



4.6 Loan Servicing Appeal

Improperly Serviced Loans

What is a loan servicing appeal?

A loan servicing appeal is an appeal that alleges a school’s official cohort default rate includes defaulted Federal Family Education Loans (FFELs) or William D. Ford Federal Direct Loans (Direct Loans) that are considered improperly serviced for cohort default rate purposes. For this Guide, “improperly serviced” always means “improperly serviced for cohort default rate purposes only.” Failure to perform each of the servicing activities listed in 34 CFR 668.212(b) constitutes improper loan servicing for cohort default rate purposes.

Loan Servicing Appeal Timeframe		
Draft Cycle	Not applicable	
Official Cycle	School receives official cohort default rate	
	School sends request for loan servicing records to Data Manager, and to the Department via eCDR Appeals	<i>Within 15 days of timeframe begin date</i>
	Data Manager notifies school and the Department via eCDR Appeals of any fee for providing records, together with a list of the representative sample and a description of how the sample was chosen	<i>Within 20 days of receipt of school’s request</i>
	School pays the fee, if charged (outside of eCDR Appeals)	<i>Within 15 days of data manager notification</i>
	Data Manager documents fee disposition and sends loan servicing records to school via eCDR Appeals	<i>Within 20 days of receipt of payment (or within 20 days of receipt of school’s request, if no fee is charged)</i>
	School requests clarification, replacement, or Department records via eCDR Appeals	<i>Within 15 days of receipt of records</i>
	Data Manager sends requested information to school via eCDR Appeals	<i>Within 20 days of school’s request</i>

Regulatory citations:
34 CFR 668.212

The “timeframe begin date” is the sixth business day after the official cohort default rates are released as officially announced on the IFAP Web site:
<http://ifap.ed.gov>

	School sends completed Loan Servicing Appeal to the Department via eCDR Appeals	<i>Within 30 days of receipt of records, except, if later, as provided in 34 CFR 668.212(c)(10)(ii), as applicable, if school is also filing a new data adjustment or erroneous data appeal</i>
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When is a defaulted FFEL considered improperly serviced for cohort default rate purposes?

A defaulted FFEL is considered improperly serviced for cohort default rate purposes if one or more of the following occurs:

- The borrower never made a loan payment, and the school can document that the lender was required but failed to send at least one letter (other than the final demand letter) urging the borrower to make payments on the loan.
- The borrower never made a loan payment, and the school can document that the lender was required but failed to attempt at least one telephone call to the borrower.
- The borrower never made a loan payment, and the school can document that the lender was required but failed to submit a request for pre-claims assistance or default aversion assistance to the guaranty agency.
- The borrower never made a loan payment, and the school can document that the lender was required but failed to send a final demand letter to the borrower.
- The borrower never made a loan payment, and the school can document that the lender was required but failed to submit a certification (or other documentation) to the guaranty agency to demonstrate that the lender performed skip tracing.

For cohort default rate purposes, skip tracing must be performed if the lender receives information before the 241st day of delinquency indicating that the borrower’s address of record is incorrect. Skip tracing is not required for cohort default rate purposes if the lender has the borrower’s correct address but does not have a record of the borrower’s correct telephone number.

If the borrower makes at least one loan payment or if the lender timely performs all of the above-listed activities as appropriate, the loan is considered properly serviced for cohort default rate purposes. However, servicing and collection activities performed after sending the final demand letter will not be considered when determining if a loan has been properly serviced.

When is a defaulted Direct Loan considered improperly serviced for cohort default rate purposes?

A defaulted Direct Loan is considered improperly serviced for cohort default rate purposes if one or more of the following occur:

- The borrower never made a loan payment, and the school can document that the Federal Servicer was required but failed to send at least one letter (other than the final demand letter) urging the borrower to make payments on the loan.
- The borrower never made a loan payment, and the school can document that the Federal Servicer was required but failed to attempt at least one telephone call to the borrower.
- The borrower never made a loan payment, and the school can document that the Federal Servicer was required but failed to send a final demand letter to the borrower.
- The borrower never made a loan payment, and the school can document that the Federal Servicer was required but failed to document that skip tracing was performed if the Federal Servicer determined it did not have the borrower's current address.

