NCHELP

801 Pennsylvania Avenue, S.E., Suite 375

National Council of Higher Education Loan Programs, Inc.

Washington, DC 20003 • (202)547-1571
FAX (202)546-8745

November 7, 1993

Clearinghouse No. 49,168
Accession No. 1095310

DEC - 8 1993

Mr. Robert W. Evans
Director of Policy and Program Development
U.S. Department of Education
Office of Student Financial Assistance
Room 4310, ROB #3
7th & D Streets, S.W.
Washington, D.C. 20202

RE: Compromise and Write-Off Procedures

Dear Bob:

Thank you for reviewing the recommendations for standardized write-off and compromise procedures submitted by the Ad Hoc Standardization Group. NCHELP has made all of the clarifications and amendments you requested.

If you have any questions regarding these revised procedures, please let me know. Your prompt approval of these revised procedures will be appreciated by the community.

Sincerely yours,

Jean

Jean S. Frohlicher
President

I hereby approve the attached Standardized Compromise and Write-Off Procedures for use by guaranty agencies in the Federal Family Education Loan Program. Agencies may use these procedures without further approval from the Department of Education. Any changes a guaranty agency wishes to make in these approved procedures must be submitted to the Department for specific approval.

Robert W. Evans 11/24/93

Robert W. Evans, Director, Division of Policy Development

cc: Woody Farber
Art Bilski
Fred Hasselback.
Dallas Martin

STANDARDIZED COMPROMISE AND WRITE-OFF PROCEDURES

The following guidelines are established to allow a guaranty agency to compromise amounts owing on a defaulted reinsured student loan and to write off accounts where the loan(s) is determined to be uncollectible and the agency seeks to discontinue its semi-annual reviews as required under the due diligence requirements. Write off in this context does not relate to ''writing the loan off the books'' but only relates to the cessation of collection activity. In all cases, the reasons for the agency's decision and actions will be documented in the borrower's file.

COMPROMISE AUTHORITY

Compromise refers to a negotiated agreement between the debtor and the guaranty agency to accept a payment of a lesser portion of the total debt as full liquidation of the entire indebtedness. A guaranty agency will be permitted in certain cases to accept a compromise amount from a debtor as full satisfaction of the debt to all parties, including the U.S. Department of Education. The authority to accept a compromise as full satisfaction of the debt is intended to maximize collections on defaulted loans. The guaranty agency may compromise a loan at any time after it pays a default claim on that loan.

A guaranty agency will be permitted to compromise under the following circumstances and in the following amounts:

1. An agency can compromise an amount up to an amount equal to all collection costs in order to obtain payment in full of all principal and interest owing on a defaulted loan(s). The agency shall consider the litigative risk of seeking a judgment on a reinsured loan, the likelihood and timing of the collection of the loan, and the borrower's current and expected financial condition.
2. An agency can compromise an amount up to 30% of all principal and interest owing in order to obtain a payment in full of the reinsured portion of a loan(s). The agency shall consider the litigative risk of seeking a judgment on a reinsured loan, the likelihood and timing of the collection of the loan, and the borrower's current and expected financial condition. Compromises of less than 70% of the total indebtedness of principal and interest do not allow the guaranty agency to waive the Secretary's right to collect the remaining balance due.
3. An agency can compromise in situations that do not meet the criteria in #1 and #2 above, provided the agency can demonstrate and document the reasons for doing so and the compromise is approved by the division/agency director.

Approval authority for compromise settlements will be determined within each guaranty agency. However, the following minimum approval authorities will exist:

1. The supervisor directly charged with collections will have the authority to compromise all collection costs and the accrued interest on the loan(s), not to exceed 30% of the principal and interest owing.
2. The next level of management will have the authority to accept compromises in #1 above and any compromise of any principal amounts, not to exceed 30% of the principal and interest owing.
3. The agency director can approve compromises described in #1 and #2 above as well as compromises which exceed the 30% threshold.

DISCRETIONARY WRITE-OFF

Write-off of a reinsured loan(s) is intended only for the purpose of the guaranty agency's ceasing required collection activity as described in 34 C.F.R. 682.410(b)(6) and (7). The write-off of the loan does not relieve the debtor of the debt. Once an agency has ''written off'' a loan(s), it will insure that the account is permanently assigned to the U.S. Department of Education under 34 C.F.R. 682.409 *et seq.*

Exception to the above policy will be that guaranty agencies will have the authority t off loan(s) with principal balances of less than $100 and a total balance less than $1,000, and any loan(s) where the remaining balance represents only interest, attorney fees, court costs, or collection costs without requiring the permanent assignment of the loan(s) to the U.S. Department of Education.

In making its determination to write off a loan and to cease collection activity, an agency will consider the debtor's and, if applicable, an endorser's current and expected inability to repay the debt. Examples of this condition are:

a. Borrowers who are repeatedly unemployed and have no prospects for future employment;

b. Borrowers who are repeatedly public assistance recipients;

c. Borrowers who are chronically ill, partially disabled, or of an age that results in their inability to work;

d. Borrowers whose potential for future earnings is limited or non-existent;

e. Borrowers who have no other funds available to them from other sources, such as an inheritance.

Approval authority for the write-off of a loan(s) will be individualized within each agency. However, the following minimum guidelines will apply:

1. Balances up to $5,000 can be approved by the supervisor responsible for collection of the loan(s).
2. Balances up to $20,000 can be approved by the next level of management within the guaranty agency if the documents authorizing a write-off contain the signatures of each agency official participating or concurring in the write-off decision.
3. Balances exceeding $20,000 can be approved by the division/agency director if the documents authorizing a write-off contain the signatures of each agency official participating or concurring in the write-off decision.

In each case, upon approval of the write-off, the account will be scheduled for permanent assignment to the U.S. Department of Education under the provisions in 34 C.F.R. 682.409, *et seq.* (except those previously noted).

A debtor who benefits from a compromise or write-off must reaffirm the amount compromised or written off if he or she later wants to receive an FFEL Program