

Combined Direct Loan Transition School Q&A
Processing FFELP Loans and Direct Loan Consolidation
May 10, 2010

This version combines the questions from the initial Q&A dated April 8, 2010, and the subsequent Q&A, dated May 10, 2010.

Background: The Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) amended the Higher Education Act (HEA) and brought about changes to the federal student aid programs. A number of provisions impact the Federal Family Education Loan Program (FFELP), specifically terminating the authority to make or insure new loans after June 30, 2010. Another provision provides temporary authority for Direct Loan consolidations for certain borrowers.

The questions and answers below are provided to assist FFELP participants in understanding and implementing the transition to Direct Loan originations, as well as explain the parameters of the temporary Direct Loan consolidation authority.

Answers with an asterisk (*) denote responses provided by the Department of Education.

FFELP Loan Processing Questions
From Q&A Dated May 10, 2010

Q1. The first disbursement of a FFELP loan is made prior to July 1, 2010, but the school subsequently returns the disbursement and asks to have the first disbursement reissued. Based on the timing of the school request, the lender will have to reissue the first disbursement on or after July 1, 2010. Will the lender be allowed to reissue this disbursement of the FFELP loan?

***A1.** No. The school must originate a new loan under the Direct Loan program. The Department of Education has stated, for purposes of the transition from FFELP to the Direct Loan program, that any rescheduled first disbursement (the actual transfer of funds to the school that are delivered) of a FFELP loan must take place prior to July 1, 2010, for the remainder of the loan to be made (disbursed) under FFELP.

Q2. The school schedules a first disbursement of a FFELP loan prior to July 1, 2010, but before the disbursement is made the school informs the lender to cancel that disbursement. If the school later needs to reinstate that disbursement, can the lender make that disbursement or must the school originate a new loan under the Direct Loan program?

***A2.** If the lender is able to make the disbursement prior to July 1, 2010, the lender may choose to do so. The Department of Education has stated that a FFELP lender can disburse a FFELP loan if a cancelled first disbursement (cancelled prior to or after disbursement) is rescheduled

and the rescheduled disbursement can be made prior to July 1, 2010. If that is not possible, the school must originate a new loan under the Direct Loan program.

Q3. If a FFELP Stafford loan is first disbursed prior to July 1, 2010, and later a reallocation of funds is needed, is this allowed?

***A3.** Yes. A reallocation between the subsidized and unsubsidized loans may take place on or after July 1, 2010 if both the subsidized and unsubsidized loans were first disbursed before July 1, 2010 and both those loans stand (were not cancelled but rescheduled and disbursed prior to July 1, 2010). No, such a reallocation may not take place on or after July 1, 2010, if the Stafford loan first disbursed was only a subsidized loan or only an unsubsidized loan.

Q4. The first disbursement of a FFELP loan is made prior to July 1, 2010. A second disbursement is scheduled to be made on August 25, 2010. The school returns the first disbursement on July 15, 2010. Will the lender be allowed to make the second and any subsequent disbursements of the FFELP loan?

***A4.** No. The final first disbursement (transfer of funds to the school) must take place prior to July 1, 2010, for the remainder of the loan to be made (disbursed) as a FFEL Loan. If a cancelled first disbursement can be rescheduled and the rescheduled disbursement takes place prior to July 1, 2010, the remaining FFEL disbursements may take place. However, the final first disbursement (original or rescheduled) also must “stand” for the remaining disbursements to be made as FFEL disbursements. In this case, the first disbursement meets the pre- July 1, 2010 requirement, but is cancelled after July 1, 2010. Under these circumstances, the lender must cancel the second and all subsequent disbursements of the loan.

Q5. The first disbursement of a FFELP loan is made prior to July 1, 2010. The second disbursement is made on August 5, 2010. The school returns and cancels the first disbursement on August 15, 2010, after the second disbursement is made. How should the school handle this situation?

***A5.** If a school must return and cancel the first disbursement after June 30, 2010, it must also return any other funds for the loan that have been disbursed to the school and cancel any other pending disbursements for the loan. The school may then be able to originate the loan under the Direct Loan program.

Q6. If the first disbursement of a FFELP loan made prior to July 1, 2010, is returned on or after July 1, 2010, must subsequent disbursements of the loan also made **prior** to July 1, 2010 be returned?

A6. No.

Q7. If a Consolidation loan is made prior to July 1, 2010, can the loan amount be increased on or after July 1, 2010?

***A7.** Yes. An increase can occur if the borrower requests to add additional eligible loans to the Consolidation loan within the 180-day add-on period or when the payoff amount owed to the lender(s) is higher than the amount originally paid.

Q8. A FFELP loan is guaranteed for \$2000 and the first disbursement is made prior to July 1, 2010. On or after July 1, 2010, the school determines that the borrower is eligible for additional

loan funds and sends a request to increase the loan amount by \$500. Can the increased amount be added to the loan?

***A8.** Yes. A school may request an increase if the lender's system treats this as an adjustment to an existing loan that was first disbursed prior to July 1, 2010, or if the lender treats this kind of "positive" adjustment as a new loan that requires a new certification by the school, only if the first disbursement of that supplemental loan is also first disbursed prior to July 1, 2010.