If the borrower makes at least one loan payment or if the Federal Servicer timely performs all of the above-listed activities as appropriate, the loan is considered properly serviced for cohort default rate purposes. However, servicing and collection activities performed after sending the final demand letter will not be considered when determining if a loan has been properly serviced.

Which schools are eligible to submit a loan servicing appeal?

Any school that receives an official cohort default rate may submit a loan servicing appeal if it believes that its most recent official cohort default rate calculation includes one or more defaulted FFELs or Direct Loans that were improperly serviced for cohort default rate purposes. This includes schools that are not subject to sanction and schools that have withdrawn from the FFEL and/or Direct Loan programs.

Any school may submit a loan servicing appeal for its most recent official cohort default rate. In general, schools that are subject to loss of eligibility may submit a loan servicing appeal for any official cohort default rate upon which the loss of eligibility is based. However, a school may not submit a loan servicing appeal for an official cohort default rate if the school previously submitted a loan servicing appeal for that official cohort default rate. Further, a school may not submit a loan servicing appeal for an official cohort default rate that was the basis, either entirely or partially, of a previous sanction.

What benefit will a school gain from submitting a loan servicing appeal?

If, as a result of a loan servicing appeal (or as the result of a school's submission of any adjustment or appeal), the Department determines that a school's official cohort default rate calculation includes defaulted loans that were improperly serviced for cohort default rate purposes, the Department will remove those loans (or, if applicable, a valid statistical projection of the total number of borrowers who defaulted due to improper loan servicing)

from the cohort default rate calculation and will recalculate the cohort default rate using the remaining data. This may lower or not affect the cohort default rate. If the school is subject to sanction and the cohort default rate is lowered below the sanction level, the school is no longer subject to that sanction. In addition, a school that would otherwise be subject to sanction in a later year may avoid being subject to that sanction.

However, even though the Department may revise a cohort default rate, subsequent copies of the Loan Record Detail Report (LRDR) for the official cohort default rates will not reflect the change. Therefore, it is important for a school to keep a copy of the Department's final determination letter as the official record of the school's revised cohort default rate.

What roles do the Department and data managers have in a school's loan servicing appeal?

A data manager is required to review a school's request for loan servicing records if the request is submitted in a timely manner and the data manager has responsibility for the loans. The guarantor/servicer code on the LRDR identifies the data manager for a loan.

Data managers are responsible for providing loan servicing records for the loans they hold. The data manager may charge a fee not to exceed \$10 per borrower file. If the data manager chooses to charge a fee, it is not required to provide the records until after the school pays the full fee in a timely manner.

The data manager must respond to the school's request within 20 calendar days. However, the data manager must not review a request for loan servicing records if the school did not timely send the request for loan servicing records or make the payment within the appropriate 15-calendar-day timeframe.

The Department has two roles in the loan servicing appeal process.

The primary role is to review a school's loan servicing appeal, which is submitted to the Department once the school has received loan servicing records from the data manager and has determined that the loans were improperly serviced for cohort default rate purposes.

The Department's other role is to respond to a school's request for loan servicing records if the Department is the data manager for the loans. The Department is the data manager for FFELs the Department holds and for all Direct Loans.

The Department as data manager responds directly to a school's request for loan servicing records for certain FFELs that the Department holds. See the "Data Manager Information" on the Default Prevention and Management website, (under the "Cohort Default Rate Guide" link) for a listing of codes that identify the Department as the holder of a loan.

The Department as data manager responds through its Federal Servicers to a school's request for loan servicing records for all Direct Loans and for certain FFEL loans that the Department holds. In such a case, the Department reviews the school's loan servicing appeal once the school submits it to the Department just as the Department does with respect to loans for which the Department is not the data manager.

How does a school submit a request for loan servicing records?

