.

Change:
None.

Comment:
Two commenters suggested striking each instance throughout the proposal where the language states that all parts of the Consolidation loan must be at the same interest rate. The commenters state that any HEAL portion of a Consolidation loan will always be at a different interest rate because the calculation is different.

Response:
The Committee agrees that the HEAL portion of the Consolidation loan could have a different interest rate.

Change:
The Committee has modified the proposal as follows in Section 12.4:

> "...If the guarantor identifies a Consolidation loan serviced as separate <u>loan servicing records</u> ~~consolidation records~~ and submitted for claim with different interest rates, it will return the claim for correction of interest accruals, payment application, and loan balances, as appropriate <u>except if the difference in interest rates is because of an underlying HEAL loan</u>."

The Committee has modified the proposal as follows in Subsection 13.1.A:

> "...The guarantor may cancel the guarantee on the entire loan if the guarantor identifies loan records

that have been serviced separately based on inconsistent loan servicing parameters such as payment due dates, repayment terms, interest rates (except interest rates applicable to underlying HEAL loans), application of deferment or forbearance, or other key loan servicing activities."

Comment:
One commenter suggested updating Section 13.2 to include a statement that "The guarantor may request additional information on a Consolidation loan or request that the subsidized and unsubsidized portions of the loan be realigned to show a single payment due date." The commenter states that this would add clarification to the manual that this is another reason why a claim may be returned to the lender.

Response:
Section 13.2 provides that a guarantor may return a claim if the loan incurs a violation(s) that results in a loss of guarantee on the loan. It also provides that a guarantor may return the claim if the claim package contains inadequate documentation. The Committee believes that the return reasons provided in Section 13.2 already adequately address permissible reasons for the guarantor to return the claim. If the guarantor determines that the Consolidation loan has two different payment due dates, the guarantor can return the claim because the lender incurred a violation that resulted in a loss of guarantee. If the guarantor reviews the claim and requires additional information on a Consolidation loan because the claim package does not contain adequate documentation, the guarantor may, and likely will, return the claim under its current authority.

Change:
None.

Comment:
Two commenters suggested removing the reference to weighted average in Section 15.4. The commenters stated that this should be deleted from the text due to the fact that the HEAL portion of the loan is not included in the weighted average.

Response:
The Committee agrees.

Change:
Section 15.4. has been revised as follows:

"...Failure to establish and maintain a single, accurate repayment schedule, first and next payment due date, accurate ~~weighted average~~ interest rate ~~based on the sum of all loans consolidated under the single note~~, and to consistently apply deferment and forbearance or loan discharge provisions may result in the loss of the entire loan's guarantee.

Comment:
One commenter suggested deleting the last sentence in Subsection 15.5.A and deleting the change to 15.5.B regarding repayment because information about disclosing repayment terms is in Section 12.4 of the manual. The commenter feels that it is redundant to include information about repayment in these subsections.

Several commenters suggested removing text in Subsections 13.1.A and 15.5.A, and Sections 15.2 and 15.4 that address due diligence activities. The commenters state that since this information is adequately addressed in Chapter 12 - Due Diligence, it is redundant and out of place in Chapters 13 and 15.

Response:
The Committee disagrees with the commenter. The Committee concurs that the text is somewhat redundant but believes that this text is necessary to provide further clarity to the policy for the respective subsections.

Change:
None.

Comment:

Several commenters suggested adding text to Subsection 15.5.A to clarify that the lender must do all they can to ensure that all servicing aspects for the multiple portions of the loan remain synchronized throughout the life of the loan.

Response:
The Committee believes the lender must ensure that portions of a single Consolidation loan remain synchronized throughout the life of the loan.

Change:
None.

Comment:
Two commenters recommended changing Section 15.5.B to reflect that the lender must disclose to the borrower a single accurate payment amount, payment due date, etc., for the single Consolidation loan that contains multiple records. The commenters also recommended removing the term "subsidy" as well as perform due diligence on as this will provide clarity to the proposal.

Response:
The Committee agrees.

Change:
The text is Subsection 15.5.B has been revised as follows:

> "The lender must ~~perform due diligence activities on~~ disclose to the borrower a single accurate payment amount, payment due date, etc., for the single Consolidation loan that contains multiple ~~subsidy~~ records.

Comment:
Two commenters stated that the terms "servicing record", "loan servicing record", and "consolidation record" are used inconsistently. Using consistent language would provide clarity to the proposal.

Response:
The Committee agrees.

Change:
Throughout the text, "servicing record" and "consolidation record" have been changed to "loan servicing record."

Comment:
One commenter suggested adding text in Subsection 13.1.A and Section 15.4 to specify that the guarantee may be lost if there are due diligence violations sufficient to lose insurance on the loan.

Response:
The Committee agrees that information should be added regarding the loss of insurance and believes reference to Subsection 14.1.E in the companion policy proposal, 997, will provide that clarification.

Change:
The text is Subsection 13.1.A has been revised as follows:

> "…The guarantor may cancel the guarantee on the entire loan if the guarantor identifies loan records that have been serviced separately based on inconsistent loan servicing parameters such as payment due dates, repayment terms, interest rates (except interest rates applicable to underlying HEAL loans), application of deferment or forbearance, or other key loan servicing activities. (See Subsection 14.1.E, Violations Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records.)"

The text in Section 15.4 has been revised as follows:

"...Failure to establish and maintain a single, accurate repayment schedule, first and next payment due date, accurate interest rate, and to consistently apply deferment and forbearance or loan discharge provisions may result in the loss of the entire loan's guarantee. (See Subsection 14.1.E, Violations Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records.)"

Comment:
Several commenters suggested adding text to the last sentence of the first paragraph of Section 15.4 to state that the application receipt date may also be used to determine the terms and conditions of a Consolidation loan.

Response:
The Committee agrees as the application receipt date is used to determine the terms and conditions of a Consolidation loan between November 13, 1997, and October 1, 1998.

Change:
The last sentence of the first paragraph of Section 15.4 has been revised as follows:

"...The loan's first disbursement date, or the application receipt date, is used to determine its terms and conditions."

In addition, text in the 2nd paragraph of Section 15.4 has been revised as follows:

"...The disbursement date for the first loan, or the application receipt date, establishes the terms and conditions for every loan servicing record established under a single promissory note for the borrower. ..."

Comment:
Several commenters suggested a change to the lender implication statement stating that this change covers the lender/servicer requirements for servicing the Consolidation loan as a single loan more succinctly than just citing two of the servicing requirements, payment amount and payment due dates.

Response:
The Committee agrees.

Change:
The lender implication statement has been revised as follows:

"A lender must ensure that a Consolidation loan with multiple loan servicing records is administered as a single Consolidation loan. ~~Thus, the loan must be administered with a single payment amount and payment due date which must cover all separately serviced portions of the Consolidation loan. A lender may need to modify servicing procedures for Consolidation loans.~~ Lenders must ensure that all aspects for the multiple portions of the Consolidation loan remain synchronized throughout the life of the loan.

Comment:
Several commenters suggested a change to the bulletin language to clarify that, generally, a Consolidation loan will have a single interest rate with the exception being if some of the underlying portions of the Consolidation loan are attributable to HEAL loans.

Response:
The Committee agrees.

Change:
The bulletin language has been revised to state that generally, a Consolidation loan will have a single interest rate with the exception being if some of the underlying portions of the Consolidation loan are attributable to a HEAL loan.

Comment:

One commenter does not support the proposal as written because the commenter believes that there is no regulatory basis for penalizing a lack of synchronization in servicing portions of a Consolidation loan with a loss of guarantee, unless the lack of synchronization resulted in a 46-day gap. While clarification that the separate portions of a Consolidation loan must be serviced as one loan is needed, any discussion should clearly state that a loss of guarantee could result from de-synchronization, if it results in violation (e.g., a 46-day gap).

Another commenter also stated that although this is a Federal proposal, the regulatory cite provided does not support the provisions of the proposal regarding penalties and loss of guarantee.

Response:
In review of this matter, the Committee concluded that the lack of synchronization would produce a gap of 46 days or more. According to language provided in §682.102(e)(5) and §682.209(a), the payment of principal and interest on a Consolidation loan is due from the borrower within 60 days after the loan is disbursed and also within 60 days after the last day of a deferment or forbearance period. According to §682, Appendix D, in cases when reinsurance is lost due to a failure to timely establish a first payment due date, the earliest unexcused violation would be the 46th day after the date the first payment due date should have been established. Therefore, if a lender establishes different payment due dates for portions of the single Consolidation loan, the lender has not established a payment due date in accordance with federal regulations since a payment due date was not established for the single Consolidation loan. Under current rules, reinsurance would be lost on the 106th (60 + 46) day after the date the lender should have established the repayment of the single Consolidation loan.

In situations where a deferment or forbearance is applied to only a portion of the loan, the Committee believes the lender has not complied with §682.210 or §682.211. These regulations provide that if a borrower qualifies for the deferment or the lender grants a forbearance, payments must be deferred or forborne on the loan. If a deferment or forbearance is not applied to a portion of the loan, the lender has failed to grant the deferment or forbearance, in accordance to the federal regulations, to “the” loan. The commenter is correct that regulations do not specifically address the violation for this type of error. However, the Committee believes that if a lender fails to grant a deferment or forbearance for the single Consolidation loan in accordance with federal regulations, the lender incurs due diligence violations based on its failure to service the loan based on the correct due date and should lose interest benefits and special allowance. The Committee believes this is a serious loan servicing violation since the borrower did not benefit from the temporary cessation of payments for the entire loan when a forbearance was granted or did not obtain the entitled benefit of the deferment for the single Consolidation loan.

Change:
Subsection 14.1.E, in this proposal’s companion proposal 997, has been modified to provide information regarding the loss of guarantee to reflect the 46th day after the latest date on which the due date could have been established in cases where a lender established multiple due dates for a single Consolidation loan.

Comment:
One commenter, referring to Section 15.4, stated that there is no regulatory basis for assessing violations against a lender who fails to service all components of the Consolidation loan as one. Therefore, the proposal’s language does not align with regulations (specifically language that speaks to the loss of guarantee).

Response:
The Secretary guarantees lenders against losses within the Consolidation Loan Program if the lender complies with the requirements provided under the Federal Consolidation Loan Program. The Federal Consolidation Loan Program provides a borrower with the opportunity to consolidate into one debt the eligible federal education loans received from different lenders and/or under different education loan programs. Thus, consolidation permits multiple debts to be combined into on loan supported by one note with one monthly payment due date and amount. If the lender does not administer the Consolidation loan as a single loan, the lender has not complied with federal regulations. The Committee does not believe that a lender can assert that a “good faith” effort is made if the terms of the borrower’s promissory note are not fulfilled, and clearly one of those terms is the singularity of the result of the consolidation process.

The Committee has carefully reviewed this issue and has concluded that regulations provide that guarantors must assess violations against lenders if the lender does not convert the loan to repayment timely in accordance with regulation and/or reconvert the loan to repayment after a deferment or forbearance. According to the language in §682.102(e)(5) and §682.209(a), the first payment of principal and interest on a Consolidation loan is due from the borrower within 60 days after the loan is disbursed and also within 60 days after the last day of a deferment or forbearance period. According to §682, Appendix D, in cases when reinsurance is lost due to a failure to timely establish a payment due date, the earliest unexcused violation would be the 46th day after the date the payment due date should have been established. Therefore, if a lender does not convert the loan to repayment in accordance with required regulations, the lender will lose the guarantee on the loan. If multiple due dates are established for portions of the single Consolidation loan, the lender has failed to timely convert the loan to repayment with a single payment due date.

In situations where a deferment or forbearance is applied to only a portion of the loan, the Committee believes the lender has not complied with §682.210 or §682.211. These regulations provide that if a borrower qualifies for the deferment or the lender grants a forbearance, payments must be deferred or forborne on the loan. If a deferment or forbearance is applied to a portion of the loan, the lender has failed to grant the deferment or forbearance in accordance to federal regulations. The commenter is correct that regulations do not specifically address the violation for this type of error. However, the Committee believes that if a lender fails to grant a deferment or forbearance for the single Consolidation loan in accordance to federal regulations, the lender must incur a due diligence violation and should lose interest benefits and special allowance. The Committee believes this is a serious violation since the borrower did benefit from the temporary cessation of payments for the entire loan when a forbearance was granted or did not obtain the entitled benefit of the deferment or forbearance for the single Consolidation loan.

Change:
Subsection 14.1.E, in this proposal's companion proposal 997, has been modified to provide information regarding the loss of guarantee to reflect the 46th day after the latest date on which the due date could have been established in cases where a lender established multiple due dates for a single Consolidation loan.

Note: Based on the comments received on this proposal, the Committee has decided to redistribute the proposal for industry comment.

SM/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Entrance Counseling for Grad PLUS Borrower**

AFFECTED SECTIONS:

4.4 Providing Information to Students
4.4.B Entrance Counseling
4.4.C Exit Counseling
Figure 8-3 School Requirements before Delivering a FFELP Loan
Appendix G

POLICY INFORMATION: **1028/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Entrance and exit counseling performed by the school on or after July 1, 2008, unless implemented earlier by the school. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

BASIS:
§682.603(d); §682.604(f) and (g).

CURRENT POLICY:
Current information in Subsections 4.4.B and 4.4.C does not reflect that entrance counseling must also be provided to each graduate or professional student PLUS loan borrower.

REVISED POLICY:
Revised policy in Subsections 4.4.B and 4.4.C incorporates entrance counseling requirements for graduate or professional student PLUS loan borrowers. In addition, redundant text regarding debt management counseling has been removed from Section 4.4, as it is covered in Subsection 4.4.C Exit Counseling. Language has been added to Subsection 4.4.C. to align the exit counseling "recommended additional information" with information found in Subsection 4.4.B. Also, Appendix G's definition of "Debt Management Counseling" is modified by removing reference to entrance counseling, and the definitions of "Entrance Counseling" and "Exit Counseling" have been expanded.

REASON FOR CHANGE:
This change is being made based on regulatory changes in the *Federal Register* of November 1, 2007, Volume 72, pp. 61971 and 62008.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Section 4.4, page 18, column 1, paragraphs 2 and 3, as follows:

4.4
Providing Information to Students

Federal regulations outline specific information ~~requirements for student counseling~~ that the school must provide to prospective students and their parents, to enrolled students, and in some cases, to school employees and prospective employees. Generally, this information is provided by a school's financial aid office. This information includes general consumer information such as graduation and transfer-out rates, campus crime statistics, and entrance and exit counseling for student borrowers.

~~A school must provide debt management counseling to each of its Stafford loan borrowers individually or in groups before the student's completion of study or at the time the student leaves the school. If the student withdraws without the school's knowledge, the school must attempt to provide information to the student in writing by sending it to the student's last known address.~~
~~[§682.604(g)(1)]~~

~~The following information must be included in debt counseling:~~

- ~~Average anticipated monthly payment amounts.~~
  ~~[§682.604(g)(2)(ii)]~~

- ~~A summary of available repayment option, including strategies for debt management.~~
  ~~[§682.604(h)]~~

For more information on the responsibilities of a financial aid office with respect to providing this information, the school may refer to ~~34 CFR~~ §682.604 and ~~34 CFR~~ §668.42, as well as the ~~2006-2007~~ 07-08 ~~Federal Student Aid~~ FSA ~~H~~Handbook, Volume 2, Chapter 6, pp. 2-~~98~~ 76 to 2-~~106~~ 81.

Revise Subsection 4.4.B, page 21, column 1, paragraph 3, as follows:

Note: This Subsection is also updated by Proposal 1029, Batch 149.

Entrance Counseling

A school must ensure that entrance counseling is conducted with each student borrower who is obtaining his or her first Stafford loan for attendance at that school - unless the student previously received a Stafford, ~~SLS,~~ or Federal Direct Stafford loan for attendance at another school. A school also must ensure that entrance counseling is conducted with each graduate or professional student borrower who is obtaining his or her first Grad PLUS loan, regardless of whether he or she has previously received a Stafford, Parent PLUS, or a Federal Direct Stafford or Parent PLUS loan. Entrance counseling must be provided before the first disbursement of a loan is released, and may be conducted by any of the following methods:

- In-person presentation.

- Audiovisual presentation.

- Interactive electronic means.

