

Session #53

Consolidation Loans
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Agenda

- Legislation
- Dear Colleague Letters
 - Borrower Eligibility
 - LVC Completion
 - LVC Noncompletion
- Policy Q's & A's

Legislation

- Higher Education Reconciliation Act of 2005 (Pub. L. 109-171, February 8, 2006)-HERA
 - in-school and early conversion Consolidation Loans eliminated

Effective: July 1, 2006

Legislation

- HERA 2005 (Pub. L. 109-171)
 - joint married Consolidation Loans eliminated
 - FFEL borrower access to Direct Loan limited (**superseded**)

Effective: July 1, 2006

Legislation

- HERA 2005 (Pub. L. 109-171)
 - reconsolidation of FFEL Consolidation Loan **only** into Direct Loan limited to severely delinquent and defaulted borrowers

Effective: July 1, 2006

Legislation

- Emergency Supplemental Appropriations Act, 2006 (Pub. L. 109-234, June 15, 2006)
 - “single holder rule” for FFEL consolidation repealed
 - Limit on FFEL borrower access to Direct Loan repealed

Effective: June 15, 2006

Legislation

- College Cost Reduction and Access Act (Pub. L. 110-84, September 27, 2007)
 - added FFEL-only borrower consolidation and FFEL Consolidation Loan-only reconsolidation in Direct Loan for public service loan forgiveness

Effective: July 1, 2008

Dear Colleague Letters

- Gen-06-01, March 10, 2006
 - summary of HERA changes
- Gen-06-11, June 23, 2006
 - “single holder rule” repeal

Dear Colleague Letters

- Gen-06-20, December 21, 2006
 - Update on Consolidation Loan eligibility and guidance on LVC completion
- Gen-07-03, May 22, 2007
 - More guidance on LVC completion

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- Eligibility Clarified
 - single eligible loan can be consolidated in FFEL or Direct Loan
 - in-school status loans ineligible (excluding in-school deferment status loans)

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- Eligibility Clarified
 - no early conversion to repayment on in-school loans
 - grace or repayment status required (repayment includes deferment and forbearance)

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- Eligibility Clarified
 - defaulted loans eligible if satisfactory arrangements made or agree to repay under income-sensitive or ICR
 - judgment and AWG loans ineligible

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- Eligibility Clarified
 - Existing Consolidation Loan eligible only with additional eligible loan except for delinquent/defaulted FFEL borrower seeking ICR in Direct Loans

Dear Colleague Letters

- Gen-06-20, Update on
Consolidation Loan Issues
- LVC Request and Completion
 - 34 CFR 682.206(f)(1)(I)
 - 34 CFR 682.209(j)

Dear Colleague Letters

LVC Completion-

- 34 CFR 682.209(j)

“ Within 10 business days after receiving a written request for certification from a lender under §682.206(f), a holder shall either provide the requesting lender the certification or, if it is unable to certify to the matters described in that paragraph, provide the requesting lender ...with a written explanation of the reason for the inability to provide the certification ”

Dear Colleague Letters

- Gen-06-20, Update on
Consolidation Loan Issues
- LVC completion
 - within 10 business days means for completion and mailing or e-transmission

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- LVC completion
 - applies to lender or its servicer
 - receipt by consolidating lender may be outside 10 business days

Dear Colleague Letters

Gen-06-20, Update on
Consolidation Loan Issues

- LVC completion
 - counterproposal by loan holder within 10 business days permissible but must be concluded within that period

Dear Colleague Letters

Gen-06-20, Update on
Consolidation Loan Issues

- LVC completion
 - borrower direct notice to consolidating lender canceling pending application required within that period

Dear Colleague Letters

Gen-06-20, Update on
Consolidation Loan Issues

- LVC completion
 - borrower direct notification to consolidating lender canceling may be oral or written with no acknowledgment necessary

Dear Colleague Letters

Gen-06-20, Update on
Consolidation Loan Issues

- LVC non-completion by holder
-written explanation from
loan holder required

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- LVC non-completion by holder
 - same 10-business day period applies
 - if technical malfunction, completion automatic when resolved

