

## BORROWER DEFENSE TO REPAYMENT GUIDE

### I. WHAT IS BORROWER DEFENSE TO REPAYMENT?

**Under federal law you have a right to apply to have your federal student loans forgiven if your school misled you or lied to you.** To apply, you need to fill out an application for Borrower Defense to Loan Repayment issued by the U.S. Department of Education. If you were misled by multiple schools, you should fill out a separate application for each school. The application is composed of six sections that ask you to provide basic information about yourself and your school, and to describe the ways in which your school misled you in as much detail as possible.

The New York Legal Assistance Group (NYLAG) has provided this guide to assist you in filling out each section of the application. This guide is for informational purposes only. **THIS GUIDE DOES NOT CREATE ANY ATTORNEY-CLIENT RELATIONSHIP.** What you choose to include in the application is ultimately up to you. NYLAG cannot guarantee that your loans will be forgiven. The Department of Education will make the decision about whether or not to forgive your loans. If you live in New York City, you can contact us at [FPSP@nylag.org](mailto:FPSP@nylag.org) or 212-946-0354 with questions.

**NOTE:** While the Department of Education accepts borrower defense to loan repayment applications, it is currently not processing them. Students have sued the Department of Education over the Department's failure to process applications and those suits are still ongoing. As a result, there is no way to know if or when your application will be processed or what the outcome will be. However, we still recommend you apply in order to preserve your rights, and so in the event the Department of Education does begin to process applications, yours may be included.

### II. HOW TO APPLY

We recommend reading all the instructions in this guide before starting to fill out the application.

#### **Step I: Access the application**

You can complete and submit the application in one of three ways:

- 1) **Online portal:** you can fill out and submit the application in an online portal on the Department of Education's website at [borrowerdischarge.ed.gov](http://borrowerdischarge.ed.gov)
- 2) **Fillable pdf & email:** you can fill out a pdf version of the application at <https://studentaid.ed.gov/sa/sites/default/files/borrower-defense-application.pdf> and email the completed version to [BorrowerDefense@ed.gov](mailto:BorrowerDefense@ed.gov)
- 3) **Hardcopy & mail or email:** you can print the pdf at <https://studentaid.ed.gov/sa/sites/default/files/borrower-defense-application.pdf> and complete it by hand. Once completed, you can either mail a hardcopy to "U.S. Dept. of Education — Borrower Defense to Repayment, P.O. Box 1854, Monticello, KY 42633," or you can scan the completed application and email it to [BorrowerDefense@ed.gov](mailto:BorrowerDefense@ed.gov)

Tip: We recommend you email the pdf or mail a hardcopy so that you may make a copy of the application for your records before sending it to the Department of Education. If you choose to mail the application, we also recommend sending the application by certified mail so that you have proof the application was sent.

## **Step 2: Collect school-related documents**

You can strengthen your application by attaching documents that support your statements about your school and the ways in which it misled you. The method of attaching documents to your application varies depending on how you choose to fill out and submit the application. You can attach documents to an online application via a link in Section IV of the application, or by including them as part of a pdf you email, or by attaching them as the last pages of a hardcopy application.

Examples of supporting documents include:

- Advertisements or promotional materials from the school, especially if they contain facts or statistics about things like graduation rates, employment rates, salaries, or other promises about the benefits of attending the school.
- Any emails or correspondences you had with school officials, especially if they contain promises made by the school.
- Any complaints you made about the school to school officials or others.
- Transcripts, enrollment agreements, registration documents, or any other documents proving that you attended the school when you say you did.
- The course catalog or course manual of the school you attended.

## **Step 3: Fill out the "Basis for Borrower Defense Questionnaire"**

We recommend you fill out the "Basis for Borrower Defense Questionnaire," included at the back of this guide, before filling out the application. The questionnaire will ask you about your experiences with your school and the questions will be in categories that correspond to the categories in Section IV of the application. Once you're done filling out the questionnaire, you can either attach it as part of your application (more instructions on how to attach below) or it can serve as a guide for what you may want to include in Section IV.

