Borrower Defense to Loan Repayment Form 60 day Public Comment and Departmental Response Table – September 21, 2016 – Docket ED-2016-ICCD-0075

Commenter Name	Comment Number	Company (If Any)	Comment Summary/Comment	Department Response/Change Made (if applicable)
Anonymous	ED-2016-ICCD-0075-0004	Two-Year Public Institution of Higher Education	Please create a form that is user friendly. So many students do not understand other ED forms that are available. Also make sure it clear for all parties. Good example would be the deferment forms. Great Lakes will give student full Eco Hardship Deferment that show he or she is on food stamp. Where FedLoans will only give six months for Eco Hardship deferment depending on the student's food stamp letter from the state. Is the form going to give the student resource? Will this form replace the FSA ombudsman complaints form on Student Aid.ed.gov? Will the FSA ombudsman complaint form become the new Borrower Defense to Loan Repayment? How will the form educated the student on this? How will school give out this form? Will there be instruction on it? Please make the instruction user friendly because this is one of rest why people do not submit claim. Everyone hates reading legal wording and some time the wording is too gray.	This borrower defense to loan repayment ("borrower defense") form will not replace the FSA ombudsman complaints form. The borrower defense form will be provided in three formats on the Studentaid.gov/borrower-defense website: HTML, fillable PDF and a form wizard that can be submitted online. There are instructions regarding the information that borrowers should provide, as well as a Question and Answer section informing borrowers of their options regarding forbearance. The Department also will update the borrower defense website to provide further instructions to guide borrowers in the process.
Clark Burnett	ED-2016-ICCD-0075-0005	Individual	This, and all documents, should be available in: 1) MS Word fill-in-able format, and/or 2) .pdf fill-in-able format. (Apparently, Adobe Acrobat doesn't allow more than a certain small amount of any given form to be fill-in-able on the license - maybe 500 copies - so you will have to use other software or get it developed in-house at OMB?) Also/or (at a minimum): 3) on-line format that is entered directly so that no paper/printing is required. Additionally, there should be a way for electronic signature(s) (the IRS can do it so any department can do it) so that people can fill these in by typing, save an electronic copy, and email it in with no paper/printing.	The borrower defense form will be provided in three formats on the Studentaid.gov/borrower-defense website: HTML, fillable PDF and a form wizard that can be submitted online. Borrowers will be able to sign the fillable PDF and form wizard versions by uploading a file that contains their signature.

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			Why should we print out, fill-in by hand, sign non-electronically, and scan for email or mail forms when it could/should all be done on computer?	
Anonymous	ED-2016-ICCD-0075-0006	Student	Collection Companies have no limit on time when they can collect on Federal student loans. Students shouldn't be limited at all on the defense for repayment. There was rampant fraud by the for-profit college industry for decades. If the government can't easily investigate/hold schools accountable in a reasonable amount of time, how do you expect students to in a limited amount of time? Make the process easier, DO NOT limit the time. If you limit the time, remove the federal guarantee. If you can't hold for-profit colleges accountable for fraud, remove them from the federal lending program. EDMC, CECO, ITT, and others are absolute frauds, and they need to be held accountable. ACICS and other accreditors allowed these scamsters to defraud students in droves. Now students need the help of the government to get their money back.	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.
Kristofer Fogg	ED-2016-ICCD-0075-0007	Military	Please, no statute of limitations on Defense to Repayment. So many of us thought we we had to live forever saddled with the debt so carelessly heaped upon us by "colleges" that lied. Too many people's lives have been ruined. Too many people were forced to take out private loans that they could never pay back. The law, though vague, doesn't mention a statue of limitations.	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.
Anonymous	ED-2016-ICCD-0075-0008	Individual	As a taxpayer, I hope that you will not implement the Department of Education's proposed "Defense to Repayment Regulations." When your own analysis shows a cost of somewhere between $2 billion and $40+ billion over ten years it shows that you really have no idea how much of a tax	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.

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			burden these regulations will add to the American people. These regulations would lead to costly and frivolous lawsuits at the expense of taxpayers and would do little to help students by comparison. A government agency such as the Department of Education shouldn't even be making a decision to create regulations that would add billions of dollars to federal spending. Congress alone holds this authority. Please do not implement these proposed regulations.	
Janet Shaw	ED-2016-ICCD-0075-0009	Parent/Relative	The cost of higher ED has been going up much faster than inflation. WHY? More demand. More students who can pay more money. Why? Easy student loans. Why? Government guarantees. So, Uncle Sam helped make school loans too easy to get - more students borrowed - schools hired more administrators to help students process the loan applications... better paid professors, deluxe student gyms... costs go up, up, up... and surprise, surprise... many students have trouble finding jobs that pay well enough to pay back the loans. How will a taxpayer bailout help? It won't. It may help a few individual students. But, we - including those who did not go to college - will pay for it and the incentives to borrow more than you can afford will increase.	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.
Fritz Anonymous	ED-2016-ICCD-0075-0010	Student	The Defense for Repayment must be made available for every student that has been defrauded by these corporations in the For Profit College Sector. Unacceptable that these young students have been force into a lifetime of debt and left with no real degree to make a career out of. Some left with no degree at all, yet have to repay their loans. There should be no statute of limitations as they will have scammed millions and millions of dollars from these students. Here is my experience. The For-Profit Recruiting practice student protection law, was not in place yet and they preyed on me. I was a poor single mother family, high school graduate wanting to chase a	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.