Timing is critical when submitting a loan servicing appeal. A school begins the process by sending its request for loan servicing records to the relevant data manager(s) responsible for a loan within 15 calendar days of the timeframe begin date via the [eCDR Appeals system](#). The eCDR Appeals system is a web-based application that allows schools to request their loan servicing records and submit the loan servicing appeal electronically, allows the data managers to provide the loan servicing records electronically, and allows the Department to review the loan servicing appeal electronically. Submitting the loan servicing appeal electronically helps to ensure that the appeal is properly routed to the data managers and the Department in a timely fashion. It also allows for greater protection of personally identifiable information. While the hyperlink above will take users directly to the eCDR Appeals homepage, a link to the eCDR Appeals system is also available from the [Default Management Web site](#).

How does a school register to use eCDR Appeals?

All schools must complete the registration process in order to use the eCDR Appeals system. Complete instructions for registering for eCDR Appeals can be found in the [eCDR Appeals Registration and User Account Guide](#). A direct link to this guide, as well as a link to a video demonstration of the registration process, can be found on the eCDR Appeals homepage.

Where can a new user find guidance on submitting a loan servicing appeal using eCDR Appeals?

The eCDR Appeals homepage contains a link to the [eCDR Appeals Loan Servicing Appeal User Guide](#). There are separate User Guides for each challenge, adjustment and appeal type that may be submitted using eCDR Appeals.

How does a school prepare its request for loan servicing records via eCDR Appeals?

If a school believes the official cohort default rate calculation contains any defaulted loans that were improperly serviced for cohort default rate purposes, the school should request loan servicing records from the data manager(s). However, a school cannot file a loan servicing appeal on a loan that is considered in default because the loan met the other specified condition as discussed in Chapter 2.1, "How the Rates are Calculated."

The loan servicing records are the collection and payment history records regarding a borrower that are—

- submitted to the guaranty agency by the lender and used by the guaranty agency in determining whether to pay a default claim or
- maintained by the Federal Servicer and used by the Federal Servicer in determining the cohort default rate.

A school cannot request specific loan servicing records. If the data manager holds loans for 99 or fewer borrowers from the school, the data manager will provide loan servicing records for all the borrowers. If the data manager holds loans for 100 or more borrowers, the data manager will select loan servicing records for a representative sample of the borrowers. The representative sample may or may not include the specific records a school wishes to review.

A school should follow the instructions provided in Chapter 6 and 8 of the eCDR Appeals Loan Servicing Appeal User Guide to initiate the loan servicing appeal, and to prepare and submit the request for loan servicing records to the relevant data manager(s).

What does a data manager do when it receives a school's request for loan servicing records?

Timing is critical when a data manager receives a school's request for loan servicing records. A data manager is required to respond to a school's timely submitted request for loan servicing records for those loans for which the entity is the data manager via the eCDR Appeals system. The data manager must respond within 20 calendar days of receiving the submission. The data manager should follow the instructions in Chapter 9 of the eCDR Appeals Loan Servicing Appeal User Guide to review the request for loan servicing records.

If a data manager currently holds defaulted loans associated with 99 or fewer borrowers in a school's official cohort default rate calculation, the data manager is required to provide loan servicing records associated with each defaulted loan included in the official cohort default rate calculation. Loans that are considered in default for the other specified condition are not included. If a data manager currently holds defaulted loans associated with 100 or more borrowers in a school's official cohort default rate calculation, the data manager should identify a representative sample of the borrowers and only provide the loan servicing records for those borrowers included in the representative sample.

The process of generating a representative sample is done by the data manager via eCDR Appeals. The data manager, via eCDR Appeals, identifies a sample that is large enough such that the estimate derived from the sample is acceptable at a 95 percent confidence level with a plus or minus 5 percent

Guaranty agencies should refer to Dear Guaranty Agency letter dated June 1994 for information on determining appropriate sample sizes. For a copy of this letter, write to the Department at fsa.schools.default.management@ed.gov.

confidence interval for use in determining the number of borrowers who should be excluded from the calculation of the cohort default rate due to improper servicing. The data manager is required to supply servicing records for each defaulted loan that is associated with a borrower included in the sample.