## **Step 4: Fill out the application**

The application has six sections that ask you for information about yourself, your school, and your experience with your school. Be sure to read all six sections and respond to the questions that are applicable to you in as much detail as possible. Throughout the application it is important to be truthful and to not exaggerate. If a question does not apply to you, leave it blank.

### **SECTION I: BORROWER INFORMATION**

Provide your personal information.

### **SECTION II: SCHOOL INFORMATION**

Provide your school information. Remember to attach to your application any documentation that proves what school, campus, and program you attended, and the dates you were enrolled.

### **SECTION III: OTHER LOAN REDUCTION OR TUITION RECOVERY REQUESTS**

Indicate if you have made any other requests to have your federal loans forgiven or made attempts to recover tuition you paid to your school.

## SECTION IV: BASIS FOR BORROWER DEFENSE

This section of the application asks a series of questions about your experiences with your school. This is your opportunity to share the ways in which the school misled you. You want to include **as much detail possible** in your answers, including as much information as you can remember about who made promises to you and where and when they made those promises.

The questions in this section are split into seven categories of potential fraud, which correspond to the seven categories in the "Basis for Borrower Defense Questionnaire." They are:

(1) Employment Prospects; (2) Program Cost and Nature of Loan; (3) Transferring Credits; (4) Career Services; (5) Educational Services; (6) Admissions and Urgency to Enroll; (7) Other.

### **NOTE: How to use the "Basis for Borrower Defense Questionnaire"**

You can use your answers from the questionnaire to inform your answers to the questions in Section IV of the application, or you can attach the questionnaire to your application and reference it by following these general instructions:

1. If you answer any of the questions in "Category I: Employment Prospects" on the questionnaire, check "Yes" as your answer to the question on the application in the "EMPLOYMENT PROSPECTS" section asking if the school misled you regarding employment prospects.
2. Write "See Category I: Employment Prospects in attached questionnaire" in the text box on the application.
3. Answer the second checkbox question on the application about whether you chose to enroll in the school based on the school's actions that you described in this category.

Repeat the same process for each category in the application.

## SECTION V: FORBEARANCE/STOPPED COLLECTIONS

In this section, the application asks if you want to request forbearance while your application is under review. Forbearance means you don't have to make loan payments and collections will stop for a temporary period, but interest will continue to accrue, so **your debt will increase**. If you are in an affordable payment plan it is often better to say you do not want forbearance. The decision to request forbearance is specific to your financial situation and we recommend you consult a financial advisor. If you do not answer this question on the application, your loans may automatically be placed into forbearance.

**Tip:** If you live in New York City, you can call 311 for free financial counseling for help figuring out whether to request forbearance.

## SECTION VI: CERTIFICATION

Sign and date the application before submitting it.

### **Step 5: Send in your application**

Your final submission should be the application, followed by the questionnaire (if you chose to complete and attach it), followed by any supporting documentation.

**1) Online portal:** you can submit the application directly through the online portal at [borrowerdischarge.ed.gov](http://borrowerdischarge.ed.gov)

**Tip:** If you submit through the portal, we recommend taking a screen shot of the submission page for your records.

**2) Fillable pdf & email:** you can email the completed version of the pdf application, including any attachments, to [BorrowerDefense@ed.gov](mailto:BorrowerDefense@ed.gov)

**3) Hardcopy & mail or email:** you can mail a the completed application with any attachments to "U.S. Dept. of Education — Borrower Defense to Repayment, P.O. Box 1854, Monticello, KY 42633," or you can scan the hardcopy and any attachments and email them [BorrowerDefense@ed.gov](mailto:BorrowerDefense@ed.gov)

**Tip:** If you mail a hardcopy, we recommend first making a copy for your records.

### **Step 6: Ensure your application was received**

To ensure that your application was submitted, call the U.S. Department of Education Borrower Defense Hotline at 1-855-279-6207 and ask if your application was received. The Department does not publish how long it will take to acknowledge the receipt of your application, but if after 60 days the Department still does not have a record of your application, submit the same application again. If you submit again, include a signed and dated cover letter as the first page of the application which states that you are submitting for a second time and states the date and method of your first submission.

If you have to submit a second application, consider filing a complaint with your state's Attorney General, or contacting the Debt Collective for assistance at <https://tools.debtcollective.org/contact>.

