



U.S. DEPARTMENT OF EDUCATION BORROWER DEFENSE TO REPAYMENT THIRD-PARTY RECONSIDERATION FORM

OMB Number: 1845-0163
Form Under Review
Expiration Date:
XX/XX/XXXX

INSTRUCTIONS

Use this form if you are a representative of a qualified third-party requestor that previously applied to the Secretary under the U.S. Department of Education's regulations at 34 C.F.R. § 685.402(c) on behalf of a group of federal student loan borrowers for Borrower Defense relief and the Secretary denied your request to form a group or denied your group application. Please complete this form and include all required documentation if you wish to request reconsideration of our decision.

There are two grounds on which to seek reconsideration of the denial of a group application: the denial of group formation or the denial of relief to a formed group of borrowers. The two types of reconsideration have different requirements.

Group Formation: Reconsideration of a denial of a group formation requires the identification of new evidence not previously available to the U.S. Department of Education ("ED").

Group Relief: Reconsideration of a denial of group relief must be based on one or more of the following grounds:

- administrative or technical errors;
- new evidence that (1) was not previously provided, and (2) was not identified in the final decision letter as a basis for ED denying the group claim; and
- consideration under the applicable state law standard (only for Direct loans disbursed prior to July 1, 2017).

ED will not consider a request for reconsideration based on new allegations of wrongdoing by the school. If you wish to allege new bases for Borrower Defense, you must submit a new application.

Your request for reconsideration must be submitted within 90 days of the date of the written decision from the U.S. Department of Education denying group formation or group relief.

Instructions for submitting your application: Submit this completed and signed application to the Borrower Defense Group directly at BDGroupRequest@ed.gov. After the Borrower Defense Group receives your signed application you will be contacted with instructions for how to submit your supporting evidence, analysis, and other documentation.

By completing this application, you are certifying, under the penalty of perjury, that all the information provided is true and complete. This means that you could face criminal prosecution under the U.S. Criminal Code and 20 U.S.C. 1097 if you knowingly submit a false statement on your application.

SECTION 1: THIRD-PARTY REQUESTOR INFORMATION

Please provide contact information for the third-party requestor and its representative preparing this submission:

Third Party Requestor Organization/Institution Name

Street Address

City

State

ZIP Code

Representative First Name

Representative Middle Name

Representative Last Name

Representative Title

Representative Email

Representative Telephone Number

Are you submitting this Third-Party Application on behalf of a State Requestor or a Legal Assistance Organization?

☐

State Requestor

☐

Legal Assistance Organization

If ☐ you are submitting on behalf of a Legal Assistance Organization, provide the Organization's FEIN below.

Legal Assistance Organization FEIN: _____

SECTION 2: GROUP INFORMATION

School Name:

Campus Name and Location (if more than one, include the name and location for each):

Program Name or Major Impacted (e.g., *Engineering, Law, Nursing, All Programs*):

Credential/Degree Impacted (e.g., *Certificate, Diploma, Associates, Bachelors, Masters, All Credentials*):

Estimated Size of Proposed Group (if known):

Identify the beginning and ending dates of the time period you believe the School and/or its Campuses engaged in the conduct identified in this application:

SECTION 3: RECONSIDERATION REQUEST DETAILS

Please select the type of reconsideration you are seeking:

☐

Reconsideration of Group Formation

☐

Reconsideration of Formed Group Adjudication

If you are seeking reconsideration on the basis of group formation, you must provide new evidence. Please also describe how you believe each piece of evidence supports your request for reconsideration.

If seeking reconsideration of the adjudication of the formed group, please select the basis for this application below:

☐ Administrative or technical errors

If you are requesting reconsideration on this basis, you must describe the administrative or technical error you believe was made and how it affected the outcome of the group claim.