If a data manager is required to provide loan servicing records for a representative sample, a school may not request loan servicing records for specific loans. If a school requests loan servicing records for specific loans, the data manager should inform the school that, because the data manager is supplying loan servicing records for a representative sample of loans, the specific loan servicing records the school requests may or may not be provided.

Within 20 days of receiving the school's request for loan servicing records, the data manager must send the school and the Department via eCDR Appeals a list of the borrowers included in the representative sample and an indication of how the sample was chosen.

What if the data manager requires that a fee be paid to obtain loan servicing records?

Timing is critical when requesting a fee for loan servicing records. If the data manager charges a fee, the data manager must send the school a request for payment via eCDR Appeals within 20 calendar days of receiving the request for loan servicing records. The fee may not exceed \$10 per borrower file.

The school pays the requested fee to the data manager outside of the eCDR Appeals system. The data manager documents the fee disposition in eCDR Appeals. If the school fails to pay the fee, the school has waived its right to receive loan servicing records from that data manager.

How does a data manager respond after it determines that it is appropriate to send the loan servicing records?

Timing is critical when sending loan servicing records. Within 20 calendar days of receiving a request for loan servicing records (if the data manager does not charge a fee for loan servicing records) or 20 calendar days of receiving payment (if the data manager charges a fee for the loan servicing records), the data manager must send the loan servicing records to the school via eCDR Appeals.

The data manager should follow the instructions in Chapter 12 of the eCDR Appeals Loan Servicing Appeal User Guide to prepare and submit the loan servicing records via eCDR Appeals.

A data manager can assist schools in reading the collection history by identifying the relevant collection activities for each loan. This may be done by completing the records portion of the loan servicing spreadsheet as shown in the sample spreadsheet below, by highlighting the collection activities in the actual collection records provided to the school, or by creating a summary sheet outlining the abbreviations/codes associated with specific collection activities.

Sample Spreadsheet for Loan Servicing Records – Data Manager to School

Type: Response to a Request for Loan Servicing Records
 Cohort FY: 2013
 From: State Guaranty Agency
 Code: 111
 To: Coralville College
 Code: 098998

Number of Borrowers: 119
 Number of Loans: 125

	A	B	C	D	E	F	G	H	I	J	K	L	M	
	Borrowers SSN	Borrowers Name	Type of Defaulted Loans	Number of Defaulted Loans	Payment Made?	Date Letter Sent	Date Call Attempted	Date Pre-Claims Assistance Requested	Date Final Demand Letter Sent	Address Known?	Date of Skip Tracing Activity	Illegible Records?	Missing Records?	In S
1														
2	777-77-7777	Green, Marcia	SF	1	No	04/08/2013	05/07/2013	No	11/07/2013	Yes	N/A	No	No	
3	777-77-7777	Green, Marcia	SU	2	No	04/08/2013	05/07/2013	No	11/07/2013	Yes	N/A	No	No	
4	888-88-8888	Kent, Dale	SF	2	No	12/08/2013	01/06/2014	05/16/2014	No	Yes	N/A	No	No	
5	999-99-9999	Clark, Shirley	SF	1	No	11/10/2013	11/12/2013	12/15/2013	01/04/2014	Yes	N/A	No	No	
6	999-99-9999	Clark, Shirley	SU	1	No	11/10/2013	11/12/2013	12/15/2013	01/04/2014	Yes	N/A	No	No	

Date 10/07/2015
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A data manager may choose to complete this spreadsheet in order to assist a school. The data manager may also use an alternative method to assist a school.

A blank version of this spreadsheet is posted on the Default Management Web site at <http://www.ifap.ed.gov/DefaultManagement/DefaultManagement.html>.

What does the school do with the data manager's response to the school's request for loan servicing records?

