

DEFAULTED STUDENT LOANS

Helping Borrowers with
Fresh Start





National
Consumer Law
Center

*Fighting Together
for Economic Justice*

We're here today
to discuss ways
to help student loan
borrowers in default,
even if you're new to
student loan law.



**7.4 MILLION BORROWERS
ARE IN DEFAULT**

The problem

- Almost 20% of all federal student loan borrowers are in default.
- Getting (and staying) out of default has been historically difficult.
- Defaulting on federal student loans can lead to damaged credit scores and loss of tax refunds, Social Security benefits, and wages.



Who are borrowers in default?

- Borrowers in default are typically dealing with other financial hardships:
 - more likely to be low-income,
 - three times as likely to have filed for bankruptcy, and
 - more likely to have utility, medical, or credit card bills in collections.
- Borrowers in default are disproportionately Black and Brown borrowers.
- Majority of defaulted borrowers owe less than \$10,000:
 - many do not complete degrees or programs, and
 - more likely to have attended a for-profit college.
- Older borrowers are more likely to default:
 - because of their own loans or costly Parent PLUS Loans they took out for their kids.

How will these cases come to your office?

- Even your clients who never attended college may have student loan debt
 - Parent PLUS or other co-signed private loans
- May present with other non-student loan issues
 - Problems with credit, collections, bankruptcy, and more
- May ask about help with Social Security or tax refund offsets
- May have other student loan questions and not even know they're in default



Screening questions to ask at intake



- Do you have student loans?
- Have you had your wages, Social Security benefits, or tax refunds taken to pay back a student loan or other debt?
- Are your student loans showing up on your credit reports?
- Have you ever been contacted by a debt collector about your student loans?
- Were you making regular payments on your student loans before the pandemic?
- Have you checked your account on studentaid.gov?
- Do you know who your loan servicer is?

Federal loans vs. private loans

- Many borrowers don't know if they have federal and/or private student loans.
- Confirm what type of loans the borrower has and the status.
- The easiest way to do this is by having the borrower log into their studentaid.gov account.
- You can also review their credit reports and ask some basic questions to help figure out what type of loans they have.
 - For example, if someone has been sued for a student loan debt, it is likely that they were sued for a private loan;
 - whereas someone who has had a tax refund or Social Security benefits offset due to a student loan debt is dealing with a defaulted federal loan.

