



Education ADVISORY ■

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More Student Borrowers Get Relief Under Borrower Defense to Repayment Rule

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The U.S. Department of Education has once again approved hundreds of millions of dollars in borrower defense to repayment discharges for student borrowers, signaling an ongoing crusade to relieve student loan debt with what appears to be a focus on the for-profit sector.

On April 28, 2022, the department announced it would deliver relief totaling \$238 million to 28,000 student borrowers who attended Marinello Schools of Beauty, which closed in February 2016. The full student loan discharges apply to all borrowers who attended Marinello between 2009 and 2016, including many who did not even apply for borrower defense relief. This group discharge was based on the department's findings that Marinello engaged in pervasive and widespread misconduct that negatively affected all borrowers who enrolled at Marinello during the covered period.

The Marinello discharge "is the first group discharge for defrauded borrowers to be approved since 2017," according to the department's April 28, 2022 [press release](#). Under the applicable regulations for the group borrower process, the Secretary of Education may consolidate applications against an institution that allege "common facts and claims" and resolve the borrower defense claims as a group. This return to the use of group discharge—a practice that was not utilized by the Trump Administration—demonstrates the department's willingness to discharge large classes of borrowers who the department claims are similarly situated.

The department's press release identified the owners of Marinello during the relevant time and the identities of some of its board members, but did not go so far as to say that the department intended to pursue these individuals for the costs of these discharges. As Alston & Bird previously [reported](#) in February, the department approved \$415 million in loan discharges for students who attended DeVry University, Westwood College, ITT Technical Institute, and Minnesota School of Business/Globe University. The discharges for the DeVry students marked the first time the department had approved borrower defense claims associated with a currently operating institution, and the department stated in that case it would "seek to recoup the cost of the discharges from DeVry."

The department's April 28 press release touted the fact that the Marinello discharges "bring the total amount of approved relief based on borrower defense findings during the Biden-Harris Administration to approximately \$2.1 billion for 132,000 borrowers" and that, in the aggregate, the department has approved more than \$18.5 billion

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in loan discharges for more than 750,000 borrowers. The department reaffirmed its commitment to “strengthen [its] oversight and enforcement for colleges and career schools that engaged in misconduct” and announced four key hires in the Federal Student Aid Office of Enforcement, including the former education policy director for U.S. Senator Richard J. Durbin (D-IL) who focused on “providing student loan debt relief for defrauded borrowers.”

Alston & Bird’s Education Team has significant experience working with education institutions to effectively and thoroughly respond to claims filed with the department under the Borrower Defense Rule, including our current representation of several education clients that are defending these exact claims. If you have received claim applications or need to develop a plan to respond, do not hesitate to reach out to our team.

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