



Technical Update GA-2008-04

June 4, 2008

PLUS Student Death, Fraud, Identity Theft, and OIG Prosecutions

This information is intended for the person in your organization who is responsible for working with NSLDS. If that person is not you, please forward this update to the appropriate person.

The purpose of this Technical Update is to update the guaranty agencies on new reporting requirements for the death of the dependent on whose behalf a parent received a PLUS Loan, on loans secured through fraud and identity theft as those terms are used in the Higher Education Reconciliation Act of 2005 (HERA) and the implementing Federal Family Education Loan (FFEL) Program regulations, and on loans for which the borrower has been prosecuted by the Office of Inspector General (OIG).

Parent PLUS Borrower Dependent's Death

NSLDS has established PZ as the new Code for Loan Status (Field Code 063) to report discharge of a PLUS loan due to the death of the dependent on whose behalf a parent borrowed.

Prior to this NSLDS modification, all loan types were reported in a DD or DE loan status for discharge due to the death of the parent PLUS borrower or of the parent PLUS borrower's dependent. The PZ loan status code will allow NSLDS to identify death discharges where a PLUS loan has been discharged due to the death of the dependent for whom the parent borrowed so that the parent PLUS borrower's title IV eligibility is not affected.

The PZ Code for Loan Status will only be available for reporting on PLUS (PL, D4) loan types that are not Graduate PLUS (GB, D3) loan types. It is expected that this loan status will be accompanied with a zero balance reported.

See Attachments for GA DPI change pages.

830 First St. N.E., Washington, DC 20202
www.FederalStudentAid.ed.gov
1-800-4-FED-AID

Fraud

The HERA established criteria under which an individual who obtained title IV student aid fraudulently and was convicted of, or plead *nolo contendere* to, the crime of fraud is ineligible to receive any additional title IV student aid until the fraudulently obtained funds are repaid. These HERA fraud-related student eligibility provisions require new reporting codes for fraudulently obtained FFEL loans. It is important to note that FFEL program regulations have historically addressed other types of title IV fraud under which a borrower (or a dependent on whose behalf a parent borrowed) provided false or misleading information to support loan eligibility. This Technical Update, however, only addresses the reporting of loans that meet the fraud standard established under the HERA.

To support the reporting of these loans, NSLDS updated its system to allow for the Borrower Convicted of Fraud (FR) Code for Loan Status (Field Code 063) as announced in GA Technical Update 2007-01.

When a guaranty agency or lender holds a loan that meets the criteria for fraud established under the HERA, the guaranty agency will report the loan with an **FR Code for Loan Status (Field Code 063) and use the Exempt (EX) Claim Reason for Lender Claim (Field Code 105) and the Exempt (EX) Claim Reason for Guaranty Agency Claim (Field Code 096)**. The FR loan status will indicate that the loan is an open loan and a positive balance will be required to be reported. The combination of the FR loan status and EX insurance claim payment and/or EX reinsurance claim payment will indicate to NSLDS that the loan is a fraudulently obtained loan that meets the HERA standard for fraud, but not the HERA regulated criteria for an identity theft loan discharge.

Borrowers with loans in FR loan status will have a Fraud web icon displayed on all web page links under the AID Tab on the NSLDS Financial Aid Professionals (FAP) web site. Additionally, the borrower will be ineligible to receive Title IV aid.

Loans that have been reported in FR loan status are not eligible to be included in the Account Maintenance Fee (AMF) or Loan Process and Issuance Fee (LPIF) calculations. Additionally, loans in FR loan status will be excluded from the Cohort Default Rate (CDR) calculations for the schools, lenders, and guaranty agencies.

Loans in FR loan status and with an EX insurance claim payment will be included in the Default Claims Paid (GAFR AR-8) calculation of the Annual Reasonability calculations. Loans with an EX insurance claim payment will continue to be included in the Monthly Reasonability calculation for Exempt/Lender of Last Resort Claims (GAFR MR-1-B).

See Attachments for GA DPI change pages.

Identity Theft

The HERA established relief for borrowers who are the victims of the crime of identity theft. Under the implementing regulations at 34CFR 682.402(e)(3)(v), the eligibility criteria governing this relief require, among other things, that there has been a judicial determination by a local, State or Federal court that the individual named as the “borrower” is the victim of the crime of

identity theft, and that there is a named perpetrator. NSLDS has updated its system for the reporting of identity theft loan discharge data.

When a guaranty agency or lender holds a loan that meets the criteria that the borrower is a victim of identity theft under the HERA identity theft discharge regulations, the guaranty agency will report the loan to NSLDS as follows:

1. Assuming that the loan has been reported to NSLDS using the victim's identifiers, the GA should continue to report on the loan under the victim's identifiers until the insurance claim payment has been paid to the lender.
2. Once the insurance claim payment has been paid to the lender, the guaranty agency will report the loan to NSLDS using the **FR Code for Loan Status (Field Code 063), the Identity Theft (ID) Claim Reason for Lender Claim (Field Code 105), and Identity Theft (ID) Claim Reason for Guaranty Agency Claim (Field Code 096)**. Report the appropriate identifier changes to move the loan from the victim to a record for the perpetrator. These fields and changes should all be reported in the same guaranty agency's loan submission file to NSLDS.
3. Once the loan has successfully loaded to NSLDS under the perpetrator's identifiers, the GA should continue to report on the loan using the perpetrator's identifiers.