Different types of federal loans

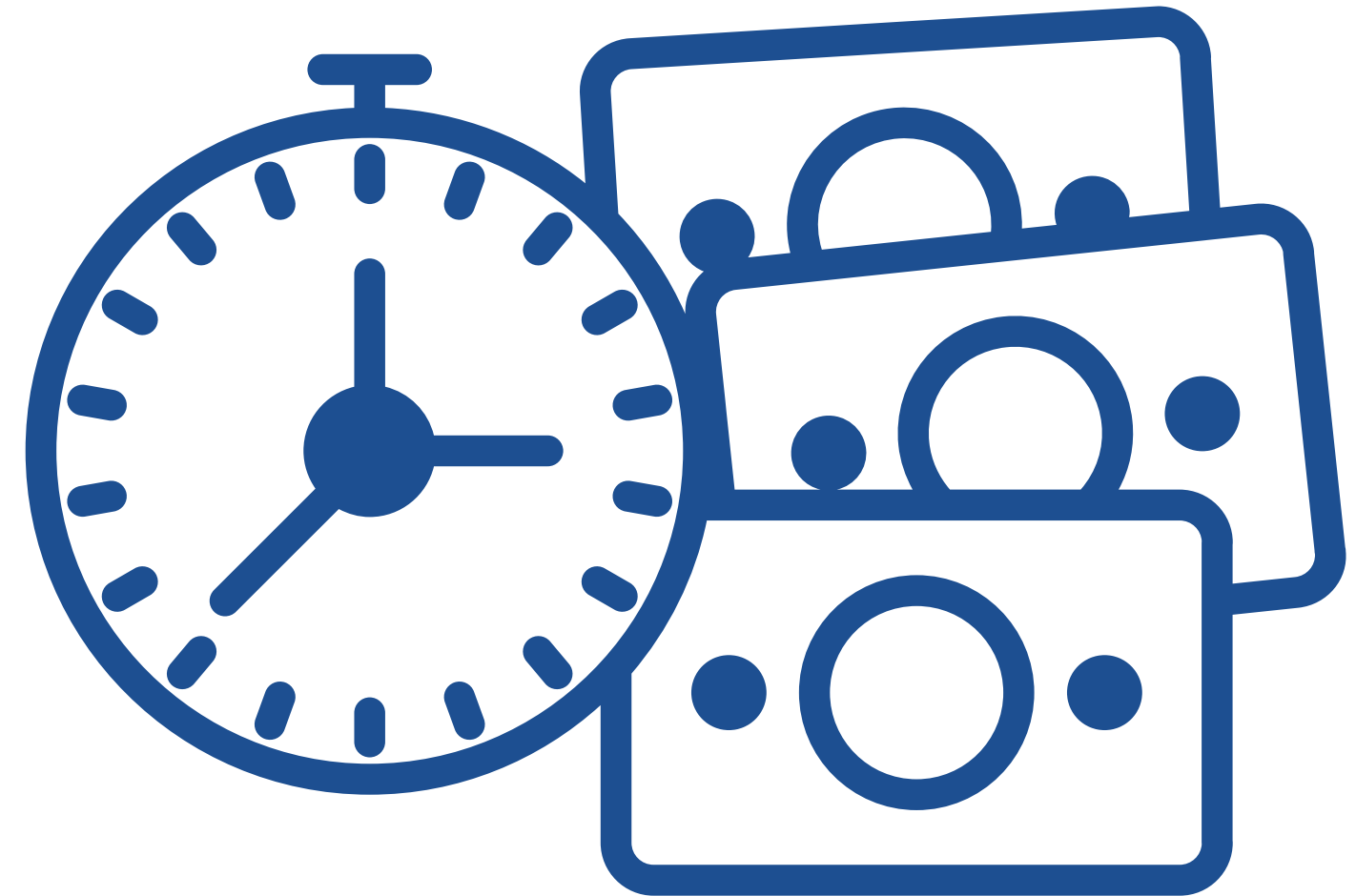
- It's important to know exactly what type of federal loans the borrower has.
- Not all federal student loans are treated the same when it comes to default, loan servicing, and even income-driven repayment (IDR) plans.
- For the purposes of loans in default, the most important thing to know is whether the borrower has Direct Loans or Federal Family Education Loans (FFEL loans).
- All of this information can be found on the borrower's studentaid.gov account.
 - For more help with this, visit:
 - <https://www.studentloanborrowerassistance.org/loan-basics/>

An elephant is standing in a lecture hall, looking towards the right. The room has several rows of empty blue chairs facing the elephant. Large windows are on the left side of the room, and a whiteboard is visible on the wall behind the elephant. The text "WHAT ABOUT PRIVATE STUDENT LOANS?" is overlaid in large white letters across the center of the image.

WHAT ABOUT PRIVATE STUDENT LOANS?

The default process

- The day after a student loan payment is missed, it is delinquent.
 - The loan servicer will usually notify the borrower of the missed payment.
- After 270 days of missed payments, the loan is declared to be in default.
 - Defaulted student loans are reported on credit reports.



Who collects defaulted federal loans?

- Up until 2021, the Department of Education used Private Collection Agencies (PCAs) to collect on defaulted student loans held by the federal government.
- The Department of Education now oversees the collection of federally-held defaulted student loans.
 - The government contracts with Maximus, a third party loan servicer, to service federally-held defaulted student loans.
 - This includes all defaulted Direct Loans and some defaulted FFEL loans.
- Some Federal Family Education Loan (FFEL) student loans are still held by private commercial lenders.
 - When those loans default, they are transferred to a Guaranty Agency (GA) to collect.
 - Some defaulted FFEL Loans have been transferred to the federal government.

