

Participation Rate Index Appeal

Chapter

4.8

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Participation Rate Index Appeal

What is a participation rate index appeal?

A school is not subject to sanctions based on its cohort default rates if its participation rate index is 0.0375 (for a sanction based on three consecutive cohort default rates of 25 percent or greater) or 0.06015 (for a sanction based on one cohort default rate over 40 percent). In other words, if a school can demonstrate that the number of students who obtain loans is very low in relation to the number of regular students at the school, the school will be able to avoid sanctions. A school may submit a participation rate index challenge during the draft cohort default rate process or a participation rate index appeal during the official cohort default rate process. The participation rate index challenge is based on a school's most recent draft cohort default rate or either of its two preceding official cohort default rates. The participation rate index appeal is based on any of a school's three most recent official cohort default rates.

Timing is critical when submitting a participation rate index appeal. A school must submit a participation rate index appeal within 30 days of receiving the notice of loss of eligibility. Figure 4.8.1 shows the time frame for submitting a participation rate index appeal.

Which cohort default rate can be used to determine a participation rate index appeal?

A school can submit a participation rate index appeal for any cohort default rates upon which a sanction is based, depending on the sanction to which the school is subject. For example, take a sequence of years: Year A, Year B, and Year C. Year A is the current year. Year B is the year immediately preceding Year A. Year C is the year immediately preceding Year B.

If a school is subject to sanction due to three consecutive years of an official cohort default rate that is greater than or equal to 25 percent, the school can submit a participation rate index appeal based on the official cohort default rate for Year C, the official cohort default rate for Year B, or the official cohort default rate for Year A. If the sanction is due to an official cohort default rate for Year A that is greater than 40 percent, the school can submit a participation rate index appeal

34 CFR 668.195

Figure 4.8.1

Time Frame for Submitting a Participation Rate Index Appeal



Figure 4.8.2

Cohort Default Rates Subject to a Participation Rate Index Appeal

Nature of Sanction	Year A (Current Year)	Year B (One Year Ago)	Year C (Two Years Ago)
Three consecutive years of a cohort default rate that is 25 percent or greater	Yes – Official Cohort Default Rate	Yes - Official Cohort Default Rate	Yes - Official Cohort Default Rate
Current cohort default rate that is greater than 40 percent	Yes – Official Cohort Default Rate.	No	No

based only on the official cohort default rate for Year A. Figure 4.8.2 summarizes the cohort default rates for which a school can submit a participation rate index appeal.

Which schools are eligible to submit a participation rate index appeal?

Only a school that can demonstrate that it can avoid sanction by submitting a participation rate index appeal may submit a participation rate index appeal. To avoid sanctions based on three consecutive years of an official cohort default rate that is 25 percent or greater, a school must have a participation rate index of 0.0375 or less. To avoid sanctions based on an official cohort default rate that is greater than 40 percent, a school must have a participation rate index of 0.06015 or less.

What benefit will a school gain from submitting a participation rate index appeal?

The U.S. Department of Education (the Department) will withdraw a notice of loss of eligibility for a school that submits a successful participation rate index appeal. If a school’s participation rate index is 0.0375 or less, the Department will also excuse the school from any subsequent loss of eligibility that would be based on that rate.

Are participation rate index appeals based on a specific period of time?

The school may base the participation rate index appeal on any 12-month period that ended during the six months immediately preceding the start of the cohort fiscal year for which the school is submitting a participation rate index appeal. Because a school can choose to submit a participation rate index appeal based on its three most recent official cohort default rates, the time period will differ based on the cohort default period used by the school.

Fiscal Year	Fiscal Year Start Date	Acceptable 12-month Period Begins Between	Acceptable 12-month Period Ends Between
FY98	10/01/97	04/02/96 - 10/01/96	04/01/97 - 09/30/97
FY99	10/01/98	04/02/97 - 10/01/97	04/01/98 - 09/30/98
FY00	10/01/99	04/02/98 - 10/01/98	04/01/99 - 09/30/99
FY01	10/01/00	04/02/99 - 10/01/99	04/01/00 - 09/30/00
FY02	10/01/01	04/02/00 - 10/01/00	04/01/01 - 09/30/01
FY03	10/01/02	04/02/01 - 10/01/01	04/01/02 - 09/30/02
FY04	10/01/03	04/02/02 - 10/01/02	04/01/03 - 09/30/03
FY05	10/01/04	04/02/03 - 10/01/03	04/01/04 - 09/30/04

Figure 4.8.3
Date Ranges for Acceptable 12-Month Periods

The federal fiscal year always begins on October 1. As a result, the six months immediately preceding the start of a fiscal year will always begin on April 1 and always end on September 30. Therefore, the 12-month period the school uses must end no earlier than April 1 and no later than September 30. In order for a 12-month period to end between April 1 and September 30, it must begin no earlier than April 2 and end no later than October 1 of the preceding year.

