



## 4.9 Average Rate Appeal

Department Offices and Addresses

### **What is an average rates appeal?**

A school facing loss of eligibility based on three consecutive official cohort default rates that equal or exceed the relevant threshold as described in Chapter 2.4 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 the relevant threshold if they had been calculated using only the non-average data for that cohort fiscal year alone. (Refer to Chapter 2.1 for an explanation of the average and non-average cohort default rate calculations.)

In addition, a school facing loss of eligibility 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.

<b>Average Rates Appeal Timeframe</b>		
Draft Cycle	Not applicable	
Official Cycle	School receives notice of loss of eligibility as part of the official cohort default rate notification package	September
	School sends completed Average Rates Appeal to the U.S. Department of Education (the Department)	Within 30 days of timeframe begin date

Regulatory citations:  
34 CFR 66 .215

### **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 equal or exceed the relevant threshold as described in Chapter 2.4?**

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 2 defaulted in the cohort default period),
- 26 borrowers who entered repayment Last Year (of whom 7 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 timeframe begins on the sixth business day following the transmission date for eCDR notification packages that is posted on the Department's website.

The 18 borrowers ( $2 + 7 + 12 = 21$ ) 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 30.8 percent. *School A* had an average cohort default rate for Last Year of 30.0 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 meets or exceeds the relevant threshold. (For purposes of this example the school is subject to sanction based on the three-year calculation.)

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 the relevant threshold 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 28.5 percent ( $2 \div 7 = 0.285$ ). 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 26.9 percent ( $7 \div 26 = 0.269$ ).

Because the two cohort fiscal years with average cohort default rates would have been less than the relevant threshold (for purposes of this example, 25.0%) 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, "How the Rates are Calculated", 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 previously, 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 Department 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. The Department will notify the school if it is not subject to sanction at the same time the Department 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, the Department 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 the Department?***

If a school disagrees with the initial determination by the Department, the school may submit an average rates appeal to the Department. For a school attempting to avoid a sanction based on three consecutive years of a cohort default rate that equals or exceeds the relevant threshold as described in Chapter 2.4, 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 the relevant threshold 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 the school’s timeframe begin date.

**How a school submits an  
Average Rates Appeal**

*The Department recommends that a school send all correspondence return receipt requested or via commercial overnight mail/courier delivery. This will be useful to the school if it is asked to authenticate the timeliness of its submission. A school should maintain the documentation that verifies the receipt of the appeal as well as all electronic and hardcopy documentation submitted as a part of the appeal process.*

*If sending by courier:*

U.S. Department of Education  
Partner Eligibility and Oversight Services  
Union Center Plaza, 6<sup>th</sup> Floor (61G3)  
830 First Street, NE  
Washington, DC 20202  
ATTN: Cohort Default Rates Group

*If sending by U.S. Postal Service:*

U.S. Department of Education  
Partner Eligibility and Oversight Services  
Union Center Plaza, 6<sup>th</sup> Floor (61G3)  
400 Maryland Avenue, SW  
Washington, DC 20202-5353  
ATTN: Cohort Default Rates Group

*Do not send materials to any other address at the Department.*

## **Average Rates Appeal Checklists**

### **School to the Department**

#### **Determine**

- ◆ Is the school subject to loss of eligibility and, if so, what type?
- ◆ If the school is subject to loss of eligibility because of three consecutive cohort default rates that equal or exceed the relevant threshold as described in Chapter 2.4, were two of those cohort default rates calculated as average rates?
- ◆ If so, would those cohort default rates be less than the relevant threshold if they were calculated using only that year's cohort default rate data alone?
- ◆ If the school is subject to loss of eligibility because of a cohort default rate that is greater than 40.0 percent, was the cohort default rate calculated as an average rate?
- ◆ Did the Department automatically grant the school an average rates appeal?

#### **Submit to the Department**

- ◆ Supporting documentation
- ◆ Certification