

LOUISIANA STUDENT FINANCIAL ASSISTANCE COMMISSION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
Loan Program Memorandum

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TOPIC:	Common Manual Update

To assure that your Common Manual remains current, please record this document on your LPM/LPB index and retain it in Appendix E of your manual.

The nation's guarantors provide the following summaries to inform schools, lenders, and servicers of the latest *Common Manual* policy changes. These changes will appear in the manual's next annual update. These changes will also be incorporated into the *Integrated Common Manual*. The *Integrated Common Manual* is available on several guarantor websites, and it is also available on *Common Manual's* website at www.commonmanual.org. Please carefully note the effective date of each policy change.

Eligibility for a Consolidation Loan

The *Common Manual* has been revised to clarify that a borrower may not consolidate a loan(s) for which he or she is wholly or partially ineligible due solely to the borrower's error. However, a borrower with an ineligible loan may consolidate another eligible loan(s).

Affected Sections: 5.16.A Ineligibility Based on Borrower Error
15.2 Borrower Eligibility and Underlying Loan Holder Requirements

Effective Date: Consolidation loan applications received on or after December 1, 2006, unless implemented earlier by the lender on or after July 1, 2000.

Basis: *Federal Register* dated August 9, 2006, page 45700; *Federal Register* dated November 1, 2006, pages 64383 and 64397.

Policy Information: 939/Batch 140

Guarantor Comments: None.

Estimated Financial Assistance

The *Common Manual* has been revised to amend the list of aid types that must be included in the estimated financial assistance (EFA), adding types of veterans' educational benefits, non-need-based fellowships and assistantships, insurance programs for the student's education, and ACG and SMART Grants. Revised policy specifies that non-need-based employment earnings and aid that is included in the calculation of the student's expected family contribution (EFC) are excluded from the EFA, and specifies that the portion of non-federal non-need-based loans used to replace the EFC are excluded from the EFA.

In addition, revised policy provides regulatory citations for elements to be included in the EFA, changes a reference to "resources" to "EFA" in figure 8-3, and clarifies the definition of "overaward" in appendix G.

Affected Sections: 6.7 Determining the Amount of Estimated Financial Assistance
Figure 8-3 School Requirements Before Delivering a FFELP Loan
Appendix G

Effective Date: Loans certified by the school on or after September 8, 2006.

Basis: Preamble to the *Federal Register* dated August 9, 2006, page 45673; §682.200(b).

Policy Information: 940/Batch 140

Guarantor Comments: None.

Disbursement for Students in Study-Abroad Programs or Foreign Schools

The *Common Manual* has been updated to include clarifications provided in the Interim Final Regulations published in the *Federal Register* August 9, 2006, and the Final Regulations published in the *Federal Register* November 1, 2006, regarding the direct disbursement of loan funds to a student enrolled in a study-abroad program or a foreign school.

Revised policy clarifies that the request that loan funds be disbursed directly to a student enrolled in a foreign school and the verification of enrollment must be made by an official authorized by the foreign school to act on behalf of the school in administering the FFELP, and that the guarantor must verify in the Department's Postsecondary Education Participant's System (PEPS) that the foreign school is certified to participate in the FFELP. Guarantors and lenders must coordinate their activities to ensure that these requirements are met prior to any direct disbursement of Stafford loan funds.

Revised policy further clarifies that, in order for loan funds to be disbursed directly to the student, the required verifications must be performed prior to *each* disbursement. Enrollment verification can be completed by telephone, e-mail, or facsimile. In the case of a study-abroad student, the enrollment verification must be obtained from the home institution. For a new student in a study-abroad program or foreign school, the lender or guarantor must verify that the student has been admitted to the program. For a continuing student, the lender or guarantor must verify that the student is enrolled on at least a half-time basis. The lender or guarantor performing the verification must maintain documentation of the verification.

In addition, revised policy incorporates the existing requirement that the lender notify the school at the time that loan funds are disbursed directly to the student enrolled in a foreign school, and includes the new requirement that the lender make a similar notification to the home institution, in the case of a student enrolled in a study-abroad program. In either case, the school, upon receipt of this notification, must immediately notify the lender if the student is no longer eligible to receive the loan funds.

Finally, revised policy removes language that required PLUS loan funds for a student enrolled in a foreign school to be disbursed by individual check and sent to either the borrower or the school, because all PLUS loans now have the same disbursement requirements, regardless of the type of school involved. The policy further specifies that PLUS loan funds may not be directly disbursed to a borrower or student under any circumstances.