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			dream in the art field. I filled out an online questionnaire while at the public library doing school searches because I could not afford a computer or the internet. I was immediately contacted by phone and asked a lot of personal questions especially about my family situation Then I was told to write a 300 word essay on why I wanted to attend the school. I visited the college two times as they woo'd me with their facility (or lack there of, once I began attending) in a "big city" downtown college. The sales pitch was that they were a premiere art school ahead of the curve in industry standards focused on new media, fashion and internet degrees but they were far from it. Fraudulent claims were made about the total cost of the school. Falsely stated their accrediting system, said it would be retro-actively applied to my degree once they became accredited. It will never be applied. Dishonest statements were made to me that I would have transferable credits to other schools for a continued education/masters program. Criminally deceptive about never disclosing student housing costs and how they weren't included in the school costs but they were added into my student loans. Lied about the location of student housing in proximity to the school. It was over an hour away and I was told that I wouldn't need a car. This forced me to find an apartment that was located closer to the school/city ASAP. Never disclosed that the cost per credit hour rate inflated, if more than one quarter was taken off, during their very demanding, 11 week, 4 quarter, year round system. Never disclosed costs of supplies, books and travel expenses. The success of job placement during and after school was falsely represented. Curriculum and technology was outdated. I had to educate	

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			myself on what new technology was available, how to use it and how it applied within my field of study, on my personal time. I had to switch majors and almost start over my education due to their curriculum and technology being outdated in the animation degree. Went through four financial advisers, all of which, made it seem like they had no idea what was going on. Funneled me to special interest lenders Once I officially became a student they were complacent with my personal situation on funding, when they had falsely expressed to me that they would work with me and my situation throughout my schooling. Never disclosed that I couldn't file bankruptcy on my student loans. They wouldn't let me attend classes until the first payment was received by their accounting department, from the very student loan lenders they funneled me to. Sometimes this would be a week or two of missing important studio classes, resulting in a lower grade due to absenteeism. Encouraged me to over apply for extra money with my student loans for supplies/living expenses with a continual need for cosigners because they would no longer accept me as an individual loan applicant. AI said I should work a full-time job while in school to cover extra expenses. They did not help in finding me employment. I had to find it myself, so I found one within my field of study. However the 4 quarter semester system made it next to impossible to do this without rearranging how my classes were scheduled, with which my curriculum was structured. Meaning I had to put certain classes off, even though it was a prerequisite for other classes. I had to work a 9-5 then go to all evening classes 5-6 days a week. Did not assist me in finding an internship. I found it myself. There was no support system in finding me a job after the completion of my degree. I found my first job after submitting hundreds of resumes.	

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			There has been no follow up since graduation nor any assistance since college.	
Randy Kuykendall	ED-2016-ICCD-0075-0011	Private/For-Profit Institution of Higher Education (Western Technical College)	These comments pertain to the Borrower Defense to repayment NPRM issued by the U.S. Department of Education (ED). I am the owner of a private, for-profit college that has operated in my family for four generations spanning nearly fifty years. I represent the third generation of same family ownership and operation. Since ED has seen fit to promulgate a regulation with some sections targeted specifically at for profits, I suggest that ED carry the "targeted approach" one step further. Since it is almost exclusively the large, publicly traded chains of schools that are responsible for the issues at hand, I suggest that ED make the regulations pertain to them and not impose a regulatory strangle-hold upon those of us with family owned and operated, quality oriented, and student focused operations with excellent student outcomes. I don't mind being held accountable for my own mistakes, but I do object to being held accountable for the mistakes of others. This NPRM is so broad in its application, it may well put our fifty year institution out of business. It places our school in a proverbial "catch 22" position where there is no way to survive. Increased lawsuits means increased expenses to the school. Increased expenses means higher tuition which directly affects and endangers the colleges compliance with Gainful Employment regulations and 90/10 provisions, not to mention the student's ability to afford the education. This rule would encourage lawsuits in an already overly litigious society that is subjected to innumerable trial lawyer advertisements proclaiming, among other things, that, "…you are entitled to a cash settlement…". In nearly five decades of operation, we have utilized	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.