If entrance counseling is conducted through interactive electronic means, the school must take reasonable steps to ensure that each student borrower receives the counseling materials and participates in and completes the counseling. The school must ensure that an individual with expertise in Title IV programs is reasonably available shortly after the counseling has been conducted to answer questions regarding these programs. As an alternative, the school may provide the required counseling through written materials for students enrolled in a correspondence program or a study-abroad program that the home institution approves for credit.
[§682.604(f)(1) and (2)]

When counseling is conducted by interactive electronic means, the school remains responsible for ensuring that each student borrower receives the counseling materials and participates in and completes entrance counseling.
[§682.604(f)(3)]

A school must ensure that the information on the following subjects is provided to ~~the~~ a first-time Stafford ~~student~~ borrower or a first-time Grad PLUS borrower who has not received a prior Stafford, or Federal Direct Stafford loan ~~during entrance counseling~~:

- The use of the ~~Federal Stafford Loan~~ Master Promissory Note ~~(Stafford MPN)~~. This may include the multi-year feature and borrower loan control points (e.g., Notification or Confirmation, cancellation or reduction of the loan amount, and revocation of the MPN). See Subsection 2.2.A for more information on using an MPN.
  [§682.604(f)(2)(i)]

- The seriousness and importance of the repayment obligation that the student is assuming.
  [§682.604(f)(2)(ii)]

- The likely consequences of default, including adverse credit reports, federal offset, and litigation.
  [§682.604(f)(2)(iii)]

- The obligation to repay the full amount of the loan, even if the student borrower does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the student purchased from the school (the school or the school designee must provide this information to all of the school's student borrowers except those who receive a loan made or originated by the school). ~~The student borrower must be provided with sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of Stafford loan borrowers at the same school or in the same program of study at the same school.~~

[§682.604(f)(2)(iv)]

- The student borrower must be provided with sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of Stafford loan borrowers or, depending on the type of loan the borrower has obtained, graduate or professional student PLUS borrowers, at the same school or in the same program of study at the same school.
  [§682.604(f)(2)(v)]

For a graduate or professional PLUS borrower who has received a prior Stafford or Federal Direct Stafford loan, a school must ensure that the following information is provided:

- Sample monthly repayment amounts based on a range of student levels of indebtedness or on the average indebtedness of borrowers with Stafford and Grad PLUS loans at the same school or in the same program of study at the same school.

- A notice that includes all of the following information:

  - The maximum interest rate for a Stafford loan and the maximum interest rate for a Grad PLUS loan.

  - Information regarding the periods when interest accrues on a Stafford loan and periods when interest accrues on a Grad PLUS loan.

  - The point at which a Stafford loan enters repayment and the point at which a Grad PLUS loan enters repayment.

[§682.603(d)(1)(i)-(iii)]

A school may provide the information required in this notice in its financial aid award letter or by another means. However, a school must provide the notice to a Grad PLUS borrower who has not requested his/her maximum Stafford eligibility before the school certifies a Grad PLUS loan for the borrower. See Subsection 6.15.C for more information.

A school may provide comprehensive entrance counseling materials that meet the minimum entrance counseling requirements for Grad PLUS borrowers with prior Stafford loans and Grad PLUS borrowers without prior Stafford loans.
[08-09 FSA Handbook, Volume 2, Chapter 2, pp. 2-80 - 81 and 2-84]

Revise Subsection 4.4.C, page 23, column 2, paragraph, as follows:

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

- The average anticipated monthly repayment amount based on the students indebtedness or based on the average indebtedness of Stafford or Stafford and Grad PLUS loans, depending on the types of loans the student borrower has obtained, at the same school or in the same program of study at the same school.
- . . .
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- . . .
- The availability of Title IV loan information in the National Student Loan Data System (NSLDS).

To improve a student's understanding of his or her loan repayment obligation, the Department recommends that the school provide the following additional information as part of exit counseling provided to a borrower:

- The current name and address of the borrower's lender(s).
- An explanation of how to complete deferment forms and prepare correspondence to the lender.
- A strong recommendation to the borrower to keep copies of all correspondence from and to the lender about his or her loans.
- A reminder to the borrower that he/she must make payments on loans even if the borrower does not receive a payment booklet or a billing notice.
- An overview of the advantages and disadvantages of loan consolidation.

[08-09 FSA Handbook, Volume 2, Chapter 2, pp. 2-82 - 84]

Revise Figure 8-3, page 21, row 6, Comments, as follows:

Requirements	**Comments**
...	...
Perform entrance counseling, if required.	Entrance counseling is required ~~only~~ for first-time Stafford borrowers and for first-time graduate or professional student PLUS loan borrowers. • ...

Revise Appendix G, page 5, column 2, paragraph 1, as follows:

> Debt Management Counseling: Counseling provided to a student about debt and accumulated indebtedness. ~~Counseling is required both before the student received the first disbursement of the student's first loan–often referred to as entrance counseling, and when the student is scheduled to complete an academic program–commonly referred to as exit counseling.~~ See Subsections 4.4.B and 4.4.C.

Revise Appendix G, page 7, column 2, paragraph 2, as follows:

> Entrance Counseling (or Entrance Interview): ~~See Debt Management counseling.~~ Required counseling that must be provided to a first-time Stafford borrower or a first-time Grad PLUS borrower. The school must conduct counseling in person, by audiovisual presentation, or by interactive electronic means. See Subsection 4.4.B.

Revise Appendix G, page 7, column 2, paragraph 7, as follows:

> Exit Counseling (or Exit Interview): ~~See Debt Management counseling.~~ Required counseling that must be provided to Stafford loan borrowers shortly before graduating or ceasing at least half-time enrollment. The school must conduct counseling in person, by audiovisual presentation, or by interactive electronic means. See Subsection 4.4.C.

PROPOSED LANGUAGE - COMMON BULLETIN:

Entrance Counseling for Grad PLUS Borrower

The *Common Manual* is been revised to amend entrance counseling requirements to include provisions applicable to Grad PLUS loans and to provide entrance counseling to all new Grad PLUS borrowers. In addition, language has been included to reflect that the average anticipated monthly repayment amounts provided to borrowers in their counseling materials must include Grad PLUS loans as well as Stafford loans, depending on the types of loans the student borrower has obtained. Appendix G's definition of Debt Management Counseling is modified by removing reference to entrance counseling providing a more precise definition of entrance counseling, providing a more precise definition of exit counseling, and expanding the exit counseling definition.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

The borrower will receive more complete information regarding any Grad PLUS loans obtained.

School:

The school may need to update loan counseling procedures and materials.

Lender/Servicer:

None.

Guarantor:

The 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:

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:
January 11, 2008

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

om/edited-bb

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB Meeting	
	APPROVED	With Changes / No	

SUBJECT: **Required Notices and Authorizations**

AFFECTED SECTIONS:

4.4.B Entrance Counseling
4.5 Recordkeeping Requirements
7.2.A Lender Responsibilities Under a Master Promissory Note
8.2.A Initial Notice of Funds
8.2.B School Notice of Credit to Student Account
8.2.C Borrower Notice to Cancel Loan
8.2.D Notification and Confirmation Requirements for the Multi-Year Feature of the MPN

POLICY INFORMATION: **1029/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Loans disbursed on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007.

For the retention of documentation of the confirmation process, the publication date of the 04-05 FSA Handbook.

BASIS:
§668.165(a); 08-09 FSA Handbook, Volume 2, Chapter 9, p. 2-106.

CURRENT POLICY:
Current policy requires a school and a lender to develop and document a confirmation process for loans made under the multi-year feature of an MPN. The borrower may provide either an active or passive confirmation of his or her desire to receive a loan prior to the disbursement of any loan funds. In addition, the school must send a notice to the borrower within 30 days before or 30 days after it credits Title IV loan funds to the student's account, and allow the borrower 14 days to inform the school if he or she wishes to cancel all or a portion of the loan disbursement.

REVISED POLICY:
Revised policy gives the school two standards for notifying the borrower of his or her right to cancel a loan at the time of disbursement:

- If the borrower provides affirmative confirmation of his or her desire to receive a loan, the school may continue to comply with the current loan disbursement notification provisions (the disbursement notice must be sent to the borrower within 30 days before or 30 days after it credits Title IV loan funds to the student's account). If the borrower wishes to cancel all or a portion of the loan disbursement, he or she must notify the school by the later of the first day of the payment period for which the funds are intended or 14 days after the date the school sent the notification that loan funds had been credited to the student's account at the school.

- If the borrower does not provide affirmative confirmation of his or her desire to receive a loan, the school must notify the borrower no earlier than 30 days before, but no later than seven days after crediting the student's account with Title IV loan funds. The school must allow the borrower 30 days to cancel all or a portion of the loan disbursement.

In addition, revised policy includes in the school record-keeping requirements the indefinite retention period for documentation of the confirmation process, which first appeared in the 04-05 FSA Handbook.

REASON FOR CHANGE:
This change is necessary to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pp. 62020 and 62029.

PROPOSED LANGUAGE - *COMMON MANUAL*:

This subsection was updated by Proposal ____, Batch 149.

Revise Subsection 4.4.B, page 21, column 2, paragraph 2, as follows:

A school must ensure that information on the following subjects is provided to the student borrower during entrance counseling:

- The use of the Federal Stafford Loan Master Promissory Note (Stafford MPN). This may include the multi-year feature and borrower loan control points (e.g., ~~Notification~~ affirmative or passive ~~C~~confirmation, cancellation or reduction of the loan amount, and revocation of the MPN). See subsection 2.2.A for more information on using an MPN. [§682.604(f)(2)(I)]

- . . .

Revise Section 4.5, page 24, column 1, paragraph 3, as follows:

Loan-Related Records

The records that a school must maintain include, but are not limited to:

- A record of any ~~Stafford~~ loan ~~C~~confirmation or ~~N~~notification processes the school used in support of the ~~Federal Stafford Loan~~ Master Promissory Note (~~Stafford~~ MPN). The documentation may be kept in paper or electronic form. Because this may affect the enforceability of loans, the documentation must be retained indefinitely. [§682.610(b)(6); 08-09 FSA Handbook, Volume 2, Chapter 9, p. 2-106]

- . . . . . .

Revise Subsection 7.2.A, page 2, column 2, paragraph 6, as follows:

The lender has the following responsibilities when making loans under a Master Promissory Note (MPN):

- . . .

- . . .

- . . .

- . . .

- Ensuring that either an affirmative or passive ~~C~~confirmation ~~or Notification~~ process is in place for Stafford or Grad PLUS loans made using the multi-year feature of the MPN. See ~~s~~Subsection 8.2.B~~D~~ for ~~C~~confirmation ~~and Notification~~ requirements.

- Ensuring that a process is in place to obtain the parent borrower's requested loan amount before each Parent PLUS loan is disbursed under a Federal PLUS Loan Application and Master Promissory Note (PLUS MPN).

- . . .

Revise Subsection 8.2.A, page 2, column 1, paragraph 3, as follows:

8.2.A
Initial Notice of Funds

Prior to delivering any Title IV funds to the student or parent borrower, the school is required to send a notice to the student providing information about the amount of funds that the student or his or her parent can expect to receive under each Title IV program. Regulations required this notice (i.e., award letter) to be sent only to the student. The notice must include:

- The amount of proceeds the student or his or her parent can expect to receive for each loan type. For ~~Stafford~~ loans made using a Master Promissory Note (MPN), the school's award letter may include proposed loan amounts and loan types. It may also include instructions to the borrower either to accept the ~~aid~~ loans offered by responding to the school in writing or to take action only if requesting a cancellation or reduction of the loan amount offered (see S~~s~~ubsection 8.2.~~D~~B for ~~Notification and C~~confirmation requirements).

- When the proceeds will be delivered and by what method.

Revise Section 8.2, page 2, column 2, paragraph 1, by inserting a new Subsection 8.2.B and renumbering the current Subsections B and C, as follows:

8.2.B
Confirmation Requirements for the Multi-Year Feature of the MPN

The school must ensure and document that a process is in place for confirming that the borrower accepts the loan amounts offered under the multi-year feature of the MPN. The confirmation process may be part of or may supplement existing required notices and disclosures described in this section, and may be either passive or affirmative.

Passive confirmation is a process by which the school, lender, or guarantor (on behalf of the school or lender) notifies the borrower of the proposed loan types and amounts. The borrower is required to take action only to reject or adjust the type or amount of the loan. The school does not deliver loan funds until the time given to the borrower to respond has elapsed.

Affirmative confirmation is a process by which the school, lender, or guarantor (on behalf of the school or lender) advises the borrower of the proposed loan types and amounts. The borrower must provide written confirmation of the types and amounts of Title IV loans wanted for an award year before the school delivers those loan funds.
[§668.165(a); §682.401(d)(4)(vi); 07-08 FSA Handbook, Chapter 1, pp. 4-9 to 4-10]

8.2.~~B~~C
School Notice of Credit to Student Account

Except in the case of a post-withdrawal disbursement made as a result of the return of Title IV funds calculation, (see S~~s~~ubsection 9.5.A), the school must notify the student or parent borrower if the school credits Stafford or PLUS loan proceeds to ~~outstanding school charges~~ the student's school account. If the school obtained affirmative confirmation of the borrower's acceptance of the loan amount offered (see Subsection 8.2.B), the ~~This~~ notice must be issued no earlier than 30 days before and no later than 30 days after the school credits the student's account. If the school did not obtain affirmative confirmation of the borrower's acceptance of the loan amount offered, the notice must be issued no earlier than 30 days before and no later than seven days after the school credits the student's account. The notice may be written or electronically transmitted and must include:
[§668.165(a)(2)]

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

8.2.~~C~~D
Borrower Notice to Cancel Loan

A student or parent borrower must inform the school if he or she wishes to cancel all or a portion of a loan or loan disbursement. The school must return the loan proceeds, cancel all or a portion of the loan or loan disbursement as applicable, or do both if the school receives a cancellation request in either of the following time frames:
[§668.165(a)(4)]

- If the school obtained affirmative confirmation of the borrower's acceptance of the loan amount offered (see Subsection 8.2.B), by the later of the first day of the payment period for which the funds are intended or ~~Within~~ 14 days after the date the school sends the notification advising the student or parent borrower the school has credited the student's account at the school.
  [§668.165(a)(4)(ii)(A)]

- If the school did not obtain affirmative confirmation of the borrower's acceptance of the loan amount offered, within 30 days after the date the school sends the notification advising the student or parent borrower the school has credited the student's account at the school. ~~By the first day of the payment period, if the school sends the notification more than 14 days prior to the first day of the payment period.~~
  [§668.165(a)(4)(ii)(B)]

See section H.4 for information about a statutory or regulatory waiver authorized by the HEROES Act that may impact these requirements.

Late Requests

. . .

Funds Delivered prior to Request

. . .

School Notice of Outcome

. . .

~~**8.2.D**~~
~~**Notification and Confirmation Requirements for the Multi-Year Feature of the MPN**~~

~~The school and lender, or guarantor on behalf of the school and lender, must ensure and document that a process is in place for providing either Confirmation or Notification for subsequent loans made using the multi-year feature of the Federal Stafford Loan Master Promissory Note (Stafford MPN). A Notification or Confirmation process informs the student of the proposed loan types and amounts being awarded for the loan period and should increase the borrower's understanding of his or her loan obligations.~~
~~[§682.401(d)(4)(vi)]~~

~~The Notification or Confirmation process may be part of or may supplement the existing required notices and disclosures described in this subsection. Although the initial disclosure constitutes~~

~~a notification, it must be supplemented by another Notification or Confirmation process by the parties described below.~~

~~*Notification* is a process by which the school, lender, or guarantor (on behalf of the school or lender) notifies the borrower of the proposed loan types and amounts. The borrower is required to take action only to reject or adjust the type or amount of the loan.~~

~~*Confirmation* is a process by which the school, lender, or guarantor (on behalf of the school or lender) advises the borrower of the proposed loan types and amounts. The borrower must take action to confirm the loan type or request a specific loan amount. A school, lender, or guarantor (on behalf of the school or lender) may establish Confirmation for the entire loan or may request that the borrower confirm each disbursement of the loan. [DCL GEN-98-25, Attachment C; DCL GEN-99-9]~~

Revise Subsection 17.3.B, page 4, column 2, bullet 27, as follows:

- ~~Federal Stafford Loan Master Promissory Note (Stafford MPN) Notification or Confirmation p~~Procedures for confirming a student borrower's desire to receive a loan under the multi-year feature of the MPN.

Revise Subsection 17.3.B, page 5, column 1, bullet 19, as follows:

- ~~Federal Stafford Loan Master Promissory Note (Stafford MPN) Notification or Confirmation p~~Procedures for confirming a student borrower's desire to receive a loan under the multi-year feature of the MPN.