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- Acceptable reasons for LVC non-completion
 - loan holder never held the loan or no longer holds the loan (sold, default claim filed, or assigned to ED)

Dear Colleague Letters

Gen-06-20, Update on
Consolidation Loan Issues

- Acceptable reasons for LVC non-completion
 - loan not fully disbursed

Dear Colleague Letters

Gen-06-20, Update on Consolidation Loan Issues

- Acceptable reasons for LVC non-completion
 - borrower/loan in ineligible status (no grace or repayment, or subject to judgment or AWG)
 - Consolidation Loan-only LVC completion required (**modified**)

Dear Colleague Letters

- Gen-07-03, May 22, 2007
More guidance on LVC completion
 - more acceptable reasons for non-completion of LVC
 - added reporting requirements

Dear Colleague Letters

- Gen-07-03, May 22, 2007
Acceptable reasons for LVC non-completion
 - Consolidation Loan-only borrower appears to have no other eligible loans

Dear Colleague Letters

- Gen-07-03, May 22, 2007
Acceptable reasons for LVC non-completion
 - LVC completion for another consolidating lender within last 90 days, suggesting another outstanding application

Dear Colleague Letters

- Gen-07-03, May 22, 2007
Acceptable reasons for LVC non-completion
 - name and lender ID of consolidating lender not included under item #19 on LVC or included elsewhere on LVC

Dear Colleague Letters

- Gen-07-03, May 22, 2007
Acceptable reasons for LVC non-completion
 - first two conditions suggest borrower ineligibility
 - last condition may suggest lack of completed, signed application

Dear Colleague Letters

- Gen-07-03, May 22, 2007

Written explanation must be provided to requesting lender within 10 business days

Dear Colleague Letters

- Gen-07-03, May 22, 2007
Additional Reporting Requirements:
 - loan holder must notify ED of LVC non-completion for two new categories of borrower ineligibility

Dear Colleague Letters

- Gen-07-03, May 22, 2007

LVC completion within 10 business days required with additional information supporting borrower eligibility

Dear Colleague Letters

- Gen-07-03, May 22, 2007

Additional information includes:

- written statement from borrower to loan holder stating that previous consolidation application has been cancelled

Dear Colleague Letters

- Gen-07-03, May 22, 2007

Additional information includes:

- documentation from consolidating lender showing one or more additional eligible loans of the borrower

Dear Colleague Letters

- Gen-07-03, May 22, 2007

ED monitors activities of loan holders and requesting consolidating lenders for possible follow-up

Dear Colleague Letters

- Gen-07-03, May 22, 2007-
LVC may not be submitted to
loan holder without properly
completed and signed
Consolidation Application-legal
basis for non-holder to request
private borrower information

Dear Colleague Letters

- Gen-07-03, May 22, 2007 - Properly completed and signed Consolidation application is one completed when borrower is in an eligible status-no advance completion and dating or post-dating

Follow-up Q's & A's

Q. What can documentation of additional eligible loans include?

Follow-up Q's & A's

A. Examples include a copy of the borrower's Consolidation application listing additional loans, **secure** copy of completed LVC from another holder or borrower's NSLDS record, and disbursement and billing records on other eligible loans not held by the loan holder.

Follow-up Q's & A's

Q. Can a loan holder deny LVC completion for the Direct Loan Program if item #19 is not completed with lender ID?

Follow-up Q's & A's

A. The Direct Loan Program is not a lender in the FFEL program and has no FFEL lender ID. Requirement applies only to FFEL lenders.

Follow-up Q's & A's

Q. Is it sufficient for a requesting FFEL lender to include a statement such as "all the borrower's loans" or to list all possible eligible loan types on the LVC?

Follow-up Q's & A's

A. No. LVC request for payoff should correspond to the borrower's listing of loans in section D.1 of application. Borrower may have ineligible loans or may not wish to consolidate all eligible loans. Authority to receive borrower's private information limited to borrower's eligible listed loans in D.1.

