

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
Borrower Defenses Against Loan Repayment**

- 1. Explain the circumstances that make the collection of information necessary. What is the purpose for this information collection? Identify any legal or administrative requirements that necessitate the collection. Include a citation that authorizes the collection of information. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, list the sections with a brief description of the information collection requirement, and/or changes to sections, if applicable.**

This is a request for an extension of the current information collection for Form 1845-0132. Due to the effects of the COVID-19 pandemic and the suspension of the collection of loans, the Department lacks sufficient data to allow for more accurate updates to the usage of the form. The U.S. Department of Education (ED) continues to require the collection of this information from borrowers who believe they have cause to request the borrower defense to loan repayment forgiveness of a student loan as noted in regulation in 1998 Reauthorization of the *Higher Education Act (HEA)* (Sec. 455(h)).

The regulations for borrower defense to loan repayment forgiveness are specified in [34 CFR 685.206\(c\)](#). The regulation states, in part, “(c)(1) [i]n any proceeding to collect on a Direct Loan, the borrower may assert as a defense against repayment, an act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law.”

To respond to and protect harmed borrowers, ED seeks to continue to provide assistance to allow:

- Student borrowers who attended the Heald, Everest and/ or WyoTech College programs that ED has found made misrepresentations to have their loans discharged if they complete the attached attestation. These borrowers, if they attended a college program during a specified timeframe and allege misconduct by the school, need not prove that school’s actions violated State law as ED’s findings show a State law violation. ED continues to estimate that there are potentially 50,000 borrowers in this category.
- The information process that was established to notify other potentially eligible borrowers of an interim process for accepting borrower defense claims. Thus, while ED continues to develop this process, it will post on its website the attached language, which will direct borrowers who choose not to wait for development of the review process, to send their claims to the address provided and to include a short list of information in support of their claim. ED continues to estimates that there are potentially 100,000 borrowers who may exercise this defense. It is important to note that borrowers from other schools could also submit borrower defense claims if they

believe that their school has engaged in a State law violation related to their education that has harmed them.

2. **Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

ED will continue to utilize the information provided by the borrower to confirm eligibility for the borrower defense to loan repayment. The information will be provided through an online web application or through a fillable and/or non-fillable PDF form document that may be physically mailed or emailed to ED with a borrower's signature and any attachments evidencing enrollment in a Heald, Everest and/or WyoTech College, as well as the information provided by non-Heald, Everest or WyoTech College borrowers who can provide evidence that their school has engaged in a State law violation related to their education that has harmed them.

3. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Please identify systems or websites used to electronically collect this information. Also describe any consideration given to using technology to reduce burden. If there is an increase or decrease in burden related to using technology (e.g. using an electronic form, system or website from paper), please explain in number 12.**

The submission of information is recommended to be done online at StudentAid.gov/borrower-defense (found in the "Special information for Certain Everst Institute, Everest College, Everest University, and WyoTech Students" under the Corinthian Colleges section). The completed form and documentation may be physically mailed to the U.S. Department of Education – Borrower Defense to Repayment, P.O. Box 1854, Monticello, KY 42633.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The information requested of the borrower is needed for processing the borrower defense claim request. While borrower and loan information is held by ED, there is no other mechanism for ED to investigate or apply the discharge except for the borrower to make the voluntary request. This request must be initiated by the borrower.

5. **If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-**

for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

This information collection does not impact any small businesses or other small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If ED did not collect the information on either the specific form or through the website, we would not have the information needed to apply the discharge and could not provide borrowers with allowable recourse to loan repayment under the regulation.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This application is consistent with all of the guidelines in 5 CFR 1320.5(d)(2).

8. As applicable, state that the Department has published the 60 and 30 Federal Register notices as required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB.

Include a citation for the 60 day comment period (e.g. Vol. 84 FR ##### and the date of publication). Summarize public comments received in response to the 60 day notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. If only non-substantive comments are provided, please provide a statement to that effect and that it did not relate or warrant any changes to this information collection request. In your comments, please also indicate the number of public comments received.

For the 30 day notice, indicate that a notice will be published.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On November 2, 2021 a Federal Register Notice was published asking for public comment on the burden assessment for this information collection. One comment was received but it did not pertain to the Borrower Defense Attestation forms covered in this information collection. There is no change to the burden or forms based on this comment. ED considered comments from the public when developing the currently approved forms. To allow for additional comments ED now requests a 30-day public comment period request be published in the Federal Register.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees with meaningful justification.