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			arbitration three or four times and have found it to be a very fair and honorable way to resolve differences. It is also far less expensive and time consuming than trials. Differences of opinion are unavoidable in any kind of endeavor, college being no exception. People don't always agree. But to encourage the use of so called "trial lawyers" against schools and expecting a positive outcome is like hiring the foxes to guard the henhouse and expecting the production of eggs to increase. The colleges will spend much of their time and resources defending a few students' frivolous claims at the expense of educating the majority students. Recently an article written by a former United States Secretary of Education stated the following: "The new rule would open up colleges and universities to an avalanche of lawsuits, many frivolous or unwarranted. Specifically, the proposed rule would forgive student loan debt if the college or university is ruled to have made a "substantial misrepresentation" to the student. That is a monumental shift from the traditional legal definition of fraud, which requires an "intent to deceive." By removing intent, this change would open the door to lawsuits for misrepresentations made by colleges or universities by mistake or under circumstances it can't control, like underperforming students or the unavailability of well-paying jobs. To make matters worse, under this change, these rulings would be made by a Department of Education hearing examiner—not a judge. Colleges and universities would have little chance of appeal." William J. Bennett –Ideas Education – July 27, 2016. Based on excellent outcomes, our Accrediting Commission (ACCSC) designated our college as a "College of Excellence" for the past six years. Nevertheless, several years ago, two graduates sued the college claiming that we did not provide them with sufficient graduate employment opportunities. We subsequently sent them numerous and very viable job leads and job interviews through their attorney. They did not show up for any interviews nor did they follow up on a single job	

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			lead. We learned that they were both receiving some form of disability income and if they went to work, they would lose it. The frivolous case is being dismissed for want of prosecution following their attorney's loss of his license to practice law. This example illustrates exactly the type of frivolous law suits and disreputable attorneys that this regulation will encourage. This regulation is unfair and lacks due process by providing that the trigger for posting a letter of credit by the school is not a judgement against the school, but the simple filing of a lawsuit, no matter how frivolous it might be. How would ED feel if they had to post a letter of credit every time a school filed suit against them if there were no restrictions governing such events? The NPRM also imposes unreasonable financial requirements on schools by deeming them not financially responsible during pending law suits based on the fact that an action has been filed. Such an action demonstrates punitive intent, not reasonableness. If ED really wants to target the unscrupulous schools, I suggest that the final regulation allow arbitration but require each school to report the number of annual student/graduate arbitrations in their annual certified audit. Those schools showing a pattern of arbitrations above a reasonable threshold, which the regulation would set, would be required to post a letter of credit for each year of non-compliance and perhaps forego the right to further arbitrations. ED also states in the NPRM that they decided to exclude traditional schools from the repayment rate warning and disclosure requirements because compliance would impose significant disclosure burdens. Among schools with similar repayment rates there is no justifiable legal, policy, or any other rationale that supports imposing a significant disclosure burden on one specific sector and not others. ED ignores the fact that nearly 30 percent of institutions with equally bad or worse repayment rates of for-profits will not be required to provide additional disclosures or warnings to students. I, therefore request that ED either delete this new	

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			repayment rate definition entirely or apply it to all institutions of higher education. Additionally, the NPRM requires schools to maintain records of federal funds disbursed indefinitely, thereby creating an extreme and seemingly open-ended burden on schools in their efforts to maintain compliance. Allowing an unlimited timeframe i.e. a total lack of any statute of limitations for students to pursue borrower defenses decreasing any school's ability to adequately respond to all claims whether meritous or frivolous. Thank you for providing the opportunity to comment, Randy Kuykendall Western Technical College 915 227-4261	
Tim Anonymous	ED-2016-ICCD-0075-0012	Student	All of America's youth and people paying school loans should have access to this knowledge some schools have made education purely a business matter.	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.
Norine Fuller	ED-2016-ICCD-0075-0013	Institution of Higher Education (Fashion Institute of Design and Merchandising)	Below are the comments of the Fashion Institute of Design and Merchandising (FIDM) on the proposed Borrower Defense Regulations. FIDM is concerned that the attempt to clarify a borrower's claim against repayment has resulted in a complex, overly broad, legally tenuous and costly proposal. I. Basis for Borrower Defense Claim - The Department proposed three tests for its revised borrower defense claim: A favorable decision in a state or federal court of the defense claim Breach of contract by the school, and, "Substantial misrepresentation" by the school about the nature of its educational program, its financial charges or the employability of its graduates. FIDM believes the last test to be unsound and unreliable because it would:	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.

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			Eliminate the need to prove intent to deceive by the school. Use an extremely vague and subjective standard of evidence as a basis for borrower defense against payment. Make a reasonable interpretation of meaning or intent by the school virtually impossible. Moreover, the determination that there has been a "substantial misrepresentation" about the nature of educational programs is based on a "preponderance of evidence" which is itself driven by the Department's determination of misrepresentation regardless of intent by the school. In addition the Department may consider information omitted by an institution's representative that might be construed to make a school's representation of its programs false, erroneous or simply misleading. The recasting of Borrower Defense claims makes it difficult for all schools (not just schools of questionable quality or lacking adequate financial resources) to serve students with any degree of certainty that they are protected against arbitrary and capricious legal action. II. Claim Resolution/Recovery of Funds The Department proposes using a "fact finding" process to resolve claims but fails to specify appeal and evidentiary procedures necessary to contest a borrower's claims of misrepresentation. In addition the Department is given the authority to create groups of borrowers, advocate on their behalf and ultimately adjudicate their claims. Such groups which may even include borrowers who have not filed a borrower defense claim. FIDM believes that a more clearly defined and equitable resolution process would better meet basic standards of fairness for borrowers and schools alike. The proposed rule gives the Department the authority to seek repayment from schools for any loan amounts forgiven. Again, the procedures for this action are undefined in the proposed rule except that in the case of a collective claim the	