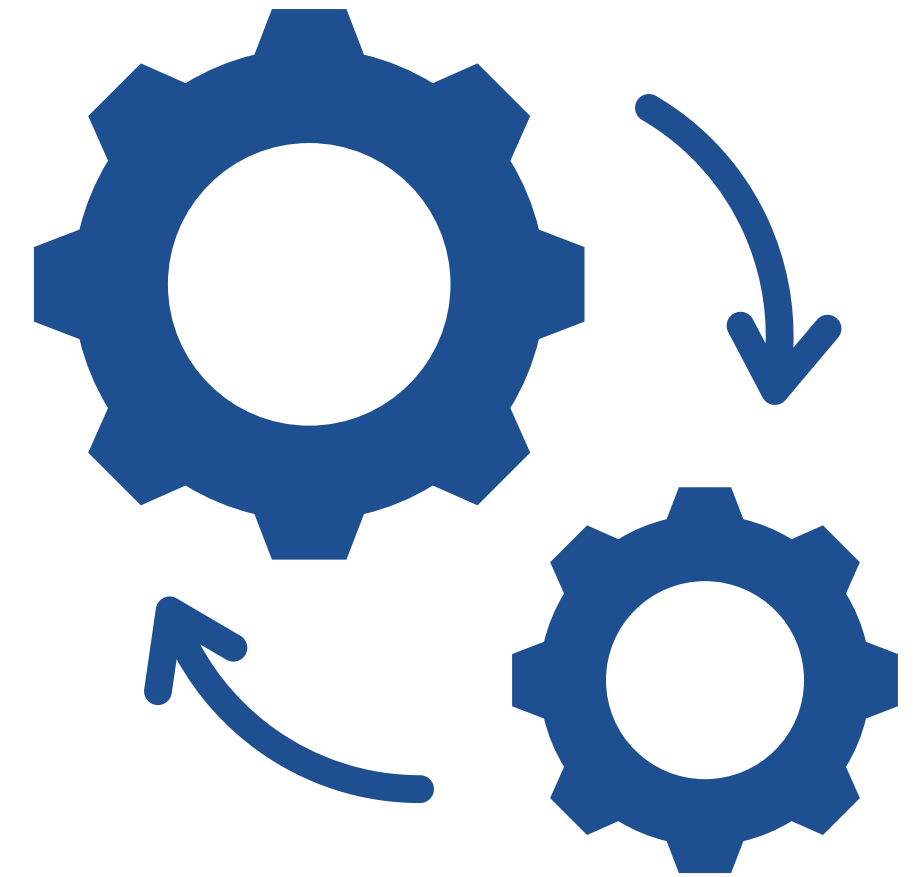
Consequences of default

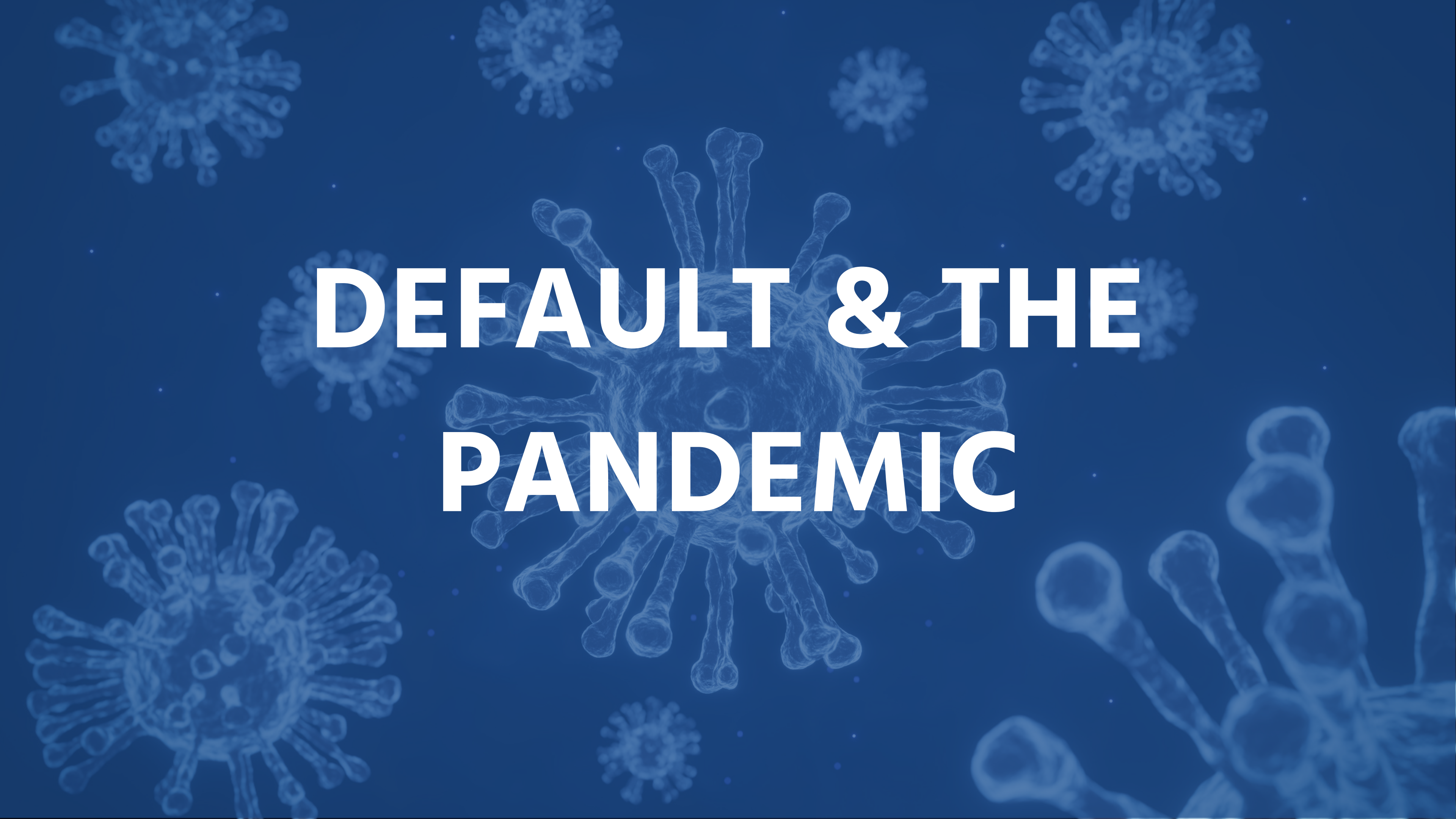


- Defaulting on a student loan can:
 - impact a borrower's credit score,
 - prevent them from getting more student aid and other government loans (including FHA and USDA mortgages), and
 - result in a loss of income or benefits.
- To collect a defaulted loan, the government can:
 - seize tax refunds,
 - garnish wages without a court order,
 - offset Social Security benefits,
 - sue student loan borrowers in federal court (rare), and
 - charge very large collection fees.

General ways to get out of default

- Consolidation & rehabilitation were generally the two primary ways to get student loans out of default.
- Consolidation:
 - A borrower consolidates their default federal student loan(s) into a new Direct Consolidation Loan to get out of default and into a new repayment plan.
- Rehabilitation:
 - A borrower enters into a rehabilitation agreement to make nine consecutive monthly payments on their student loans, based on their income, in order to get the loan out of default and into good standing.





DEFAULT & THE PANDEMIC

Default & the pandemic payment pause

- The CARES Act and resulting extensions paused all student loan payments and collections for eligible federal student loans beginning March 13, 2020, including defaulted student loans.
 - Although commercially-held FFEL loans were not originally included in the pandemic payment pause, this was changed in May 2021 and retroactively applied to those borrowers back to March 13, 2020.
- This payment pause is still in effect until 60 days the Supreme Court decision on the student loan cancellation case or 60 days after June 30, 2023, whichever comes first.
 - No wage garnishments, tax refund seizures, or Social Security benefit offsets should be occurring during the pause.

