

# SLND-GUARANTOR BULLETIN

#3-07

September 17, 2007

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## 1. Common Manual Updates

Batch 140 and 141 *Common Manual* policy changes include the topics of:

- Eligibility for a Consolidation Loan
- Estimated Financial Assistance
- Disbursement for Students in Study-Abroad Programs or Foreign Schools
- Media for Providing Borrower and Student Notices
- Overaward of PLUS Loans
- False Certification as a Result of the Crime of Identity Theft
- Consolidation Loans
- Higher Education Hurricane Relief Act Waivers
- Exit Counseling
- Repurchase Definition
- School as Lender Changes
- Eligible Lender Trustee Relationships
- Telecommunications Program of Study
- Defining an Academic Year
- Stafford Annual Loan Limits for Transfer Students
- Total and Permanent Disability (TPD) Loan Discharges for Co-makers and Endorsers
- Discharging Underlying Loans of a Consolidation Loan
- Recapture of Excess Interest
- Excess Interest Calculation
- Partial Discharge of a Consolidation Loan



Unified Student Loan Policy

### Policy Changes Approved

Batch 140: Proposals 939-943 & 945-947

Batch 141: Proposals 950-960 & 962

The nation's guarantors provide the following summaries to inform schools, lenders, and servicers of the latest *Common Manual* policy changes. These changes will 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](http://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).

<b>Affected Sections:</b>	<b>5.16.A Ineligibility Based on Borrower Error</b> <b>15.2 Borrower Eligibility and Underlying Loan Holder Requirements</b>
<b>Effective Date:</b>	Consolidation loan applications received on or after December 1, 2006, unless implemented earlier by the lender on or after July 1, 2000.
<b>Basis:</b>	<i>Federal Register</i> dated August 9, 2006, page 45700; <i>Federal Register</i> dated November 1, 2006, pages 64383 and 64397.
<b>Policy Information:</b>	939/Batch 140
<b>Guarantor Comments:</b>	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.

<b>Affected Sections:</b>	<b>6.7 Determining the Amount of Estimated Financial Assistance</b> <b>figure 8-3 School Requirements Before Delivering a FFELP Loan</b> <b>appendix G</b>
<b>Effective Date:</b>	Loans certified by the school on or after September 8, 2006.
<b>Basis:</b>	Preamble to the <i>Federal Register</i> dated August 9, 2006, page 45673; §682.200(b).
<b>Policy Information:</b>	940/Batch 140
<b>Guarantor Comments:</b>	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:** *Federal Register* dated August 9, 2006, pages 45676-45677 and 45707; *Federal Register* 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), unless implemented earlier by the guarantor.  
**Basis:** §682.402(j); CAM Initiative.  
**Policy Information:** 949/Batch 140  
**Guarantor Comments:** None.

### School as Lender Changes

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

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

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

**Affected Sections:**           **3.2     Schools Acting as Lenders**

**3.8.A   Annual Compliance Audits**

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

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

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

**Policy Information:**       950/Batch 141

**Guarantor Comments:**     None.

### **Eligible Lender Trustee Relationships**

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

- Effective September 30, 2006, an eligible lender may not enter into a new relationship to make or hold a FFELP loan as a trustee for a school or for an organization affiliated with a school.
- If an ELT relationship was established prior to September 30, 2006, it may continue, and be renewed, as long as the relationship remains in effect after September 30, 2006 and the ELT held at least one loan on behalf of the school as of that date.
- Effective January 1, 2007, a school involved in an ELT relationship must meet the eligibility requirements applicable to a school-as-lender, with the exception of the requirement to award servicing contracts on a competitive basis.
- A school-affiliated organization involved in an ELT relationship must meet the same eligibility requirements as a school involved in an ELT relationship, except that the cohort default rate requirement, the prohibition against being a home school, and the requirement to employ at least one person whose responsibilities are limited to the administration of its financial aid programs do not apply to the school-affiliated organization.
- A lender involved in an ELT relationship must meet the same eligibility requirements as a school involved in an ELT relationship, except that the cohort default rate requirement, the prohibition against being a home school, the requirement to employ at least one person whose responsibilities are limited to the administration of its financial aid programs, and the requirement to use loan proceeds for need-based grants do not apply to the lender.

**Affected Sections:**           **3.2 Schools Acting as Lenders**

**Effective Date:**           Requirements regarding an eligible lender making or holding a FFELP loan as a trustee for a school or for an organization affiliated with a school are effective September 30, 2006.

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

**Basis:** *Dear Colleague Letter* GEN-06-21/FP-06-17.  
**Policy Information:** 951/Batch 141  
**Guarantor Comments:** None.

### **Telecommunications Program of Study**

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

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

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

**Affected Sections:** **5.12.A Telecommunications Program of Study  
appendix G**  
**Effective Date:** Loans disbursed on or after September 8, 2006.  
**Basis:** Interim Final Rules published in the *Federal Register* on August 9, 2006, page 45667-45668, 45689, 45692, 45693, and 45696; Final Rules published in the *Federal Register* on November 1, 2006, pages 64378 and 64379, *Dear Colleague Letter* GEN-06-17.  
**Policy Information:** 952/Batch 141  
**Guarantor Comments:** None.

### **Defining an Academic Year**

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

**Affected Sections:** **6.1 Defining an Academic Year  
figure 6-2 Frequency of Stafford Annual Loan Limits  
6.11.A Stafford Annual Loan Limits**  
**Effective Date:** Publication date of the 2005-2006 *Federal Student Aid Handbook*, unless implemented earlier by the school.  
**Basis:** 2005-2006 *Federal Student Aid Handbook*, Volume 3, Chapter 4, pages 3-66 through 3-75.  
**Policy Information:** 953/Batch 141  
**Guarantor Comments:** None.

