

December 18, 2008

OSFA/FFELP #08-09:04

Dear Student Loan Participant:

On November 20, 2008, the *Common Manual* Governing Board approved seven proposals from Batch 153 to modify the *Common Manual*. The changes will be incorporated into the *Common Manual* with the publication of the next annual update. Enclosed are the following updates:

- **Servicing Parameters for a Consolidation Loan with Multiple Loan Records**
- **Servicing of a Consolidation Loan with Multiple Loan Servicing Records**
- **NSLDS Enrollment Reporting by Schools**
- **Alternatives to Recommended lender Lists**
- **Regulatory and Statutory Waivers for Student, Borrowers, and Schools Affected by a Disaster**
- **Teacher Loan Forgiveness**
- **Loss of Insurance on a Loan due to identity Theft**

For further information you may contact me at (850) 410-6846 or e-mail at [reitha.scott@fldoe.org](mailto:reitha.scott@fldoe.org).

Sincerely,

Reitha Scott, Policy Manager  
Office of Student Financial Assistance

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# COMMON MANUAL UPDATES

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## **Servicing Parameters for a Consolidation Loan with Multiple Loan Records**

The *Common Manual* has been revised to reflect that although a Consolidation loan may consist of multiple loan records, the Consolidation loan must be serviced as a single loan. 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 multiple loan records for the single Consolidation loan to separate the unsubsidized and subsidized portions of the loan. However, these 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 must perform due diligence activities at the loan level, even if the lender establishes more than a single loan servicing record for the subsidized, unsubsidized, and HEAL portion of the loan. That is, the lender must perform due diligence activities on a single payment due date for the single Consolidation loan which is recorded on the lender's system as multiple, separate loan servicing records. Lenders and servicers are expected to maintain adequate internal controls and procedures to ensure that all portions of the single Consolidation loan remain synchronized throughout the life of the loan, and any re-synchronization occurs in a timely manner to ensure that the loan maintains a single due date and amount. The guarantor may examine the lender's controls, procedures, and servicing history during a program review.

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
	15.1.A	Agreement to Guarantee Federal Consolidation Loans
	15.2	Borrower Eligibility and Underlying Loan Holder Requirements
	15.4	Disbursement
	15.5.A	Establishing the First Payment Due Date
	15.5.B	Disclosing Repayment Terms

Effective Date: Consolidation loan applications received by the lender on or after November 13, 1997.

Basis: Emergency Student Loan Consolidation Act of 1997 (ESLCA) (P.L. 105-78); §682.209(a)(1); §682.210; §682.211; §682.301(a)(3)(iii); §682.406(a)(1); §682, Appendix D.

Policy Information: 991/Batch 153

Guarantor Comments: None.

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## **Servicing of a Consolidation Loan with Multiple Loan Servicing Records**

The *Common Manual* has been revised to reflect 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 serviced as a single Consolidation loan. Thus, the loan must be serviced with a single payment due date and amount which must cover all separate records of the Consolidation loan. If the lender fails to perform due diligence activities on a single payment due date and amount, or fails to grant deferment or forbearance for the single Consolidation loan that contains multiple records, the lender may incur due diligence violations sufficient to cause a loss of guarantee on the loan. The lender may cure the loan by following the procedures in Section 14.5 or 14.6, as applicable.

Affected Sections:	14.1	Violations and Cures Associated with Unsynchronized Servicing of a Consolidation Loan with Multiple Loan Records
Effective Date:	Claims filed by the lender on or after January 1, 2009, unless implemented earlier by the guarantor.	
Basis:	Emergency Student Loan Consolidation Act of 1997 (ESLCA) (P.L. 105-78); §682.102(e)(5); §682.209(a); §682.210; §682.211 §682.301(a)(3)(iii); §682.406(a)(1); §682, Appendix D.	
Policy Information:	997/Batch 153	
Guarantor Comments:	None.	

