



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION

THE ASSISTANT SECRETARY

NGV 1 0 2016

GEN -16-20

Subject: Retroactive Adjustments for Servicemembers Civil Relief Act (SCRA) from August 14, 2008, Onward

Summary: This letter (1) encourages Federal Family Education Loan (FFEL) Program loan holders and servicers, including guarantee agencies, to retroactively adjust the balances of loans belonging to servicemembers who were in active duty status on or after August 14, 2008, so that the interest rates of those loans do not exceed 6 percent during the period(s) of active duty status, and to use the SCRA interest rate limitation in their Special Allowance Payment calculations (see 34 CFR Part 682, Subpart C); (2) describes methods used by the U.S. Department of Education (the Department) that FFEL Program loan holders and servicers can replicate when making the retroactive adjustments; and (3) provides additional guidance for FFEL Program loan holders and servicers.

Dear Colleague:

On August 25, 2014, we posted Dear Colleague Letter (DCL) GEN-14-16 to authorize Federal Family Education Loan (FFEL) Program loan holders to apply the Servicemembers Civil Relief Act (SCRA) interest rate limitation without requiring a borrower's request if the FFEL Program loan holder could document the borrower's eligibility for the SCRA interest rate limitation by conducting a data match with the Department of Defense's (DoD's) Defense Manpower Data Center (DMDC). In DCL GEN-14-16, we authorized and encouraged FFEL lenders and lender-servicers, effective as of the date of that guidance, to use the DMDC's SCRA website to identify borrowers who are eligible for the interest rate limitation under the SCRA and to grant that benefit.

In 2015, following the publication of DCL GEN-14-16, we conducted negotiated rulemaking that led to a revision of the FFEL Program regulations. The revised FFEL Program regulations at 34 CFR 682.208(j) require FFEL Program loan holders to apply the SCRA interest rate limitation without a request, based on a data match with the DMDC. These revised regulations became effective on July 1, 2016.

On May 5, 2016, we posted DCL GEN-16-08. This letter announced the approval of a new SCRA Interest Rate Limitation Request form for the Direct Loan and FFEL programs. The form fulfilled the regulatory requirement at 34 CFR 682.208(j)(3)(ii).

In April of this year, the Department directed its Federal loan servicers to expand the previous match of the DoD database for servicemembers and directed the servicers to match data for servicemembers who were in the servicer's loan portfolio on or after August 14, 2008. The Federal loan servicers have identified thousands of servicemembers in the Department's loan portfolio who entered active duty status on or after August 14, 2008. As the Department works

400 MARYLAND AVENUE, S.W., WASHINGTON, DC 20202  
www.ed.gov

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

to complete the identification of these servicemembers' active accounts to retroactively apply the SCRA interest rate limitation, we request that FFEL Program loan holders begin to do the same. FFEL Program loan holders may use the SCRA interest rate limitation in their Special Allowance Payment calculations (see 34 CFR Part 682, Subpart C).

We encourage FFEL Program loan holders and servicers, including guarantee agencies, effective as of the date of this guidance, to conduct data matches and retroactively apply the SCRA interest rate limitation for all periods of active duty status on or after August 14, 2008. We applaud the many FFEL Program loan holders that have already conducted matches and applied retroactive adjustments, and we look forward to additional loan holders taking action to support servicemembers. The revised FFEL Program regulations, which became effective on July 1, 2016 (34 CFR 682.208(j)), require FFEL Program loan holders to conduct a match of borrower records with the DMDC database, and provide the interest rate limitation benefit without requiring a request by the borrower, or to apply the interest rate limitation on the basis of other information from the borrower, from July 1, 2016, onward.

We instructed our servicers to apply the following methods to conduct the retroactive adjustments, which FFEL Program loan holders and servicers may replicate to ensure consistency:

- Federal loan servicers used the DMDC to obtain active duty status information for any servicemember who was in the servicer's loan portfolio at any time on or after August 14, 2008.
- Federal loan servicers will adjust the loan balances regardless of the current status of the loan (including accounts that were paid in full). Overpayments resulting from the SCRA interest rate adjustment may require the servicer to issue a refund check to the borrower.
- For periods of active duty status that began prior to August 14, 2008, Federal loan servicers will apply the interest rate limitation starting August 14, 2008.

A servicemember who believes the DMDC information is incorrect may:

- Provide a written request and a copy of his or her military orders to the loan holder;  
or
- Have an authorized official certify on the recently approved SCRA Interest Rate Limitation Request (see GEN-16-08) that the borrower is or was engaged in active duty military service as of a particular date.

Some reminders:

The FFEL Program loan holder and servicer must retain the supporting information from the DMDC in the borrower's file. When the FFEL Program loan holder or servicer applies the SCRA's interest rate limitation to a servicemember's account, it must notify the servicemember that the interest rate on the loan has been changed.

A FFEL Program loan holder or servicer that uses the DMDC to confirm a servicemember's active duty status and maintains the supporting information from the DMDC will not be subject to any program liabilities if any information provided by the DMDC is found to be incorrect. The FFEL Program loan holder or servicer does not need to confirm the information provided by the DMDC.

Reservists who received orders to report for military service or who are in military service are also entitled to the interest rate limitation under the SCRA. A FFEL Program loan holder or servicer may confirm the eligibility of a reservist using the DMDC and rely upon the dates reflected in the system as the active duty status period for which the borrower is eligible for the reduced interest rate, including using the reservist's order notification date as the start date of the active duty status period.

The application of the SCRA's interest rate limitation to FFEL Program loans is restricted as follows:

- 1) The SCRA applies only to loans taken out by a servicemember before the servicemember entered active duty status. It does not apply to loans taken out after the servicemember's active duty status began.
- 2) Because a consolidation loan is a new loan, a consolidation loan made after the servicemember has started active duty status is not eligible for benefits under the SCRA, even if the underlying loans were taken out prior to the start of active duty status. For this purpose, a consolidation loan is considered eligible for benefits under the SCRA only if the borrower applied for the consolidation loan before starting active duty status. (However, if a borrower who was receiving the SCRA benefit consolidates those loans, the consolidation loan interest rate will be the weighted average of the underlying loans, or 6 percent in the case of loans to which the SCRA benefit has been applied.)

Thank you for your support of this effort to ease the burden of student loan debt for our nation's servicemembers by proactively applying the SCRA interest rate limitation to the fullest extent possible.

Page 4 - Retroactive Adjustments for Servicemembers Civil Relief Act (SCRA) from August 14, 2008 Onward

If you have any questions about this guidance, please contact Barbara Hoblitzell at (202) 453-7583 or by e-mail at: [barbara.hoblitzell@ed.gov](mailto:barbara.hoblitzell@ed.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Lynn B. Mahaffie", with a long horizontal flourish extending to the right.

Lynn B. Mahaffie  
Deputy Assistant Secretary for  
Policy, Planning, and Innovation  
Delegated the Duties of Assistant Secretary for Postsecondary Education