Figure 4.8.3 is a chart that can be used to determine an acceptable 12-month period. To choose an acceptable 12-month period, a school should first determine which cohort fiscal year the school will use. The school then picks a start date from the range listed in the "Acceptable 12-month Period Begins Between" column. The end date will be 12 months after the start date, which will fall in the range listed in the "Acceptable 12-month Period Ends Between" column. Figure 4.8.4 shows an acceptable and some unacceptable 12-month periods for FY01.

Figure 4.8.4
Acceptable and Unacceptable 12-Month Periods for FY01

12-Month Period	Status	Reason
04/02/99-04/01/00	Acceptable	Starts within acceptable range; ends 12-months later within acceptable range
04/02/99-04/02/00	Unacceptable	Starts within acceptable range; ends more than 12-months later
04/01/99-03/31/00	Unacceptable	Starts and ends outside acceptable range

A school can select the most beneficial 12-month period available. In other words, a school can determine which acceptable 12-month period has the least number of borrowers and use that period when calculating its participation rate index.

If a school selects an unacceptable 12-month period, Default Management will not review any portion of the school's participation rate index appeal and the participation rate index appeal will be denied and returned to the school. A school may contact Default Management at 1-202-708-9396 to discuss whether the school has selected an acceptable 12-month period.

How does a school calculate its participation rate index?

After selecting the 12-month period, the school determines the number of regular students attending during that 12-month period who received a Federal Family Education Loan (FFEL) or William D. Ford Federal Direct Loan (Direct Loan) during any loan period that overlaps the 12-month period. As mentioned, a regular student is a student who enrolled or was accepted for enrollment at a school for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that school. To be included in the participation rate index calculation, the borrower must be a student who was enrolled at least half-time and enrolled at least one day during the selected 12-month period.

The school divides the number of regular students attending the school during the selected 12-month period who obtained a FFEL or Direct Loan during any loan period that overlaps the 12-month period by the total number of regular students enrolled at least half time and for at least one day during any part of the 12-month period. It is not necessary for the student's entire enrollment period to fall within the 12-month period. This is calculated as follows:

- ❖ Total borrowers in 12-month period/Total students in 12-month period

Once the school has divided the total number of FFEL and Direct Loan borrowers by the total number of students, the school multiplies the result by the cohort default rate upon which the school is basing the participation rate index appeal. The total derived from this step is the participation rate index. A participation rate index is calculated as follows:

$$\left(\frac{\text{Total borrowers}}{\text{Total students}} \right) \times \text{School's cohort default rate} = \text{Participation Rate Index}$$

If the cohort default rate for a previous year was calculated as an average rate, the school can calculate the participation rate index for that year using either

- ❖ the average rate or
- ❖ the cohort default rate the school would have had for that year if the cohort default rate had been calculated using only the borrowers who entered repayment during that cohort fiscal year.

To avoid sanctions based on three consecutive years of an official cohort default rate that is greater than or equal to 25 percent, a school must have a participation rate index of 0.0375 or less. To avoid sanctions based on an official cohort default rate that is greater than 40 percent, a school must have a participation rate index of 0.06015 or less.

For example, School A's official cohort default rate is 25 percent. School A's two most recent official cohort default rates were 26 percent and 28 percent. As a result, School A is subject to sanction because of three consecutive years of an official cohort default rate that is 25 percent or greater.

School A had a total of 200 regular students enrolled on at least a half-time basis during the selected 12-month period. Of those 200 students, 31 obtained FFELs or Direct Loans for a loan period that overlapped the 12-month period. School A's participation rate index is 0.03875.

Because the participation rate index is greater than 0.0375, School A's participation rate index appeal would be unsuccessful.

