

# ***Cohort Default Rate Effects***

## *Chapter 2.2*

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# Cohort Default Rate Effects

34 CFR 668.187  
34 CFR 682.604  
34 CFR 685.301

## Are there any sanctions or benefits associated with draft cohort default rates?

There are no sanctions or benefits associated with draft cohort default rates. Draft cohort default rates are important because the data used to calculate the draft cohort default rate forms the basis of a school's official cohort default rate. Although there are no sanctions or consequences associated with a school's draft cohort default rate, it is important to review the data used to calculate the draft cohort default rate for accuracy. A school that fails to challenge the accuracy of its draft cohort default rate may not contest the accuracy of that data when it receives its official cohort default rate. Therefore, it is critical that all schools review their draft cohort default rate data when the U.S. Department of Education (the Department) releases it. See Chapter 4.1, "Incorrect Data Challenge," for more information about incorrect data challenges.

In addition, in certain circumstances a school may be able to avoid the consequences associated with its official cohort default rate by submitting a successful participation rate index challenge based on its draft cohort default rate. See Chapter 4.2, "Participation Rate Index Challenge," for more information about participation rate index challenges.

The Department releases the official cohort default rates to schools and the public approximately six months after the release of the draft cohort default rates. The official cohort default rate must be released no later than September 30 of each year.

## Will a school's draft cohort default rate and official cohort default rate be the same?

A school's draft cohort default rate and official cohort default rate will not necessarily be the same. The National Student Loan Data System (NSLDS), which contains the data used to calculate cohort default rates, is updated regularly. As a result, a school's draft data may differ from its official data even if the school does not challenge the draft data.

*It is critical that all schools review their draft cohort default rate data*

**Are there any benefits for schools with low official cohort default rates?**

There are two types of benefits that are available to certain schools with low official cohort default rates. Figure 2.2.1 outlines the benefits.

**Figure 2.2.1**

Benefits for Schools with Low Official Cohort Default Rates

Eligible School	Benefits
Any school (including an eligible home institution certifying or originating loans to cover the cost of attendance in a study abroad program) whose three most recent official cohort default rates are less than 10.0 percent.	May deliver or disburse single installments of loan proceeds to a student if that student's period of enrollment is less than or equal to one semester, one trimester, one quarter, or for non-term-based schools or schools with non-standard terms, four months.  May choose not to delay the delivery or disbursement of the first installment of loan proceeds for first-year first-time borrowers.  These benefits are currently scheduled to end on September 20, 2002.
An eligible home institution that is certifying or originating a loan to cover the cost of attendance in a study abroad program whose most recent official cohort default rate is less than 5.0 percent.	May deliver or disburse loan proceeds in a single installment to a student studying abroad regardless of the length of the student's loan period.  May choose not to delay the delivery or disbursement of the first installment of loan proceeds for first-year first-time borrowers studying abroad.

Schools no longer qualify for these benefits starting 30 calendar days after receiving notice from the Department of a cohort default rate that exceeds the benefit thresholds.

**Are there any sanctions associated with high official cohort default rates?**

Sanctions apply when a school’s official cohort default rate is at or above certain percentages. Figure 2.2.2 outlines those sanctions.

School	Sanction
A school's three most recent official cohort default rates are greater than or equal to 25 percent.	Except in the event of a successful adjustment or appeal, such a school will lose Federal Family Education Loan (FFEL), William D. Ford Federal Direct Loan (Direct Loan), and Federal Pell Grant eligibility for the remainder of the fiscal year when the sanction is levied and for the following two fiscal years.
A school's current official cohort default rate is greater than 40 percent.	Except in the event of a successful adjustment or appeal, such a school will lose FFEL and Direct Loan eligibility for the remainder of the fiscal year when the sanction is levied and for the following two fiscal years.

**Figure 2.2.2**  
Sanctions for Schools with High Official Cohort Default Rates

A school is not subject to the loss of Federal Pell Grant Program eligibility if, prior to October 7, 1998, the school requested in writing to withdraw from or lost its eligibility to participate in the FFEL and/or Direct Loan programs and has not subsequently participated in those programs. (A school should contact the Case Management and Oversight Office at 1-202-205-0183 for information on withdrawing from the FFEL Program and Direct Loan Operations at 1-202-708-9951 for information on withdrawing from the Direct Loan Program.) In addition, a school is not subject to the loss of Federal Pell Grant Program eligibility if it did not certify any FFELs and/or originate any Direct Loans on or after July 7, 1998. A school that resumed participation in the FFEL or Direct Loan programs is no longer eligible for either of these exemptions.

A school that loses eligibility may continue to honor unpaid loan commitments and make certain second disbursements after notification of the loss of eligibility if the school meets certain criteria listed in the Code of Federal Regulations (CFR). The criteria can be found at 34 CFR 668.26(d).

**Can a school avoid the sanctions associated with high cohort default rates?**

If a school is notified that it is subject to sanctions, the school may submit an adjustment or appeal to attempt to avoid those sanctions. Adjustments and appeals are available to schools after the release of the official cohort default rates. Challenges are available to schools after the release of the draft cohort default rates. Figure 2.2.3 summarizes the actions a school may take. (Schools not subject to loss of eligibility and schools subject to provisional certification based on cohort default rates may only take a limited number of these actions. See Chapter 3.1, "Cohort Default Rate Strategies," for an overview of the actions schools may take.) For more information, including detailed explanations of each action and the time frames for taking an action, see Part IV of this guide, "Challenges, Adjustments, and Appeals."