Revise Appendix G, page 4, column 2, paragraph 4, as follows:

Confirmation (as it relates to the ~~Stafford~~ MPN): A process by which the school~~,~~ or lender, prior to disbursing a loan~~, or guarantor (on behalf of the school or lender)~~ advises the borrower of the proposed loan types and amounts. The borrower may accept the loan(s) passively (by taking no action), or affirmatively (by notifying the school in writing of his or her acceptance of the loan(s) or any changes he or she wishes to make to the loan types or amounts~~must take action to confirm the loan type or request a specific loan amount. A school, lender, or guarantor (on behalf of the school or lender) may establish confirmation for the entire loan or may request that the borrower confirm each disbursement of the loan.~~

Revise Figure 8-1, page 5, footnote 3, as follows:

3 If the school credits the student's account at the school, the school is also required to notify the student or parent borrower of the credit ~~no earlier than 30 days before and no later than 30 days after~~ within a specific timeframe after the date the school credits the student's account with loan proceeds (see Subsection 8.2.C). The notification must advise the student or parent borrower that he or she may cancel all or a portion of the loan or loan disbursement.

PROPOSED LANGUAGE - COMMON BULLETIN:

Required Notices and Authorizations

The *Common Manual* has been updated to reflect the disbursement notification requirements published in the November 1, 2007 final regulations. If the borrower provided affirmative confirmation of his or her acceptance of the loan amount offered, the school may continue to follow the current disbursement notification requirements at or near the time of the delivery of loan funds. The notice must be sent within 30 days before or 30 days after it credits loan funds to the student's school account. If the borrower wishes to cancel all or a portion of the loan disbursement, he or she must notify the school by the later of the first day of the payment period for which the funds are intended or 14 days after the date the school sent the notification that loan funds had been credited to the student's account at the school.

If the borrower does not provide affirmative confirmation of his or her acceptance of the loan amount offered, the school must send the disbursement notification to the borrower within 30 days before, but no later than 7 days after it credits loan funds to the student's school account. The school must allow the borrower 30 days to request a cancellation or a change in the loan amount.

In addition, revised policy includes in the school record-keeping requirements the indefinite retention period for documentation of the confirmation process, which first appeared in the 04-05 FSA Handbook.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower who does not provide affirmative confirmation of acceptance of a loan under the multi-year feature of the MPN will have additional time (30 days, rather than 14) in which to request cancellation after loan funds are credited to his or her school account.

School:
A school must allow a student additional time to cancel all or a portion of a loan disbursement, if the student did not provide affirmative confirmation of his or her desire to receive a loan under the multi-year feature of the MPN. The school will have a shorter timeframe in which to notify the borrower of the credit of loan funds to the student's school account under these circumstances.

Lender/Servicer:
None.

Guarantor:
A guarantor may be required to revise school program review procedures.

U.S. Department of Education:
The Department may be required to revise school program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
October 2, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

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COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Scheduled and Borrower-Based Academic Year in Standard Term-Based Credit-Hour Programs**

AFFECTED SECTIONS: **6.1 Defining an Academic Year**
6.3.C Standard Term-Based Programs Offered in Modules
Appendix G

POLICY INFORMATION: **1030/Batch 149**

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

BASIS:
05-06 FSA Handbook, Volume 3, Chapter 5, pp. 3-66 to 3-71 and p. 3-74.

CURRENT POLICY:
Current policy does not acknowledge that a scheduled academic year (SAY) in a standard term-based program corresponds to a traditional academic year calendar. Current policy does not clarify that a school may use either a SAY or a borrower-based academic year (BBAY) for a student who is enrolled in a standard term-based, modular program that is offered in a traditional academic year calendar. Current policy states that a BBAY tracks a student's progress until the required number of weeks and credit or clock hours are completed. Current policy provides no information about a BBAY in a standard term-based program that is not offered in a SAY.

REVISED POLICY:
Revised policy clarifies that a school may use a SAY or BBAY to determine Stafford annual loan limit frequency and determine the parent or Grad PLUS loan period for a student who is enrolled in a standard term-based program that is offered in a traditional academic year calendar, including such a program that is comprised of modules. Revised policy also broadens the definition of a BBAY to acknowledge its use in all types of programs and provides new detail concerning the use of a BBAY in standard term-based programs that do, and do not, have a traditional academic year calendar.

REASON FOR CHANGE:
This change is necessary to update the Manual's text with current Department guidance.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Section 6.1, page 1, column 2, paragraph 3, as follows:

Academic Year Categories

Typically, there are two categories of academic year that determine the frequency of Stafford annual loan limits:

- A scheduled academic year (SAY) that corresponds to a traditional academic year calendar (e.g., fall and spring semesters; or fall, winter, and spring quarters). A SAY is a "fixed" academic period ~~as published in a school's printed materials~~ that generally begins and ends at about the same time each calendar year according to an established schedule that is published in a school's catalog or other materials.

- A borrower-based academic year (BBAY) that does not have a fixed beginning or ending date. A BBAY ~~is an academic year that~~ begins with ~~a student's~~ the start date

for a student, or a group of students, and tracks the student's (or group's) attendance and progress in a program of study ~~until the required number of weeks and credit or clock hours have been completed~~.

Although there is no annual loan limit for a parent or Grad PLUS loan, a school must certify a parent or Grad PLUS loan for the same SAY or BBAY loan period that is used for the student's Stafford loan.
[07-08 FSA Handbook, Volume 3, Chapter 5, p. 3-78]

Both the SAY and BBAY must meet the minimum statutory requirements of an academic year ~~as defined by the Department.~~ One exception to this rule is that a BBAY that is used as an alternative to a SAY in a standard term-based, credit-hour program and that includes a summer term may include fewer than 30 weeks of instructional time, or fewer credit hours than the minimum number required for a SAY. For clock-hour programs and nonstandard term-based and non-term-based credit-hour programs, a school must use a BBAY. For standard term-based credit-hour programs that are offered in a traditional academic year calendar, a school may use either a SAY or a BBAY. For a standard term-based program that is not offered in a traditional academic year calendar, a school must use a BBAY.

There are significant differences between a BBAY for a standard term-based credit-hour program, and a BBAY for a clock-hour, a non-term-based credit-hour, or a nonstandard term-based credit-hour program. See the discussion that follows for additional information.

Standard Term-Based, Credit-Hour Programs Offered in a Traditional Academic Year Calendar: Using a SAY

A school with a standard term-based credit-hour program~~s~~ using a SAY that corresponds to a traditional academic year calendar must designate the summer term as either a ~~"leader"~~ "header" (precedes the academic year) or a "trailer" (follows the academic year). (See the discussion in this section under the subheading *Academic Year Categories* for additional information.) The school has the following options:

- The school may consistently designate the summer term as either a ~~leader~~ header or a trailer with no exceptions.
- The school may consistently designate the summer term as either a ~~leader~~ header or a trailer with some exceptions that are determined by the school on a case-by-case basis.
- The school may make all decisions regarding the use of the summer term as a ~~leader~~ header or a trailer on a case-by-case basis.

Standard Term-Based, Credit-Hour Programs Offered in a Traditional Academic Year Calendar: Using a BBAY

If a BBAY is used, the school must include the same number of terms in the BBAY as it includes in its SAY, excluding a summer term designated as a "header" or "trailer" to the SAY. (See the discussion in this section under the subheading *Academic Year Categories* for additional information.). . .

. . .

Standard Term-Based, Credit-Hour Programs Not Offered in a Traditional Academic Year Calendar

If a school has a program that is not offered in a traditional academic year calendar (i.e., one that corresponds to a SAY), the school must use a BBAY. (See the discussion in this section under the subheading *Academic Year Categories* for additional information.) If the program

uses semesters or trimesters, a BBAY consists of at least two consecutive terms. If the program uses quarters, a BBAY consists of at least three consecutive terms. Mini-sessions (summer or otherwise) must be combined and treated as a single standard term. A BBAY may include a term(s) that a student does not attend if the student could have enrolled at least half time during that term(s), but the BBAY must begin with a term in which the student is actually enrolled. The BBAY for programs that are not offered in a traditional academic calendar must always include enough terms to meet the minimum Title IV academic year requirements for weeks of instructional time.
[2007-08 FSA Handbook, Volume 3, Chapter 5, p. 3-81]

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

. . .

Revise Subsection 6.3.C, page 6, column 1, by inserting the following after paragraph 1, bullet 5, as follows:

6.3.C
Standard Term-Based Programs Offered in Modules

For an eligible program that combines a series of modules into a semester, trimester, or quarter and measures progress in credit hours, the payment period includes all of the modules the student was scheduled to attend in the semester, trimester, or quarter beginning with the module that included the student's first day of attendance. The following criteria apply to programs offered in modules:

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

A school may use a scheduled academic year (SAY) or a borrower-based academic year (BBAY) for a standard term-based program comprised of modules that is offered in a traditional academic year calendar. See Section 6.1 for more information about the use of a SAY and a BBAY in a standard term-based, credit-hour program that is offered in a traditional academic year calendar.

Revise Figure 6-2, Chapter 6, page 4, as follows:

See the separate attachment.

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

Borrower-Based Academic Year: (BBAY) For the purpose of determining the frequency of Stafford annual loan limits, a ~~A~~n academic year that ~~is individualized per borrower and~~ generally "floats" with the ~~borrower's~~ attendance and progress of a student, or a group of students, in a program of study. ~~For borrowers enrolled in clock-hour and non-term-based credit-hour programs of study, the academic year is always a BBAY. A student's BBAY must begin with a term the student actually attends. The BBAY must meet the statutory requirements of an academic year as defined by the Department.~~ There are significant differences between a BBAY for a standard term-based credit-hour program, and a BBAY for a clock-hour, non-term-based credit-hour, or a nonstandard term-based credit-hour program. For additional information, see S~~s~~ection 6.1, Figure 6-2, and the ~~2006-07 Federal Student Aid Handbook~~

PROPOSED LANGUAGE - COMMON BULLETIN:

Scheduled and Borrower-Based Academic Year in Standard Term-Based Credit-Hour Programs

The *Common Manual* has been updated to clarify the two categories of academic year that determine the frequency of Stafford annual loan limits in a standard term-based, credit-hour program: Scheduled Academic Year (SAY) and Borrower-Based Academic Year (BBAY).

A scheduled academic year (SAY) corresponds to a traditional academic year calendar (e.g., fall and spring semesters; or fall, winter, and spring quarters). A SAY is a "fixed" academic period that generally begins and ends at about the same time each calendar year according to an established schedule that is published in a school's catalog or other materials.

A borrower-based academic year (BBAY) does not have a fixed beginning or ending date. A BBAY begins with the start date for a student, or a group of students, and tracks the student's (or group's) attendance and progress in a program of study.

For standard term-based credit-hour programs that are offered in a traditional academic year calendar, a school may use either a SAY or a BBAY. A school may use a SAY or a BBAY for a standard term-based program comprised of modules that is offered in a traditional academic year calendar. Both the SAY and BBAY must meet the minimum statutory requirements of an academic year. One exception to this rule is that a BBAY that is used as an alternative to a SAY and that includes a summer term may include fewer than 30 weeks of instructional time, or fewer credit hours than the minimum number required for a SAY.

If a school has a standard term-based program that is not offered in a traditional academic year calendar (i.e., one that corresponds to a SAY), the school *must* use a BBAY. If the program uses semesters or trimesters, a BBAY consists of any two consecutive terms. If the program uses quarters, a BBAY consists of any three consecutive terms. Mini-sessions (summer or otherwise) must be combined and treated as a single standard term. A BBAY may include a term(s) that a student does not attend if the student could have enrolled at least half time during that term(s), but the BBAY must begin with a term in which the student is actually enrolled. The BBAY for programs that are not offered in a traditional academic calendar must always include enough terms to meet the minimum Title IV academic year requirements for weeks of instructional time.

Although there is no annual loan limit for a parent or Grad PLUS loan, a school must certify a parent or Grad PLUS loan for the same SAY or BBAY loan period that the school uses for the student's Stafford loan.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A student who attends a standard term-based credit-hour program offered in a traditional academic year calendar, including a program comprised of modules, may benefit from the fact that the school has the option of using a SAY or BBAY to determine the frequency with which he or she receives Stafford and PLUS loan funds.

School:

A school that offers a standard term-based credit-hour program in a traditional academic year calendar, including a program comprised of modules, may choose whether to use a SAY or a BBAY for determining the frequency of Stafford annual loan limits and parent or Grad PLUS loan periods. A school that offers a standard term-based credit-hour program that does not use a traditional academic year calendar may need to review its procedures for determining the frequency of Stafford annual loan limits, and loan periods for Stafford, and parent and Grad PLUS loans to ensure that it uses a BBAY in all cases.

Lender/Servicer:

None.

Guarantor:

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

U.S. Department of Education:
The Department may be required to modify its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
July 6, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

jcs/edited-kk

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

	Scheduled Academic Year	Borrower-Based Academic Year (BBAY)
Standard Term-Based Credit-Hour Programs (including such programs offered in modules)	Consists of a traditional ~~A~~academic year calendar that begins and ends at approximately the same time each calendar year and includes at least two semesters or trimesters, or at least three quarters School must use a SAY that meets the minimum statutory requirements of an academic year All loans borrowed during a SAY (including summer leader/trailer) must not exceed the annual loan limit for student's grade level ~~Loan period may not always include all terms in SAY~~ Borrower ~~always~~ regains eligibility ~~at beginning of~~ for new annual loan limit after SAY calendar period elapses After original loan, additional loans during the same SAY are permissible if any of the following occur: • Student has remaining eligibility~~, or~~ • Student progresses to ~~the next~~ a grade level with a higher annual loan limit • Student changes from dependent to independent Loan period may not always include all terms in SAY Summer term may be "leader" or "trailer" to the SAY, per • Strict policy • By program • Case by case Summer ~~M~~mini-sessions may be combined and treated as a single ~~term~~ leader/trailer or individual ~~terms~~ mini-sessions may be assigned to different SAYs	**All standard term-based, credit-hour programs:** Academic year floats with student's, or a group of students', enrollment ~~School may use if SAY is at least 30 weeks~~ All loans borrowed during BBAY must ~~be~~within not exceed the annual loan limit for student's grade level Borrower regains eligibility for new annual loan limit after BBAY calendar period elapses After original loan, additional loans during the same BBAY are permissible if any of the following occur: • Student has remaining eligibility~~, or~~ • Student progresses to a grade level with a higher annual loan limit • Student changes from dependent to independent ~~Length of BBAY must equal number of terms in SAY, not including summer trailer or leader~~ ~~• Number of hours/weeks in BBAY need not meet 30-week minimum if BBAY includes a summer term~~ • BBAY begins with term in which student actually enrolls • BBAY may include terms student does not attend, if student could have enrolled at least half time Mini-sessions (summer or otherwise) must be combined with each other or with other terms and treated as a single standard term. Student need not enroll in each mini-session but must have been able to enroll at least half time in the combined term **Programs offered in a traditional academic year calendar (i.e., one that corresponds to a SAY):** Length of BBAY must equal number of terms in SAY, excluding summer header or trailer Number of hours/instructional weeks in BBAY need not meet minimum statutory requirements of an academic year if BBAY includes a shorter summer term School may use BBAY for • All students • Certain programs • Certain students ~~Mini-sessions must be treated as a single term and student need not enroll in all mini-sessions, but must have been given the opportunity by the school to enroll in all at least half time~~ May alternate SAY and BBAY for a student if no overlap of academic years **Programs not offered in a traditional academic year calendar:** Must use BBAY that consists of at least two semesters or trimesters, or at least three quarters BBAY must meet minimum statutory requirements of an academic year in instructional weeks
. . .	. . .	. . .

~~Adapted from: *Trainee Guide: 1997-98 Title IV Training Workshop*, U.S. Department of Education, January 21, 1997, pages TG 8-42~~ [07-08 FSA Handbook, Volume 3, Chapter 5, pp. 3-79—3-84 and 3-86].

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Enrollment Status Definitions**

AFFECTED SECTIONS: **6.9 Defining Enrollment Status**
Appendix G

POLICY INFORMATION: **1031/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

Retroactive to the implementation of the *Common Manual* for the following:

- Determining enrollment status for a student enrolled solely in a correspondence program.
- Defining full-time enrollment for each of a school's undergraduate, graduate, and professional programs.

BASIS:
§668.2(b); preamble to the *Federal Register* dated August 8, 2007, p. 44621.