**FFELP Loan Processing Questions
from Original Q&A Dated April 8, 2010
(No Revisions Made)**

Q1. What is the triggering event of the provisions from the Health Care and Education Reconciliation Act of 2010 that terminate FFELP loans after June 30, 2010?

A1. The legislation terminates the authority *to make or insure new loans* under FFELP after June 30, 2010, but does not totally eliminate the FFEL program. The inability to make *new* FFELP loans is triggered off of the date the loan is first disbursed by the lender. For these purposes, 'first disbursed' means that loan funds have moved from a scheduled or anticipated date to actually being sent by the lender. In order for a FFELP loan to be made, the first disbursement of the FFELP loan must occur prior to July 1, 2010. Beginning July 1, 2010, all new loans (i.e., loans first disbursed) must be made through the Direct Loan program. All existing FFELP loans and new loans made prior to July 1, 2010 will continue to be serviced as FFELP loans throughout the remainder of the life of the loans.

Q2. According to regulations and guidance in the FSA Handbook, a student (or parent borrowing on behalf of a dependent student) may not receive a Direct loan and a FFELP loan for the same period of enrollment. Given the transition to Direct Loan only, is this guidance still applicable?

A2. No. The legislation deleted §454(a)(4) of the Higher Education Act, which prohibited students (and parents) from receiving loans under both the FFELP and Direct Loan programs for the same period of enrollment. This statutory change supersedes the regulation and FSA Handbook guidance.

Q3. If the school certifies loans prior to July 1, 2010, can they be disbursed under the FFEL program?

A3. The date on which a loan is certified is not relevant; the date on which the loan is first disbursed is the key. Therefore, to be FFELP loans, loans that are certified or guaranteed prior to July 1, 2010 must be scheduled with a first disbursement to occur prior to July 1, 2010 (including for borrowers subject to 30-day delayed delivery) and the funds must actually be first disbursed by the lender prior to that date. Any loan with a first disbursement scheduled to occur on or after July 1, 2010, must be certified and processed under the Direct Loan program.

Q4. If a school certifies a FFELP loan prior to June 30, 2010 and schedules the first disbursement to occur prior to July 1, 2010, but schedules the second disbursement to occur on or after July 1, 2010, can the FFELP loan still be made? For example:

- School certifies loan on June 15, 2010
- 1st disbursement is scheduled for June 20, 2010
- 2nd disbursement is scheduled for July 15, 2010

A4. Yes. As long as the first disbursement on the FFELP loan *occurs* prior to July 1, 2010, it is a valid loan even if the second (and any subsequent) disbursement is scheduled to occur on or after July 1, 2010.

Q5. In the question above, what happens if the first disbursement that is scheduled for June 20, 2010 is cancelled prior to disbursement, but the school wishes to keep the second disbursement that is scheduled to occur on July 15, 2010? Can the FFELP loan still be made?

A5. No. In this scenario, the FFELP loan can no longer be made. The cancellation of the first disbursement would result in the FFELP loan being first disbursed on or after July 1, 2010, which cannot occur based on the legislative changes. The school would need to certify a Direct Loan for the student.

Q6. The school uses the ‘hold and release’ function under CommonLine for disbursing its loans. What happens if loans are certified and guaranteed prior to July 1, 2010, but the school wishes to ‘hold’ the loans for first disbursement to occur on or after July 1, 2010?

A6. As explained above, the inability to make a FFELP loan is triggered off of the date the funds are first disbursed by the lender. If the first disbursement of the loan would not occur until on or after July 1, 2010 (meaning in this case that the first disbursement would not be released until on or after July 1, 2010), the FFELP loan cannot be made. The loan must be made through the Direct Loan program.

Q7. If a school certifies a FFELP loan prior to July 1, 2010, but both the first and second disbursements are scheduled to occur on or after this date, will the loan be guaranteed or will it be rejected?

A7. The loan will be rejected and will need to be certified as a Direct Loan since the authority to originate FFELP loans with a first disbursement scheduled on or after July 1, 2010 will cease.

Q8. If a school certifies a FFELP loan prior to July 1, 2010, and the first disbursement date is scheduled to occur prior to this date, but because of the school’s disbursement preferences with a lender’s external funding process (centralized disbursing agents, etc.), the next scheduled disbursement day available to that school is on or after July 1, 2010, can the loan be disbursed to the school?

A8. No. The centralized disbursing agent cannot make the disbursement since it is on or after July 1, 2010 and must reject the disbursement back to the lender.

Q9. A school certifies a loan for summer and the first disbursement is made prior to July 1, 2010. After July 1st, the student decides more money is needed and the school determines that the student is eligible for an increased loan amount. Can the school increase the existing FFELP loan or does the school have to submit a new loan request through the Direct Loan program for the increased amount?

A9. If the school is able to work with its trading partners to increase the existing FFELP loan (e.g., via a CommonLine change transaction), the additional loan funds can be processed because the first disbursement of the FFELP loan was made prior to July 1, 2010. However, if the school is unable to increase the existing FFELP loan and a new loan certification is needed, the new loan must be originated through the Direct Loan program.