Fresh Start to help borrowers in default

- On April 26, 2022, the Department announced the Fresh Start initiative to help borrowers get out of default.
- Fresh Start is time-limited.
 - Borrowers only have until one year after the payment pause ends to sign up.
- Borrowers have to sign up to get their loans out of default
 - After signing up, the default is removed and the loan will again be in good standing.
 - Borrowers can also sign up for an income-driven repayment plan, so their loan payments will be affordable (as low as \$0 per month) once repayment resumes.

Fresh Start automatic benefits

- Some Fresh Start program benefits are automatic and have already occurred for borrowers with eligible defaulted student loans, including:
 - Continued pause on collection through the end of the Fresh Start period,
 - Removal of default history from CAVIRS and credit reports, and
 - Restoring eligibility for new federal student aid.

**CAVIRS is the credit reporting system used by the federal government when making decisions about federal lending, such as FHA, VA, and USDA mortgages

Who is eligible for Fresh Start?

Which loans qualify?

- Defaulted William D. Ford Federal Direct Loan (Direct Loan) Program loans
- Defaulted Federal Family Education Loan (FFEL) Program loans
- Defaulted Perkins Loans held by ED

Which loans do not qualify?

- Defaulted Perkins Loans held by schools
- Defaulted Health Education Assistance Loan (HEAL) Program loans
- Student loans remaining with the U.S. Department of Justice for ongoing litigation
- Direct Loans that default after the end of the COVID-19 student loan payment pause
- FFEL Program loans that default after the end of the COVID-19 student loan payment pause

How do borrowers sign up for Fresh Start?

This process can take less than 10 minutes.

- Online—Go to myeddebt.ed.gov and log in.
 - This is the easiest option if the borrower knows their login.
- Phone—Call the Default Resolution Group at 1-800-621-3115.
 - Borrowers should also call this number if they do not know whether their loan is held by the Default Resolution Group or the Guaranty Agency.
- Mail—Write to P.O. Box 5609, Greenville, TX 75403.
 - Borrowers should include their name, social security number, date of birth, and the following: “I would like to use Fresh Start to bring my loans back into good standing.”

What happens next for Fresh Start enrollees?

- After the borrower makes the initial request with the Default Resolution Group or their Guaranty Agency, the customer service representative will then begin the process to remove the loan from default and transfer to a non-default servicer.
- The entire process, from the initial contact to the time the borrower gets notification from National Student Loan Data System (NSLDS), should take between 30-45 days.
- The borrower should contact the Default Resolution Group or their Guaranty Agency for a status update if they do not receive a notification within the 30-45 days window.

Helping borrowers without getting overwhelmed

- In many cases, simple counsel and advice on these issues may be all that's needed to get borrowers to sign up for Fresh Start.
- Refer to the Department of Education's Fresh Start Fact Sheet to see common Fresh Start fact patterns.
- For more complicated cases, reach out to this group or NCLC for guidance.
 - We will be meeting monthly as a group, with designated time to discuss case issues and questions.

Fresh Start fireside chat recording with FSA

- Fireside Chat with FSA Student Loan Ombudsman Team addressing common questions related to the Fresh Start rollout.
- Recorded on 3/9/23.
- Will be sent around after today's meeting.
- We are also sharing out a new NCLC blog post that covers many more details of the Fresh Start program, including frequently asked questions.

Need more help with Fresh Start?

- NCLC is always a resource
 - studentloanborrowerassistance.org
 - NCLC Student Loan Law Manual (print and digital)
 - <https://library.nclc.org/>
 - www.nclc.org
- FSA Student Loan Ombudsman Group
 - File complaints with the Ombudsman Group
 - <https://studentaid.gov/feedback-ombudsman/disputes/prepare>
- Student Loan Listserv
 - To join, email Kyra or Anna
 - ktaylor@nclc.org
 - aanderson@nclc.org



Key Takeaways

- The payment pause is still in effect for federal student loan borrowers, including borrowers in default.
- Most borrowers with federal student loans in default will be eligible for Fresh Start.
- Fresh Start is time-limited, so borrowers should act now to sign up.

Questions?



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