Affected Sections: **7.7.E Disbursement for Students in Study-Abroad Programs or Foreign Schools**
9.2.B Reporting Student Enrollment Status Changes to the Lender or Guarantor

Effective Date: Retroactive to the implementation of the *Common Manual*:

The lender must notify the foreign school upon disbursing loan funds directly to a student attending the foreign school.

For a loan first disbursed directly to the student on or after July 1, 2006:

The guarantor must verify that the school is certified to participate in the Title IV programs prior to the lender's direct disbursement of loan funds to a student enrolled in a foreign school.

For a loan first disbursed directly to the student on or after September 8, 2006:

Any required verification for a study-abroad or foreign school student:

- Must be completed before *each* disbursement.
- Must be made by telephone or e-mail.
- For a new student, must confirm that the student has been admitted.
- For a continuing student, must confirm that the student is still enrolled.
- Must be documented by the lender or guarantor.

The lender must notify the home institution upon disbursing loan funds directly to a study-abroad student. Upon receipt of the notification, the school must notify the lender if the student is no longer eligible for the disbursement.

A PLUS loan for a student enrolled in a foreign school may be disbursed by EFT or master check to an account maintained by the school, or by an individual check made co-payable to the borrower and the school, and mailed directly to the school.

For a loan first disbursed directly to the student on or after December 1, 2006:

Any required enrollment verification:

- Must be made by telephone, e-mail, or facsimile.
- Must confirm that the student is enrolled at least half time.
- For a student enrolled in a study-abroad program, must be provided by the home institution.
- For a student enrolled at a foreign school, must be provided by an official authorized by the foreign school to act on the school's behalf in administering the FFELP.

A lender may make a direct disbursement to a student attending a foreign school only upon the request of an official authorized by the

foreign school to act on the school's behalf in administering the FFELP.

Basis: Interim Final Rules published in the *Federal Register*, dated August 9, 2006, pages 45678-45679, 45701 and 45709; Final Rules published in the *Federal Register*, dated November 1, 2006, pages 64384-64385 and 64398; §682.207(b); and §682.604(b).

Policy Information: 941/Batch 140

Guarantor Comments: None.

Media for Providing Borrower and Student Notices

The *Common Manual* has been updated to state that a school may use electronic means to deliver notices that the school is required to provide to a student and/or parent borrower. Revised policy clarifies that before the notices are made electronically to a borrower and/or student, the individual must affirmatively consent to the use of an electronic record in a manner that reasonably demonstrates that the individual is able to access the information to be provided in an electronic form. The borrower and/or student's consent must be voluntary and based on accurate information about the transactions to be completed. These electronic processes must be made in accordance with the Electronic Signatures in Global and National Commerce Act (Public Law 106-299).

Affected Sections: 8.2 Required Notices

Effective Date: Borrower disclosures and required notices sent in electronic format on or after May 2001.

Basis: *Dear Colleague Letters* GEN-01-06 and GEN-05-16.

Policy Information: 942/Batch 140

Guarantor Comments: None.

Overaward of PLUS Loans

The *Common Manual* has been updated to remove the exemption of loans made to students enrolled in eligible foreign schools from the overaward provisions, and to include Grad PLUS loans in the overaward provisions.

Affected Sections: 8.6 Managing Overawards

Effective Date: For the removal of the foreign school exemption from the overaward provisions, effective September 8, 2006. For the inclusion of Grad PLUS loans in the overaward provisions, effective December 1, 2006.

Basis: *Federal Register* dated August 9, 2006, page 45709; *Federal Register* dated November 1, 2006, pages 64391 and 64399; §682.604(h).

Policy Information: 943/Batch 140

Guarantor Comments: None.

False Certification as a Result of the Crime of Identity Theft

The *Common Manual* has been updated with the Department's regulatory requirements regarding false certification loan discharge as a result of the crime of identity theft. An individual qualifies for loan discharge if the individual does all of the following:

- Certifies that he or she did not sign the promissory note, or that any other means of identification used to obtain the loan were used without the authorization of the individual.
- Certifies that he or she did not knowingly receive or benefit from the proceeds of the loan that had been made without the individual's authorization.

- 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.

If the judicial determination of the crime does not expressly state that a FFELP loan(s) was obtained as a result of the crime, the individual must provide all of the following:

- Five different samples of his or her signature, two of which must be no more than one year before or one year after the date of the contested signature, or other means of identification of the individual, as applicable, corresponding to the means of identification used falsely to obtain the loan.
- A statement of facts that demonstrates that eligibility for the student loan in question was falsely certified.