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## **NSLDS Enrollment Reporting by Schools**

The *Common Manual* has been updated concerning the notice generated by the NSLDS when a school fails to provide timely its updated enrollment data.

A school that fails to provide updated enrollment data to the NSLDS either by the online method or the return of its Submittal File within 30 days from the date the NSLDS created the school's Enrollment Reporting Roster File is considered late. The NSLDS sends a Late Enrollment Reporting Notification via electronic mail if the NSLDS does not receive the school's enrollment status updates within 37 days of the date the NSLDS created the school's Enrollment Reporting Roster File. This electronic mail notification is sent to the enrollment reporting contact and primary contact designated by the school, and to the school's chief executive officer or president. If a school uses a servicer to submit Enrollment Reporting files, the NSLDS does not send a Late Enrollment Reporting Notification to the school's servicer.

Revised policy also provides further information about the date that NSLDS "created" the school's Enrollment Reporting Roster File. The date the Roster File was created is located in a date and time stamp that the NSLDS enters into the Roster File's header record.

Affected Sections:      9.2.A      National Student Loan Data System (NLDS) Enrollment Reporting

Effective Date:      January 2008.

Basis:      NSLDS Newsletter #16 dated December 21, 2007; NSLDS Newsletter #17 dated June 2, 2008.

Policy Information:      1055/Batch 153

Guarantor Comments:      None.

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## Alternatives to Recommended Lender Lists

The *Common Manual* has been revised to permit a school that chooses not to publish a recommended lender-list, or that has not been able to identify three or more unaffiliated lenders to make loans to its students and parents, to provide alternative information to assist students and parents with their choice of lender. The school may provide either of the following:

- The names of lenders who have indicated a willingness to make loans to students and parents for attendance at the school.
- A comprehensive list of lenders that have made loans in the past three to five years (or some other time frame established by the school) to students and parents at the school and that have indicated a willingness to continue to provide FFELP loans, as long as the lenders did not provide any prohibited inducement to the school to secure loan applications.

When providing either type of lender information, the school must not provide any additional information about any lender on the list it offers, must make clear that it is not endorsing any lender, and must clearly state that the student and/or parent may choose any FFELP lender that will make loans for attendance at the school.

Affected Sections: 4.4.A Recommended Lender Lists

Effective Date: Information provided by schools regarding lenders participating with the school on or after May 9, 2008.

Basis: *Federal Register* November 1, 2007, Preamble, page 61987; DCL GEN-08-06/FP-08-06.

Policy Information: 1063/Batch 153

Guarantor Comments: None.

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## **Regulatory and Statutory Waivers for Students, Borrowers, and Schools Affected by a Disaster**

The *Common Manual* has been updated to include comprehensive information found in Disaster Letter 99-28, DCL GEN-04-04, DCL GEN-05-17, and DCL GEN-08-10 about the Department's regulatory and statutory waivers for students, borrowers, and schools affected by a disaster.

Unless stated otherwise, this regulatory relief applies to all Title IV recipients and their families who, at the time of a disaster, were residing in, employed in, or attending a school located in a federally-declared disaster area. This relief also applies to schools that are located in such areas. Federally-declared disaster designations are available on the Federal Emergency Management Agency's (FEMA) Website.

A school or lender that deviates from otherwise required actions on the basis of these waivers must document that fact and indicate what alternative procedures were followed.

Schools should consult DCL GEN-04-04 for additional information about waivers that are specific to the Federal Pell Grant, Campus-Based, and Federal Direct Loan Programs.

### **Need Analysis**

A financial aid administrator (FAA) will not count special financial relief aid (for example, grants or low-interest loans) that a victim of a disaster receives from the federal government or from a state as estimated financial assistance (EFA) or income for the purpose of calculating a student's expected family contribution (EFC).

