



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

MAR 15 2004

Mr. Brett E. Lief
President
National Council of Higher Education Loan Programs, Inc.
801 Pennsylvania Avenue, S.E., Suite 375
Washington, DC 20003

Dear Mr. Lief:

We have received inquiries recently asking if a borrower who has both Federal Family Education Loan (FFEL) Program and non-FFEL loans could obtain an FFEL Consolidation loan that would consolidate only the borrower's non-FFEL loans. Because of these inquiries, we are providing information to you that we hope will be helpful to your membership.

Some FFEL lenders appear to have advised borrowers that non-FFEL loans can be consolidated into an FFEL Consolidation loan without an FFEL loan being included in the consolidation. These types of consolidations are not authorized under section 428C(b)(1)(A) of the Higher Education Act of 1965, as amended (HEA). Section 428C(b)(1)(A)(i) of the HEA provides that a lender may "make a consolidation loan to an eligible borrower (on request of that borrower) only if...the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation..." FFEL lenders do not generally hold the types of eligible non-FFEL loans that are listed in section 428C(a)(4) of the HEA. Thus, this requirement cannot be met if the borrower is only consolidating non-FFEL loans.

To avoid harm to borrowers who may have recently applied for FFEL Consolidation loans based on incorrect advice, the Department will permit those loans to be made, even if they are composed solely of eligible non-FFEL loans, as long as the loan verification certificates were sent to the loan holders prior to May 1, 2004. Any such consolidation loans made based on loan verification certificates sent on or after May 1, 2004, will not be insured under the FFEL program.

I trust this information will be helpful to your membership. Please contact me if I can be of further assistance.

Sincerely,

David Bergeron

Director

Policy and Budget Development Staff
Policy, Planning, and Innovation