

# WHAT TO KNOW ABOUT THE BORROWER DEFENSE TO REPAYMENT RULE

## What Is the Borrower Defense to Repayment Rule?

- The Borrower Defense to Repayment Rule (BD Rule) offers students relief from federal loans borrowed based on fraudulent, misleading or illegal acts by their schools. Borrower defense is an established legal right for many forms of consumer credit, and it has been a part of the Higher Education Act for many years.
- In 2016 the U.S. Department of Education published a [regulation](#) creating a process for student loan borrowers to demonstrate that their loan does not need to be repaid due to their school's misleading, fraudulent, or otherwise illegal conduct.
- Before 2015, only five borrowers are known to have applied to have their student loans cancelled. The 2016 rule was a response to [widespread deception](#) by multiple large for-profit colleges that are heavily subsidized with taxpayer dollars, where students took out thousands of dollars in debt for an education loan on the basis of false or misleading information. While the BD Rule is currently in effect, it has been repeatedly delayed and undermined by the current Administration.
- [Organizations](#) working on behalf of students, consumers, civil rights, faculty, staff, and college access, as well as [state attorneys general](#) and organizations representing [veterans and servicemembers](#) support the BD Rule and oppose any effort to weaken or eliminate it.

## The Borrower Defense to Repayment Rule Protects Students and Taxpayers:

- The BD Rule creates a process for students to apply for relief from education loans based on school misconduct, and for the Education Department to fairly evaluate claims, so that students are not required to repay their education loans if they have been cheated. It also gives the Secretary authority to approve loan relief for groups of students, where appropriate.
- The BD Rule also allows the Education Department to recover cancelled loan amounts from schools found to have engaged in misconduct and requires risky schools to put money aside to cover potential student loan discharges for misconduct or closure. By making clear that schools will be held accountable if they break the law, the BD Rule deters these practices.
- The BD Rule limits the ability of schools receiving federal student aid to force students to go through a secretive, individual arbitration processes. Such processes deny students their day in court and make it harder to bring to light misconduct by schools.
- The BD Rule also protects students at schools that close suddenly by requiring disclosure of student options and by ensuring automatic loan discharges are available to students who do not continue their studies within three years of the school's closure.

## The Current Administration Is Refusing to Carry Out the Borrower Defense to Repayment Rule:

- The Department of Education is currently [refusing to process](#) borrower defense claims despite a [court ruling](#) that its delays are unlawful.<sup>1</sup> As of September 2018, over 139,000 borrower defense claims by students were awaiting action including claims by [more than 45,000 former students](#) of Corinthian Colleges and thousands of claims from former students of ITT, Argosy and the Art Institute.
- The Administration has announced plans to rewrite the regulation for a second time after having [failed in a similar effort](#) in 2018. Its first proposal would have made it much harder for students to have loans cancelled and would have eliminated just [2 percent](#) of the overall outstanding loan balances. While efforts to rewrite the rule have been unsuccessful to date, a new Administration rule could still be completed and in effect as soon as July 2020.

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1. In December 2018, the Department of Education did grant approximately 15,000 students who attended schools that closed suddenly and who did not re-enroll for three years relief from their student loans.