Identity theft is considered the unauthorized use of the identifying information of another individual that is punishable under 18 U.S.C. 1028, 1029, or 1030, or substantially comparable state or local statute. Identifying information includes, but is not limited to:

- Name, SSN, date of birth, official state or government issued driver's license or identification number, alien registration number, government passport number, and employer or taxpayer identification number;
- Unique biometric data, such as fingerprints, voiceprint, retina or iris image, or unique physical representation;
- Unique electronic identification number, address, or routing code; or
- Telecommunication of identifying information or access device [as defined in 18 U.S.C. 1029(e)].

If a loan was made as a result of the crime of identity theft that was committed by an employee or agent of the lender, or if at the time the loan was made, an employee or agent of the lender knew of the identity theft of the individual named as the borrower or endorser on the loan, the Department does not pay reinsurance, and does not reimburse the holder, for any amount disbursed on the loan. Also, the holder must refund to the Department any amounts received as interest benefits and special allowance payments with respect to the loan and cease future billings.

Finally, revised policy adds information about loan servicing requirements, notifications, and claim filing procedures applicable to the loan for an individual who requests loan discharge due to false certification that results from a crime of identity theft.

Affected Sections:	Figure 11-2 11.20.D False Certification Due to Identity Theft 13.8.E False Certification Due to Identity Theft
Effective Date:	False certification as a result of identity theft loan discharge claims processed by the lender on or after September 8, 2006.
Basis:	<i>Federal Register</i> dated August 9, 2006, pages 45676-45677 and 45707; <i>Federal Register</i> dated November 1, 2006, pages 64388-64389 and 64398.
Policy Information:	945/Batch 140
Guarantor Comments:	None.

Consolidation Loans

The *Common Manual* has been updated with guidance issued by the Department related to a borrower's ability to consolidate a single Federal Consolidation loan into the Direct Consolidation Loan Program based on the borrower filing a adversary complaint in bankruptcy court and seeking to obtain an income-contingent repayment schedule.

Affected Sections: **15.2 Borrower Eligibility and Underlying Loan Holder Requirements**
Effective Date: Direct Consolidation Loan applications submitted by borrowers on or after December 1, 2006.
Basis: Preamble to the *Federal Register* dated November 1, 2006, pages 64383 and 64384; *Dear Colleague Letter* GEN-06-20/FP-6-16, Attachment A.
Policy Information: 946/Batch 140
Guarantor Comments: None.

Higher Education Hurricane Relief Act Waivers

The *Common Manual* has been updated to include in section H.4 a record of the waiver of the return of Title IV funds requirements for schools affected by Hurricane Katrina or Hurricane Rita. Schools in possession of Title IV funds awarded to students enrolled for an academic period that was disrupted by Hurricane Katrina or Hurricane Rita will, generally, not be required to return those funds for students who withdrew or who never began attendance.

Affected Sections: **H.4 Statutory and Regulatory Waivers**
Effective Date: February 23, 2006.
Basis: Higher Education Hurricane Relief Act of 2005 (P.L. 109-148); Hurricane Rita - Electronic Announcement #9; and Hurricane Katrina - Electronic Announcement #12, posted on February 23, 2006.
Policy Information: 947/Batch 140
Guarantor Comments: None.

Exit Counseling

The *Common Manual* has been revised to state that a school must ensure that the average anticipated monthly repayment amount based on the student's indebtedness is provided to the borrower during exit counseling.

Affected Sections: **4.4.C Exit Counseling**
Effective Date: Exit counseling conducted by or on behalf of the school on or after July 1, 2000.
Basis: §682.604(g)(2)(i).
Policy Information: 948/Batch 140
Guarantor Comments: None.

Repurchase Definition

The *Common Manual* has been revised to align the glossary definition of "repurchase (of a claim)" with existing policy in section 13.5, and to remove a redundant repurchase definition from section 13.5. In addition, because the Common Claim Initiative (CCI) has been adopted as the single claim policy standard in the manual, these revisions remove an outdated cross-reference to a special repurchase definition for CCI purposes.

The glossary revision defines repurchase as a lender's purchase back from the guarantor of a loan on which a claim was filed and paid, if that purchase occurs more than 30 days after the

lender receives the claim payment. If the claim amount is returned to the guarantor by the lender within 30 days of receipt, it is treated as a recall of the claim (see subsection 13.2.B).

Affected Sections: 13.5 Claim Repurchase
Appendix G

Effective Date: Claims repurchased on or after 18 months from the publication of the Common Account Maintenance claim submittal records (CAM chapter 11).

Basis: §682.402(j); CAM Initiative.

Policy Information: 949/Batch 140

Guarantor Comments: None.