

insights

Notice of Proposed Rulemaking on Borrower Defense

Webinar

On Tuesday, July 31, 2018, the U.S. Department of Education (Department) published in the Federal Register the official notice of proposed rulemaking (NPRM) on borrower defense to repayment and related issues (BDR). This new rule, which would apply to all institutions that participate in the federal financial aid programs, proposes the following important changes:

- It would create new standards and processes for borrowers to seek discharge of their loans based on misconduct of their institutions and for the Department to then recover those discharged amounts from institutions;
- It would revise the federal financial responsibility standards, including new triggering events that would prompt a recalculation of an institution's composite score, new reporting requirements, and modifications of the composite score calculation;
- It would include important updates to the closed school and false certification loan discharge processes; and
- It would require new disclosures for institutions using pre-dispute arbitration or class action waivers in agreements with students.

Notably, in October 2017, Aaron was selected by the U.S. Department of Education to serve as one of 17 negotiators charged with overhauling the BDR rule. The Department appointed Aaron to represent and negotiate on behalf of general counsels, attorneys, and compliance officers at postsecondary institutions nationwide. In late 2017 and early 2018, he worked with the other negotiators to inform the Department's drafting of this NPRM.

We strongly encourage institutions of higher education to attend the webinar, and to consider commenting on the proposed rule. We emphasize that the Department is only providing a 30-day public comment period, which will expire on August 30, 2018. As such, it is critical that institutions quickly familiarize with the rule and prepare and submit their comments.

****Please note that no CLE credit was offered for this webinar***

****This is a 90-minute presentation***

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