### **Professional Judgment**

An FAA may exercise professional judgment to make adjustments to the cost of attendance (COA) or to the values of the items used in calculating the EFC to reflect a student's special circumstances. The Department encourages an FAA to use professional judgment in order to reflect more accurately the financial need of students and families who are affected by a disaster. The FAA still must make adjustments on a case-by-case basis and clearly document the student's file with the reason(s) for any adjustment.

### **Verification**

A school is not required to complete verification during the award year for those Title IV applicants selected for verification whose records were lost or destroyed because of a disaster. A school must document when it does not perform verification for this reason.

### **Recordkeeping Requirements for Schools**

A school that is affected by a disaster is required to attempt to reconstruct Title IV federal student aid records that are lost because of the disaster. However, a school will not be held responsible for records and documentation that, because of disaster damage, cannot be reconstructed. The school must document that the records were lost due to a disaster.

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## **Disbursement of FFELP Loan Proceeds**

A lender is not required to disburse FFELP loan proceeds to a school according to the school's original disbursement schedule if the lender has been informed that the school has delayed or will delay opening for a scheduled term, or has ceased operations for an undetermined period of time because the school was affected by a disaster. Such a school should request a revised disbursement date(s), and the lender should await a revised disbursement schedule from the affected school. A loan holder may revise information on the loan period and graduation date on a loan record related to the revised disbursement schedule as the information becomes available from the school. In this case, neither the school nor the lender should require a borrower to reapply for a loan.

## **Credit Balances**

If a Title IV credit balance exists for any reason when a student withdraws, including as a result of the school's policy for refunding institutional charges, that credit balance must first be applied to any Title IV grant overpayment that exists as a result of the student's withdrawal. However, if a school grants a waiver of any Title IV grant overpayment that exists as a result of the student's withdrawal, the school must not apply any Title IV credit balance toward the grant overpayment. See "Grant Overpayment Waiver" below.

## **Satisfactory Academic Progress**

If a student fails to meet a school's satisfactory academic progress standards due to a disaster, the school should suspend the satisfactory academic progress standards for that student in accordance with its policies for satisfactory academic progress appeals due to mitigating circumstances. (For more information, see the 2008-09 FSA handbook, Volume 2, Chapter 10, pp. 2-127 and 2-130.) The school must document in the student's file that a disaster constituted mitigating circumstances that caused the student's failure to maintain satisfactory academic progress.

## **Enrollment Reporting**

If, as a direct result of a disaster, a school is unable to complete and return its Enrollment Reporting Submittal File to the National Student Loan Data System (NSLDS) according to the school's established schedule, the school must contact the NSLDS Customer Service Center (see Section D.6) to modify its reporting schedule. A school that uses a servicer to report enrollment information to the NSLDS should contact its servicer to determine whether the school's enrollment reporting data submission schedule should be adjusted. If a school receives a warning letter from NSLDS regarding missed reporting deadlines, it should contact NSLDS Customer Service to ensure that reporting schedule modifications have been made.

## **In-School Period**

A Stafford loan borrower who was in an in-school period on the date the borrower's attendance at a school was interrupted due to a disaster should be continued in an in-school status until such time as the borrower withdraws or re-enrolls in the next regular enrollment period, whichever is earlier. This period of disaster-related nonattendance should not result in a borrower entering or using any of his or her grace period. This guidance does not affect the way a school should report a borrower's enrollment status on its Enrollment Reporting submittal File.

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## **Leaves of Absence**

A school is not required to collect a written request for an approved leave of absence from a student who was directly affected by a disaster. A school's documentation of its decision to grant the leave of absence must include the reason for the leave of absence and the reason for waiving the required written request. For more information about the requirements for an approved leave of absence, see Section 9.3.

## **Institutional Charges and Refunds**

A school is strongly encouraged to provide a full refund of tuition, fees, and other institutional charges, or to provide a credit in a comparable amount against future charges for a student who withdraws from school as a direct result of a disaster. The Department urges a school to consider providing easy and flexible re-enrollment options to such a student. However, before a school makes a refund of institutional charges, it must perform the required return of Title IV funds calculation based upon the originally assessed institutional charges. After determining the amount that the school must return to the Title IV programs, any reduction of institutional charges should take into account the funds that the school is required to return. The Department does not expect that a school would both return funds to the Title IV programs and also provide a refund of those same funds to the student.