☐ Consideration under the applicable state law standard (**only** for group members with Direct Loans disbursed prior to July 1, 2017)

If you are requesting reconsideration on this basis, you must submit a separate legal brief addressing all four of the following questions for your reconsideration request to be considered:

- What do you believe is the applicable state law standard? Your answer should include a citation to the state law standard and a description of the standard.
- Why are you requesting the use of this state law standard?
- Why would application of this state law standard result in a different outcome for the group than adjudication under the federal standard?
- Why would the application of this state law standard lead to a borrower defense?

☐ Evidence that (1) was not previously provided, and (2) was not identified in the final decision letter as a basis for the Department's denying the group claim.

If you are requesting reconsideration on this basis, you must attach new evidence to your reconsideration request for it to be considered. Please also describe how you believe each piece of evidence you've attached should affect the outcome of the group claim.

Be as detailed as possible and please attach any evidence supporting your request for reconsideration.

If the Secretary determines that sufficient grounds and evidence have been provided to warrant reconsideration of either the formation of the group or the adjudication of the formed group, ED will notify the school that the claim is being reconsidered. During the reconsideration process this application, any documents you submit, and any documents which you submitted with your original application will be provided to the school during the adjudication of the group claim and/or any subsequent recoupment or enforcement action by the U.S. Department of Education against the school.

SECTION 4: CERTIFICATION

By signing this attestation, I certify, **under the penalty of perjury**, that:

I am an authorized representative of the Third-Party Requestor identified in Section 1.

All of the information that I provided is true and complete to the best of my knowledge. Upon request, I agree to provide to the U.S. Department of Education additional information that is reasonably available to me that will verify the accuracy of my completed attestation.

I understand that the U.S. Department of Education has the authority to verify information reported on this request with other federal or state agencies or other entities.

I authorize the U.S. Department of Education, along with its agents and contractors, to contact me regarding this request at the phone number above using automated dialing equipment or artificial or prerecorded voice or text messages.

I understand that any rights and obligations with regard to borrower defense to repayment are subject to the provisions currently in effect under Title 34 of the Code of Federal Regulations.

Any person who knowingly makes a false statement or misrepresentation on this form or on any accompanying document is subject to penalties that may include fines, imprisonment, or both, under the U.S. Criminal Code and 20 U.S.C. 1097. I sign this application under penalty of perjury.

I understand that, if the Secretary approves the formation of the proposed group, all identified borrowers will be placed into forbearance and/or stopped collections, unless the borrower has opted-out, pursuant to 34 C.F.R. § 685.402(d). I understand that this includes both borrowers identified in this application and borrowers separately identified by the Secretary.

I understand that this request and included evidence may be disclosed through requests under the Freedom of Information Act, and further may be disclosed to the school that is the subject of this request in the course of the U.S. Department of Education's adjudication and/or recoupment proceedings relating to this proposed group claim.

Signature	Date
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PRIVACY ACT NOTICE

Authorities: Under the U.S. Department of Education's (Department's) regulations at 34 C.F.R. §685.402(c), certain state agencies and legal assistance organizations ("third-party requestors") may submit a request that the Secretary form a group of federal student loan borrowers for borrower defense relief. The authorities for collecting the requested information from third-party requestors about borrowers who are part of a group are §§421 *et seq.*, §§451 *et seq.*, and §§461 *et seq.* of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1071 *et seq.*, 20 U.S.C. 1087a *et seq.*, and 20 U.S.C. 1087aa *et seq.*). The authorities for collecting and using Social Security numbers (SSNs) are §§428B(f), 455(h), 484(a)(4) of the HEA (20 U.S.C. 1078-2(f), 20 U.S.C. 1091(a)(4), 20 U.S.C. 1087e(h), and 20 U.S.C. 1091(a)(4)) and Executive Order 9397 (November 22, 1943) as amended by Executive Order 13478 (November 18, 2008).