Timing is critical for schools after receiving loan servicing records. The school must review the loan servicing records and determine how it will proceed. If the school receives a data manager summary of the information in the loan servicing records, the school should still review the records to ensure that the summary is accurate. If a school finds that a record identified as part of the representative sample is missing or illegible, the school may request replacement records from the data manager via eCDR Appeals, as explained in Chapter 14 of the eCDR Appeals Loan Servicing Appeal User Guide. The school has 15 calendar days to request the missing and/or illegible records. The data manager has 20 calendar days to respond to the request. The data manager must either replace the missing and/or illegible records or notify the school and the Department via eCDR Appeals that no additional or improved copies are available.

Within 30 calendar days of receiving the last response to all of the school's requests for loan servicing records, the school must decide how to proceed. If the records indicate that there are no improperly serviced loans for cohort default rate purposes in the school's official cohort default rate calculation, the school should withdraw the appeal as explained in Chapter 16.2 of the eCDR Appeals Loan Servicing Appeal User Guide.

If the records indicate that there are improperly serviced loans for cohort default rate purposes included in the school's official cohort default rate calculation, the school should submit a loan servicing appeal to the Department via eCDR Appeals, as explained in Chapter 16 of the eCDR Appeals Loan Servicing Appeal User Guide. The school must submit the loan servicing appeal within 30 calendar days of receiving the last response to its request for loan servicing records with the following exception: If the school is submitting the loan servicing appeal to the Department along with a timely new data adjustment and/or a timely erroneous data appeal, the school may submit all materials by the later of the following time-frames:

- within 30 calendar days of receipt of the last response to all of the school's new data adjustment allegations,
- within 30 calendar days of receipt of the last response to all of the school's erroneous data appeal allegations, or
- within 30 calendar days of receipt of the last response to all of the school's requests for loan servicing records.

As part of its submission, the school must include the following:

- A spreadsheet that lists the allegations (see sample spreadsheet below).
- A CEO Certification letter on the school's letterhead (see sample CEO Certification letter at end of this chapter).

Sample Loan Servicing Appeal Spreadsheet – School to the Department

Type: Loan Servicing Appeal
 Cohort FY: 2013
 From: Coralville College
 Code: 098998
 To: OPD
 Code:

Number of Borrowers: 2
 Number of Loans: 5

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
	Borrowers SSN	Borrowers Name	Type of Defaulted Loans	Number of Defaulted Loans	Payment Made?	Date Letter Sent	Date Call Attempted	Date Pre-Claims Assistance Requested	Date Final Demand Letter Sent	Address Known?	Date of Skip Tracing Activity	Illegible Records?	Missing Records?	Improperly Serviced?	Data Manager Code
1															
2	777-77-7777	Green, Marcia	SF	1	No	04/08/2013	05/07/2013	No	11/07/2013	Yes	N/A	No	No	Yes	111
3	777-77-7777	Green, Marcia	SU	2	No	04/08/2013	05/07/2013	No	11/07/2013	Yes	N/A	No	No	Yes	111
4	888-88-8888	Kent, Dale	SF	2	No	12/08/2013	01/06/2014	05/16/2014	No	Yes	N/A	No	No	Yes	111

Date 11/02/2015

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A blank version of this spreadsheet is posted on the Default Management Web site at <http://www.ifap.ed.gov/DefaultManagement/DefaultManagement.html>

If the school receives a completed spreadsheet from a data manager, the school is still responsible for reviewing the loan servicing records and ensuring that the information the data manager listed on the spreadsheet is correct. The school should remove any loans that were properly serviced for cohort default rate purposes from the spreadsheet before uploading the spreadsheet to eCDR Appeals. For example, compare the sample spreadsheet that the school is uploading with the previous spreadsheet provided to the school by the data manager. Note that the school has removed Shirley Clark from the list because her loans were properly serviced for cohort default rate purposes.

The school should follow the instructions in Chapter 16 of the eCDR Appeals Loan Servicing Appeal User Guide to finalize and upload the school spreadsheet, upload the CEO Certification letter, and submit the certified Loan Servicing Appeal via eCDR Appeals.

What happens after the school submits the loan servicing appeal?

The Department will review only the information submitted with the loan servicing appeal. The Department will send the school and each involved data manager written notification of the Department's decision via eCDR Appeals. The Department's decision is final and no further administrative review is provided.

