

Data Request: Partial Relief for BD Claims

To: U.S. Department of Education Federal Negotiator
From: William Hubbard, Student Veterans of America, and Walter Ochinko, Veterans Education Success
Re: Information Request for Partial Relief Calculations by U.S. Department of Education
Date: January 4, 2018

On December 20, 2017, the Department of Education announced a new approach to processing current borrower defense claims. In particular, borrowers whose claims meet the standard for approval will also be assessed to determine the *amount* of relief for which they are eligible. The Department described that it will compare students' current earnings to those of their peers from a passing gainful employment program; those making less than half of the GE passing earnings will receive full relief from their federal student loans taken out to attend the relevant program, and students earning above that amount will receive proportionally less relief.

For the present rulemaking, the Department has asked negotiators to consider approaches for determining the amount of relief to grant to borrower defense applicants, including a proposal similar to the December 20, 2017 announcement. To fairly consider this question, and to evaluate the Department's currently proposed standards for "financial harm" and granting partial loan discharges, we require additional information about the planned partial relief formula. We therefore request that, in advance of the January Committee meeting, the Department share copies of its policy documents (beyond the publicly available press release) explaining the details of how and to whom the partial relief process is to be applied.

Additionally, we seek the following information, to be provided as available rather than waiting until the entire response is prepared:

Clarifications on the Partial Relief Formula

- Is the partial relief formula announced on December 20, 2017 applicable only to applicants from Corinthian Colleges? If not, please specify if it is applicable to all current applicants; or, if only applicable to those from certain schools, specify which schools.
- Were all of the borrower defense claim approvals and denials announced on December 20, 2017 for borrowers at Corinthian Colleges? Has the Department preliminarily assessed partial relief options for other institutions, and does it believe this formula is viable at those institutions?
- How is the Department calculating or determining students' earnings for purposes of calculating relief under the formula announced December 20, 2017?
- If the Department is determining earnings for individual borrowers based on an average, how is that average calculated?

- How does the Department anticipate accessing students' current earnings going forward? Will this information be self-reported, obtained from the Social Security Administration, or obtained via another avenue?
- How is the Department selecting the earnings benchmark for the partial relief calculation? Does it take into account the debt load of students in the benchmark cohort as compared with the applicant's debt load or the debt load of students in the applicant's program? Does it take into account the location of the students in the benchmark cohort (again, as compared with the applicant's location)?
- Will the GE earnings benchmark of passing programs include only the earnings of those in the same program *and* credential level? How does it factor in the earnings of students who are unemployed, either because they have enrolled in another school program or because they cannot find employment?
- How does the Department anticipate processing claims for former students in fields for which there are no GE data (for the program or the credential level) or for which none of the GE programs are passing? Will there be a threshold as to how many passing GE programs (or students in passing GE programs) must be available for the data to be considered reliable enough to use as a benchmark?
- How does the Department anticipate processing claims for former students whose earnings exceeded the relevant benchmark even prior to the student's enrollment in the program giving rise to the borrower defense claim?
- Has the Department done an analysis of whether GE earnings data, which are based on completers, are suitable for adjudicating claims of both completers and noncompleters? If so, please share this analysis.
- What are the criteria the Department uses for denying borrower defense claims, particularly in the context of the denials it announced on December 20, 2017?
- Please share any analysis the Department has conducted comparing gainful employment earnings data to Bureau of Labor Statistics earnings data. Given that the Department plans to rely on gainful employment earnings in the context of current claims, and has proposed to use BLS data in its Session Two issue papers, we would like to evaluate both options.

Data Analysis

- Please provide the breakdown of borrower defense claim approvals and denials by: 8-digit OPE ID, CIP code, and credential level.
- Please provide a breakdown for the borrower defense claim approvals announced on December 20 for each of the tiers of the amount of relief that the Department plans to use (e.g., 100%, 50%, 40%, etc.). Please provide an estimated breakdown in the same manner for all claims the Department has received between January 20, 2017 and the date of this request.
- Please provide an estimated cost savings for the borrower defense claim approvals announced on December 20, 2017 for using a partial relief formula as opposed to providing full relief for all approved claims. Please provide an estimated cost savings in the same manner for all claims the Department has received between January 20, 2017 and the date of this request.

Implications for Veterans

Please note that we would appreciate receiving responses to all of the questions in this document as soon as possible. However, we understand that the analysis for the below questions may take some additional time, and ask that the responses to the earlier questions not be delayed by them.

- How many defrauded veterans have applied for borrower defense? How many have been approved for full relief and partial relief? How many veteran claims are pending? Please provide these statistics in the aggregate as well as by institution (8-digit OPE ID).
- How many defrauded spouses and dependents of veterans have applied for borrower defense? How many have been approved for full relief and partial relief? How many of these claims are pending?
- What kind of outreach is the Department doing to alert defrauded veterans of the Department's delay of the borrower defense rule? What kind of outreach is the Department doing to communicate with each defrauded veteran of the status of their respective pending case?

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