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			Department can automatically assign liability for repayment to the school. III. Taxpayer Costs The Department of Education estimates the potential cost of the proposed regulations may be as much as $43 billion over a ten year period. This staggering amount is the result of an open-ended approach that assigns virtually all liability to institutions and which will, in the end, be borne by tax-payers. These costs do not include potentially limitless legal costs stemming from litigation, which is actively encouraged by the proposed rule. In sum FIDM believes that the complexity, ambiguity and lack of fairness of the proposed rule will result in greater, not lesser, harm to students, schools and taxpayers. Issues of educational quality, recruitment, graduation and employment, and student loan defaults would be more effectively addressed by limiting access to Title IV student aid to those institutions with demonstrated success in student outcomes. There is a critical need in higher education to balance access and success, cost and quality, opportunity and responsibility. The proposed rule makes adversaries of those who should be working together to meet mutual goals of educational success and student achievement. Sincerely, Norine Fuller Executive Director; Student Financial Services	
Samuel Pratt	ED-2016-ICCD-0075-0014	Individual	I recently about 3 months ago applied for permanent/total disability as reason to remove my student loans through the servicing agency Fedloans.com. They denied me the request. But the Federal government itself, labelled me as Disabled when I applied for a job with homeland security. I sent them a copy of my Federal Social Security Administration letter which states my condition. They claim I have insufficient	This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.

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			documentation but never told me what specific documents I should send to them. Very frustrating.	
Margaret Reiter	ED-2016-ICCD-0075-0015	Legal Aid Foundation of Los Angeles/Legal Services Center of Harvard Law School	I appreciate the effort made to provide a universal borrower defense application form. I write briefly in addition to that comment to point out several areas where the form does not meet the goals described in the related Supporting Statement for Paperwork Reduction Act Submission. For example, the form is not a clear method to provide necessary information; it does not adequately facilitate the Department's receipt of complete information necessary to process applications efficiently; the Supporting Statement does not make clear what supporting information the Department believes it does have, especially concerning borrower defense claims under the FFEL program – information which it does not seek from borrowers, but without which the Department might consider a claim insufficient; while the form purports to be "universal," it does not address information that would support a FFEL claim, but not a Direct Loan claim under the Department's proposed Direct Loan borrower defense regulations; the form will take more than the estimated time allotted for filling out the form and locating and providing supporting documents and other supporting evidence; it does not allow "uniform and directed collection of minimum Borrower Defense information;" and it does not "ensure" borrowers wishing to invoke a borrower defense can do so in a "uniform and efficient manner." The commenter includes seven (7) sections that address the following concerns: I. Clarity, Ease of Reading, Understanding II. The Form Does Not Adequately Address FFEL Loan Borrowers' Defenses III. The Form Does Not Assure Applicants that They May Supply Information or Documents Available to Them, even if They Don't Have Everything Requested. IV. The Form Does Not Provide an Initial Clear Request to Tell about the School Experience	I. The Department is aware that it is important to provide plain language within the form such that borrowers of various education levels can understand the language therein. For that reason, we consulted with staff who focus on customer experience issues to ensure that the form is clear and uses plain language. The Department also drafted this form such that borrowers must provide an explanation of the school's conduct in their own words. Therefore, each of the relevant sections uses general questions within certain categories in order to ensure that the borrowers use their own language and phrasing within their applications. II. The form does not differentiate between Direct Program and Federal Family Education (FFEL) Program loans because it will use the same standards for reviewing claims from borrowers who have either type of loan, or both types of loans. It will not require a referral relationship for FFEL borrowers as the commenter suggests. III. The form, within Section III, specifically states in bold and underlined text that borrowers only need to fill out sections within the form that apply to them. It also encourages borrowers to provide any documents that are related to the application. While the commenter recommends that the Department provide examples of the types of documents that may be useful does not want to dissuade borrowers from applying simply because they do not have all of the documents the Department may have deemed useful. IV. The commenter suggests that the form should ask borrowers to provide a clear request for information. The Department believes that Section III provides a clear request for

