



The Student Loan Borrower Assistance Project (SLBA) is a program of the [National Consumer Law Center \(NCLC\)](#).

POLICY BRIEF

Relief for Financially Distressed Government Student Loan Borrowers: Provide Full Rehabilitation Relief

Background

Borrowers in default on federal student loans can either consolidate or rehabilitate to repay their way out of default. Rehabilitation is often touted as a better solution, but this is not necessarily true. Numerous barriers in the current program prevent many borrowers from accessing the rehabilitation program and getting relief. The recommendations below will help restore the full promise of loan rehabilitation for vulnerable borrowers. This is critically needed to give these borrowers another chance to make affordable payments and in many cases go back to school.

Recommended Actions

1. Eliminate the One-time Limit on Loan Rehabilitation

There is a one-time limit on loans rehabilitated on or after August 14, 2008. As a result, borrowers who are desperately trying to get back into repayment are often left with no options.

2. Use the Income-Based Repayment (IBR) Formula to Determine Reasonable and Affordable Payments.

The most pervasive abuse in the program is collectors pressuring borrower to pay more than they can afford or claiming inaccurately that minimum payments are required. The IBR formula should be used to determine the initial “reasonable and affordable” payment amounts. Borrowers can then object and provide supporting documentation if they believe the payment should be lower.

3. Eliminate the Requirement that Guaranty Agencies Must Sell Loans to New Holders Prior to Rehabilitation.

The Higher Education Act provides that federally guaranteed loans must be sold after rehabilitation if this is practicable. The Department of Education interprets this as a resale requirement. Because of this “requirement”, borrowers who make their required payments can get stuck with no possibility of completing the rehabilitation simply because their guaranty agencies cannot find buyers. At a minimum, agencies that cannot find buyers should be required to assign loans to the Department. The Department must also ensure that borrowers rehabilitating Department-held loans are able to complete the process within a short time after making the required payments.

4. Ensure that Collectors are Counseling Borrowers on the Full Range of Options to Get Out of Default.

5. Provide Full Credit Reporting Benefits

Lenders should be given the discretion to erase all negative history in the borrower's credit report, not just the default notation. This is a much more complete "credit cleaning" benefit.

6. Eliminate the 45% "Excess Consolidation Proceeds" Standard

The HEA (20 U.S.C. §1078(c)(6)(C)) requires guaranty agencies to remit the entire amount of the collection costs charged borrowers when a defaulted loan is paid off with excess consolidation proceeds. Excess proceeds are defined as the proceeds of consolidation loans received to pay defaulted loans that exceed 45% of the agency's total collections in that year.

This standard was created to prevent agencies from pressuring borrowers into consolidation. However, times have changed and the policy now harms borrowers by discouraging agencies from counseling borrowers about consolidation. As a result, many borrowers remain stuck in the rehabilitation pipeline even though they could get similar relief through consolidation.

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