Q10. Do FFELP Stafford and student PLUS loan borrowers need to complete entrance counseling prior to their receipt of any Direct Stafford or student PLUS loan?

A10. According to §685.304(a)(1) & (2), entrance counseling is not required prior to the delivery of a first Direct Stafford Loan if the student borrower has previously received a Federal Stafford or SLS loan, or prior to the delivery of a first Direct PLUS loan if the student borrower has previously received a Federal student PLUS loan.

Q11. Are borrowers with both FFEL and Direct loans required to complete both FFEL exit counseling and Direct loan exit counseling?

A11. Not necessarily. The Department has previously stated that borrowers with loans from both programs may complete either FFEL or Direct loan exit counseling, provided the counseling materials address the required elements from both programs.

Direct Loan Consolidation Questions
From Original Q&A Dated April 8, 2010
(Revision Made to Q&A #16)

Q12. Does the creation of a temporary loan consolidation authority in the Direct Loan program, which is only available until June 30, 2011, mean that consolidation is going away in 2011?

A12. No. The temporary loan consolidation authority creates supplemental, limited conditions under which consolidation loans may be made through the Direct Loan program for a 1-year period (July 1, 2010 through June 30, 2011). The special conditions permit consolidation of certain loans for a borrower with a loan in an in-school status. The temporary authority does not, however, replace or eliminate the standard Direct Consolidation program.

Q13. When can borrowers apply for a consolidation loan under the temporary loan consolidation authority?

A13. Direct Consolidation loans are permitted under the temporary loan consolidation authority for any eligible borrower whose application for such a loan is received on or after July 1, 2010 but before July 1, 2011.

Q14. How do the terms and conditions of consolidation loans made under the temporary loan consolidation authority compare to those of regular Direct Consolidation loans?

A14. Direct Consolidation loans made under the temporary loan consolidation authority have specific eligibility criteria and receive a slightly different interest rate, as discussed in a subsequent Q&A. Otherwise, Direct Consolidation loans made under the temporary loan consolidation authority have the same terms and conditions as regular Direct Consolidation loans.

Q15. How does a borrower qualify for a loan under the temporary loan consolidation authority?

A15. To be eligible for a consolidation loan under the temporary loan consolidation authority, a borrower must meet two conditions:

1. The borrower must have loans in at least two of the following categories
 - Federal Direct loans,
 - FFEL loans owned by a lender, and
 - FFEL loans owned by the Department of Education (“PUT” loans).

AND

2. The borrower must have at least one eligible loan in the above categories that has not yet entered repayment.

If the borrower meets both of these conditions, the borrower is eligible to consolidate all of the loans described in condition #1 above, including the eligible loan(s) in an in-school status.

Q16. What is the interest rate of a loan made under the temporary loan consolidation authority?

#A16. The interest rate for loans made under the temporary loan consolidation authority is the lesser of the weighted average interest rate of the loans consolidated without any rounding or 8.25 percent, with the following exception. If a loan made under the authority consolidates a variable interest rate Stafford loan(s) first disbursed on or after July 1, 1995, and before July 1, 2006, that is subject to a reduced interest rate due to being in an in school, grace, or deferment status, the interest rate calculation uses the reduced interest rate and is done as for regular Direct Consolidation loans, i.e., with rounding up to the nearest 1/8th percent; the loan has an interest rate that is the lesser of the calculated rate or 8.25 percent.

#Revised answer.

Q17. Are there any special implications for borrowers considering a consolidation loan under the temporary loan consolidation authority?

A17. Stafford borrowers should always weigh the potential loss of their grace period when contemplating consolidation.

Parent PLUS borrowers who are deferring payments while the student for whom they borrowed the PLUS loan is in school should keep in mind that this deferment is only available on PLUS loans, not on Consolidation loans.

Similarly, parent PLUS and Grad PLUS borrowers should keep in mind that the post-enrollment deferment is only available on PLUS loans, not on Consolidation loans.

Q18. Will borrowers lose their grace period by consolidating while in school?

A18. Yes. The legislation does not allow borrowers who consolidate while in school to keep their six-month grace period once they leave school.

Q19. Are parent PLUS and Grad PLUS borrowers eligible to consolidate such loans under the temporary loan consolidation authority?

A19. Depends. If a parent PLUS or Grad PLUS borrower has a Stafford loan that is still in an in-school or grace status (i.e., has not yet entered repayment), (s)he may include the PLUS loan(s) in the consolidation. Otherwise, the PLUS borrower can consolidate their PLUS loans under the regular Direct Loan consolidation program.

Q20. Under what conditions would a borrower benefit from using the temporary loan consolidation authority rather than a regular federal consolidation loan?

A20. Borrowers thinking about utilizing temporary loan consolidation should weigh the benefits of (1) consolidating in-school to obtain a single servicer (as opposed to consolidating during their grace period prior to the beginning of repayment) and (2) an interest rate that is not rounded up to the nearest $1/8^{\text{th}}$ of one percent (unless variable rate Stafford loans are involved) versus (1) loss of grace period on Stafford loans and (2) loss of PLUS deferment options (see Q18 and Q19).