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GOVERNOR



Timothy A. Connell
PRESIDENT

TO: Financial Aid Officers
Student Loan Officers

FROM: Richard M. Hawkshead *RMH*
Vice President, Internal Audit and Compliance

DATE: January 28, 2009

SUBJECT: COMMON MANUAL, *Unified Student Loan Policy Bulletin 114*

The attached policy change summary has been prepared by the nation's guarantors in order to clarify, revise or correct existing policy contained in the Common Manual. The effective date of the provision is noted at the end of policy change.

Reference #1072 – Eligible Lender – Eligible Financial Institutions

Reference #1073 – New School-as-Lender Audit Requirement

Reference #1074 – Lender Consumer Reporting Requirements

Reference #1075 – Lender of Last Resort (LLR) Changes

Reference #1076 – Drug Conviction Notices

Reference #1077 – Multiple School Enrollment

Reference #1078 – Teacher Education Assistance for College and Higher
Education (TEACH) Grants

If you have any questions about the attached bulletin, please contact Jessie Cooper at 770-724-9139 or jessiec@gsfc.org or me at 770-724-9012.

Attachment



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.

Eligible Lender - Eligible Financial Institutions

The *Common Manual* has been revised to amend the requirements for certain kinds of lenders to be considered eligible to participate in the FFELP. Under the current requirements, a lender's FFELP loans may not represent more than 50% of the lender's consumer credit portfolio. Existing policy provides three exemptions from this 50% rule and these three existing exemptions remain unchanged. However, the Higher Education Opportunity Act of 2008 adds a fourth exemption for a national or state chartered bank, or credit union, with assets of less than \$1 billion.

Affected Sections: 3.1 Eligible Lenders
Effective Date: August 14, 2008.
Basis: HEA §435(d)(1)(A)(ii)(IV) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.
Policy Information: 1072/Batch 155
Guarantor Comments: None.

New School-as-Lender Audit Requirement

The *Common Manual* has been revised to add the requirement that a school functioning as a lender, a lender serving as a trustee for a school, or a school-affiliated organization participating as a lender in the FFELP have an annual program audit of its lending function that focuses on ensuring that the income (special allowance payments, interest payments received from students and the Department, proceeds from any loan sale, etc.) from its portfolio is used to provide need-based grants and that only a reasonable portion of this income is used to pay administrative expenses. The purpose of the program audit is to ensure that the income from the loan portfolio is used to supplement and not supplant federal and nonfederal funds that would otherwise be directed to need-based grant programs.

Affected Sections: 3.2 Schools Acting as Lenders and Eligible Lender Trustee Relationships
Effective Date: First auditable period of the school lender or ELT that begins on or after August 14, 2008.
Basis: HEA §435(d)(8), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.
Policy Information: 1073/Batch 155
Guarantor Comments: None.

Lender Consumer Reporting Requirements

The *Common Manual* has been revised to reflect statutory changes from the Higher Education Opportunity Act (HEOA) that require the lender to report to all national consumer reporting agencies and that require the lender to report, in addition to previous credit bureau data reporting requirements, that the loan is an education loan.

Affected Sections: 3.5.C Credit Bureau Reporting
13.8 Discharge
Effective Date: Loans on which the lender reports credit transactions on or after August 14, 2008.
Basis: HEA §430A(a), as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.
Policy Information: 1074/Batch 155

Guarantor Comments: None.

Lender of Last Resort (LLR) Changes

The *Common Manual* has been revised to update the glossary definition of "lender of last resort," to remove the Student Loan Marketing Association as a designated LLR option, and to insert in the history appendix "waiver" subsections of the *Common Manual* new text to reference the school-wide LLR options authorized in statute through June 30, 2009.

Revised policy also states that the LLR is not permitted to offer reduced interest rates or reductions or waivers of origination or federal default fees, and that the LLR may not offer other loan terms or conditions to the LLR borrowers that are more favorable than those explicitly provided in statute and regulation. Revised policy stipulates that a lender that provides LLR loans is prohibited from marketing those loans and from violating the prohibited inducement provisions. The policy requires that the LLR provide at least 60 days' notice to the designated guarantor of its intent to cease LLR operations and that the LLR ensure that all loans made under the LLR program are fully disbursed prior to the date on which it ceases LLR operations.

Affected Sections: 3.7.A Eligible Lenders
3.7.C How the LLR Program Works
Appendix G

Effective Date: May 7, 2008.

Basis: HEA §428(j) as amended by the Ensuring Continued Access to Student Loans Act (ECASLA); DCLs GEN-08-05 and GEN-08-08.

Policy Information: 1075/Batch 155

Guarantor Comments: None.

Drug Conviction Notices

The *Common Manual* has been updated to include provisions from the Higher Education Opportunity Act that incorporate two new consumer information disclosure requirements for a school. Upon a student's enrollment, a school must provide the student with a separate, clear, and conspicuous written notice of the penalty (i.e., the loss of Title IV eligibility) if the student is convicted of a state or federal offense involving the possession or sale of an illegal drug that occurred while the student was enrolled in school and receiving Title IV aid. The current *Common Manual* includes detailed information about the time frame for which a student loses Title IV eligibility based on whether the student is convicted of a first, second, or third offense for drug possession, or a first or second offense for drug sale.

