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- Grants
- Laws
- Data

Improved Borrower Defense Discharge Process Will Aid Defrauded Borrowers, Protect Taxpayers

Clear evaluation criteria will expedite review process, ensure harmed students are treated fairly
Department announces action related to more than 20,000 pending claims

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WASHINGTON – After careful review to ensure a fair and efficient process, the U.S. Department of Education (the Department) today unveiled an improved discharge process for borrower defense to repayment (BDR) claims.

"We have been working to get this right for students since day one," said Secretary Betsy DeVos. "No fraud is acceptable, and students deserve relief if the school they attended acted dishonestly. This improved process will allow claims to be adjudicated quickly and harmed students to be treated fairly. It also protects taxpayers from being forced to shoulder massive costs that may be unjustified."

For pending claims, no changes were made to the existing approval criteria. Claims that previously would have been approved will still be approved today. However, rather than taking an "all or nothing" approach to discharge, the improved process will provide tiers of relief to compensate former Corinthian students based on damages incurred.

NEW PROCESS FAIRLY COMPENSATES FOR DAMAGES

Students whose current earnings are less than 50 percent of their peers from a passing gainful employment (GE) program will receive full relief. Students whose earnings are at 50 percent or more of their GE program peers will receive proportionally tiered relief to compensate for the difference and make them whole (Table 1).

Table 1

CCI Earnings as a Percentage of GE Earnings	Amount of Relief
1% to 49%	100%
50% to 59%	50%
60% to 69%	40%
70% to 79%	30%
80% to 89%	20%
90% and above	10%

In all calculations, rounding is done to the benefit of the student, including:

- Relief is rounded up by tenths. For example, if a student had 59 percent of a passing GE program earnings, the student would receive 50 percent BDR relief.
- The better of mean or median earnings as compared to GE program peers is used to calculate relief.
- If the student was enrolled in multiple programs, the program which yields the most relief is the program used in the calculation.

Additionally, to mitigate the inconvenience for how long it has taken to adjudicate claims, the Department will apply a credit to interest that accrues on loans starting one year after the borrower defense application is filed.

The principle of relief based on value of education received is consistent with the legal authorization of BDR under the Higher Education Act and the existing BDR regulation, 34 CFR 685.206 [C][2], adopted in the Clinton Administration. Similar concepts for partial relief were proposed by the Obama Administration in its October 2016 regulation.

RESPONDS TO CONCERNS RAISED BY INSPECTOR GENERAL

Following an internal review, the Secretary was concerned that there was no standardized process in place. In May, Secretary DeVos requested the Education Inspector General (IG) look into the existing procedures for claim adjudication.

The IG found "weaknesses with FSA's procedures for: 1. documenting the review and approval of legal memoranda establishing categories of borrower defense claims that qualified for discharge; 2. reviewing borrower defense claims; 3. processing claims approved for loan discharge and flagged for denial; and 4. establishing timeframes for claims intake, claims review, loan discharge, and claims denial processes and controls to ensure timeframes are met."

The Department has worked diligently to address the issues cited, yielding the improved discharge process.

ACTION TAKEN TODAY

The Department has approved for discharge 12,900 pending claims submitted by former Corinthian Colleges, Inc. students, and 8,600 pending claims have been denied. This action includes claims that have been received during this administration. Many of the denied claims were identified for denial, but not acted on, by the prior administration.

Borrowers will be notified on a rolling basis as their discharge is finalized. The remaining pending claims will be adjudicated systematically under the newly announced discharge process.

CONTINUING TO IMPROVE BORROWER DEFENSE

The borrower defense to repayment regulation currently is under negotiated rulemaking, which began Nov. 13. As Secretary DeVos stated when she announced the Department's regulatory reset on June 14, 2017, the previous regulatory process yielded a "muddled process that's unfair to students and schools and puts taxpayers on the hook for significant costs." She continued, "It is the Department's aim, and this Administration's commitment, to protect students from predatory practices while also providing clear, fair and balanced rules for colleges and universities to follow."

The negotiators will continue to work toward a new regulation that will treat students, institutions and taxpayers fairly.

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