



Biden Administration Borrower Defense Regulations Provide Relief, Accountability

The U.S. Department of Education recently issued [new regulations](#) to ensure that student borrowers whose institution lied to them will have access to relief from their loans. These regulations, which improve the process for borrower defense to repayment, will take effect on July 1, 2023.

Borrowers harmed by their institutions are eligible to receive a student loan discharge – but too many have been unable to access that benefit.

- “Borrower defense to repayment,” once a little-noticed [provision](#) in the Higher Education Act, allows borrowers who are harmed as a result of misconduct by their colleges to access relief from their loans.
- In 2015, following the collapse of Corinthian Colleges, Inc., after an investigation into the school’s misrepresentations of employment outcomes, tens of thousands of students submitted claims.
- To ensure a more efficient and equitable system for reviewing claims and providing loan discharges to students, the Obama Administration undertook a rulemaking (the 2016 rules). Those rules were changed again by the Trump Administration (the 2019 rules), and are now being revised again by the Biden Administration.
- Many borrowers have waited years to have their claims reviewed. Applications from more than 300,000 borrowers remained pending as of August 2022, according to Department data, while the Department and borrowers are working to [finalize a settlement](#) in a lawsuit over the stalled process.

The new borrower defense rule will ensure borrowers who are lied to by their colleges can access relief from their student loans.

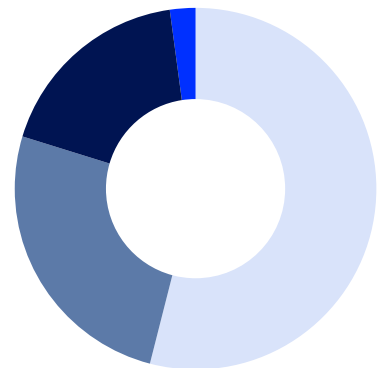
The new regulations are designed to create a more expansive process that works better for borrowers in the long term, including:

- Allowing **borrowers to have their claims approved based on a more expansive list of misconduct** that left the borrower worse off, including:
 - » Substantial misrepresentations or substantial omissions about the school’s educational program, costs, or employment outcomes
 - » Aggressive and deceptive recruiting practices on the part of the school
 - » Breaches of a contract between the school and the borrower
 - » Other wrongdoing identified through court judgments or Department actions against the school

> 634,000

**APPLICATIONS
RECEIVED**

(as of Aug. 2022)



**As of Aug. 31, 2022,
hundreds of thousands of
borrower defense claims
remaining pending**

● Pending ● Approved
● Denied* ● Other*

**Beginning in August 2022,
some denied or closed claims were
moved to “approved”*



- Ensuring **claims can be considered through a shared process** that groups claims from similarly situated borrowers together. Claims will be decided within one year of the Department deciding to form a group, unlike the current open-ended timeframe for consideration. Individual claims will be decided within three years.
- Providing that borrowers **will receive relief from all their loans** related to attendance at the school if they have a claim that warrants any relief. Past efforts to determine which borrowers should receive “partial relief” and in what amount under the prior Administration were largely unsuccessful. Borrowers whose claims are denied will have the opportunity to request a reconsideration of their claims.

Institutions that engage in misconduct resulting in approved claims can be held accountable for their actions.

- After approving claims, the Department can opt to hold **colleges financially responsible for the costs of approved loan discharges**. The new regulations lay out the framework by which the Department can decide to pursue the school for taxpayer losses, deterring colleges from future misconduct.
- In most cases, colleges will be on the hook for up to six years after the borrower(s) left school, or longer if the school is notified of the borrower defense application(s) during that time frame.
- Colleges also **won't be permitted to require that borrowers agree to arbitration** before a borrower defense-related dispute arises, or that borrowers waive their ability to participate in a class-action lawsuit, ensuring borrowers can have their day in court and the Department can adequately oversee institutions where problems surface.