### **Stafford Annual Loan Limits for Transfer Students**

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

the prior program, is the annual loan limit applicable to the student's current grade level *minus* the outstanding loan amount the student has already received for that academic year in the new program.

<b>Affected Sections:</b>	<b>6.1 Defining an Academic Year</b> <b>6.11.A Stafford Annual Loan Limits</b>
<b>Effective Date:</b>	Publication date of the 2005-2006 <i>Federal Student Aid Handbook</i> , unless implemented earlier by the school.
<b>Basis:</b>	<i>Dear Guaranty Agency Director Letter</i> dated March 16, 1994; NCHelp Q&A Frequency of Annual Loan Limits dated June 15, 1994; 2005-2006 <i>Federal Student Aid Handbook</i> , Volume 3, Chapter 4, pages 3-72 through 3-77.
<b>Policy Information:</b>	954/Batch 141
<b>Guarantor Comments:</b>	None.

### **Stafford Annual Loan Limits**

The *Common Manual* has been revised to reflect the new Stafford annual loan limits effective for loans first disbursed on or after July 1, 2007. Changes to the Stafford annual loan limits include:

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

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

<b>Affected Sections:</b>	<b>6.1 Defining an Academic Year</b> <b>6.11.A Stafford Annual Loan Limits</b>
<b>Effective Date:</b>	Stafford loans first disbursed on or after July 1, 2007.
<b>Basis:</b>	Higher Education Act of 1965, Sections 425(a)(1)(A), 428(b)(1)(A), and 428H(d), as amended by the Higher Education Reconciliation Act (HERA) of 2005; §682.204; <i>Dear Colleague Letter</i> GEN-06-02/FP-06-01 and GEN-06-03/FP-06-02.
<b>Policy Information:</b>	955/Batch 141
<b>Guarantor Comments:</b>	None.

### **Total and Permanent Disability (TPD) Loan Discharges for Co-makers and Endorsers**

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

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

co-maker's final discharge determination, or the date that the non-disabled co-maker otherwise would become ineligible for additional deferment, whichever is earlier.

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

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

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

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

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

**Affected Sections:**

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

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

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

**Policy Information:** 956/Batch 141  
**Guarantor Comments:** None.

### **Discharging Underlying Loans of a Consolidation Loan**

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

**Affected Sections:** 13.8 Discharge  
**Effective Date:** Partial discharge requests filed by a lender on or after July 1, 2007, unless implemented earlier by the guarantor.  
**Basis:** Private letter guidance letter from the Department (Pam Moran) dated April 9, 1997.  
**Policy Information:** 957/Batch 141  
**Guarantor Comments:** None.

### **Recapture of Excess Interest**

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

**Affected Sections:** A.2 Special Allowance  
**Effective Date:** Effective for quarterly lender reporting and payment of excess interest on FFELP loans first disbursed on or after April 1, 2006.  
**Basis:** Higher Education Act of 1965, Section 438(b)(2)(I)(v), as amended by the Higher Education Reconciliation Act (HERA) of 2005; Interim Final Rules published in the *Federal Register* dated August 9, 2006, pages 45680, 45681, 45690, and 45705.  
**Policy Information:** 958/Batch 141  
**Guarantor Comments:** None.

### **Special Allowance**

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

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

**Affected Sections:** A.2 Special Allowance  
**Effective Date:** Effective for quarterly lender reporting and payment of excess interest on FFELP loans first disbursed on or after April 1, 2006.  
**Basis:** Higher Education Act of 1965, Section 438(b)(2)(I)(v), as amended by the Higher Education Reconciliation Act (HERA) of 2005; Interim Final Rules published in the *Federal Register* dated August 9, 2006, pages 45680, 45681, 45690, and 45705.  
**Policy Information:** 959/Batch 141  
**Guarantor Comments:** None.

### **Excess Interest Calculation**

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

(also called the 3-month commercial paper rate) as reported by the Federal Reserve in Publication H-15 for the 3-month period plus one of the following:

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

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

<b>Affected Sections:</b>	<b>A.2.A Special Allowance Rates</b>
<b>Effective Date:</b>	Effective for the quarterly calculation of excess interest to be remitted by lenders on FFELP loans first disbursed on or after April 1, 2006.
<b>Basis:</b>	Higher Education Act of 1965, Section 438(b)(2)(I)(v), as amended by the Higher Education Reconciliation Act (HERA) of 2005; Interim Final Rules published in the <i>Federal Register</i> dated August 9, 2006, pages 45680, 45681, 45690, and 45705.
<b>Policy Information:</b>	960/Batch 141
<b>Guarantor Comments:</b>	None.

### **Partial Discharge of a Consolidation Loan**

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

<b>Affected Sections:</b>	<b>15.5.F Delinquency, Default, and Claim Filing</b>
<b>Effective Date:</b>	Closed school and false certification provisions retroactive to the implementation of the <i>Common Manual</i> .
	Teacher loan forgiveness provisions for Consolidation loans that do not include a FFELP or FDLP loan first disbursed before October 1, 1998.
	Death discharge provisions effective July 1, 2003.
	Unpaid school refunds granted on or after July 1, 2000, for loans disbursed in whole or in part on or after January 1, 1986.
<b>Basis:</b>	Total and permanent disability discharge requests received by a lender on or after July 1, 2007, unless implemented earlier by the guarantor. NCHELP/Default Aversion and Claims Standardization (DACS) subcommittee matrix of total and permanent disability (TPD) provisions for co-makers and endorsers dated June 13, 2006; Final Rules published in the <i>Federal Register</i> on November 1, 2002, pages 67067 - 67069.
<b>Policy Information:</b>	962/Batch 141
<b>Guarantor Comments:</b>	None.