If the Department determines, using the standard of review described in 34 CFR 668.209(f), that a school's official cohort default rate calculation includes defaulted loans that were improperly serviced for cohort default rate purposes, the Department will remove the loans (or, if applicable, a valid statistical projection of the total number of borrowers who defaulted due to improper loan servicing) from the cohort default rate calculation and will recalculate the cohort default rate based on the remaining data.

If the school was notified that it was subject to sanction and the loan servicing appeal is successful and the revised cohort default rate is below the sanction level, the Department will withdraw that sanction notice. If the school was notified that it was subject to sanction and the loan servicing appeal is unsuccessful (or if the loan servicing appeal is successful but the revised cohort default rate remains above the sanction level), and the school has no other outstanding adjustments or appeals, the Department will notify the school of the effective date of that sanction.

A school that submits an adjustment and/or an appeal but fails to avoid sanctions is liable for certain costs associated with the Direct Loans it originated and disbursed during the adjustment and appeal process. Liabilities are not calculated for loans that were delivered or disbursed more than 45 calendar days after the school submitted its completed adjustment and/or appeal to the Department. Schools may avoid this liability if they choose not to certify or originate loans during the adjustment and appeal process.

**Sample CEO Certification Letter
Loan Servicing Appeal
(School to the Department)**



November 2, 2015

U.S. Department of Education
Operations Performance Division
ATTN: Loan Servicing Appeal
400 Maryland Avenue, SW
Washington, DC 20202-5353

OPE ID 098998

Subject: Cohort FY XX Loan Servicing Appeal

To Whom It May Concern:

Coralville College, OPE ID 098998, is submitting an appeal of its cohort FY XX official cohort default rate based on allegations of improperly serviced loans. Please see the spreadsheet and loan servicing records submitted via the eCDR Appeals system.

I, the undersigned, certify under penalty of perjury that all information submitted in support of this loan servicing appeal is true and correct.

Thank you for your consideration.

Sincerely,

Serena Rooney
President, Coralville College

Enclosures

cc: State Guaranty Agency

The letter must include the school's OPE ID number, a statement indicating that the school is submitting a loan servicing appeal, and a reference to the applicable cohort fiscal years to which the loan servicing appeal applies. The letter must feature a subject line that reads "Subject: Cohort FY [insert cohort fiscal years being used in the loan servicing appeal] Loan Servicing Appeal." The letter must also include a certification that the information provided is true and correct under penalty of perjury. Finally, there must be a notation that the school is sending a copy of the letter and the spreadsheet to the data managers of the relevant loans. The school's President/CEO/Owner must sign the letter, and the signature must be followed by a signature block showing the signer's name and job title.

Loan Servicing Appeal Checklists

School to Data Manager via eCDR Appeals

Determine

- ◆ Does the LRDR for the official cohort default rates contain defaulted loans that were improperly serviced for cohort default rate purposes?

Submit to Data Manager

- ◆ Request for records via eCDR Appeals
- ◆ Fee for Loan Servicing Records (if required)

Data Manager to School

Determine

- ◆ Does the data manager hold the loans?
- ◆ Is all the material present?
- ◆ Does data manager hold more than 99 loans for school?
- ◆ If so, what is a representative sample of the loans?
- ◆ Is there a fee for the loan servicing records and, if so, how much is it?
- ◆ Has the school paid the fee for loan servicing records (if required)?

Response to School

- ◆ Request for fee
 - ◆ Spreadsheet
- OR
- ◆ Spreadsheet
 - ◆ Loan Servicing Records

Loan Servicing Appeal Checklists (continued)

School to the Department

Determine

- ◆ Do the loan servicing records show that the LRDR for the official cohort default rates contains loans that were improperly serviced for cohort default rate purposes?

Submit to the Department via eCDR Appeals

- ◆ Withdrawal Notice

OR

- ◆ Loan Servicing Appeal case via eCDR Appeals
- ◆ CEO Certification Letter (See sample letter)