

Average Rates Appeal

Chapter

4.9

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Average Rates Appeal

34 CFR 668.196

What is an average rates appeal?

A school facing sanction based on three consecutive official cohort default rates of 25.0 percent or greater is not subject to that sanction if at least two of these official cohort default rates are average rates and would have been less than 25.0 percent if they had been calculated using only the data for that cohort fiscal year alone.

In addition, a school facing sanction based on one official cohort default rate that is greater than 40.0 percent is not subject to that sanction if the official cohort default rate was calculated as an average rate.

Figure 4.9.1 shows the time frame for submitting an average rates appeal.

How does a school qualify for a successful average rates appeal if the school is subject to sanction because of three consecutive cohort default rates that are 25.0 percent or greater?

Take a sequence of cohort fiscal years: This Year, Last Year, and Two Years Ago.

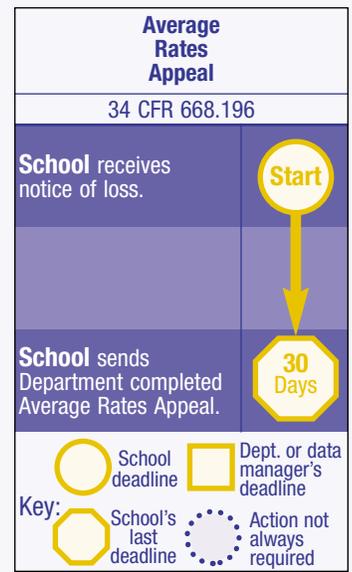
School A, a degree-granting school, certified loans for the following students:

- ❖ 7 borrowers who entered repayment This Year (of whom **none** defaulted in the cohort default period),
- ❖ 26 borrowers who entered repayment Last Year (of whom **6** defaulted in that cohort default period), and
- ❖ 35 borrowers who entered repayment Two Years Ago (of whom **12** defaulted in that cohort default period).

The 18 borrowers ($0 + 6 + 12 = 18$) who entered repayment and defaulted are divided by the 68 total borrowers ($7 + 26 + 35 = 68$) to give School A an average cohort default rate for This Year of 26.4 percent. School A had an average cohort default rate for Last Year of 27.6 percent and a non-average cohort default rate for Two Years Ago of 34.2 percent. Therefore, School A is subject to sanction for This Year because of three consecutive years of an official cohort default rate that is 25.0 percent or greater.

Figure 4.9.1

Time Frame for Submitting an Average Rates Appeal



However, School A had an average cohort default rate for both This Year and Last Year. Therefore, School A meets the criteria that at least two of the three most recent official cohort default rates be average rates. The next criteria is to determine if those cohort default rates would be less than 25.0 percent if they were calculated using only data from those cohort fiscal years alone.

If School A's cohort default rate for This Year was calculated using only data from This Year, the cohort default rate for This Year would be 0.0 percent ($0 \div 7 = 0$). If School A's cohort default rate for Last Year was calculated using only data from Last Year, the cohort default rate for Last Year would be 23.0 percent ($6 \div 26 = .230$).

Because the two cohort fiscal years with average cohort default rates would have been less than 25.0 percent if the rates were calculated using only data from those years alone, School A's average rates appeal will be successful, and the school will not be subject to sanction.

See Chapter 2.1, "Calculating Cohort Default Rates," for more information on average rates.

How does a school qualify for a successful average rates appeal if the school is subject to sanction because of a cohort default rate that is greater than 40.0 percent?

As mentioned, a school facing sanction based on one official cohort default rate that is greater than 40.0 percent is not subject to that sanction if the official cohort default rate was calculated as an average rate. Therefore, if the cohort default rate that is greater than 40.0 percent is an average cohort default rate, the school's average rates appeal will be successful, and the school will not be subject to sanction.

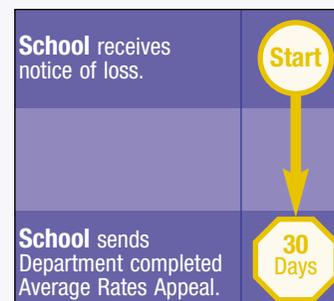
How does the average rates appeal process begin?

The U.S. Department of Education's (the Department's) Default Management will automatically determine if a school meets the criteria associated with an average rates appeal. This initial determination will take place prior to the release of the official cohort default rates. Default Management will notify the school if it is not subject to sanction at the same time Default Management notifies the school of its official cohort default rate.

In addition, if a school's official cohort default rate changes because of an adjustment or appeal the school submitted, Default Management will automatically determine if the change in the cohort default rate results in the school meeting the criteria for an average rates appeal.

What if a school disagrees with the initial determination by Default Management?

If a school disagrees with the initial determination by Default Management, the school may submit an average rates appeal to Default Management. For a school attempting to avoid a sanction based on three consecutive years of a cohort default rate that is 25.0 percent or greater, the average rates appeal must include supporting documentation showing that two of the three official cohort default rates in question were calculated as average rates and would be less than 25.0 percent if calculated only for those cohort fiscal years alone. For a school attempting to avoid a sanction based on a cohort default rate that is greater than 40.0 percent, the average rates appeal must include supporting documentation showing that the current cohort default rate is an average rate. For all average rates appeals, a school must include a certification from the school's chief executive officer that all information is true and correct. A school must send the average rates appeal within 30 calendar days of receiving the Department's notice of a loss of eligibility.



Which Department address does a school use for submitting an average rates appeal?

See the "Which address does a school or data manager use for submitting challenge, adjustment, or appeal materials to Default Management?" section in Chapter 4.11, "Challenge, Adjustment, and Appeal Tools," for the address for Default Management. A school should not send average rates appeal materials to any other addresses at the Department.

Default Management recommends that a school send all average rates appeal correspondence return receipt requested or via commercial overnight mail/courier delivery. This will be useful to a school if it is asked to authenticate the timeliness of its submission. A school should maintain the documentation that verifies the receipt of the average rates appeal as well as all electronic and hardcopy documentation submitted as a part of the average rates appeal process. If a school does not meet the time frame for submitting an average rates appeal, the average rates appeal will not be reviewed.

School to Default Management Average Rates Appeal Checklist

Determine

- Is the school subject to sanction and, if so, what type?
(See page 4.9-1)
- If the school is subject to sanction because of three consecutive cohort default rates that are 25.0 percent or greater, were two of those cohort default rates calculated as average rates? (See page 4.9-1)
- If so, would those cohort default rates be less than 25.0 percent if they were calculated using only that year's cohort default rate data alone?
(See page 4.9-1)
- If the school is subject to sanction because of a cohort default rate that is greater than 40.0 percent, was the cohort default rate calculated as an average rate? (See page 4.9-2)
- Did the Department automatically grant the school an average rates appeal?
(See page 4.9-2)

Submit to Default Management

- Supporting Documentation (See page 4.9-3)
- Certification (See page 4.9-3)