There are no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided.¹ If the collection is subject to the Privacy Act,

¹ Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation – Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data. If no PII will be collected, state that no assurance of confidentiality is provided to respondents. If the Paperwork Burden Statement is not included physically on a form, you may include it here. Please ensure that your response per respondent matches the estimate provided in number 12.

A Privacy Act statement pursuant to the routine uses identified in the system of records notice (SORN) entitled "Customer Engagement Management System (CEMS)" (18-11-11) and published in the Federal Register as 83 FR 27587-27591 (June 13, 2018).

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature in this collection.

- 12. Provide estimates of the hour burden for this current information collection request. The statement should:**

- **Provide an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. Address changes in burden due to the use of technology (if applicable). Generally, estimates should not include burden hours for customary and usual business practices.**
- **Please do not include increases in burden and respondents numerically in this table. Explain these changes in number 15.**
- **Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burden in the table below.**
- **Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. [Use this site](#) to research the appropriate wage rate. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14. If**

there is no cost to respondents, indicate by entering 0 in the chart below and/or provide a statement.

Due to the effects of the COVID-19 pandemic and the suspension of the collection of loans, the Department lacks sufficient data to allow for more accurate updates to the usage of the form. This is a request for extension of the current information collection

ED continues to estimate an average of 60 minutes (1 hour) per respondent to complete the borrower attestation/ application form for borrower defense to loan repayment request. This time includes reviewing the instructions for completion of the attestation/ application, locating and providing the required evidence of enrollment, and submission to ED.

	Respondents	Responses		Burden Hours
Application	50,000	50,000	x 1 hour	50,000
Sub-totals	50,000	50,000		50,000

Additionally, ED continues to estimate an average of 60 minutes (1 hour) per respondent to respond to the minimum requested items identified on the studentaid.gov/borrower-defense website for borrowers wishing to assert their claim to the borrower defense to loan repayment forgiveness. This time includes reviewing the instructions needed for filing an application, locating and providing the required evidence of enrollment and State law violation and other information, and submission to ED.

	Respondents	Responses		Burden Hours
Application	100,000	100,000	x 1 hour	100,000
Sub-totals	100,000	100,000		100,000

Estimated Annual Burden and Respondent Costs Table

Information Activity or IC (with type of respondent)	Number of Respondents	Number of Responses	Average Burden Hours per Response	Total Annual Burden Hours	Estimated Respondent Average Hourly Wage	Total Annual Costs (hourly wage x total burden hours)
Individual	150,000	150,000	1 hour	150,000	\$16.30	\$2,445,000
Annualized Totals	150,000	150,000		150,000		\$2,445,000

Please ensure the annual total burden, respondents and response match those entered in IC Data Parts 1 and 2, and the response per respondent matches the Paperwork Burden Statement that must be included on all forms.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and acquiring and maintaining record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12.

Total Annualized Capital/Startup Cost : _____
 Total Annual Costs (O&M) : _____
 Total Annualized Costs Requested : _____

There are no start-up costs or annual costs for any respondent.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

ED hired additional personnel to review the initial applications and refine the intake process. ED also recently transitioned the online application and processing of the applications onto a new customer engagement platform and new customer support contractor that cost approximately \$4.5 million to improve the customer experience and innovate operations and processing of the applications.

- 15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).**

Provide a descriptive narrative for the reasons of any change in addition to completing the table with the burden hour change(s) here.

	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate
Total Burden			
Total Responses			
Total Costs (if applicable)			

This is request for an extension of the currently approved information collection. There is no change to statutory or regulatory requirements. We continue to estimate a total of 150,000 responses, resulting in a total of 150,000 burden hours for 150,000 borrowers. This burden continues to be necessary to ensure Heald, Everest and/or WyoTech College borrowers who wish to invoke the borrower defense against repayment of federal student loans can do so in a uniform and informed manner. It will also allow for the uniform and directed collection of minimum borrower defense information from other federal student loan borrowers that attended the school who believe they can provide evidence of such an application for loan forgiveness.

- 16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

This information will not be published.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

ED is not seeking this approval. The OMB control number and expiration dates will be displayed on any form and website.

- 18. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.**

There are no exceptions to the certification statement.