CURRENT POLICY:
For an undergraduate program, current policy states that half-time enrollment is considered half of the full-time status defined by the school for its students. Current policy states that a school must define full-time enrollment status for each of its programs of study, but does not specifically acknowledge that requirement for each of the school's graduate or professional programs. In the glossary definition of "half-time student," current policy states that the enrollment status for a student who is enrolled in a correspondence program is never more than half-time. Section 6.9 includes no additional information about enrollment status for a student enrolled in correspondence coursework.

REVISED POLICY:
For an undergraduate program, revised policy states that a school's definition of half-time enrollment must amount to at least half of the academic workload of the applicable minimum full-time enrollment definition for that program. Revised policy more clearly states that a school must define full-time enrollment status for each of its undergraduate, graduate, or professional programs.

Revised policy aligns Section 6.9 with glossary information about the enrollment status for a student enrolled solely in a correspondence program, and further expands that section to include regulatory updates that address enrollment status for a student who is enrolled in a non-correspondence program and combines correspondence with regular coursework.

REASON FOR CHANGE:
This change is required to comply with final rules published in the November 1, 2007, *Federal Register*, Vol. 72, No. 152, to align section 6.9 with text already found in the glossary, and to emphasize an existing requirement for a school to define full-time enrollment status for each of its undergraduate, graduate, or professional programs.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Section 6.9, page 17, column 2, as follows:

6.9
Defining Enrollment Status

A school must define full-time enrollment status for each of its undergraduate, graduate, or professional programs of study. A student's enrollment may include any combination of ~~coursework~~ courses, work, research, or special studies, (see ~~s~~Subsection 6.1 for information regarding the definition of an academic year and the frequency of annual loan limits). A student's enrollment status may affect the student's cost of attendance (COA), and, therefore, the amount of loan funds the school may certify.
[§668.2(b); 07-08 FSA Handbook, Volume 1, Chapter 1, p. 1-11]

Undergraduate Students

For an undergraduate student, the school's definition of full-time enrollment for a program must meet, at a minimum, one of the following standards:

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

The school's definition of h~~H~~alf-time enrollment ~~is considered~~ for an undergraduate program must amount to at least half of the academic workload of the applicable regulatory minimum full-time ~~status defined by the school for its students~~ enrollment standard for that program, as outlined above.
[§668.2(b)]

Graduate ~~and~~ or Professional Students

For graduate ~~and~~ or professional students, a school must define full-time enrollment for each of its programs of study ~~is determined~~ based on academic standards developed by the school. The school's definition of h~~H~~alf-time enrollment for a graduate or professional program must amount to at least ~~is considered~~ half of the full-time academic workload defined by the school for ~~its~~ graduate ~~and~~ or professional students attending that program.
[~~§682.200(b)~~ §668.2(b)]

Students Enrolled in a Correspondence Program or Coursework

An undergraduate or graduate student who is enrolled solely in correspondence study is never considered more than a half-time student, even if the student is enrolled in enough correspondence coursework to be considered full time. A school's definition of half-time enrollment for a student enrolled solely in program of study by correspondence must be at least 12 hours of work per week, or at least six credit hours per semester, trimester, or quarter.
[§668.2(b); 07-08 FSA Handbook, Volume 3, Chapter 3, p. 3-50]

A student who is enrolled in a non-correspondence study program and combines correspondence coursework with regular coursework may be considered full time. For a graduate or professional student, a school must define full-time enrollment for each of its

programs. For an undergraduate student, a school's definition of full-time enrollment must equal or exceed the applicable, minimum full-time enrollment standard (see the subheading in this section entitled *Undergraduate Students* for further information). In addition, an undergraduate student enrolled in a non-correspondence program who combines correspondence coursework with regular coursework is considered full-time only if at least half of the student's full-time academic workload is comprised of regular (i.e., non-correspondence) coursework that meets half of the school's definition of a full-time academic workload for a student attending that program.
[§668.2(b)]

Revise Appendix G, page 9, column 1, paragraph 10, as follows:

Full-Time Student: An enrolled student ~~enrolled in an institution of higher education~~ (other than a student enrolled solely in a program of study by correspondence) who is carrying a full academic workload as determined by the school under standards applicable to all students enrolled in that student's particular program. The student's workload may include any combination of courses, work, research, or special studies, whether or not for credit, that the school considers sufficient to classify the student as a full-time student. See section 6.9 for a detailed definition of a full-time student that includes credit- and clock-hour requirements.

Revise Appendix G, page 10, column 1, paragraph 8, as follows:

Half-Time Student: A student enrolled in an undergraduate program who is~~: (1) enrolled in a participating school; (2)~~ carrying an academic workload that amounts to at least half of the academic workload of ~~a~~ the applicable regulatory minimum full-time ~~student~~ enrollment standard for that program ~~as determined by the school; and (3) not a full-time student~~. Half-time enrollment for a graduate or professional program must amount to at least half of the full-time academic workload defined by the school for the graduate or professional students attending that program. A student enrolled solely in an eligible program of study by correspondence is never considered more than a half-time student, even if the student is enrolled in enough correspondence coursework to be considered full time. See Section 6.9 for more information.

PROPOSED LANGUAGE - COMMON BULLETIN:

Enrollment Status Definition Changes

The *Common Manual* has been revised to incorporate final rule changes concerning enrollment status determinations, and to align Section 6.9 of the Manual with text present in glossary definitions.

For an undergraduate program, a school's definition of half-time enrollment must amount to at least half of the academic workload of the applicable regulatory minimum full-time enrollment standard for that program. Previously, the school's definition of half-time enrollment for an undergraduate student was at least half of the full-time enrollment status defined by the school for its students.

Updated Manual text clarifies an existing requirement for a school to define full-time enrollment status for each of its undergraduate, graduate, or professional programs. The school's definition of half-time enrollment for a graduate or professional program did not change: it must amount to at least half of the full-time academic workload defined by the school for graduate or professional students attending that program.

In addition, Section 6.9 has been updated to consolidate information about enrollment status for a student who enrolls in correspondence coursework:

- An undergraduate or graduate student who is enrolled *solely* in correspondence study is never considered more than a half-time student, even if the student is enrolled in enough correspondence coursework to be considered full time. A school's definition of half-time enrollment for a student enrolled solely in a program of study by correspondence must be at least 12 hours of work per week, or at least six credit hours per semester, trimester, or quarter.

- A student who is enrolled in a non-correspondence study program and combines correspondence coursework with regular coursework may be considered full time. For a graduate or professional student, a school must define full-time enrollment for each of its programs. For an undergraduate student, a school's definition of full-time enrollment must equal or exceed the applicable, minimum full-time enrollment standard. In addition, an undergraduate student enrolled in a non-correspondence program who combines correspondence coursework with regular coursework is considered full-time only if at least half of the student's full-time academic workload is comprised of regular (i.e., non-correspondence) coursework that meets half of the school's definition of a full-time academic workload for a student attending that program.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower's enrollment status will be determined consistently for the purpose of eligibility for all Title IV programs.

School:
A school may be required to modify its policies for determining half-time enrollment for its undergraduate students, and enrollment status for any student who is attending a non-correspondence program and combines correspondence coursework with regular coursework. A school may choose to define half-time enrollment for an undergraduate program as half of the minimum full-time standard established by federal regulations even though that is less than half the full-time enrollment standard established by the school for students attending that program.

Lender/Servicer:
None.

Guarantor:
A guarantor may be required to modify its school program review procedures.

U.S. Department of Education:
The Department may be required to modify its school program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
October 12, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

jcs/edited-aes

***COMMON MANUAL* - FEDERAL POLICY PROPOSAL**
Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Stafford Interest Rates**

AFFECTED SECTIONS: **7.4.A Current Stafford Interest Rates**
7.4.C Previous Stafford Interest Rates
Figure 7-1

POLICY INFORMATION: **1032/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Subsidized Stafford loans at a fixed interest rate of 6% that are first disbursed to undergraduate borrowers on or after July 1, 2008, and before July 1, 2009.

Subsidized Stafford loans at a fixed interest rate of 5.6% that are first disbursed to undergraduate borrowers on or after July 1, 2009, and before July 1, 2010.

Subsidized Stafford loans at a fixed interest rate of 4.8% that are first disbursed to undergraduate borrowers on or after July 1, 2010, and before July 1, 2011.

Subsidized Stafford loans at a fixed interest rate of 3.4% that are first disbursed to undergraduate borrowers on or after July 1, 2011, and before July 1, 2012.

BASIS:
Higher Education Act of 1965, Section 427(l)(4), as amended by Section 201 of the College Cost Reduction and Access Act (CCRAA), Public Law 110-84; §682.202(a)(1)(ix) and (x).

CURRENT POLICY:
Current policy states that the interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%.

REVISED POLICY:
Revised policy states that the interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows:

- On or after July 1, 2008, and before July 1, 2009, the fixed interest rate is 6%.
- On or after July 1, 2009, and before July 1, 2010, the fixed interest rate is 5.6%.
- On or after July 1, 2010, and before July 1, 2011, the fixed interest rate is 4.8%.
- On or after July 1, 2011, and before July 1, 2012, the fixed interest rate is 3.4%.

The information on Stafford loan interest rates prior to June 30, 2006, is relocated from Subsection 7.4.A, *Current Stafford Interest Rates*, to Subsection 7.4.C, *Previous Stafford Interest Rates*.

REASON FOR CHANGE:
The change is being made to comply with Section 201 of the College Cost Reduction and Access Act and regulatory changes published in the November 1, 2007, *Federal Register*, Volume 72, page 62000. The purpose for re-locating text from Subsection 7.4.A to 7.4.C is to provide a correlation between the text and the titles of the subsections.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection 7.4.A, page 5, column 1, paragraph 1, as follows:

The interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8% for the life of the loan, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows:

- On or after July 1, 2008, and before July 1, 2009, the interest rate is 6%.
- On or after July 1, 2009, and before July 1, 2010, the interest rate is 5.6%.
- On or after July 1, 2010, and before July 1, 2011, the interest rate is 4.8%.
- On or after July 1, 2011, and before July 1, 2012, the interest rate is 3.4%.

[§682.202(a)(1)(ix) and (x)]

Interest rates applicable to Stafford loans first disbursed on or after July 1, 2006, are listed in Figure 7-1.

~~The interest rate on all Stafford loans first disbursed on or after July 1, 1994, through June 30, 2006 is a variable rate not to exceed 8.25%. The variable interest rate is adjusted annually on July 1, and remains in effect through June 30 of the following year. During periods when the loan is in an in-school, grace, or authorized deferment status, the interest rate is calculated by adding 1.7% to the bond equivalent rate of the 91-day Treasury bill auctioned at the final auction before the preceding June 1. During periods when the loan is in a repayment or forbearance status, the variable interest rate is calculated by adding 2.3% to the 91-day Treasury bill rate.~~
~~[HEA 427A(j); HEA 427A (k)(1) and (2); HEA 427A(1)]~~

~~The interest rate on any Stafford loan first disbursed before July 1, 1994, was based on whether the borrower was a "new borrower." For purposes of FFELP loans, a "new borrower" was any borrower who had no outstanding balance on a FFELP loan on the date he or she signed the promissory note for a FFELP loan. For loans disbursed before July 1, 1994, if the borrower had an outstanding balance on a Stafford loan on the date the borrower signed the application and promissory note, the borrower's new loan carried the same interest rate as the outstanding loans.~~

Revise Subsection 7.4.C, page 5, column 2, paragraph 1, as follows:

Interest rates applicable to Stafford loans first disbursed before July 1, ~~1998~~ 2006, are listed in Figure 7-1.

The interest rate on all Stafford loans first disbursed on or after July 1, 1994, through June 30, 2006 is a variable rate not to exceed 8.25%. The variable interest rate is adjusted annually on July 1, and remains in effect through June 30 of the following year. During periods when the loan is in an in-school, grace, or authorized deferment status, the interest rate is calculated by adding 1.7% to the bond equivalent rate of the 91-day Treasury bill auctioned at the final auction before the preceding June 1. During periods when the loan is in a repayment or forbearance status, the variable interest rate is calculated by adding 2.3% to the 91-day Treasury bill rate.
[HEA 427A(j); HEA 427A (k)(1) and (2); HEA 427A(l)]

The interest rate on any Stafford loan first disbursed before July 1, 1994, was based on whether the borrower was a "new borrower." For purposes of FFELP loans, a "new borrower" was any borrower who had no outstanding balance on a FFELP loan on the date he or she signed the promissory note for a FFELP loan. For loans disbursed before July 1, 1994, if the borrower had an outstanding balance on a Stafford loan on the date the borrower signed the application and promissory note, the borrower's new loan carried the same interest rate as the outstanding loans.

Some fixed-rate Stafford loans have been converted to variable interest rates in accordance with excess interest rebate provisions of the Higher Education Amendments of 1986 and the Higher Education Amendments of 1992. For more information on these provisions, see section H.2.

Revise Figure 7-1, Stafford Loan Interest Rates, page 6, by including interest rates on undergraduate subsidized Stafford loans first disbursed on or after July 1, 2006, in Figure 7-1 as follows:

See attached chart.

PROPOSED LANGUAGE - COMMON BULLETIN:

Stafford Loan Interest Rates

The *Common Manual* has been revised to comply with Section 201 of the College Cost Reduction and Access Act and regulatory changes published in the *Federal Register* dated November 1, 2007. The interest rate on all Stafford loans first disbursed on or after July 1, 2006, is a fixed rate of 6.8%, except for subsidized Stafford loans made to undergraduate borrowers and first disbursed:

- On or after July 1, 2008, and before July 1, 2009, the interest rate is 6%.
- On or after July 1, 2009, and before July 1, 2010, the interest rate is 5.6%.
- On or after July 1, 2010, and before July 1, 2011, the interest rate is 4.8%.
- On or after July 1, 2011, and before July 1, 2012, the interest rate is 3.4%.

The information on Stafford loan interest rates disbursed prior to June 30, 2006 is relocated from Subsection 7.4.A, *Current Stafford Interest Rates*, to Subsection 7.4.C, *Previous Stafford Interest Rates*.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

An undergraduate borrower will receive a cost benefit from the gradual reductions in the interest rates on subsidized Stafford loans that begin with loans first disbursed on or after July 1, 2008.

School:

A school may receive a positive benefit in terms of the school's cohort default rate if undergraduate borrowers default less frequently as a result of the cost benefit from the gradual reductions in the interest rates on subsidized Stafford loans that begin with loans first disbursed on or after July 1, 2008.

Lender/Servicer:

A lender will need to revise systems and procedures to accommodate the gradual reductions in the interest rates on subsidized undergraduate Stafford loans that begin with loans first disbursed on or after July 1, 2008.

Guarantor:

A guarantor will need to revise systems and procedures to incorporate the gradual reductions in the interest rates on subsidized undergraduate Stafford loans that begin with loans first disbursed on or after July 1, 2008.