A school must also provide a student who loses Title IV eligibility due to a drug-related conviction with a timely, separate, clear, and conspicuous written notice. The notice must advise the student of his or her loss of Title IV eligibility and the ways in which the student may regain that eligibility.

Affected Sections: 4.4.B Consumer Information
5.8 Effect of Drug Conviction on Eligibility

Effective Date: For the notice upon enrollment: Students who enroll at the school on or after August 14, 2008.

For the notice upon loss of Title IV eligibility due to a drug conviction:
School determinations of a student's loss of Title IV eligibility on or after August 14, 2008.

If the Department publishes guidance with a different triggering event, the Common Manual will immediately notify the FFELP community of the change.

Basis: HEA §485(k) as amended by the Higher Education Opportunity Act (HEOA), P.L. 110-315.

Policy Information: 1076/Batch 155

Guarantor Comments: None.

Multiple School Enrollment

The *Common Manual* has been updated based on clarification contained in the FSA Handbook concerning a student who is enrolled simultaneously on at least a half-time basis at more than one school.

In such a case, a Stafford or PLUS loan certified by one school is not included as estimated financial assistance (EFA) by another school when determining the student or parent borrower's eligibility for a Stafford or PLUS loan for the same payment period or period of enrollment.

Affected Sections:	5.15	Multiple School Enrollment
	6.7	Determining the Amount of Estimated Financial Assistance (EFA)
	6.11	Loan Limits
Effective Date:	Publication date of the 05-06 FSA Handbook.	
Basis:	05-06 FSA Handbook, Volume 3, Chapter 5, p. 3-66.	
Policy Information:	1077/Batch 155	
Guarantor Comments:	None.	

Teacher Education Assistance for College and Higher Education (TEACH) Grants

The *Common Manual* has been updated to include the following salient TEACH grant references:

- Estimated financial assistance (EFA) includes TEACH grant funds. EFA does not include the amount of a TEACH grant that is used to replace the EFC.
- Stafford annual and aggregate loan limits do not include any TEACH grant amount that has been converted to an unsubsidized Direct Stafford loan.
- For a student who withdraws, TEACH grant funds are included in the return of Title IV funds calculation, and in the order of unearned funds that a school must return to the Title IV programs.
- One of the criteria that a borrower, comaker, or endorser must meet to qualify for final total and permanent disability discharge is that, during the 3-year conditional discharge period, the borrower, comaker, or endorser must not receive a new TEACH grant or a new loan under the Federal Perkins Loan Program, the FFELP, or the Federal Direct Loan Program (with the exception of a Consolidation loan that does not include any loans that are in a conditional discharge status).
- A TEACH grant that has been converted to an unsubsidized Direct Stafford loan is not considered for the purpose of calculating a school's cohort default rate.
- A TEACH grant is defined in the glossary as a non-need-based grant intended for undergraduate, certain post-baccalaureate, and graduate students enrolled at TEACH grant-eligible schools who plan to become teachers. In exchange for the grant, a student must agree to serve as a full-time teacher in a high need field, in a low-income school for at least four academic years within eight years of completing the program of study for which the student received the grant. If a TEACH grant recipient does not satisfy the service obligation, the TEACH grant funds that the student received convert to an unsubsidized Direct Stafford loan that must be repaid with interest accruing from the date of disbursement. See the FSA Handbook for more information about the TEACH Grant Program.

Affected Sections:	6.6	Determining the Expected Family Contribution (EFC)
	6.7	Determining the Amount of Estimated Financial Assistance (EFA)
	6.11.A	Stafford Annual Loan Limits
	6.11.B	Stafford Aggregate Loan Limits
	9.5.A	Return Amounts for the Title IV Grant and Loan Programs
	9.5.B	Processing Returned Funds
	13.8.G	Total and Permanent Disability
	16.2	Calculation of School Cohort Default Rates
	Appendix G	

Effective Date: For provisions regarding estimated financial assistance (EFA) and annual and aggregate Stafford loan limits: Loan eligibility determinations made by a school on or after July 1, 2008.

For provisions regarding the return of Title IV funds: TEACH grant recipients who withdraw on or after July 1, 2008.

For total and permanent disability discharge determinations: total and permanent disability discharge applications received by the lender on or after July 1, 2008.

Basis:

For all other provisions: July 1, 2008.

§668.22(a)(2) and (i)(2)(v); §668.183(b)(3); §682.200(b); §682.204(c); §682.402(c)(4)(i)(B); §686.1; *Federal Register* dated June 23, 2008, Vol. 73, No. 121; 08-09 FSA Handbook, Volume 1, Chapter 7, p. 1-81.

Policy Information:

1078/Batch 155

Guarantor Comments:

None.