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			V. The Form Does Not Address Conduct VI. The Form Does Not Seek Corroborating Evidence VII. The Form Does Not Address Conduct Used to Prevent Students from Withdrawing after Enrollment	information, including asking borrowers details about what activity their school engaged in, as well as plain language descriptions of the types of activities that could give rise to a borrower defense to repayment claim. V. The commenter states that the form does not ask the borrower to address the school's conduct. The Department believes that Section III provides a clear request for the borrower to provide descriptions of the school's conduct, including the type of conduct, which school employees engaged in such conduct, and the titles of those individual employees. VI. The commenter states that the Department does not seek corroborating evidence. The Department believes that Section III provides a clear request for the students to include documents related to the application. Documentation is among the most helpful sources of information that the Department can use in reviewing borrowers' applications. VII. The commenter states that the form does not elicit information from enrolled students, only prospective students. The sections within the form that ask students about the types of conduct that the school engaged in do not distinguish between prospective and enrolled students. Therefore, it does not indicate to borrowers that borrower defense to repayment applications only relate to activities that schools engage in prior to a borrower's enrollment.
The Debt Collective	ED-2016-ICCD-0075-0016	The Debt Collective	1. The most obvious problem with this form is that it reflects the Department's proposed narrowing of the legal standard for borrower defense. Along with multiple other commenters, we have already stated our objections to this narrowing. We incorporate them here by reference. The form should be broadened to reflect the broader legal standard that should properly govern borrower defenses. 2. We would also like to object to the language of	1. This comment addresses issues related to the legal standard for borrower defense, not the information collection required by the form. 2. The term "forgiveness" of federal student loan debt is a plain language description of a borrower's rights under the borrower defense to repayment statute and regulations that is meant to provide clear information for

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			"forgiveness" of loans. Borrowers who have been defrauded are not being forgiven, nor are their loans. They did nothing wrong. They are having their loans cancelled, erased, discharged, etc., because it is their right. Because others did them wrong. 3. The form requires borrowers to affirm, for each type of misrepresentation, that the particular misrepresentation played a role in their decision to enroll in the school. This affirmation is legally unnecessary and potentially confusing. The former point has been elaborated on at length in the negotiated rulemaking sessions (including separate conferrals with Department lawyers and borrower advocates) and in multiple comment letters. We incorporate those arguments by reference. As for the latter, what does it mean to "choose to enroll in [a] school base in part on the issues" borrowers described? One might guess that the Department is trying to get at the fact that a borrower believed the misrepresentations and those misrepresentations played a role in their decision to enroll. But this is mostly clear to us because we know the context of the disputed legal issue of reliance. At least as currently worded, it is not clear what it would mean to enroll because of an "issue" they described. If the Department is to insist on a reliance requirement for individual borrower applications, then at least it should employ some different wording. Perhaps something like: "Did the misrepresentations you discussed concerning [insert topic here] play a role in your decision to enroll (or stay enrolled) in your school?" 4. Additionally, the form should not require borrowers to articulate everything that happened to them as a misrepresentation. Borrowers may have some information relevant to determining whether they were faced with a misrepresentation when combined with information in the Department's possession (or that the Department receives from elsewhere or through investigation) even if they do not know it. 5. It remains ridiculous that these standards do not apply to FFEL loans. We incorporate by reference our previous	borrowers who may wish to file an application. The description of the borrower's rights is meant to provide a brief, clear description, such that borrowers understand the process. 3. Under the proposed borrower defense to repayment regulations, the Department may consider the borrower's actual reasonable reliance on an alleged misrepresentation by the school in reviewing a borrower's application. Therefore, this section has been edited to reflect that borrowers must affirm that the issues that they have described in each subsection within Section III affected their decision to enroll in the relevant school. The Department largely accepted this commenter's edit, which is reflected within the current version of the application. 4. The borrower defense form does not foreclose the Department from using extrinsic evidence that it has in reviewing a borrower's application. The purpose of the form is to elicit relevant information from a borrower who files an application. 5. The Department will request forbearance on behalf of borrowers who have commercially held Federal Family Education Loans (FFEL) Program loans because the lenders that hold those loans must confirm that a borrower has filed a borrower defense application before places those into forbearance. Therefore, the mandatory forbearance regulation will apply to FFEL Program lenders, but the Department will make the request on behalf of borrowers, such the lenders can confirm that the relevant borrower has submitted an application. 6. The borrower defense form will be provided in three formats on the Studentaid.gov/borrower-defense website: HTML, fillable PDF and a form wizard that can

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			statements on the topic in addition to those made by the legal aid community. This form does not even seem to comport with the Department's own NPRM. It says that "if you select forbearance and you have commercially held Federal Family Education Loans (FFEL) loans, the Department will request forbearance on your behalf." Yet the NPRM contains proposed section 682.211 that "would require a lender to grant a mandatory administrative forbearance to a borrower upon being notified by the Secretary that the borrower has submitted an application for a borrower defense discharge related to a FFEL Loan…" (italics added). Which is it? 6. The proposed form is only available as a fillable PDF. This presents a significant accessibility barrier to many. First of all, it may require having Adobe Acrobat installed (the original attestation form did). Most people have not installed Acrobat, and we received multiple questions about why the attestation form was not showing up for borrowers trying to fill it out. As well, in its current shape, this form will likely have significantly lower adoption due to its inaccessibility on mobile devices. It would not be hard to create a mobile-friendly web form that would guide borrowers through filling this form.	be submitted online. Borrowers will be able to sign the form wizard by uploading a file that contains their signature. The form wizard will be accessible on mobile devices.
Dan Connolly	ED-2016-ICCD-0075-0017	Ideas42	1. One common barrier to the completion of forms is length. The current paper version of the Borrower Defense form appears lengthier than it is, because it is unlikely that any given borrower will have complaints from each of the categories in Section 3 ("Employment Prospects", "Program Cost and Nature of Loans", "Transferability of Credits", "Career Services", "Educational Services", "Admissions & the Urgency to Enroll", "Other"). We recommend that the paper version provide a "roadmap" at the beginning of the document, outlining each section and providing an estimate of how long it will take. We also recommend that the online version ask borrowers to indicate which of the categories their appeal concerns, and use skip logic to bypass unneeded sections. Providing process transparency will allow borrowers to complete the form more effectively, and will increase the number of	1. The borrower defense form will be provided in three formats on the Studentaid.gov/borrower-defense website: HTML, fillable PDF and a form wizard that can be submitted online. The borrower defense form wizard will allow for borrowers to skip sections within the form that do not apply to them. 2. The Department agrees that a borrower's decision with regard to placing Federal Student Aid loans into forbearance is a difficult one. Therefore, we have provided a Question and Answer section prior to requesting that borrowers make the decision to place or not place their loans into forbearance so that they can make an informed decision. The