U.S. Department of Education:

The Department will need to revise procedures to incorporate the gradual reductions in the interest rates on subsidized undergraduate Stafford loans that begin with loans first disbursed on or after July 1, 2008.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 2, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

ce/edited-tmh

Stafford Loan Interest Rates — Figure 7-1

Disbursement/Loan Period/Borrower Characteristics	Interest Rate
First disbursement on/after 7/1/06	Fixed interest rate of 6.8%
Subsidized Stafford loans made to undergraduate borrowers and first disbursed as follows:	
• On or after July 1, 2008 and before July 1, 2009	• Fixed interest rate of 6%
• On or after July 1, 2009 and before July 1, 2010	• Fixed interest rate of 5.6%
• On or after July 1, 2010 and before July 1, 2011	• Fixed interest rate of 4.8%
• On or after July 1, 2011 and before July 1, 2012	• Fixed interest rate of 3.4%
First disbursement on/after 7/1/98, but before 7/1/06	*In-school, grace, and deferment periods:* Variable interest rate—equal to the 91-day Treasury bill* rate plus 1.7%, not to exceed 8.25% *Repayment and forbearance periods:* Variable interest rate—equal to the 91-day Treasury bill* rate plus 2.3%, not to exceed 8.25%
First disbursement on/after 7/1/95 but before 7/1/98	*In-school, grace, and deferment periods:* Variable interest rate—equal to the 91-day Treasury bill* rate plus 2.5%, not to exceed 8.25% *Repayment and forbearance periods:* Variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, not to exceed 8.25%
First disbursement on/after 7/1/94 but before 7/1/95 for periods of enrollment that include or begin on/after 7/1/94	Variable interest rate—equal to the 91- day Treasury bill* rate plus 3.1%, not to exceed 8.25%
First disbursement on/after 12/20/93 but before 7/1/94 to a borrower with an outstanding PLUS, SLS, or Consolidation loan, but not a Stafford loan	Variable interest rate—equal to the 91- day Treasury bill* rate plus 3.1%, not to exceed 9%
First disbursement on/after 10/1/92 but before 7/1/94 to a "new borrower" with no outstanding FFELP loans	Variable interest rate—equal to the 91-day Treasury bill* rate plus 3.1%, not to exceed 9%
First disbursement on/after 10/1/92 but before 12/20/93 to a borrower with an outstanding PLUS, SLS, or Consolidation loan, but not a Stafford loan	Original fixed interest rate of 8%. These loans were subject to excess interest rebates and converted to a variable interest rate—equal to the 91- day Treasury bill* rate plus 3.1%, not to exceed 8%.
First disbursement on/after 7/23/92 but prior 7/1/94 to a borrower with an outstanding 7%, 8%, 9%, or 8%/10% Stafford loan	Original interest rate was the same as on the borrower's previous Stafford loans (i.e., a fixed rate of 7%, 8%, 9%, or 8%/10%). These loans were subject to excess interest rebates and converted to a variable interest rate? equal to the 91-day Treasury bill* rate plus 3.1%, with a cap equal to the loan's previous fixed rate (i.e., 7%, 8%, 9%, or 10%).
First disbursement before 10/1/92 for a period of enrollment beginning on/after 7/1/88 to a "new borrower" or a borrower who has an outstanding balance on a PLUS, SLS, or Consolidation loan, but not a Stafford loan	Original interest rate of 8% until 48 months of the repayment period have elapsed and 10% thereafter. These loans were subject to excess interest rebates and must be or have been converted to a variable interest rate— equal to the 91- day Treasury bill* rate plus 3.25%, not to exceed 10%.
First disbursement to a borrower with an outstanding balance on a PLUS, SLS, or Consolidation loan, but not a	Fixed interest rate of 8%.

Stafford loan, for a period of enrollment before 7/1/88	
First disbursement to a “new borrower” for a period of enrollment on/ after 9/13/83 but before 7/1/88	Fixed interest rate of 8%
First disbursement to a “new borrower” for a period of enrollment on/ after 1/1/81 but before 9/13/83	Fixed interest rate of 9%
First disbursement to a “new borrower” for a period of enrollment before 1/1/81	Fixed interest rate of 7%

*Based on the bond equivalent rate of the 91-day Treasury bill auctioned at the final auction before the preceding June 1. All variable interest rates are adjusted annually on July 1.

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
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SUBJECT: **Simplified Deferment Processing**

AFFECTED SECTIONS:

11.4 Economic Hardship Deferment
11.5 Graduate Fellowship Deferment
11.7 Internship/Residency Deferment
11.8 Military Deferment
11.17 Unemployment Deferment

POLICY INFORMATION: **1033/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Deferment requests granted by the lender on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

BASIS:
Preamble to the November 1, 2007, *Federal Register*, Vol. 72, No. 211, pages 61962 and 62001; §682.210(s)(1)(iii) - (v)

CURRENT POLICY:
Current policy does not allow a lender to grant a deferment to a new borrower (i.e., first borrowed on or after July 1, 1993) based on a deferment granted by another FFELP loan holder or the Department (Direct loan) for the same reason and the same time period.

REVISED POLICY:
Revised policy allows, but does not require, a lender to grant certain types of deferments to a new borrower (i.e., first borrowed on or after July 1, 1993) based on a deferment granted by another FFELP loan holder or the Department for the same reason and the same time period. A lender may grant the deferment using the simplified process if the borrower requests it verbally or in writing and the decision to grant the deferment is based on information from the other FFELP loan holder, the Department, or an authoritative electronic database maintained or authorized by the Department that supports eligibility for the deferment for the same reason and the same time period. A lender may rely in good faith on the information it obtains from the other FFELP loan holder, the Department, or authoritative database unless the lender has information indicating that the borrower does not qualify for the deferment. A lender must resolve any discrepant information before granting a deferment under the simplified process. If the lender grants a deferment using the simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.

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

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Section 11.4, page 10, column 1, by inserting the following new subsection:

11.4.D Simplified Deferment Processing

A lender may, but is not required to, grant an eligible borrower an economic hardship deferment based on information that the borrower has been granted an economic hardship deferment by another FFELP loan holder or the Department (for a Direct loan) for the same time period. The borrower must request the deferment either verbally or in writing, but does not have to provide a completed economic hardship deferment form or the other required documentation listed in Subsection 11.4.B.

In granting the deferment in this manner, the lender may rely in good faith on the information obtained from the other FFELP loan holder, the Department, or an authoritative electronic database maintained and authorized by the Department, unless the lender has information indicating that the borrower does not qualify for the economic hardship deferment. The lender must resolve any discrepant information before granting an economic hardship deferment in this manner.

If the lender grants the economic hardship deferment using this simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.
[§682.210(s)(1)(iii) - (iv)]

Revise Section 11.5, page 11, column 1, by inserting the following new subsection:

11.5.D Simplified Deferment Processing

A lender may, but is not required to, grant an eligible borrower a graduate fellowship deferment based on information that the borrower has been granted a graduate fellowship deferment by another FFELP loan holder or the Department (for a Direct loan) for the same time period. The borrower must request the deferment either verbally or in writing, but does not have to provide a completed graduate fellowship deferment form.

In granting the deferment in this manner, the lender may rely in good faith on the information obtained from the other FFELP loan holder, the Department, or an authoritative electronic database maintained and authorized by the Department, unless the lender has information indicating that the borrower does not qualify for the graduate fellowship deferment. The lender must resolve any discrepant information before granting a graduate fellowship deferment in this manner.

If the lender grants the graduate fellowship deferment using this simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.
[§682.210(s)(iii) - (iv)]

Revise Section 11.7, page 14, column 2, by inserting the following new subsection:

11.7.D Simplified Deferment Processing

A lender may, but is not required to, grant an eligible borrower an internship/residency deferment based on information that the borrower has been granted an internship/residency deferment by another FFELP loan holder or the Department (for a Direct loan) for the same time period. The borrower must request the deferment either verbally or in writing, but does not have to provide a completed internship/residency deferment form.

In granting the deferment in this manner, the lender may rely in good faith on the information obtained from the other FFELP loan holder, the Department, or an authoritative electronic

database maintained and authorized by the Department, unless the lender has information indicating that the borrower does not qualify for the internship/residency deferment. The lender must resolve any discrepant information before granting an internship/residency deferment in this manner.

If the lender grants the internship/residency deferment using this simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.
[§682.210(s)(1)(iii) - (iv)]

Revise Section 11.8, page 16, column 1, by inserting the following new subsection:

11.8.D Simplified Deferment Processing

A lender may, but is not required to, grant an eligible borrower a military deferment based on information that the borrower has been granted a military deferment by another FFELP loan holder or the Department (for a Direct loan) for the same time period. The borrower must request the deferment either verbally or in writing, but does not have to provide a completed military deferment form.

In granting the deferment in this manner, the lender may rely in good faith on the information obtained from the other FFELP loan holder, the Department, or an authoritative electronic database maintained and authorized by the Department, unless the lender has information indicating that the borrower does not qualify for the military deferment. The lender must resolve any discrepant information before granting a military deferment in this manner.

If the lender grants the military deferment using this simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.
[§682.210(s)(1)(iii) - (iv)]

Revise Section 11.17, page 23, column 2, by inserting the following new subsection:

11.17.D Simplified Deferment Processing

A lender may, but is not required to, grant an eligible borrower an unemployment deferment based on information that the borrower has been granted an unemployment deferment by another FFELP loan holder or the Department (for a Direct loan) for the same time period. The borrower must request the deferment either verbally or in writing, but does not have to provide a completed unemployment deferment form.

In granting the deferment in this manner, the lender may rely in good faith on the information obtained from the other FFELP loan holder, the Department, or an authoritative electronic database maintained and authorized by the Department, unless the lender has information indicating that the borrower does not qualify for the unemployment deferment. The lender must resolve any discrepant information before granting an unemployment deferment in this manner.

If the lender grants the unemployment deferment using this simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.
[§682.210(s)(1)(iii) - (iv)]

PROPOSED LANGUAGE - COMMON BULLETIN:
Simplified Deferment Processing

The *Common Manual* has been updated to incorporate the regulatory change that allows, but does not require, a lender to grant certain deferments to a new borrower (i.e., first borrowed on or after July 1, 1993) based on a deferment granted by another FFELP loan holder or the Department for the same reason and the same time period. A lender may grant the deferment using the simplified process if the borrower requests it verbally or in writing and the decision to grant the deferment is based on information from the other FFELP loan holder, the Department, or an authoritative electronic database maintained or authorized by the Department that supports eligibility for the deferment for the same reason and the same time period. A lender may rely in good faith on the information it obtains from the other FFELP loan holder, Department or authoritative database unless the lender has information indicating that the borrower does not qualify for the deferment. A lender must resolve any discrepant information before granting a deferment under the simplified process. If the lender grants a deferment using the simplified process, it must notify the borrower that the deferment has been granted and that the borrower has the option to pay the interest that accrues on an unsubsidized FFELP loan or to cancel the deferment and continue to make payments on the loan.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower will be able to simplify the receipt of deferment from multiple loan holders.

School:
A school will be able to counsel borrowers about the ability to simplify the receipt of deferment from multiple loan holders.

Lender/Servicer:
A lender will be able to, but is not required to, grant an eligible borrower a deferment based on information obtained from another FFELP lender, the Department, or authoritative electronic database.

Guarantor:
Guarantors may have to revise their program review procedures.

U.S. Department of Education:
The Department may have to revise its program review procedures.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
October 5, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

nm/edited-rl

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Death Claim Documentation**

AFFECTED SECTIONS:

13.1.D	**Claim File Documentation**
13.1.E	**Missing Claim File Documentation**
13.8.C	**Death**
Figure 13-3	**Timely Filing Deadlines for Claims and Discharges**

POLICY INFORMATION: **996/Batch 146/Redistributed in Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Death discharge requests filed by the lender based on determinations or re-determinations of eligible photocopies on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

BASIS:
§682.402(b)(2); Preamble language to the *Federal Register,* dated June 12, 2007, p. 32412 .

CURRENT POLICY:
Current policy specifies that for a death claim, the lender must submit an original or certified copy of the death certificate.

REVISED POLICY:
Revised policy specifies that a lender must submit an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate when filing a death claim.

REASON FOR CHANGE:
This change is being made based on regulatory changes in the *Federal Register* of November 1, 2007, volume 72, p. 62005.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection 13.1.D, page 5, column 2, paragraph 4, as follows:

> *Death Claims*
>
> For a death claim, the lender must submit—in addition to the preceding items *1* through *5*—an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate (see subsection 13.8.C). The use of a fax or electronic version of the death certificate is not permitted. In the event of an exceptional circumstance on a case-by-case basis, the lender must submit other reliable documentation approved by the guarantor's CEO.
> [§682.402(g)(1)(iii)]

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

> To expedite the claim filing process and avoid the return of claim files to the lender, the guarantor may use a fax machine to request and receive missing information from lenders. The types of documentation that may be transmitted and received by fax include, but are not limited to, the application, promissory note, promissory note assignment, specialty claim documentation, payment history information, deferment or forbearance documentation, and

missing collection history. In case of documentation where an original or true and exact copy, or an accurate and complete photocopy of the original or certified copy, may be required (such as the promissory note and death certificate), the lender may fax a copy of the document so that the guarantor can continue processing the claim. However, the lender must, within the time frame established by the guarantor, forward the original document—or a copy certified as true and exact, or an accurate and complete photocopy of the original or certified copy,—to the guarantor to avoid a future claim return.

▲ Lenders may contact individual guarantors for information on faxing claim file documentation. See ~~s~~Section 1.5 for contact information.

Revise Subsection 13.8.C, page 27, column 2, paragraph 2, as follows:

Suspending Collection

If a lender receives reliable but unofficial notification of a borrower's death, or the death of a student for whom a PLUS loan was made in the case of a PLUS loan or Consolidation loan that paid in full a PLUS loan, the lender must suspend collection activity on the loan for up to 60 days and diligently attempt to obtain an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation. If additional time is needed to obtain this documentation, collection activity may be suspended for up to an additional 60 days, for a total suspension of up to 120 days. If documentation is not received, the lender should treat the period of suspension as though a forbearance had been granted. A signed forbearance agreement is not required for this period. The delinquency status, if any, that existed on the loan before the lender suspended it's collection activity remains. The lender must resume collection activity immediately at the level of delinquency at which it was suspended. [§682.402(b)(3)]

After receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the borrower's or student's death certificate or notification of discharge approval from the guarantor, the lender may not attempt to collect on a loan or the discharged portion of a loan from the borrower, the borrower's estate, or any endorser. [§682.402(b)(4)]

Revise Subsection 13.8.C, page 28, column 1, paragraph 2, as follows:

Timely Filing Deadline for Death Claims

A lender must file a death claim within 60 days of receiving an original or certified copy, or an accurate and complete photocopy of the original or certified copy, of the death certificate. In the event of an exceptional circumstance and on a case-by-case basis, the guarantor's CEO may approve a discharge based on other reliable documentation. [§682.402(b)(2) and (g)(2)(i)]

Revise Figure 13-3, page 46, as follows:

See attached chart.

PROPOSED LANGUAGE - COMMON BULLETIN:

Acceptable Death Claim Documentation

The *Common Manual* has been revised to include as acceptable death claim documentation, an accurate and complete photocopy of the original or certified copy of the death certificate, in addition to the already acceptable documentation of an original or certified copy of the death certificate.

GUARANTOR COMMENTS:

None.

IMPLICATIONS:

Borrower:

A borrower's loan may be discharged with an accurate and complete photocopy of the original or certified copy of the death certificate. This will decrease the burden on the borrower's family to provide an original or certified copy of the death certificate.

School:

None.

Lender/Servicer:

A lender may submit a death claim with an accurate and complete photocopy of the original or certified copy of the death certificate.

Guarantor:

A guarantor may need to update claim review procedures to accept a death claim package with an accurate and complete photocopy of the original or certified copy of the death certificate.

U.S. Department of Education:

The Department may need to update program review procedures to include an accurate and complete photocopy of the original or certified copy of the death certificate as acceptable documentation in a claim package.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:

CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:

October 23, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

PROPOSAL DISTRIBUTED TO:

CM Policy Committee
CM Guarantor Designees
Interested Industry Groups and Others

Comments Received From:

AES/PHEAA, CFI, CSLF, EdFund, GHEAC, Great Lakes, HESAA, HESC, KHEAA, LOSFA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC.

Responses to Comments

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

Comments:

Many commenters suggested modifications to the effective date and trigger event of this proposal, as follows:

Several commenters believe that if early implementation is allowed, it should be allowed at the discretion of the guarantor, not the lender.

Several commenters suggested a change to the trigger event to include redeterminations made by the lender (identification on or after July 1, 2008, that a lender possesses a previously-received copy of the death certificate).

Two commenters suggested using death discharge requests instead of death discharges as the trigger event.

One of these commenters also suggested adding “on or after November 1, 2007" to include the date of earliest implementation. One of these commenters also suggested using submitted instead of received as this would provide a retroactive implementation date that will allow the lender to submit a death discharge request that was received prior to November 1, 2007.

One commenter suggested revising the trigger event to death discharges filed by the lender. This commenter states that using “filed” more accurately reflects the spirit in which the regulatory change was made. This commenter also suggested adding “and guarantor” to the early implementation piece, as this will ensure that the lender and guarantor are on the same page as far as early implementation goes.

One commenter suggested eliminating “by the lender” from the implementation date, since both lenders and servicers may implement this provision.

One commenter suggested the use of “death certificates” instead of “death discharges” in the trigger event, to provide greater clarity. This commenter also suggested adding “on or after November 1, 2007" at the end of the effective date since early implementation was not permitted prior to November 1, 2007.

One commenter suggested revising the effective date and trigger event to specify that it is claims filed by a lender/servicer and that the early implementation can be by the lender/servicer because the Secretary has authorized each entity to implement early and the lender or servicer is not restricted to the guarantor’s timetable for implementation.