As another example, School B's official cohort default rate is 50 percent. School B's two most recent official cohort default rates were 20 percent and 31 percent. As a result, School B is subject to sanction only because of an official cohort default rate that is greater than 40 percent.

School B had a total of 100 regular students enrolled on at least a half-time basis during the 12-month period. Of these 100 students, 10 obtained FFELs or Direct Loans for a loan period that began or ended in the 12-month period. School B's participation rate index is 0.05.

Because the participation rate index is less than 0.06015, School B's participation rate index appeal would be successful. However, if School B's two most recent official cohort default rates were 25 percent and 31 percent, and School B was also subject to sanction because of three consecutive years of an official cohort default rate that is 25 percent or greater, the participation rate index appeal would not be successful. In that event, the participation rate index would have to be 0.0375 or less for the participation rate index appeal to be successful.

$$\begin{array}{r} (31 \text{ borrowers} \\ \div \\ 200 \text{ total students}) \\ \times \\ 25 \text{ percent} \\ \text{cohort default rate} \\ = \\ 0.03875 \\ \text{participation rate index} \end{array}$$

$$\begin{array}{r} (10 \text{ borrowers} \\ \div \\ 100 \text{ total students}) \\ \times \\ 55 \text{ percent} \\ \text{cohort default rate} \\ = \\ 0.05 \\ \text{participation rate index} \end{array}$$

A school with fewer than 30 borrowers in the denominator of its official cohort default rate may calculate a participation rate index in two ways. The school may

- ❖ calculate a participation rate index using its average rate, which is based on data for the three most recent cohort fiscal years (see Chapter 2.1, “Calculating Cohort Default Rates,” for additional information on average rates); or
- ❖ calculate a participation rate index using a cohort default rate based on that cohort fiscal year alone.

Does a school need to wait until the official cohort default rate is released to calculate a participation rate index?

Although a school can not perform the final step in the process (multiplying the participation ratio by the cohort default rate) until the official cohort default rate is released, a school can perform the initial steps of the calculation before release of the official cohort default rate if it believes its official cohort default rate will incur sanctions. In that way, a school can save time when the official cohort default rate is released.

What roles do the Department and data managers have in a school’s participation rate index action?

Schools submit participation rate index actions directly to Default Management for review and consideration. Default Management is responsible for determining whether schools meet the established participation rate index criteria. Therefore, there is no role for data managers.

If a school submits an appeal to the wrong entity or address, the appeal might not be reviewed and the school could miss the deadline for submitting the appeal to Default Management.

If a data manager receives a participation rate index appeal from a school, it should immediately contact the school to inform it that the appeal must be sent to Default Management. The data manager should also indicate that the request must be sent to Default Management within the appropriate timeframes. The data manager should then notify Default Management that the data manager has contacted the school.

How does a school submit a participation rate index appeal?

Timing is critical when submitting a participation rate index appeal. A school must submit a participation rate index appeal to Default Management within 30 days of receiving the notice of loss of eligibility. The appeal must include the following items:

- ❖ A completed participation rate index appeal spreadsheet.

Figure 4.8.5 is a sample participation rate index appeal spreadsheet. See the blank spreadsheet and the instructions for creating and completing the spreadsheet in the "Participation Rate Index Tools" section of Chapter 4.11, "Challenge, Adjustment, and Appeal Tools." A school may photocopy and use the blank spreadsheet when submitting a participation rate index appeal or create its own spreadsheet using the layout provided.

- ❖ A letter on the school's letterhead.

The letter should include the school's OPE ID number, a statement indicating that the school is submitting a participation rate index appeal, the relevant cohort default rate on which the appeal is based, a certification sentence that the information provided is true and correct under penalty of perjury, and a list of the other adjustments or appeals the school intends to submit to Default Management. The school should also note its participation rate index and the 12-month period the school selected. The letter should feature a subject line that reads "Subject: FY [insert cohort fiscal year being used in the appeal] Participation Rate Index Appeal." The school's

Figure 4.8.5
Sample School Participation Rate Index Appeal Spreadsheet to Default Management

School Name: Graphic Tech
 OPE ID: 999999
 Cohort Default Rate: 50.0%
 Selected 12-Month Period: 09/01/00 - 08/31/01
 Total Borrowers: 2
 Total Regular Students: 50
 Participation Rate Index: 0.02