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			borrowers who actually do complete it. 2. For several reasons, the choice of whether to request the placement of one's loans in forbearance during the adjudication period is likely to be a difficult one for borrowers. The choice itself is non-distinct from the rest of the text, and borrowers may miss the fact that they even have to make a choice. Borrowers who fail to choose will have their loans placed in forbearance, potentially accumulating unintended interest. The decision has many facets, and borrowers may not be able to accurately weigh the implications of choosing "yes" or "no if they don't intuitively understand the consequences of the choice. Finally, the choice comes at the end of the form, making it more likely that borrowers will pick an option just to complete the form rather than fully considering the choice. We recommend that the Department redesign the choice on this page so that the "Yes" and "No" options are clearly marked and placed side-by-side. We also recommend that the consequences of each option be placed directly below the choices, rather than in the preceding text. Finally, the Department should consider moving the choice earlier in the form, so that borrowers are more likely to thoughtfully complete it. 3. Even for the motivated researchers looking to provide comments on the Borrower Defense process, it was not necessarily easy to find its location on the Department's web site. We expect this will be even truer for student borrowers who maybe victims of negligent or malicious practices by schools but are not aware of the Borrower Defense process. We recommend that the Department invest resources into actively advertising this option, particularly targeting borrowers whose schools have had findings issued by the Department.	Department understands that there may be borrowers who submit applications for borrower defense that omit to fill out the Forbearance/ Stopped Collections section. Therefore, for borrowers who fail to fill out that section, we will automatically place all Federal Student Aid loans for those borrowers into forbearance or stopped collections. If borrowers later decide to remove any Federal Student Aid loans from forbearance or stopped collections, they can do so by contacting their servicer(s). With regard to the commenter's suggestion that the Department provide the forbearance option in a side-by-side format, the Department accepts that edit, which is reflected within the current version of the application. 3. This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.
Sixteen (16) State Attorneys General	ED-2016-ICCD-0075-0018	Sixteen (16) State Attorneys General	1. Replace the phrase "some or all of your federal student loan debt. . ." with "all of your federal student loan debt made to attend the school or program where misconduct occurred" 2. Replace the phrase "may include reimbursement for amounts paid" with "will include reimbursement for	1. The Department uses the phrase "some or all of your federal student loan debt. . ." to cover both those situations where full relief is warranted and those where partial relief is appropriate. Also, the phrase recognizes that applications may be filed that relate to some

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			amounts paid, if any". 3. The preamble should also make clear that private loans are not eligible for relief. The Department cannot discharge private loans, but students are not always aware of this distinction. Similarly, it is our understanding that parents seeking discharge of Parent Plus loans must fill out a separate application, and this should also be clarified. 4. We believe that the Department should consider renaming Section II to avoid consumer confusion. "School Information" is a plain language alternative to "Program Information" that captures the essence of the request. 5. Many students cannot distinguish between the options under the "Credential/Degree Sought". We recommend providing additional instruction about what each choice means, and specifically explaining the difference between a certificate and a diploma. 6. We believe that the Department should strive for simplicity when explaining "claims for loan relief". "Tuition recovery programs" are not common and do not clearly illustrate what a "claim for loan relief" is. The Department should consider using a lawsuit or arbitration filed against the school as an alternative example. 7. We generally support the Department's decision to break out several types of common misrepresentations that prospective students encounter in their dealings with predatory schools. It needs to be made clear, however, that the subsections of Section III, such as "Employment Prospects" and "Program Cost and Nature of Loans" are not an exclusive list of the bases for borrower defense. Taking all these points into consideration, we propose the following language for the "Other" section: Do you have any other reasons relating to your school that you believe qualify you for borrower defense? For example, are there other reasons you feel your school misled you? Is there other important information the school failed to tell you? Did your school fail to perform its obligations under its contract with you? Is there a judgment against your school? Has a state or	subset of federal student loan debt and not the full amount. 2. Again, the Department has used the language "may include reimbursement for amounts paid" to reflect both scenarios where reimbursements are warranted and where they are not. 3. The Department understands the commenters' concerns. With regard to private, non-Federal Student Aid loans, the Department plans to update its borrower defense to repayment website to reflect changes that will go into effect under its forthcoming final regulations, and will take this comment under advisement in doing so. With regard to parent borrowers who have Parent PLUS loans who wish to file borrower defense applications, we have edited the application to include a section that prompts these borrowers to include the last four (4) digits of their child's Social Security in order to clarify that they must submit a separate application in order to seek a discharge of their loans. The Department believes that this section clearly delineates between a student and parent borrowers. 4. The Department has accepted this edit, such that the application current requests "School Information." 5. The Department understands, based on its review of a significant number of borrower defense applications, that there are borrowers who may not understand the distinction between different programs' credential levels. However, this information is important and helpful for the Department's review of borrower defense applications. Therefore, this information, within the current version of the application, is not mandatory for borrowers' applications to be considered complete.