Response:
The Committee agrees the effective date/trigger event needs modification. The effective date/trigger event has been updated with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different triggering event, the *Common Manual* will immediately notify schools and lenders of the change.

Change:
The effective date/trigger event has been revised as follows:

> “Death discharge~~s received~~ requests filed by the lender based on determinations or re-determinations of eligible photocopies on or after July 1, 2008, unless implemented earlier by the lender on or after November 1, 2007.”

Comment:
One commenter suggested adding language that the use of a faxed or electronic version of the death certificate is not permitted. The preamble language stated that the Secretary chose not to allow faxed or electronic versions because those documents are more vulnerable to alteration.

Response:
The Committee agrees.

Change:
Subsection 13.1.D has been revised to include language that the use of a fax or electronic version of the death certificate is not permitted. The Basis section has also been revised to include the preamble to the NPRM. In addition, language to Subsection 13.1.E has been added to address this issue as well.

Comment:
One commenter suggested including the effective date of this change in the proposal policy text for clarity. The commenter felt it would be unduly restrictive to require parties to resubmit a photocopy of a death certificate.

Response:
The Committee disagrees with the commenter. The *Common Manual* convention is to list in the policy text only a statement of the current policy. The History Appendix and the Summary of Changes document will document the effective date of the change.

Change:
None.

Comment:
One commenter suggested that, since the November 1, 2007, *Federal Register* is mentioned in the Reason for Change section, it should also included in the Basis section for consistency.

Response:
The Committee disagrees. The November 1, 2007, *Federal Register* made changes to the actual regulations in §682.402(b)(2), which is included in the Basis section.

Change:
None.

Note: Based on comments received when this proposal was distributed in Batch 146, the Committee has decided to revise the proposal and redistribute it for industry comment in Batch 149.

sm/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Servicing of a Consolidation Loan with Multiple Loan Records**

AFFECTED SECTIONS:

14.1.E **Violations Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records**

14.5.E **Cures Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records**

POLICY INFORMATION: **997/Batch 149 (originally distributed in batch 146)**

EFFECTIVE DATE/TRIGGER EVENT: Claims filed by the lender on or after July 1, 2008, unless implemented earlier by the guarantor

BASIS:

§682.102(e)(5); §682.209(a); §682.210; §682.211; §682.301(a)(3)(iii); §682, Appendix D; Emergency Student Loan Consolidation Act (ESLCA) of 1997 (P.L. 105-78).

CURRENT POLICY:

A Federal Consolidation loan made from an application received by the lender on or after November 13, 1997, is 1) eligible for interest subsidy during authorized periods of deferment on any portion of the Consolidation loan that paid an underlying subsidized FFELP loan or an underlying subsidized Direct loan, and 2) subject to a variable interest rate on any portion of the Consolidation loan that repaid a HEAL loan. Current policy does not specify what violations and penalties will be incurred if a lender separately services portions of a Consolidation loan and how a lender may cure those violations.

REVISED POLICY:

Revised policy clarifies that although the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan may appear as separate loan records on the lender's system, the lender must ensure that the Consolidation loan is administered as a single Consolidation loan. Thus, the loan must be administered with a single payment amount and payment due date which must cover all separate records of the Consolidation loan. If the lender fails to perform due diligence activities on a single accurate payment amount and due date and/or fails to grant deferment or forbearance for the single Consolidation loan the lender records on its system as multiple, separate loan servicing records, the lender will incur due diligence violations and penalties sufficient to cause a loss of guarantee on the loan. Revised policy also clarifies what a lender may do to cure these violations.

REASON FOR CHANGE:

The change is being incorporated into the *Common Manual* to add clarity and policy guidance regarding violations, penalties, and cures associated with the servicing of a Consolidation loan that consists of multiple loan servicing records.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Add a new Subsection 14.1.E, page 2, column 2, as follows:

14.1.E
Violations Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records

A lender's failure to establish and maintain a single accurate repayment schedule and payment due date for the single Consolidation loan will result in a loss of guarantee on the Consolidation loan. Although the subsidized, unsubsidized, and HEAL portions of a single

Consolidation loan may appear as separate loan servicing records on the lender's system, the lender must ensure that the Consolidation loan is administered as a single Consolidation loan.

If the lender fails to perform due diligence activities on a single, accurate payment amount or payment due date, or fails to grant deferment or forbearance for the single Consolidation loan that contains multiple loan servicing records, the lender will incur due diligence violations sufficient to cause a loss of guarantee on the loan. If this occurs, interest benefits and special allowance cease on the earlier of the following dates:

- The second of the multiple due dates recorded by the lender for the single Consolidation loan.

- The 46th day after the latest date on which the first payment due date could have been established in cases where a lender established multiple first payment due dates for a single Consolidation loan.

- The beginning date of the deferment or forbearance applied to a portion of the Consolidation loan.

If the borrower was provided with more than one repayment schedule and payment due date for the various portions of the Consolidation loan, the lender must redisclose a single repayment schedule that is applicable to all portions of the single Consolidation loan. See Subsection 14.5.E for cure procedures.

EXAMPLE:
A borrower requests a Consolidation loan to pay subsidized Stafford loans in the amount of $10,000 and unsubsidized Stafford loans in the amount of $18,000. The loan is disbursed on July 28, 2006, for $28,000 and the lender establishes repayment terms for the Consolidation loan with first payment due date of September 1, 2006, and a monthly payment amount of $190.56. The lender establishes two separate loan servicing records for the Consolidation loan, one for the subsidized portion of the loan and one for the unsubsidized portion. On August 28, 2006, the borrower makes a payment of $313.06. The lender records a due date of October 1, 2006, for the subsidized portion of the loan and a due date of November 1, 2006, for the unsubsidized portion of the loan. In this example the lender performs separate servicing and due diligence activities for the subsidized and unsubsidized portions of the Consolidation loan based on the October 1, 2006, and the November 1, 2006, due dates. The guarantee on the loan will be canceled effective with the second of the multiple due dates recorded by the lender for the single Consolidation loan (November 1, 2006). This is the date the servicing on the loan ceased to be synchronized.

EXAMPLE:
A borrower requests a Consolidation loan to pay subsidized Stafford loans in the amount of $28,546. The loan is disbursed on July 28, 2006, and the lender establishes repayment terms for the Consolidation loan with first payment due date of September 1, 2006. The borrower requests on August 8, 2006, to add additional unsubsidized Stafford loans in the amount of $3,684 to the existing Consolidation loan. The add-on amount is disbursed on August 25, 2006. The lender accommodates multiple subsidies of the underlying loans by establishing more than a single loan servicing record for the unsubsidized and subsidized portions of the loan. The lender establishes a different first payment due date of October 1, 2006, for the add-on unsubsidized portion of the Consolidation loan and retains the September 1, 2006, first payjment due date for the subsidized portion of the loan. The lender performs separate due diligence activities on both the September 1, 2006, and October 1, 2006, first payment due dates. In this example, the lender will incur due diligence violations sufficient to cause a loss of guarantee on the single Consolidation loan sice they did not perform due diligence activities on a loan level. The guarantee on the loan will be canceled effective with the 46th day after the latest date on which the first payment due date could have been established (December 9, 2006). If the lender had established a new first payment due date of October 1, 2006, and

performed due diligence activities based on that single due date for the subsidized and unsubsidized portions of the single Consolidation loan, the guarantee on the loan would not be canceled.

EXAMPLE:
A borrower requests a Consolidation loan to pay subsidized Stafford loans in the amount $15,000 and unsubsidized Stafford loans in the amount of $27,000. The loan is disbursed on July 28, 2006, for $42,000 and the lender establishes repayment terms for the Consolidation loan with first payment due date of September 1, 2006. The lender establishes two separate loan servicing records for the Consolidation loan, one for the subsidized portion of the loan and one for the unsubsidized portion. On August 15, 2006, the borrower requests and is granted a discretionary forbearance. The lender applies the forbearance only to the unsubsidized portion of the Consolidation loan for the period September 1, 2006, through January 31, 2007. The lender continues to perform due diligence activities on the September 1, 2006, due date for the subsidized portion of the Stafford loan. At the conclusion of the forbearance the lender establishes a separate payment due date of March 1, 2007, for the unsubsidized Stafford loan. In this example the lender performs separate servicing and due diligence activities for the subsidized and unsubsidized portions of the Consolidation loan based on the September 1, 2006, and March 1, 2007, payment due dates. The guarantee on the loan will be canceled effective with the beginning date of the forbearance (September 1, 2006).This is the date the servicing on the loan ceased to be synchronized.

Add a new Subsection 14.5.E, page 12, column 2, as follows:

14.5.E
Cures Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records

If a lender incurs a loss of guarantee on a Consolidation loan because the lender failed to establish and maintain a single accurate repayment schedule and payment due date for a single Consolidation loan, the lender may have the guarantee on the loan reinstated. A lender may have the guarantee on the single Consolidation loan reinstated by receiving a new repayment agreement that includes all of the portions of the single Consolidation loan and that is signed by the borrower, or a full payment from the borrower tha is equal to or greater than the payment amount on the new repayment agreement for the single Consolidation loan. Interest and special allowance will be reinstated as of the date of the cure.

PROPOSED LANGUAGE - COMMON BULLETIN:
Servicing of a Consolidation Loan with Multiple Loan Servicing Records
Although the subsidized, unsubsidized, and HEAL portions of a single Consolidation loan may appear as separate loan records on the lender's system, the lender must ensure that the Consolidation loan is administered as a single Consolidation loan. Thus, the loan must be administered with a single payment amount and payment due date which must cover all separate records of the Consolidation loan. If the lender fails to perform due diligence activities on a single accurate payment amount or due date, or fails to grant deferment or forbearance for the single Consolidation loan that contains multiple records, the lender will incur due diligence violations sufficient to cause a loss of guarantee on the loan. The lender may have the guarantee reinstated by receiving a new repayment agreement that includes all of the portions of the single Consolidation loan and that is signed by the borrower, or a full payment from the borrower that is equal to or greater than the payment amount on the new repayment agreement for the single Consolidation loan.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower is ensured that his or her Consolidation loan will be serviced as a single loan.

School:
None.

Lender/Servicer:
A lender must ensure that a Consolidation loan is serviced as a single loan. A lender may need to modify servicing procedures for Consolidation loans.

Guarantor:
A guarantor may need to modify claim review procedures to ensure that a Consolidation loan is serviced as a single loan and to assess violations accordingly. A guarantor may need to modify program review parameters.

U.S. Department of Education:
The Department may need to modify program review parameters to ensure that a Consolidation loan is serviced as a single loan.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
American Education Services
USA Funds

DATE SUBMITTED TO CM POLICY COMMITTEE:
September 24, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

Comments Received From:
AES/PHEAA, CFI, CSLF, EdFund, GHEAC, Great Lakes, HESAA, HESC, KHEAA, LOSFA, MGA, NASFAA, NCHELP, NSLP, OGSLP, PPSV, SCSLC, SLMA, SLND, SLSA, TG, UHEAA, USA Funds, and VSAC

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

Comment:
One commenter recommended that this proposal be pulled and rewritten. The commenter states that the basis of this proposal is not supported by regulatory or statutory guidance. The commenter also states that the due diligence requirements for a Consolidation loan are no different than other FFEL loans. Each Consolidation loan should be reviewed based on required due diligence activities pursuant to regulatory and statutory guidelines. There is no basis to deny insurance on a Consolidation loan being serviced as separate segments simply because an event caused portions to be unsynchronized. As long as the Consolidation loan has been serviced utilizing reasonable and prudent care and there are no due diligence violations sufficient to lose guarantee, the loans should not lose insurance based on being unsynchronized.

Another commenter also recommended that this proposal be pulled from this batch. The commenter stated that the basis does not provide the regulatory guidance to support the proposed changes. The commenter also states that Chapter 14 sufficiently addresses actions or lack thereof that would result in violations or loss of guarantee based upon Appendix D of 34 CFR 682 and DCL 96-L-186/96-G-287. Any proposed language regarding assessment of penalties should follow Appendix D of 34 CFR 682 and other regulatory guidance in

regards to evaluations of due diligence requirements and gaps in collection activity, especially in Subsections 1.A.(a) and II.2 of Appendix D of 34 CFR 682. In addition, the commenter stated that Subsection 14.1.E contradicts the guidance in found in Subsection 14.3.C, Section 10.6, and Subsection 10.6.E. Section 10.6 provides guidance that repayment schedules should establish terms that retire the debt in a reasonable manner and satisfy regulatory requirements. Subsection 10.6.E provides examples of when terms may need to be adjusted, which may or may not include the end of a deferment or forbearance period. Subsection 14.3.C reflects regulatory guidance on what specific actions would incur penalties. Violation penalties are associated with the timing of establishing first payment due dates, not the content, accuracy, or timing of subsequent disclosures of terms. The commenter also states that the new Subsection 14.5.E is unnecessary. The violations and gaps for an entire Consolidation loan are no different than for other types of loans. The Consolidation loan should be serviced and therefore reviewed for due diligence violations as a single loan. Upon a due diligence review for missed activities, the cures for any violations or gaps identified in accordance with Appendix D would be the same as what is already spelled out in Section 14.5. The commenter goes on to say that they agree that most are making the effort to and should service Consolidation loans as one complete loan, but to come up with these penalties that are not specified in the regulations is too harsh. Multiple due dates may lead to extra collection activities. Also, even "out of sync" collection activity could be counted as an activity to prevent a gap under the definition and letter content requirements specified in the regulations. The intent of the regulations was to prevent lenders from doing next to no collections and then collecting the insurance on the loans. The Secretary wanted to make sure the lenders were making some efforts to collect the loans before paying insurance.

A third commenter feels that this proposal should be pulled and rewritten to base the loss of guarantee on the 46-day gap and at least one violation as defined in 34 CFR Section 682 Appendix D. The commenter asserts that what is relevant to whether or not a loan remains insurable is whether or not there was a 46-day gap between collection activities, failure to timely establish a first payment due date, or timely filing of a default claim. The commenter also suggested when recirculating the proposal, to eliminate the two examples as the relevant aspect is the 46-day servicing gap.

A fourth commenter cannot support the policy as written based on the basis used to justify the policy's premises. The commenter stated that they do not see how the Emergency Student Loan Consolidation Act of 1997 provides guarantors with the authority to cancel the guarantee based on the policies established in this proposal. The authority given to guarantors by this proposal seems excessive and not supported in regulation or statute. The commenter would rather see a policy that provides flexibility in resolving these accounts. For example, in Example 1 under Subsection 14.1.E, there is only a one-month difference in the borrower's due date. In this case, the guarantor may choose to follow-up with the lender/servicer and wait for the claim on the newer portion and pay both the claims at the same time. This policy would not allow for this flexibility and dictates a revocation of the guarantee. Also, the action and penalty contained in proposal 997 is not in agreement with the verbiage used in proposal 991. Proposal 991 indicates that a guarantor "may" cancel the guarantee, yet the language throughout proposal 997 indicates that the guarantee will be lost unless the policy is followed.

One commenter does not support the proposal as written because the commenter believes that there is no regulatory basis for penalizing a lack of synchronization in servicing portions of a Consolidation Loan with the loss of guarantee, unless the lack of synchronization resulted in a 46-day gap. The commenter states that clarification that the separate portions of the Consolidation Loan must be serviced as one loan is needed, and that any discussion should clearly state that a loss of guarantee could result from de-synchronization, if it results in a violation (e.g., a 46-day gap).

Another commenter requests that this proposal be removed from this batch. The commenter states that common policy should follow existing guidance as described in DCL 96-L-186, Q & A #47. The commenter states they disagree with the entire proposal because this policy is creating guidance that does not exist in regulation. A guarantor must not create new guidance informing lender when interest benefits and SAP ceases beyond DOE guidance.

One commenter stated that there is not regulatory basis for assessing violations against a lender who fails to service all components of the Consolidation loan as one as stated in the new language in Subsection 14.1.E.

Finally, one commenter does not support this proposal as written. The commenter states that although this is a Federal proposal, the regulatory cite provided does not support the provisions of the proposal regarding penalties and loss of guarantee. The commenter also states that there is no safe harbor or hold harmless clause for those who may be impacted by the retroactive date. While the commenter concurs that the underlying loans of a Consolidation loan should be administered as a single loan for servicing purposes, some FFELP participants may not have the systems or resources required to comply with, monitor, or enforce the provisions of this proposal.