Follow-up Q's & A's

Q. If completion of the LVC with a “all the borrower’s loans” or a listing of all loan types is insufficient LVC completion, does it mean a lender must list all the borrower’s loans on the LVC?

Follow-up Q's & A's

A. No, if all borrower's loans listed on app are eligible and borrower wants to consolidate all those loans, no separate break out is necessary. Requesting lender should provide account numbers and loan codes corresponding to D.1. app listing per instructions as accurately as possible.

Follow-up Q's & A's

A. Loan Holder should complete per LVC form instructions – requires completion and correction of borrower's personal information and of account number and loan code information

Follow-up Q's & A's

Q. Does the guidance on sufficient completion of the LVC apply to Direct Loan program LVC requests?

Follow-up Q's & A's

A. No. FFEL loan holders must continue to complete all Direct Loan Consolidation program LVC requests. The Secretary is authorized to access all title IV loan borrower data. LVCs are issued by DL based on a complete Consolidation application. DL ensures only eligible loans that the borrower wishes to consolidate are consolidated.

Follow-up Q's & A's

Q. Is there a deadline for the loan holder to send ED its report on non-completed LVCs under the two additional borrower eligibility categories?

Follow-up Q's & A's

A. No. There is no deadline specified in the DCL, but ED expects submission on an ongoing basis as denials are sent to the requesting lender.

Follow-up Q's & A's

Q. Is a borrower required to request cancellation of a pending application in writing if the borrower has two pending applications, or if the borrower wishes to take advantage of a loan holder's counteroffer?

Follow-up Q's & A's

A. The DCL specified that the request could be written or oral. **However,** a written (e-mail) request would provide the additional documentation necessary to demonstrate borrower eligibility to the loan holder. No record of receipt or acknowledgement from receiving lender required.

Follow-up Q's & A's

Q. Can a lender impose a “3-day cooling off period” in allowing cancellation of a pending Consolidation application?

Follow-up Q's & A's

A. No. Section 104 of Federal Truth and Lending Act provides for 3-day cooling-off period, but exempts title IV federal student loans under HEA. Exception also appears in section 433(c) of HEA.

Follow-up Q's & A's

A. FFEL consolidation cancellation can take place until consolidating lender disburses funds as borrower's obligation is tied in HEA to timing and amounts of disbursements.

Follow-up Q's & A's

Q. Is the residual balance of an already consolidated loan that has not yet been paid off an eligible loan for consolidation?

Follow-up Q's & A's

A. No. An underpaid, residual amount of a loan included in a pre-existing consolidation is not a separate eligible loan for consolidation. The loan holder and consolidator are expected to resolve the underpayment.

Follow-up Q's & A's

Q. Can a lender market forbearance as a borrower benefit on a FFEL Loan?

Follow-up Q's & A's

A. No, forbearance is available to borrowers willing but unable to repay a loan for a period of time. A borrower-specific benefit cannot be offered across-the-board. No authority to waive payments otherwise due.

Follow-up Q's & A's

Q.If a borrower applies for consolidation while in the grace period, but returns to school before conclusion of consolidation loan processing, is the borrower still eligible?

Follow-up Q's & A's

A. Yes, ED's historic position on a borrower in grace that returns to in-school status before the consolidation is concluded is that the borrower retains eligibility if in eligible grace status on application date.

Follow-up Q's & A's

Q. Can a joint spousal Consolidation Loan be included with another eligible loan in a subsequent consolidation of one of the borrowers?

Follow-up Q's & A's

A. No. Both borrowers are jointly liable for the loan for the life of the loan. Neither of those individuals can undertake a new FFEL obligation that resolves the debt of the other.

Follow-up Q's & A's

Q. Can a borrower undertake two simultaneous consolidation loans that consolidate different groups of eligible loans?

Follow-up Q's & A's

A. No. A borrower may not have more than one application outstanding under the HEA. A borrower is not required to include all eligible loans and may process a later consolidation loan of other eligible loans.

Contact Information

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