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			federal enforcement agency, such as your state attorney general, opened an investigation into or made findings against your school? 8. Our understanding is that the Department plans to continue to use the Form after the new borrower defense regulations are in effect. We suggest the following: Did the school pressure you to enroll immediately, discourage you from waiting to enroll, discourage you from speaking with a family member or advisor, portray an admissions recruiter as an educational counselor or career consultant there to advise you in your best interest, or otherwise engage in high-pressure or misleading sales tactics during the admission process? 9. The Form should inquire about misrepresentations concerning licensure and accreditation. We believe the "Employment Prospects" section should read: Do you feel like your school misled you (or failed to tell you important information) about future employment, the likelihood of finding a job, how many people graduate, the ability to obtain a license or certification, eligibility requirements for specific careers, and/or what the average graduate might make? 10. The Department should consider reworking the final question of each subsection in Section III. Instead of "[d]id you choose to enroll in your school based in part on the issues you describe above," consider "[d]id any of the issues above affect your decision to enroll in this school?" This broader phrasing addresses the complex nature of the decision to attend a given school, while still providing information on reliance. 11. We believe that the following plain language edits would also benefit the subsection descriptions in Section III: • In "Transferability of Credits", instead of the phrase "about the transferability of credits", consider "about the likelihood your credits from this school might transfer to other schools".	6. The Department has accepted this edit, such that this question now uses a more plain language approach. 7. The Department largely accepted this commenter's edit, which is reflected within the current version of the application. The "Other" subsection prompts borrowers with regard to any other reasons (in addition those specified within the subsections within Section III above) that their schools may have mislead them. 8. The Department drafted the "Admissions & The Urgency to Enroll" subsection within Section III of the borrower defense form such that borrowers must provide an explanation of the school's conduct in their own language. We believe that this section properly identifies high pressure sales tactics that school personnel may engage in. 9. The Department has edited the "Employment Prospect" section within Section III of the borrower defense form to include a broader question regarding this type of misrepresentation. 10. The Department has accepted this edit. 11. The Department has accepted these edits. 12. The Department has accepted this edit.

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			• In "Career Services", instead of the phrase "about the availability of job or career services assistance", consider "about the availability of help finding a job". • In "Educational Services", instead of the phrase "the method of instruction", consider "instruction methods". 12. We are concerned that schools may attempt to use the sentence regarding assignment of claims in the "Certification" section to preclude a student's private lawsuit or other claim for losses unrelated to forgiven Title IV loans. If the assignment is deemed necessary, the language should make it clear that only claims relating to forgiven federal student loans are being assigned. We recommend the following: I understand that if my application is granted and my loans are forgiven, I am assigning to the Department of Education any legal claim I have against the school for those forgiven loans. I am not assigning any claims I may have against the school for any other form of relief—including injunctive relief or damages related to private loans, tuition paid out-of-pocket, unforgiven loans, or other losses.	
American Federation of Teachers (AFL-CIO); Americans for Financial Reform; Empire Justice Center; Higher Ed, Not Debt; Housing and Economic Rights Advocates; Legal Aid Foundation of Los Angeles; Legal Services – NYC; National Consumer	ED-2016-ICCD-0075-0019	American Federation of Teachers (AFL-CIO); Americans for Financial Reform; Empire Justice Center; Higher Ed, Not Debt; Housing and Economic Rights Advocates; Legal Aid Foundation of Los Angeles; Legal Services – NYC; National Consumer Law Center, on behalf of its low-income clients; Project on Predatory Student Lending, Legal Services Center of Harvard Law School;	1. The Department should promote the application form through websites and platforms where borrowers already access information about student loans. 2. To make this discharge application accessible, the Department should make sure that it sends consistent messages in its communications about the scope of borrower defense relief. The Department's written materials and the materials used by federal student loan servicers, collectors, and guarantee agencies should promote the form, note the availability of borrower defense and other discharges and avoid inadvertently suggesting that defrauded borrowers are without relief options. 3. The Department should make the form available in paper, online, and optimized for mobile use. The text of the form should identify where borrowers can go to access the form through their preferred platform. 4. The Department should also provide clear guidance to and	1. This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form. However, the Department will endeavor to ensure as many students as possible are aware of the form when it is finalized. 2. This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form. 3. The borrower defense form will be provided in three formats on the borrower defense (Studentaid.gov/borrower-defense) website: HTML, fillable PDF and a form wizard that can be submitted online. The form wizard will be accessible on mobile devices. The borrower defense website will include links to each of the formats. 4. This comment is unrelated to the information