## **III. WHAT HAPPENS AFTER SUBMITTING THE APPLICATION?**

The U.S. Department of Education reviews applications. There is no way to know when your application will be reviewed or whether it will be approved. The Department of Education or your loan servicer will contact you once the review is complete. **If you receive a decision, please contact us at [FPSP@nylag.org](mailto:FPSP@nylag.org) or (212)-946-0354.**

## Basis for Borrower Defense Questionnaire

The following questions are designed to help you provide as much detail about the false promises your school made and your resulting financial hardships. For each question, try to remember as much as you can about what the school told you and where you heard it. For example, you might have heard the school make a promise in an advertisement or an admissions officer may have made a promise to you when you were enrolling. It is important to be truthful and not exaggerate in your answers. If a question does not apply to you, leave it blank.

### Category I: Employment Prospects

This section asks if you were misled by your school with respect to graduation rates, employment rates, job placements, salaries, certifications or licensures.

**Did the school tell you a certain percentage of students graduate from your program? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? If you know the real percentage was lower, what was it?**

**Did the school tell you a certain percentage of graduates get jobs in their field? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? If you know the real percentage was lower, what was it?**

**Did the school tell you that you would be eligible for certification or licensure in your field of study, but that wasn't true? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? How and when did you discover that what they told you was not true? Did you have to take additional classes or do something else to become eligible?**

**Did the school promise you internships or externships that it failed to provide? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? If the school provided you an internship or externship, was it useful?**

**Did the school promise you would be employed in your field after graduation, but that didn't happen? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? How long did you spend looking for a job in your field? Approximately how many jobs in your field did you apply to? If you got a job outside of your field, what kind of job was it? Did you earn less in your job after attending school than you earned before?**

**Did the school promise you would earn a specific salary after graduation? If so, what exactly did the school tell you? Who told you? Where and when did they tell you?**

**Did you earn less after graduation than the school promised you would? If you got a job after graduation, how much did you earn? Did you earn less than you did before going to school?**

**Did the fact that you went to your school ever cause a problem for you when you were applying to a potential employer? If so, what exactly happened? Did a potential employer ever question you about the school you attended? Did you ever remove the school from your resume because you felt it was disadvantaging you?**

**Did the school fail to tell you any important information about the graduation rate, your employment prospects or your eligibility for certification or licensure? If so, what did the school fail to tell you?**

**Did you have any other issues related to graduation or employment?**

**Category 2: Program Cost and Nature of Loan**

**This section asks if you were misled by your school with respect to the cost of attending, grants and loans, financial aid, or debt collection.**

**Did the school tell you attending would cost less than it actually did? If so, what exactly did the school tell you? What amount did the school say it would cost? Who told you? Where and when did they tell you? How much did attending actually cost? When did you learn how much it actually cost?**

**Did the school tell you that grants or benefits would cover the cost of attendance, but you wound up with loans? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? How much in loans did you have after leaving the school? Have your wages been garnished or your tax refund withheld as a result of these loans? If so, how much have you lost?**

**Did the school lead you to believe "financial aid" was a grant, but you wound up with loans? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? How much in loans did you have after leaving the school? Have your wages been garnished or your tax refund withheld as a result of these loans? If so, how much have you lost?**

**Did the school mislead you about the terms of your loans? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? What turned out to be the truth?**

**Did the school sign financial aid documents on your behalf? If so, who signed them? When and where did they sign them? Did you give them permission to sign them?**



**Did the school have you sign for new loans without telling you the amount?** If so, what exactly did the school tell you? Who told you? Where and when did they tell you? How much in loans did you have after leaving the school? Have your wages been garnished or your tax refund withheld as a result of these loans? If so, how much have you lost?

**Is the school pursuing you for debts that you don't think you owe?** If so, how much does the school say you owe? Did the school charge you for tuition or fees for semesters you did not attend?

**Did the school fail to tell you how much it would cost to attend, or how much in loans you were taking out?** If so, what did the school fail to tell you?

