

Borrower Defense: What Will Happen to Students in Debt Because They Were Scammed by Their School if the 2022 Rule is Rescinded?

April 2025



What is a Borrower Defense discharge? The Borrower Defense program allows the Department of Education (ED) to cancel federal loans borrowed to attend a school that used misrepresentations, omissions, or other misconduct to enroll students or to sign them up for federal student aid. *Borrowers in all 50 states have received borrower defense relief.*

Why does the federal student aid system need a Borrower Defense program? The Department of Education has consistently failed to keep predatory actors out of the federal student aid program. These bad actors exploit students' belief that education is the way to a better future and walk away with millions in profit from federal grants and loans while students are left with low- or no-value credentials and tens of thousands of dollars of debt they cannot repay. Borrower defense incentivizes borrowers to sound the alarm for ED when their school is engaged in misconduct that wastes taxpayer dollars. It is many borrowers' only pathway for relief.



In 2022, the Department of Education updated its borrower defense rules to streamline how harmed borrowers would receive relief and made much-needed improvements to the relief program. Those regulations are now under attack. The College Cost Reduction Act (H.R. 6951) proposed by Rep. Virginia Foxx (R-NC), would rescind the 2022 Borrower Defense Rules and stop the Department of Education from promulgating rules in the future that would make it easier for eligible borrowers to receive relief.

If the CCRA passes, the 2019 Borrower Defense Rules would govern whether students who borrowed loans after July 1, 2020 would be eligible for relief in the future. The 2019 Rules won't give scammed students real relief. They were designed to prevent most harmed students from being able to access relief and could result in more schools preying on students for their student aid dollars.

Here are four key ways the 2019 Rules are worse for students preyed on by schools that lie to get them to enroll:

1. **Just 3% of the loans infected by school misconduct will be discharged under the 2019 Rule.**

- The 2019 Rule was designed to be virtually impossible for most harmed borrowers to satisfy. Sixteen legal aid organizations that work with low-income student borrowers noted in [their comment to ED](#) that the 2019 Rule is “woefully inadequate to protect students.” In fact, the rule will be so difficult to satisfy that ED estimated [only 3% of loans associated with misconduct](#) would be discharged, leaving the vast majority of student borrowers who took out loans based on school lies and misconduct with debt they shouldn't have. Without relief, large numbers of scammed students will default on their loans, which can lead to serious consequences for borrowers, including wage garnishment, tax refund seizures, and lowered credit scores.

2. The Department would require every borrower harmed by systemic misconduct to navigate red tape and individually apply for relief, even where the Department of Education has evidence of the school's systemic misconduct.

- The 2019 Rule only allows ED to provide borrowers with relief if they satisfactorily complete a lengthy application and attach pages of additional documentation, even if the Department knows from evidence already in its possession that the borrower has been harmed by school misconduct. Data shows that the application itself is a barrier to relief for scammed borrowers, particularly in low-income and high-need communities. In contrast, the 2022 Rule created a robust group process that allows ED to initiate group relief on its own and also allows third parties to submit an application for group relief where there is documentary evidence of systemic school misconduct.

3. Scammed borrowers will be required to provide piles of documentation and will have to jump through numerous hoops to get relief.

- Unlike the 2022 Rule or prior rules, which allowed borrowers to receive relief based on evidence provided in sworn statements or evidence gathered independently by ED if sufficiently compelling, the 2019 Rule requires that the borrower:
 - Provide evidence that the school not only provided wrong or misleading information that convinced the student to enroll, but also knew that what it was saying was wrong or misleading. In effect, this will require students to trick their school into making an admission of willful wrongdoing-- something predatory schools train their employees not to do. In addition, the rule indicates that borrowers will only receive relief if they can provide documentary evidence of the school misconduct, even if school officials lied orally to them to get them to enroll or take on debt. These requirements will bar many harmed students from receiving relief.
 - Provide evidence that they suffered “financial harm” from the school's misconduct *beyond* borrowing student loans that they wouldn't have if the school had been honest with them. The regulations are unclear about what kind of evidence would satisfy this requirement.
- The 2019 Rules also require the borrower to submit their claim within three years of leaving school, which would immediately block most harmed borrowers from even having their claim considered. Most borrowers are unaware that they have a right to a borrower defense and will not realize they can apply until someone happens to inform them. Neither the 2022 Rules nor any earlier rules had this limitation.

4. 2019 Rules don't protect a borrower's right to go to court to hold schools accountable.

- The 2022 Rules prohibited schools from receiving federal student aid if they included terms in their enrollment agreement waiving students' right to go to court to bring claims against the school related to acts or omissions regarding the making of the Direct Loan or the educational services for which the Direct Loan was obtained. In contrast, the 2019 rules allow schools to bar borrowers from holding their schools directly accountable in the courts, increasing the risk of unchecked school fraud on the federal student aid program.

For more information, contact Kyra Taylor, ktaylor@nclc.org.