Response:
In subsequent, detailed review of these issues and the commenters' concerns, the Committee concluded that the lack of synchronization would indeed produce serious due diligence violations. The Committee believes that a gap of 46 days or more would occur in a situation where multiple first payment due dates are established when converting the Consolidation loan to repayment. According to language provided in §682.102(e)(5) and §682.209(a), the payment of principal and interest on a Consolidation loan is due from the borrower within 60 days after the loan is disbursed and also within 60 days after the last day of a deferment or forbearance period. According to §682, Appendix D, in cases when reinsurance is lost due to a failure to timely establish a first payment due date, the earliest unexcused violation would be the 46th day after the date the first payment due date should have been established. Therefore, if a lender establishes separate and different first payment due dates for portions of the Consolidation loan, the lender has failed to establish "a first payment due date" in accordance with federal regulations since "*a first payment due date*" was not established for the single Consolidation loan. Under current rules, reinsurance would be lost on the 106th day (60 + 46) after the date the lender should have established the repayment start date and first payment due date on the Consolidation loan.

In situations where a deferment or forbearance is applied to only a portion of the loan or where multiple due dates are established as a result of the application of payments to the loan, the Committee believes the lender has not complied with §682.210, §682.211, or §682.209. Regulatory guidance found in §682.210 and §682.211 provide that if a borrower qualifies for the deferment or the lender grants a forbearance, payments must be deferred or forborne on "the loan." If a deferment or forbearance is applied only to a portion of the loan or to various portions of the loan in different ways, the lender has failed to grant the deferment or forbearance in accordance with federal regulations. Regulatory guidance found in §682.209 stipulates how payments and prepayments must be applied to the loan. The borrower may prepay the whole or any part of a loan at any time without penalty. If the prepayment amount equals or exceeds the "monthly payment amount" under the repayment established for "the loan," the lender is required to apply the prepayment to future installments by advancing the next "payment due date," on the loan unless the borrower requests otherwise. The lender must either inform the borrower in advance using a prominent statement in the borrower coupon book or billing statement that any additional full payment amounts submitted without instructions to the lender as to their handling will be applied to future scheduled payments with the borrower's "next scheduled payment due date" advanced consistent with the number of additional payments received, or provide a notification to the borrower after the payments are received informing the borrower that the payments have been so applied and the date of the borrower's "next scheduled payment due date". Since the Consolidation loan permits multiple debts to be combined into "one monthly payment" and a single first and next payment due date regardless of how the payment is applied, the Consolidation loan can have only one payment due date. The Consolidation loan promissory note, a single note loan by construction, does not contemplate multiple loans derived from the consolidation process, and is itself crafted in the singular to reflect the singularity of the loan that derives from the note. If the lender does not administer the Consolidation loan as a single loan, then the lender has not complied with federal regulations - all written in the singular with respect to Consolidation loans - or the terms of the promissory note.

The commenters are correct that regulations do not specifically address the violation for errors regarding deferment, forbearance, or payment application. However, the Committee believes that if a lender fails to grant a deferment or forbearance for the single Consolidation loan in accordance with federal regulations, and/or records multiple due dates to the borrower, the lender incurs due diligence violations sufficient to result in a loss of interest benefits and special allowance. Certainly, federal regulations stipulate that the loan loses eligibility for interest benefits on the date that it loses its guarantee and eligibility for reinsurance payment. The Common Manual guarantors believe that substantive disparities in the servicing of the separate loan records for a single Consolidation loan comprise sufficient violations to result in a loss of guarantee, and thus, of course, the commiserate loss of reinsurability. The Committee believes these errors are serious since the borrower did not

benefit from the temporary cessation of payments for the entire loan when a forbearance was granted, did not obtain the full entitled benefit of the deferment for the single Consolidation loan, or did not benefit from a single payment due date with a single monthly payment as required within statute and regulations, and the lender's contract with the consolidation borrower for a Consolidation loan.

Change:
Subsection 14.1.E has been revised to distinguish errors associated with establishing the first payment due date and tracking of due dates throughout the life of the loan. An additional violation is included for violations resulting in a gap of 46 days because of untimely conversion to repayment is added by inserting a new bullet as follows:

- The second of multiple due dates ~~established~~ recorded by the lender for the single Consolidation loan.

- The 46th day after the latest date on which the due date could have been established in cases where a lender established multiple due dates for a single Consolidation loan.

The example has been revised to incorporate the 46th day after the latest date on which the first due date could have been established.

Another example has also been added to clarify the multiple due date error provided in the first bullet, as follows:

> EXAMPLE:
> A borrower requests a Consolidation loan to pay subsidized Stafford loans in the amount of $10,000 and unsubsidized Stafford loans in the amount of $18,000. The loan is disbursed on July 28, 2006, for $28,000 and the lender establishes repayment terms for the Consolidation loan with first payment due date of September 1, 2006, and a monthly payment amount of $190.56. The lender establishes two separate loan servicing records for the Consolidation loan, one for the subsidized portion of the loan and one for the unsubsidized portion. On August 28, 2006, the borrower makes a payment for $313.06. The lender records a due date of October 1, 2006, for the subsidized portion of the loan and a due date of November 1, 2006, for the unsubsidized portion of the loan. In this example the lender performs separate servicing and due diligence activities for the subsidized and unsubsidized portions of the Consolidation loan based on the October 1, 2006, and the November 1, 2006, due dates. The guarantee on the loan will be canceled effective with the second of the multiple due dates recorded by the lender for the single Consolidation loan (November 1, 2006). This is the date the servicing on the loan ceased to be synchronized.

In addition, the basis has been updated to include more references to the federal regulations as follows:

§682.102(e)(5); §682.209(a); §682.210; §682.211; §682.301(a)(3)(iii); §682, Appendix D; Emergency Student Loan Consolidation Act (ESLCA) of 1997 (P.L. 105-78).

Comment:
One commenter suggested in revising the 1st and 2nd example in Subsection 14.1.E by replacing "for underlying" with "to pay," as it more accurately reflects that a Consolidation loan is requested to pay off other loans.

Response:
The Committee agrees.

Change:
The first sentence of each example in Subsection 14.1.E has been revised to state that a borrower requests a Consolidation loan to pay subsidized (or unsubsidized) Stafford loans...

Comment:
One commenter suggested that the paragraph before the examples in Subsection 14.1.E be amended by removing the word "single." The commenter stated that it is their opinion that it is not rational to expect the lenders and servicers who must put multiple loan records on their systems for a single Consolidation loan to provide the borrower with a single disclosure statement. This may be a labor-intensive manual process for the

lenders and servicers and the commenter believes that it should be fine to do multiple disclosures as long as they are sent together and total the amount of the Consolidation loan.

Another commenter suggested striking the first occurrence of "single" in Subsection 14.1.E. The commenter believes the purpose of this statement is to address when subsequent events change the repayment schedule. The commenter agrees that such events should change the repayment schedule on the entire loan. However, some lenders send disclosure statements on the separate servicing records that reflect the same data where appropriate and that combined reflect the loan totals. The commenter wants to ensure that this practice is not prohibited by this change.

Response:
The Consolidation loan borrower has borrowed a single loan, supported by a single note. As such, the borrower has a reasonable expectation that he or she has a single Consolidation loan with a single repayment schedule, payment amount, and due date. These expectations derive from the borrower's understanding of the Consolidation process. Borrowers consolidate in order to simplify their repayment and to achieve other benefits purported to accompany the single Consolidation loan. Delivering multiple repayment disclosures to the borrower for a single loan is not in compliance with regulation regarding a Consolidation loan or the implicit single-loan concept of the promissory note. Such a practice is confusing and overly complicated for the borrower.

Further, the Committee believes that lenders and servicers can no longer assert that the split servicing of multiple subsidies is a good faith effort in loan servicing since the statute enacting the opportunity to service multiple interest subsidies was effective more than 10 years ago. Lenders and their servicers continue to use a complex process that fails to comply with the terms of the borrowers' notes.

Change:
None.

Comment:
One commenter suggested revising the last sentence of the 2nd example in Subsection 14.1.E to provide consistency with the section title and to avoid the introduction of a new term "split servicing" that may have other connotations.

Response:
The Committee agrees.

Change:
The last sentence of the 2nd example under Subsection 14.1.E has been revised to read as follows:

> "The guarantee on the loan will be canceled effective with the beginning date of the forbearance (September 1, 2006). This is the date the ~~split~~ servicing ~~first occurred~~ on the loan ceased to be synchronized."

Comment:
One commenter suggested revising Subsection 14.5.E to ensure that the conversion to repayment violation alone is not enough to cause a loss of guarantee.

Response:
The Committee disagrees. Please see response to the 1st set of comments.

Change:
None.

Note: Based on the comments received on this proposal, the Committee has decided to redistribute the proposal for industry comment.

sm/edited-chh

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Special Allowance Rates and Formulas**

AFFECTED SECTIONS:

A.2.A	**Special Allowance and Excess Interest Rates**
Figure A-1	**Special Allowance Formulas**
Figure A-2	**Examples of Special Allowance Calculations**
Figure A-3	**Excess Interest Formulas**
Figure A-4	**Example of Excess Interest Calculations**
Appendix G	

POLICY INFORMATION: **1034/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Loans first disbursed on or after October 1, 2007.

BASIS:
Higher Education Act of 1965, Sections 435(p) and 438(b)(2)(I), as amended by the College Cost Reduction and Access Act (CCRAA), Public Law 110-84, and the Third Higher Education Act of 2007, Public Law 110-109; §682.302(f); Dear Colleague Letter FP-07-12; Dear Colleague Letter FP-08-01.

CURRENT POLICY:
Current policy contains formulas used to calculate special allowance payments, which include the special allowance factors prescribed by law for each category of loans.

REVISED POLICY:
Revised policy states that the special allowance factors used to calculate special allowance payments on loans first disbursed on or after October 1, 2007, are based on whether or not the lender is an eligible not-for-profit holder. As prescribed in the CCRAA, an eligible not-for-profit holder is entitled to a higher special allowance payment.

Revised policy contains a definition for Eligible Not-for-Profit Holder, as it relates to special allowance payments on loans first disbursed on or after October 1, 2007. Revised policy also updates the manual to include guidance regarding how a lender is designated as an eligible not-for-profit holder by the Department.

Revised policy contains updated special allowance and excess interest formulas, which include the revised special allowance factors prescribed in the CCRAA.

REASON FOR CHANGE:
This change is being made to comply with statutory changes derived from the College Cost Reduction and Access Act, and the Third Higher Education Act of 2007, and sub-regulatory guidance issued by the Department of Education.

PROPOSED LANGUAGE - *COMMON MANUAL*:

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

> 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:
>
> • ...

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

- The lender is a state, or a political subdivision, authority, agency, or other instrumentality of such, including those entities that are eligible to issue tax-exempt bonds.

- The lender is a qualified scholarship funding corporation established by a state or one or more political subdivisions, that has not elected to cease status as a qualified scholarship funding corporation.

- The lender is a tax-exempt organization as described in section 501(c)of the Internal Revenue Code of 1986.

- The lender is acting as trustee on behalf of a state, political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is an eligible lender as defined by the Higher Education Act (HEA) of 1965, as amended. The trustee shall not receive any compensation for acting as trustee other than reasonable and customary fees.

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

The state may waive the above requirements for a new eligible not-for-profit holder that it determines to be necessary to fill a public purpose of that state. A state may not waive any requirements for trustees.
[HEA 435(p)(2)(A)(ii); DCL FP-07-12]

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

- The lender is a school lender.

- The lender (directly or through an eligible lender trustee) is owned or controlled, in whole or in part, by a for-profit entity.

- The lender (directly or through an eligible lender trustee) is not the sole owner of the beneficial interest in, and the income from a loan.

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

An eligible not-for-profit holder, regardless of whether that entity is an eligible lender as defined by the HEA, is not considered to be owned or controlled by a for-profit entity, and will not lose its status as sole owner of beneficial interest in and income from a loan by granting security interest in, or using a loan or income from a loan as collateral, to secure a debt obligation for which the not-for-profit holder is the issuer of the debt obligation.
[HEA 435(p)(2)(E); §682.302(f)(3)(vi); DCL FP-07-12]

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.

The amount of each quarterly special allowance payment will vary according to the type of loan, the date the loan was disbursed, the loan period, and, in some cases, the number of quarters for

which the loan has been outstanding, or the loan's status.
[§682.302(c)]

If an eligible not-for-profit holder sells a loan to a lender that does not qualify as an eligible not-for-profit holder, the special allowance payment for that loan will be calculated using the special allowance factor prescribed for a lender that does not qualify as an eligible not-for-profit holder beginning on the date the loan is sold.
[HEA 435(p)(3); §682.302(f)(4); DCL FP-07-12]

Not-For-Profit Holder Designation

In order for a lender to be designated as a not-for-profit holder (directly or through an eligible lender trustee) for purposes of special allowance payments, two certifications must be submitted to the Department: a certification signed by the entity's chief executive officer (CEO) and a certification signed by external legal counsel. For additional information on these certifications, refer to Dear Colleague Letter FP-08-01 dated January 8, 2008.

Revise Appendix A, page 6, Figure A-1, as follows:

See attached chart.

Revise Appendix A, page 8, Figure A-2, as follows:

See attached chart.

Revise Appendix A, page 10, Figure A-3, as follows:

See attached chart.

Revise Appendix A, page 10, Figure A-4, as follows:

See attached chart.

Revise Appendix G, page 7, column 1, paragraph 4, as follows:

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

- A state, or political subdivision, authority, agency, or other instrumentality of such, including those lenders that are eligible to issue tax-exempt bonds.
- A qualified scholarship funding corporation established by a state or one or more political subdivisions, that has not elected to cease status as a qualified scholarship funding corporation.
- A tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986.
- A trustee acting on behalf of state, political subdivision, authority, agency, instrumentality, or other entity, regardless of whether that entity is a eligible lender as defined by the Higher Education Act of 1965, as amended. The trustee shall not receive any compensation for acting as trustee other than reasonable and customary fees.

PROPOSED LANGUAGE - COMMON BULLETIN:
Special Allowance Rates and Formulas; Definition and Designation of Eligible Not-For-Profit Holder
The *Common Manual* has been revised to comply with statutory and regulatory changes derived from the College Cost Reduction and Access Act (CCRAA), Public Law 110-84 and the Third Higher Education Act of

2007, Public Law 110-109. For loans first disbursed on or after October 1, 2007, the special allowance factors used to calculate special allowance payments are based on whether or not the lender qualifies as an eligible not-for-profit holder. As prescribed in the CCRAA, an eligible not-for-profit holder is entitled to a higher special allowance payment.

A new definition for Eligible Not-for-Profit Holder, as it relates to special allowance payments on loans first disbursed on or after October 1, 2007, has been added to Appendix G. The manual has also been revised to include reference to Dear Colleague Letter FP-07-12 which provides guidance on how a lender is designated as an eligible not-for-profit holder by the Department of Education.

The manual has also been revised to include updated versions of Figures A-1, A-2, A-3, and A-4, which include the revised special allowance factors prescribed in the CCRAA.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
None.

School:
None.

Lender/Servicer:
A lender or servicer will be required to adjust system programming for special allowance billing.

Guarantor:
A guarantor may be required to revise program review procedures.

U.S. Department of Education:
The Department will be required to issue new codes for special allowance billing and update the special allowance portion of the LaRS.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
September 27, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

sf/edited-bb

Special Allowance Formulas **Figure A-1**

FORMULA 1
ELIGIBLE NOT-FOR-PROFIT HOLDERS
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.34% ? APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

OTHER ELIGIBLE LENDERS
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.19% ? APPLICABLE INTEREST RATE OF THE LOAN ÷ 4

- Stafford loans first disbursed on or after October 1, 2007, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 2** below).

FORMULA 2
ELIGIBLE NOT-FOR-PROFIT HOLDERS
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94% ? APPLICABLE INTEREST RATE OF THE LOAN ÷ 4

OTHER ELIGIBLE LENDERS
(AVERGAE 3-MONTH COMMERCIAL PAPER RATE + 1.79% ? APPLICABLE INTEREST RATE OF THE LOAN ÷ 4

- Stafford loans first disbursed on or after October 1, 2007, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 1** above).

FORMULA 3
NOT-FOR-PROFIT HOLDERS
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94% ? APPLICABLE INTEREST RATE OF THE LOAN ÷ 4

FOR-PROFIT LENDERS
(AVERAGE 3-MONTH COMMERICAL PAPER RATE + 1.79% ? APPLICABLE INTEREST RATE OF THE LOAN ÷ 4

- PLUS Loans first disbursed on or after October 1, 2007.