**Did you have any other issues related to cost?**

**Category 3: Transferring Credits**

**This section asks if you were misled by your school with respect to transferring credits to or from another school.**

**Did the school promise you would be able to transfer your credits to another school, but you weren't able to?** If so, what exactly did the school tell you? Who told you? Where and when did they tell you? Where did you try to transfer your credits? What did the school you were trying to transfer to say about your credits from the school? Did you have to spend more on school because your credits didn't transfer? If so, how much more did you spend?

**Did the school promise to accept your credits from another school, but then didn't?** If so, what exactly did the school tell you? Who told you? Where and when did they tell you? Did you have to spend more on school because your credits didn't transfer? If so, how much more did you spend?

**Did the school fail to tell you anything regarding the transfer of credits?** If so, what did the school fail to tell you?

**Did you have any other issues related to transferring credits?**

**Category 4: Career Services**

**This section asks if you were misled by your school with respect to the extent to which the school's career services office would help you find a job.**

**Did the school promise it would help you get a job, but it didn't? If so, what exactly did the school tell you? Who told you? Where and when did they tell you?**

**Did the school promise you would be able to access career services after graduation, or for a specific period of time, but you weren't able to? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? If you reached out to your school's career services office after graduation, what did the office tell you? How many times did you reach out?**

**Did the school promise it had connections to employers in your field, but it didn't? If so, what exactly did the school tell you? Who told you? Where and when did they tell you?**

**Did the school fail to tell you important information about career services? If so, what did the school fail to tell you?**

**Did you have any other issues related to career services?**

**Category 5: Educational Services**

**This section asks if you were misled by your school with respect to the qualifications of your teachers, the quality of the training equipment or the extent of student support services.**

**Did the school promise your teachers had specific qualifications, but that wasn't true? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? What are all the ways your teachers were unqualified or insufficient?**

**Did the school promise you that it would use instructional methods it failed to use? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? How would you describe the instruction you did receive?**

**Did the school promise you internships or externships that it failed to provide? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? If the school provided you an internship or externship, was it useful?**

**Did your school require you complete an internship or externship, but not help you get one? If so, what exactly was required by the school? Did you ask for help from the school? If so, what happened when you asked for help?**

**Did the school promise to train you on state-of-the-art equipment, but failed to deliver? If so, what exactly did the school tell you? Who told you? Where and when did they tell you? How would you describe the equipment you did use?**

**Did the school promise you specific support services that it failed to provide (for example, services for a disability, or veteran-specific services)? If so, what exactly did the school tell you? Who told you? Where and when did they tell you?**

**Did you have to take additional classes after graduating in order to be qualified to apply for a higher degree in your field? If so, how many more courses did you need? How much money did you spend taking those courses?**

**Did the school fail to tell you important information about the education you would receive?** If so, what did the school fail to tell you?

**Did you have any other issues related to the quality of the education you received?**

**Category 6: Admissions and Urgency to Enroll**

**This section asks if you were misled by your school with respect to how urgently you needed to enroll and whether there would be any consequences for not enrolling.**

**Did the school tell you it was important to enroll immediately, but that wasn't true?**

If so, what exactly did the school tell you? Who told you? Where and when did they tell you?

What was untrue about what they told you?

**Did the school tell you there would be consequences of failing to enroll?** If so, what exactly did the school tell you? Who told you? Where and when did they tell you? What was untrue about what they told you?

**Did the school tell you that the school had a specific admissions rate, or that it was a selective school, but that wasn't true? If so, what exactly did the school tell you? Who told you? Where and when did they tell you?**

**Did the school fail to tell you important information about the admissions process? If so, what did the school fail to tell you?**

**Did you have any other issues related to the admissions process?**

**Category 7: Other**

**This section asks if your school has been investigated by any government agency, whether it violated any other laws that you know of, or if there are any other ways you were misled that were not covered in the previous sections.**

**Did your school fail to perform any other obligations it had to you? If so, what did it fail to do?**

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**Has your school been investigated by a government body?** If so, by who? When was the school investigated? What were the results of the investigation? If you can find any reporting or final results of the investigation, we recommend you attach it to your application.

**Do you think your school violated any other laws?** If so, what did the school do that you think violates the law?

**Are there any other ways in which you think your school misled you?** If so, please provide the details.