## **Grant Overpayment Waiver**

A withdrawn student is not required to repay a Title IV grant overpayment if the circumstances of the student's withdrawal meet all of the following conditions:

- The student was residing in, employed in, or attending a school that is located in a federally-declared disaster area.
- The student withdrew because of the impact of the disaster on the student or the school.
- The student's withdrawal occurred within the academic year during which the federal disaster designation occurred or during the next succeeding academic year, beginning with any academic year that occurs, in whole or in part, with the 2005-06 award year.

A school that waives a student's grant overpayment under these conditions is not required to notify the student or the NSLDS of the overpayment, or refer any portion of the overpayment to the Department. In addition, a school must not apply any Title IV credit balance toward the grant overpayment.

In addition to documenting the application of this waiver in the student's file, a school must also document the amount of any overpayment that has been waived.

## **Deferment – In-School**

A loan holder must treat a loan that was in an in-school deferment status on the date disaster conditions interrupted normal operations at a school as if the loan continues in an in-school deferment until such time as the borrower withdraws or re-enrolls at the next regular enrollment



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period, whichever is earlier. The borrower, a member of the borrower's family, or another reliable source should notify the loan holder(s) of the borrower's status. This guidance does not affect the way a school should report a borrower's enrollment status on its Enrollment Reporting Submittal File.

## **Administrative Forbearance**

A loan holder may grant an administrative forbearance for up to 3 months to a borrower who has been adversely affected by a disaster. See Subsection 11.21.L.

## **Other Regulatory Requirements**

A school that is affected by a disaster should contact the appropriate School Participation Team (see Section D.1) to address case-by-case concerns about the following regulatory requirements:

- Credit balances.
- Notices and authorizations.
- Borrower request for loan cancellation.
- Time frames for delivery or return of FFELP funds.
- Institutional eligibility.
- Financial responsibility.
- Administrative capability.
- Late disbursements.
- Return of Title IV funds deadlines and time frames, including the time frame for allowing a student, or parent borrower, to respond to the offer of a post-withdrawal disbursement.

Affected Sections: H.4.C Higher Education Hurricane Relief Act Waivers

Effective Date: For the 3-month administrative forbearance, August 5, 1999. For the Title IV grant overpayment waiver, November 9, 2005. For all other waivers, February 24, 2004.

Basis: Disaster Letter 99-28; DCL GEN-04-04; DCL GEN-05-17; DCL GEN-08-10; preamble to the *Federal Register* dated August 3, 1999, p. 42178.

Policy Information: 1064/Batch 153

Guarantor Comments: None.

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## **Teacher Loan Forgiveness**

The *Common Manual* has been revised to add that in the case of a borrower who has taught more than 5 years, any consecutive 5-year period of qualifying service may be counted for teacher loan forgiveness purposes.

Affected Sections: 13.9.B Teacher Loan Forgiveness Program

Effective Date: Teacher loan forgiveness determinations made after October 8, 1998.

Basis: §682.215; Private letter guidance received from the Department dated March 30, 2005.

Policy Information: 1065/Batch 153

Guarantor Comments: None.

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## **Loss of Insurance on a Loan due to Identity Theft**

The *Common Manual* has been reorganized for clarity by relocating the text within Subsection 13.8.E on identity theft committed by an employee or agent of the lender, the subsequent loss of insurance on the loan, and the requirement that the lender refund to the Department any amounts received as interest benefits and special allowance payments from the subheading “claim Payment,” to a new subheading, “Loss of insurance.”

Affected Sections: 13.8.B False Certification as a Result of the Crime of 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: None.

Policy Information: 1066/Batch 153

Guarantor Comments: None.