When the identifier change takes place, the victim will be removed from the school's Enrollment Reporting Roster and, if the victim has no other title IV loans, all enrollment history for the victim will be deleted. However, the perpetrator will be added to the Enrollment Reporting Roster of schools reported on the loans since the loans are now associated with the perpetrator's identifiers. NSLDS expects that the school will then report on the perpetrator's enrollment, as appropriate.

Once the loan has been successfully loaded onto NSLDS with the perpetrator's identifiers and in FR loan status, the perpetrator will display on NSLDS FAP with a Fraud web icon and will be pre-screened and/or post-screened as ineligible to receive title IV aid.

Since these loans are now reported in an FR loan status, the loans will not be included in the AMF, LPIF or CDR calculations.

Loans in FR loan status and with an ID insurance claim payment will be included in the Closed School/False Certification (GAFR AR-11) calculation of the Annual Reasonability calculations. Loans with the ID Claim Reason for Lender Claim (Field Code 105) will be included in the Monthly Reasonability calculation for Closed School/False Certification Claims (GAFR MR-1-D).

See Attachments for GA DPI change pages.

Fraud Satisfied

After a borrower repays a fraudulently secured debt resulting from either a fraud conviction or *nolo contendere* pleading or prosecution as the perpetrator of an ID theft, the loan will then be eligible to be reported to NSLDS with a Fraud, Satisfied (FX) Code for Loan Status (Field Code 063). These loans will be considered paid-in-full and should be reported with a zero balance. The FX loan status will indicate that the borrower has regained eligibility to receive title IV aid,

provided no other loans or overpayments are in the borrower's portfolio that would otherwise cause the borrower to be ineligible.

Loans in FX loan status will not be included in the Annual Reasonability, Monthly Reasonability, AMF, LPIF or CDR calculations.

See Attachments for GA DPI change pages.

Office of Inspector General (OIG) Prosecutions

The OIG actively pursues criminal cases of fraud and identity theft involving the title IV student assistance programs. Successful prosecution may result in settlement agreements, summary judgments and/or criminal convictions. If the court order directs payment to the U.S. Department of Education (ED), Federal Student Aid (FSA) will send a letter to the guaranty agency instructing it to assign all loans identified in the case that the agency guaranteed to ED. These cases require special handling by the guaranty agency and FSA.

The guaranty agency will receive notification from FSA's San Francisco office that the OIG has successfully prosecuted a case. FSA will:

1. Provide the guaranty agency with a copy of the court's adjudication.
2. Identify the borrowers and loans that are involved in the case.
3. State whether the subject listed pleaded guilty or was convicted of fraud or identity theft.
4. Identify all victims who should have their records corrected.

OIG Prosecutions - Fraud

In cases in which the borrower committed fraud by misrepresenting his or her title IV eligibility, Social Security number, or date of birth, FSA will identify the loans for each guaranty agency affected.

The guaranty agency should follow the instructions above for reporting fraud convictions to NSLDS.

If the court order directs payment to the U.S. Department of Education, FSA will send a letter to the guaranty agency instructing it to assign all loans identified in the case that it guaranteed to ED. The GA can either submit the loans on a separate batch of assignment forms, or send them in a separate assignment file (containing only loans identified in the case) via the Student Aid Internet Gateway (SAIG). The guaranty agency should notify Ms. Esgandarian (at the phone number below) when the assignment is being sent and should include a list with the perpetrator's name, SSN, loan type(s), original disbursement amount(s), and disbursement date(s). The assignment should be submitted to FSA at the address below:

U.S. Department of Education
Federal Student Aid
c/o Gail Esgandarian
50 Beale Street, Room 8641
San Francisco, CA 94105

(415) 486-5640

OIG Prosecutions – Identity Theft

In cases of Identity Theft, the court's adjudication will identify all victims in the case. FSA will identify the victims and loans for each guaranty agency.

The guaranty agency should follow the instructions above for reporting identity theft loan discharges to NSLDS.

Although the loans have been discharged, FSA requires that the guaranty agency forward all documentation associated with the perpetrator's loans to its San Francisco office. This will include all the documentation normally associated with assigned loans. Questions about the assignment process and the associated documentation requirements should be directed to Ms. Esgandarian.

Attachment A: GA DPI Appendix A Change Pages

Attachment B: GA DPI Appendix B Change Pages

If you have any questions, please contact the NSLDS Customer Service Center at (800) 999-8219 or e-mail NSLDS@ed.gov.