**Figure 2.2.3**

Challenges, Adjustments, and Appeals Table

A school is not subject to sanction based on an unofficial cohort default rate. An unofficial cohort default rate is not used to end a school's eligibility to participate.

Draft/ Official	Type of Action	Purpose
<b>DRAFT</b>	Incorrect Data Challenge	Correct data before the official cohort default rates are released
<b>DRAFT</b>	Participation Rate Index Challenge	Demonstrate a low borrower participation rate to avoid a sanction with the official cohort default rate
<b>OFFICIAL</b>	Uncorrected Data Adjustment	Contest data that was agreed upon in draft process that is not reflected in official data
<b>OFFICIAL</b>	New Data Adjustment	Contest official data that was not present in draft data or that is different from the draft data
<b>OFFICIAL</b>	Erroneous Data Appeal	Contest official data not available for challenge in draft process (new data) and contest data manager's decision (disputed data)
<b>OFFICIAL</b>	Loan Servicing Appeal	Contest servicing of the borrower's loan account
<b>OFFICIAL</b>	Participation Rate Index Appeal	Demonstrate a low borrower participation rate
<b>OFFICIAL</b>	Economically Disadvantaged Appeal	Demonstrate high economically disadvantaged rate and high placement or completion rates
<b>OFFICIAL</b>	Average Rates Appeal	Demonstrate low number of borrowers
<b>OFFICIAL</b>	Thirty-or-Fewer Borrowers Appeal	Demonstrate a total of 30 or fewer borrowers in three consecutive cohort default rates

Further, a Historically Black College or University, Tribally Controlled Community College, or Navajo Community College, as defined in regulations, is not subject to loss of eligibility or provisional certification based on its cohort default rate if the school

- ❖ submits in a timely manner an acceptable default management plan (such as that found in Appendix B to CFR 668 Subpart M);
- ❖ engages in a timely manner an independent third-party to assist in implementing the default management plan;
- ❖ demonstrates, on a yearly basis, that the plan has been successfully implemented, that it continues to engage an independent third party, and that the school's cohort default rate will be less than 25.0 percent by a specified date (the Department will notify institutions of the relevant date); and
- ❖ shows substantial improvement over the preceding one-year period in accordance with 34 CFR 668.198 (e)(1).

It is important to note that this exemption is scheduled to expire in June 2004.

#### **What are the consequences of an unsuccessful cohort default rate adjustment or appeal?**

If a school that is subject to loss of eligibility to participate in the FFEL and/or Direct Loan programs loses a cohort default rate adjustment or appeal, the school will be liable for certain costs associated with any FFELs the school certifies and/or any Direct Loans the school originates during a specified liability period. The liability period begins 30 calendar days after the school receives notice that it is subject to loss of eligibility and ends upon the earlier of

- ❖ the withdrawal of the adjustment or appeal,
- ❖ the resolution of the adjustment or appeal, or
- ❖ the 45th calendar day after the date the school submitted the adjustment or appeal to Default Management for review.

A school may avoid a liability associated with an unsuccessful cohort default rate adjustment or appeal if the school chooses not to certify and/or originate loans during the liability period.

***The effective date of a school's loss of eligibility for a school that is not currently under sanction depends on whether the school submits a timely adjustment or appeal***

### **If a school is subject to sanctions, when do the sanctions take effect?**

The effective date of a school's loss of eligibility for a school that is not currently under sanction depends on whether the school submits a timely adjustment or appeal:

- ❖ If the school does not timely submit an adjustment or appeal to avoid the sanction, the school's participation ends 30 calendar days after the date the school first receives notice that it is subject to the loss of eligibility.
- ❖ If the school does timely submit an adjustment or appeal to avoid the sanction and the adjustment or appeal is unsuccessful, the school remains, at its option, eligible to participate until the school receives the Department's final decision indicating that the adjustment or appeal was unsuccessful.
- ❖ If the school does timely submit an adjustment or appeal to avoid the sanction and the adjustment or appeal is successful, the Department will withdraw the notification that the school is subject to a loss of eligibility.

The effective date of a school's loss of eligibility for a school that is currently under sanction (already lost eligibility) also depends on whether the school submits a timely adjustment or appeal:

- ❖ If the school does not timely submit an adjustment or appeal to avoid the sanction, the school's previous loss of eligibility remains in effect and the school will receive an additional sanction.
- ❖ If the school does timely submit an adjustment or appeal to avoid the sanction and the adjustment or appeal is unsuccessful, the school's previous loss of eligibility remains in effect and the new loss of eligibility is effective when the school receives the Department's final decision indicating that the school's adjustment or appeal was unsuccessful. The new loss of eligibility does not replace the previous loss; rather, they are both applied concurrently.
- ❖ If the school does timely submit an adjustment or appeal to avoid the sanction and the adjustment or appeal is successful, the Department will withdraw the notification that the school is subject to an additional loss of eligibility. However, the previous loss of eligibility remains in effect.

A school that loses eligibility may reapply for participation when the sanction period ends. For information on reapplying for participation in the FFEL and/or Federal Pell Grant programs, contact the Case Management and Oversight Office at 1-202-260-3616. For information on reapplying for participation in the Direct Loan Program, contact Direct Loan Operations at 1-202-708-9951. A school can apply online at

<http://www.eligcert.ed.gov>