Information Collected: At a minimum, the Secretary requires the following information to consider whether to form a group of borrowers for borrower defense relief:

- Third-party requestor organization, name, mailing address, email address and telephone number;
- The name of the institution or commonly owned institutions attended by the borrowers in the group;
- A description of the conduct that forms the basis for the group borrower defense claim;
- The campuses or programs which are the subject of the claim;
- The period during which the conduct occurred;
- If applicable, any other characteristics for defining the group that correspond to which borrowers were impacted by the relevant conduct and are entitled to relief; and
- An analysis of why the described conduct should result in an approved group borrower defense claim under the federal standard, including the basis for the claim and whether the proposed group members suffered detriment as a result of the act/omission constituting the basis for the claim.

The Secretary also may require a third-party requestor to provide additional information, such as the impacted borrowers' names, SSNs, dates of birth, and contact information, to allow for proper identification of borrowers who the third-party requestor considers to be part of the group and to allow for proper notification to borrowers of their potential inclusion in a group.

Purpose: The principal purpose for collecting the information on this form is to provide information to the Secretary about a potential group borrower defense discharge application. This information assists the Department with determining, correcting, processing, tracking, and reporting program eligibility and benefits for the federal student financial assistance programs authorized by title IV of the HEA, including, but not limited to, discharge of eligible loans under title IV, HEA programs.

Disclosures: The Privacy Act of 1974, as amended (Privacy Act) contains exceptions that permit the Department to disclose individually identifiable information in records contained in systems of records without the prior written consent of the

individual, including for “routine uses” published in a system of records notice (SORN). The identifiable information about borrowers collected on this form is covered by the SORN entitled “Aid Awareness and Application Processing” (18-11-21) (this SORN is accessible at the Department’s webpage on Privacy Act System of Record Notice Issuances at: <https://www2.ed.gov/notices/ed-pia.html#fsa>). Such information may be disclosed without the consent of the individual borrower, on a case-by-case basis or under a matching program that meets the requirements of the Privacy Act, to third parties as authorized under routine uses published in the foregoing SORN. Routine use disclosures that may be made of this information include, but are not limited to, the following:

- To determine the relief that is appropriate if the Secretary grants a borrower defense to repayment discharge application, as well as to pursue repayment of the amount of such discharges against the Institution of Higher Education (IHE), the Department may disclose information from this form to federal, state, and tribal agencies, accreditors, IHEs, lenders and loan holders, guaranty agencies, third-party servicers, and private collection agencies;
- To investigate and resolve requests for relief under the borrower defense to repayment regulations, and to update borrower account records and to correct errors, the Department may disclose information from this form to guaranty agencies, lenders and loan holders participating in the Federal Family Education Loan Program, accreditors, IHEs, third-party servicers, private collection agencies, and federal, state, and local agencies;
- If the Department determines that the disclosure of information from this form is relevant and necessary to judicial or administrative litigation or Alternative Dispute Resolution (ADR), the Department may, in certain circumstances and provided certain conditions are satisfied, disclose such information to the U.S. Department of Justice (DOJ), certain adjudicative bodies, persons, or entities, and parties, counsel, representatives, or witnesses;
- If the Department contracts with an entity to perform any function that requires disclosing information from this form to the contractor’s employees, the Department may disclose such information to those employees. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed information; and
- The Department may disclose information from this form to a member of Congress or the member’s staff when necessary to respond to an inquiry from the member made at the written request of and on behalf of the individual whose information is being disclosed. The member’s right to the information is no greater than the right of the individual who requested it.

For a full list of routine uses covered under the SORN entitled “Aid Awareness and Application Processing” (18-11-21), please refer to the web link cited above.

Consequences of Failure to Provide Information: Failure to provide required or requested information may result in the denial of the third-party requestor’s request to form a group of federal student loan borrowers for borrower defense relief and the requested relief.

PAPERWORK REDUCTION ACT NOTICE

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1845-0163. Public reporting burden for this collection of information is estimated to average 400 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit (20 U.S.C. 1087e(h)). If you have comments or concerns regarding the status of your individual submission of this application, please contact the Borrower Defense customer Contact Center at 1-855-279-6207 directly.