Participation Rate Index Appeal Based on the FY 02 Official Cohort Default Rate

	A	B	C	D	E
1	Student's SSN	Student's Name	Student's Enrollment Dates (MM/DD/CCYY to MM/DD/CCYY)	Loan Type if any (FFEL or DL)	Loan Period (MM/DD/CCYY to MM/DD/CCYY)
2	111-11-1111	Ross, Betsy	09/27/2000 – 05/26/2001	FFEL	08/15/2000 – 05/26/2001
3	222-22-2222	Adams, John	08/15/2000 – 05/26/2001		
4	333-33-3333	Washington, Martha	08/15/2000 – 12/30/2000		
5					
6					

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President/CEO/Owner should sign the letter, and the signature should be followed by a signature block showing the signer's name and job title. Figure 4.8.6 is a sample participation rate index appeal letter.

Schools are not required to submit an independent auditor's attestation to support the school's participation rate index appeal.

Using the information on the spreadsheet and the formula listed previously, a school must calculate its participation rate index. As mentioned, to avoid sanctions based on three consecutive years of an official cohort default rate that is 25 percent or greater, a school must have a participation rate index of 0.0375 or less. To avoid sanctions based on an official cohort default rate that is greater than 40 percent, a school must have a participation rate index of 0.06015 or less.

If a school does not have any students who received FFELs or Direct Loans with loan periods that overlapped the selected 12-month period, the school does not have to submit a spreadsheet to Default Management. However, the school must send Default Management a letter that identifies the 12-month period and indicates that the school did not have any students who received loans with loan periods that overlapped the 12-month period.

Which Department addresses should a school use for submitting a participation rate index appeal?

The school must send the appeal materials to Default Management via commercial courier or the U.S. Postal Service. Default Management will not accept any appeal correspondence by facsimile (fax) or e-mail. If sent by commercial overnight mail/courier delivery, the address is

U.S. Department of Education
 Default Management
 ATTN: Participation Rate Index Appeal
 Portals Building, Room 6300
 1250 Maryland Avenue, SW
 Washington, DC 20024

If sent by U.S. Postal Service, the address is

U.S. Department of Education
 Default Management
 ATTN: Participation Rate Index Appeal
 Portals Building, Room 6300
 400 Maryland Avenue, SW
 Washington, DC 20202-5353



**Figure 4.8.6 - Sample School Participation Rate Index
Appeal Letter to Default Management****GRAPHICTECH**

Graphic Tech
9765 Arts Lane
Coral City, Iowa 12345-9765
1-987-654-3210

October 14, 2004

U.S. Department of Education
Default Management
ATTN: Participation Rate Index Appeal
Portals Building, Room 6300
400 Maryland Avenue, SW
Washington, DC 20202-5353

OPEID #999999

Subject: FY 2002 Participation Rate Index Appeal

To Whom It May Concern:

Graphic Tech, OPE ID #999999, is submitting a participation rate index appeal on our FY 2002 official cohort default rate. Our participation rate index is 0.02. This rate is based on a 12-month period that began on September 1, 2000 and ended on August 31, 2001. I, the undersigned, certify under penalty of perjury that all information submitted in support of this participation rate index appeal is true and correct.

Graphic Tech is submitting its participation rate index appeal at this time; however, the school has also timely submitted an erroneous data adjustment.

Please see the enclosed spreadsheet.

Thank you for your consideration.

Sincerely,



Alexander Peachum
President, Graphic Tech

Enclosure

A school should not send participation rate index challenge materials to any other addresses at the Department.

Default Management recommends that a school send all 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 appeal. A school should maintain the documentation which verifies the receipt of the appeal as well as all documentation submitted as a part of the appeal process. If a school does not meet the time frame for submitting an appeal, the appeal will not be reviewed.

What happens after the school submits the appeal?

Default Management will review only the information submitted with the appeal and will not review information submitted after the 30 calendar day deadline. Default Management will send the school written notification of Default Management's decision. Default Management's decision is final and no further administrative review is provided.

If the school was notified that it was subject to sanction and the appeal is successful, Default Management will withdraw the notice of loss of eligibility. If the school was notified that it was subject to sanction and the appeal is unsuccessful, and the school has no other outstanding adjustments or appeals, Default Management will notify the school of the effective date of the sanctions.

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.