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Law Center, on behalf of its low-income clients; Project on Predatory Student Lending, Legal Services Center of Harvard Law School; The Institute for College Access and Success; U.S. Public Interest Research Group; Veterans Education Success		The Institute for College Access and Success; U.S. Public Interest Research Group; Veterans Education Success	ensure that servicers: (1) inform all borrowers who allege they were harmed by their school, either orally or in writing, with the applicable loan relief forms, including discharge applications and borrower defense forms; and (2) send the borrower defense form as an attachment to monthly student loan statements for all borrowers who attended schools that the Department believes engaged in state or federal law violations. 5. The Department should ensure that all federal student loan servicers and debt collectors proactively direct all potentially eligible borrowers to the application form in the borrower's preferred platform. 6. The Department should avoid language that requires applicants to interpret complex legal concepts. For example, in Section III, one category of misrepresentation is "program cost and nature of the loan." The "nature of the loan" prompt is vague and does not include plain language examples such as the common misrepresentation that a school program. 7. Electronic versions of the form should use skip-logic to expedite sections of the form that are not necessary for every borrower. For paper versions of the form, however, the Department should take care that skip-logic does not render the form confusing. 8. The form currently presents an unnecessarily restrictive view of the reliance standard: it lists six discrete types misrepresentations, presents a problematic "other" category, and asks borrowers if they chose to enroll in a school based in part on misrepresentations regarding each of these subsections. The form should include an instruction that borrowers can provide information about multiple types of misrepresentations, including misrepresentations about issues not expressly itemized in the form.	collection required for borrowers seeking to file a borrower defense claim on this form. However, the Department has taken these suggestions under advisement for outreach. 5. This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form. 6. The Department has accepted this edit. 7. The form wizard will allow borrowers to skip through sections that do not apply to them. 8. Within the introductory language to Section III, the Department included language, in boldfaced and underlined text, that states that borrowers are only required to complete sections that apply to them. The Department believes that this instruction makes clear that borrowers can provide information regarding multiple types of misrepresentations.
Suzanne Martindale	ED-2016-ICCD-0075-0020	Consumers Union	1. As a general matter, we have concerns that the proposed form uses language that may be confusing or overly technical for many people, which may result in the Department receiving less than the full information borrowers may be able to convey to help the Department	1. The Department has accepted this edit, such that a number of the subsections within Section III now use a more plain language approach. 2. The Department drafted the borrower defense

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			evaluate a claim – or even worse, deter some borrowers from even attempting to fill out the application. An overly complex form could undercut the benefits of creating a standard application process meant to facilitate borrower relief based on valid claims of school misconduct. 2. The form makes specific references to conduct involving lying or misleading representation, as well as judgments and breaches of contract, but does not effectively solicit other information from the borrower that could form a valid basis for a borrower defense claim. The form appears only to contemplate the new federal standard for borrower defense, for loans disbursed in 2017 or later, which the Department is still in the processing of finalizing. However, significant numbers of borrowers still have borrower defense claims based on the current standard, involving any cause of action based on applicable state law. Again, the Department must use language that solicits meaningful responses from borrowers, instead of potentially deterring them from sharing their full stories. The form will be more successful in eliciting helpful information if it asks borrowers simply to explain, in their own words, whether they think their school did things that were wrong or unfair to them and, if so, what the school did.	form for the purpose of providing borrowers with general sections that encompass the types of school misconduct that the Department has found in its review of a large number of borrower defense applications to date. The form is supposed to both prompt borrowers to provide relevant information, but also afford them the opportunity to explain what happened to them in their own language.
Harold Huggins	ED-2016-ICCD-0075-0022	The Council for Education	1. The CED proposals an amendment to the form for the Borrower Defense claim to include the right to representation by a third party advocacy organization to act in the interest of the borrower as a protective class. 2. The CED proposals an amendment to the form for the Borrower Defense claim to include contact information to the advocator.	1. This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form. 2. This comment is unrelated to the information collection required for borrowers seeking to file a borrower defense claim on this form.
Vicki Shipley	ED-2016-ICCD-0075-0023	Association/Organization	On behalf of the FFEL community, thank you for the opportunity to provide the attached comments to the draft Application for Borrower Defense to Loan Repayment form. Our comments are intended to provide clarity, consistency and transparency as well as some general questions and comments. It is our understanding this form is for the current process and we look forward to the opportunity to review the form for necessary updates once the final regulations are	The Department accepted these two edits.

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			published. The commenter provided a marked up version of the borrower defense form with two edits to Section IV, "Forbearance/Stopped Collections."	