FORMULA 4
ELIGIBLE NOT-FOR-PROFIT HOLDERS
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.24% ? APPLICABLE INTEREST RATE OF THE LOAN ÷ 4

OTHER ELIGIBLE LENDERS
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.09% ? APPLICABLE INTEREST RATE OF THE LOAN ÷ 4

- Consolidation loans first disbursed on or after October 1, 2007.

FORMULA 5
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.74% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Stafford loans first disbursed on or after January 1, 2000, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 6** below).

FORMULA 6
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.34% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Stafford loans first disbursed on or after January 1, 2000, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 5** above).

FORMULA 7
(AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.64% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- PLUS loans first disbursed on or after January 1, 2000.
- Consolidation loans made from applications received by lenders on or after January 1, 2000.

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FORMULA 8
(AVERAGE 91-DAY T-BILL + 2.2% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Stafford loans first disbursed on or after July 1, 1998, but before January 1, 2000, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 9** below).

FORMULA 9
(AVERAGE 91-DAY T-BILL + 2.8% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Stafford loans first disbursed on or after July 1, 1998, but before January 1, 2000, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 8** above).

FORMULA 10
(AVERAGE 91-DAY T-BILL + 2.5% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Stafford loans first disbursed on or after July 1, 1995, but before July 1, 1998, when such loans are in periods of in-school, grace, or deferment (during all other periods, special allowance is calculated using **Formula 11** below).

FORMULA 11
(AVERAGE 91-DAY T-BILL + 3.1% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Subsidized and unsubsidized Stafford loans first disbursed on or after July 1, 1995, but before July 1, 1998, except when such loans are in periods of in-school, grace, or deferment (in which case special allowance is calculated using **Formula 10** above).
- Subsidized Stafford loans first disbursed on or after October 1, 1992, but before July 1, 1995.
- Unsubsidized Stafford loans first disbursed on or after October 1, 1992, but before July 1, 1995, for periods of enrollment beginning on or after October 1, 1992.
- PLUS loans first disbursed on or after October 1, 1992, but before January 1, 2000.
- SLS loans first disbursed on or after October 1, 1992.
- Consolidation loans made on or after October 1, 1992, from applications received by lenders before January 1, 2000.

FORMULA 12
(AVERAGE 91-DAY T-BILL + 3.25% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Subsidized Stafford loans first disbursed on or after November 16, 1986, but before October 1, 1992.
- Unsubsidized Stafford loans first disbursed before October 1, 1992, for periods of enrollment beginning on or after October 1, 1992.
- Variable rate PLUS/SLS loans first disbursed before October 1, 1992.
- Fixed rate PLUS/SLS loans first disbursed on or after November 16, 1986, but before July 1, 1987.
- Subsidized Stafford loans and fixed-rate PLUS/SLS loans first disbursed on or after October 17, 1986, but before November 16, 1986, for periods of enrollment beginning on or after November 16, 1986.
- Consolidation loans made on or after November 16, 1986, but before October 1, 1992.

FORMULA 13
(AVERAGE 91-DAY T-BILL + 3.5% – APPLICABLE INTEREST RATE OF THE LOAN) ÷ 4

- Subsidized Stafford loans and fixed-rate PLUS/SLS loans first disbursed on or after October 17, 1986, but before November 16, 1986, for periods of enrollment beginning before November 16, 1986.
- Subsidized Stafford loans and fixed-rate PLUS loans first disbursed on or after October 1, 1981, but before October 17, 1986.
- Consolidation loans made on or after October 1, 1986, but before November 16, 1986.

FORMULA 14
(AVERAGE 91-DAY T-BILL + 3.5% – APPLICABLE INTEREST RATE OF THE LOAN)

This amount should be rounded up to the nearest 1/8 of 1%*, and the result should be divided by 4.

- Subsidized and Nonsubsidized Stafford loans, and fixed-rate PLUS loans, first disbursed before October 1, 1981.

* Decimal equivalents are: 0.125, 0.250, 0.375, 0.500, 0.625, 0.750, 0.875, or the next whole percent.

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Examples of Special Allowance Calculations

Figure A-2

EXAMPLE 1

A subsidized Stafford loan is first disbursed on or after July 1, 1994, but before July 1, 1995, and is currently accruing interest at 8.25%. Special allowance for this loan is calculated using **Formula 11**.

If the average 91-day T-bill bond equivalent rate for the preceding quarter is 5.79%, the quarterly special allowance rate for the loan is calculated as follows:

(5.79% + 3.10% – 8.25%) ÷ 4 = 0.16%

If the loan has an average daily balance for the quarter of $3,000, applying the above rate yields the following quarterly special allowance amount:

0.0016 X $3,000 = $4.80

EXAMPLE 2

A Stafford loan is first disbursed to a borrower on or after October 1, 1992, but before July 1, 1994. The borrower has an outstanding loan that was first disbursed at a 9% interest rate on or after January 1, 1981, but before October 1, 1981. The new loan currently accrues interest at 8.92% because it has been converted to an annual variable interest rate as a result of excess interest provisions. Special allowance for the new loan is calculated using **Formula 11** (special allowance for the previous loan is calculated using **Formula 14**).

If the quarterly average 91-day T-bill bond equivalent rate for the preceding quarter is 5.79%, the quarterly special allowance rate for the loan is calculated as follows:

(5.79% + 3.10% – 8.92%) ÷ 4 = – 0.0075%

Because the special allowance rate calculation resulted in a negative 0.0075%, special allowance is not paid for this loan for this quarter.

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Excess Interest Formulas **Figure A-3**

FORMULA 1
ELIGIBLE NOT-FOR-PROFIT HOLDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94%*) ÷ 4

OTHER ELIGIBLE LENDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.79%*) ÷ 4

- Stafford loans first disbursed on or after October 1, 2007, when such loans are in repayment.

FORMULA 2
ELIGIBLE NOT-FOR-PROFIT HOLDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.34%*) ÷ 4

OTHER ELIGIBLE LENDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.19%*) ÷ 4

- Stafford loans first disbursed on or after October 1, 2007, when such loans are in an in-school, grace, or deferment period.

FORMULA 3
ELIGIBLE NOT-FOR-PROFIT HOLDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.94%*) ÷ 4

OTHER ELIGIBLE LENDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 1.79%*) ÷ 4

- PLUS Loans first disbursed on or after October 1, 2007.

FORMULA 4
ELIGIBLE NOT-FOR-PROFIT HOLDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERAGE 3-MONTH COMMERCIAL PAPER RATE + 2.24%*) ÷ 4

OTHER ELIGIBLE LENDERS
(APPLICABLE INTEREST RATE OF THE LOAN ? AVERGAE 3-MONTH COMMERCIAL PAPER RATE + 2.09%*) ÷ 4

- Consolidation loans first disbursed on or after October 1, 2007.

FORMULA 5
(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, and prior to October 1, 2007, when such loans are in repayment.

FORMULA 6
(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, and prior to October 1, 2007, when such loans are in an in-school, grace, or deferment period.

FORMULA 7
(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, and prior to October 1, 2007.

* 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 3month 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.

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Example of Excess Interest Calculations **Figure A-4**

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 7**.

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

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COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **Undergraduate, Graduate, and Professional Students**

AFFECTED SECTIONS: **Appendix G**

POLICY INFORMATION: **1035/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Enrollment periods that begin on or after July 1, 2008, unless implemented earlier by the school on or after November 1, 2007. *This aligns with the suggested trigger event recommendation document submitted to the Department. If the Department publishes guidance with a different trigger event, the* Common Manual *will immediately notify schools and lenders of the change.*

BASIS:
§668.2(b); preamble to the *Federal Register* dated November 1, 2007, pp. 62015-62016.

CURRENT POLICY:
Current policy describes a graduate or professional student as a student who is enrolled in a program or course above the baccalaureate level at an institution of higher education, or enrolled in a program leading to a first professional degree. Current policy describes an undergraduate student as a student who is enrolled in a school in a course of study at or below the baccalaureate level that usually does not exceed four academic years, or is up to five academic years in length and is designed to lead to a first degree. Current policy does not provide a definition of professional degree.

REVISED POLICY:
Revised policy describes a graduate or professional student as a student who is enrolled in a program or course above the baccalaureate level at a school or enrolled in a program designed to lead to a professional degree. Revised policy describes an undergraduate student as a student who is enrolled in a school in a course of study that usually does not exceed four years, or is up to five years in length and is designed to lead a degree at the baccalaureate level. A student enrolled in a program of any other, longer length is considered an undergraduate student for only the first four years of the program. References to a *first* undergraduate or professional degree, and reference to an *academic* year as a measure of the length of an undergraduate student's program have been deleted.

In addition, revised policy updates the undergraduate student definition to include the following:

- Students who have completed a baccalaureate program of study and who are subsequently completing a state-required teacher certification program are treated as undergraduates.

- For the purpose of dual-degree programs that allow individuals to complete a bachelor's degree and either a graduate or professional degree within the same program, a student is considered an undergraduate student for at least the first three years of that program.

Finally, revised policy incorporates a new definition and examples of "professional degree." A professional degree is one that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required

REASON FOR CHANGE:
This change is required to comply with final rule changes published in the November 1, 2007, *Federal Register*, Vol. 72, No. 152. Specifically, these changes are needed to clarify that 1) a graduate or professional student

may be enrolled in an eligible program at an eligible proprietary school that is not included in the regulatory definition of "institution of higher education"; 2) a school may, without reference to the statutory definition of "academic year," define what a year is in its programs for the purpose of determining whether a student is an undergraduate or graduate student; 3) the definition of "undergraduate student" or "professional student" should not be confined to a student who is pursuing a first undergraduate or professional degree.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Appendix G, page 9, column 2, paragraph 7, as follows:

Graduate or Professional Student: A student who:

- Is enrolled in a program or course above the baccalaureate level at ~~an institution of higher education~~ a school, or enrolled in a program leading to a ~~first~~ professional degree.
- Has completed the equivalent of at least three years of full-time study at ~~an institution of higher education~~ a school, either before entrance into the program or as part of the program itself.
- Is not receiving Title IV aid as an undergraduate student for the same period of enrollment.

Revise Appendix G, page 15, column 1, by inserting a new paragraph 4, as follows:

Professional Degree: A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm. D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod. D.), and Theology (M. Div. or M.H.L.).

Professional Judgment: . . .

Professional Student: See Graduate or Professional Student, and Professional Degree.

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

Undergraduate Student: A student who is enrolled in a school in a course of study~~, at or below the baccalaureate level,~~ that usually does not exceed four ~~academic~~ years, or is up to five ~~academic~~ years in length and is designed to lead to a ~~first~~ degree at the baccalaureate level. A student enrolled in a program of any other, longer length is considered an undergraduate student for only the first four years of that program.

Students who have completed a baccalaureate program of study and who are subsequently completing state-required teacher certification or recertification coursework are treated as undergraduates.

For the purpose of dual-degree programs that allow individuals to complete a bachelor's degree and either a graduate or professional degree within the same program, a student is considered an undergraduate student for at least the first three years of that program.

PROPOSED LANGUAGE - COMMON BULLETIN:

Undergraduate, Graduate, and Professional Students

The *Common Manual* has been updated with the general provisions final rule changes published in the *Federal Register* on November 1, 2007. These regulatory changes clarify the definitions of "undergraduate student,"

"graduate or professional student," and provide a new definition of a professional degree.

The definition of "graduate or professional student" has been modified to remove references to the student's enrollment in an *institution of higher education*, which excludes eligible proprietary schools. In addition, reference to a *first* undergraduate or professional degree have been removed from the definitions of "undergraduate student," and "graduate or professional student."

The definition of "undergraduate student" has been clarified to remove references to the length of the program in *academic* years, to acknowledge a school's ability to define what a year is in its programs (i.e., based on grade level) for the purpose of determining when a student is an undergraduate or graduate/professional student. In addition, the undergraduate student definition has been updated to include the following:

- An undergraduate student is a student who is enrolled in a school in a course of study that usually does not exceed four years, or is up to five years in length and is designed to lead to a degree at the baccalaureate level. A student enrolled in a program of any other, longer length is considered an undergraduate student for only the first four years of that program.

- For the purpose of dual-degree programs that allow individuals to complete a bachelor's degree and either a graduate or professional degree within the same program, a student is considered an undergraduate student for at least the first three years of that program.

- Students who have completed a baccalaureate program of study and who are subsequently completing a state-required teacher certification coursework are treated as undergraduates.

Finally, the Manual has been updated to incorporate a new definition of "professional degree": a degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm. D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod. D.), and Theology (M. Div. or M.H.L.). .

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
A borrower attending an eligible proprietary institution is no longer excluded from the definition of "graduate or professional student." A borrower attending an eligible school and enrolled in an eligible undergraduate, graduate, or professional program to obtain a second or subsequent degree is not excluded from the definition of "undergraduate student," or "graduate or professional student." A student's eligibility to receive FFELP loans at the undergraduate level for attendance in teacher certification coursework and at the undergraduate or graduate level for attendance in a dual-degree program is more clearly identified.

School:
A school may need to revise its FFELP loan certification procedures for undergraduate and graduate/professional students.

Lender/Servicer:
None.

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

U.S. Department of Education:
The Department may be required 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:
October 12, 2007

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

jcs/edited-aes

COMMON MANUAL - FEDERAL POLICY PROPOSAL

Date: February 8, 2008

X	DRAFT	Comments Due	Feb 29
	FINAL	Consider at GB meeting	
	APPROVED	with changes/no changes	

SUBJECT: **HEROES Waiver Extension**

AFFECTED SECTIONS: **H.4.A HEROES Act Waivers**

POLICY INFORMATION: **1036/Batch 149**

EFFECTIVE DATE/TRIGGER EVENT: Affected individuals eligible for waivers of statutory and regulatory provisions on or after October 1, 2007.

BASIS:
Federal Register, Volume 72, Number 246 dated December 26, 2007, p. 72947.

CURRENT POLICY:
Current policy reflects an end to the HEROES waivers effective September 30, 2007.

REVISED POLICY:
Revised policy extends current HEROES waivers through September 30, 2012.

REASON FOR CHANGE:
The HEROES waivers were extended by Congress and the Department published a new "end date" for current waiver provisions.

PROPOSED LANGUAGE - *COMMON MANUAL*:

Revise Subsection H.4.A, page 103, column 1, paragraph 3, as follows:

> The Higher Education Relief Opportunities for Students (HEROES) Act of 2003 (P.L. 108-76) requires the Department to publish waivers or modifications to statutory or regulatory provisions applicable to the Title IV federal student aid programs. The HEROES Act directs the Department to publish waivers and modifications that are appropriate to assist "affected individuals" who are also federal student aid applicants and recipients. The Department originally announced the HEROES Act waivers in a *Federal Register* notice dated December 12, 2003, effective until September 30, 2005. In a *Federal Register* notice dated October 20, 2005, the Department extended the waivers to September 30, 2007. <u>The Department further extended the waivers to September 30, 2012, in a *Federal Register* notice published December 26, 2007, unless the Department terminates or otherwise changes the provisions prior to that date.</u>

PROPOSED LANGUAGE - COMMON BULLETIN:
HEROES Waiver Extension
Previously, HEROES Act waivers were scheduled to end on September 30, 2007. However, Congress removed the September 30, 2007, end-date for the current provisions in statute and, as a result the Department further extended the waivers to September 30, 2012, in a *Federal Register* notice published December 26, 2007. The Department may terminate or otherwise publish changes to existing waivers prior to the September 2012 date.

GUARANTOR COMMENTS:
None.

IMPLICATIONS:
Borrower:
Waivers of existing regulatory requirements for affected individuals, as defined, are extended to provide relief for

borrowers in special, defined circumstances.

School:
None.

Lender/Servicer:
Lenders must ensure that their servicing systems and procedures, and all published literature provides accurate information regarding the applicable waivers of provisions for affected individuals.

Guarantor:
Guarantors must ensure that their servicing systems and procedures, and all published literature provides accurate information regarding the applicable waivers of provisions for affected individuals. Guarantors must also update program review and audit procedures with information regarding the extended waivers.

U.S. Department of Education:
The Department must update program review and audit procedures with information regarding the extended waivers.

To be completed by the Policy Committee

POLICY CHANGE PROPOSED BY:
CM Policy Committee

DATE SUBMITTED TO CM POLICY COMMITTEE:
January 4, 2008

DATE SUBMITTED TO CM GOVERNING BOARD FOR APPROVAL:

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

ma-bg/edited-chh