



## **POLICY POSITION:**

# **Federal Cohort Default Rates and Law Schools**

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*Cohort default rates (CDR) for federal student loans, published annually by the U.S. Department of Education (ED), provide no value for the vast majority of law schools. Reliance upon a CDR for any reason other than assessing compliance with minimum standards for participation in the federal financial aid programs may lead to misinformed and detrimental action (or inaction) by law schools.*

*AccessLex Institute supports efforts to expand the availability of broader, disaggregated data sources that will enable law schools and researchers to better understand the repayment performance of student loan borrowers. Until such time, we caution law schools from citing, or otherwise relying on, CDRs as support for any assertion.*

## **Background**

A borrower enters default status under the federal student loan programs when such borrower's loan is more than 270 days delinquent. The Higher Education Act (HEA) requires ED to measure, on an annual basis, each school's CDR, defined in statute as the percentage of a school's borrowers who enter repayment on certain Federal Direct Loan Program or Federal Family Education Loan (FFEL) Program loans during a particular federal fiscal year (FFY) and who default prior to the end of the second following FFY. For example, the FFY17 CDR, released in September 2020, analyzes borrowers who entered repayment between October 1, 2016 and September 30, 2017, and defaulted in FFY17, FFY18, or FFY19.

Institutions with CDRs above certain thresholds may lose their federal student aid eligibility. For example, institutions with CDRs of 30 percent or higher for three consecutive FFYs could lose Direct Loan and Pell Grant program eligibility for the remainder of the FFY in which the school is notified of the sanction and for the following two FFYs. In addition, institutions with a CDR above 40 percent in one year could lose Direct Loan program eligibility for the remainder of the FFY in which the school is notified of its sanction and for the following two FFYs.

Few schools ever trigger the most severe penalties. For example, the most recent CDR calculations, which were released in September 2020 and are typical, resulted in just 12 of approximately 6,000 eligible schools facing the loss of federal student aid eligibility, pending the results of any appeals to ED.

## **Key Shortcomings of the Cohort Default Rate**

1. CDR only measures the percentage of borrowers who default on their federal student loans within the first two to three years of repayment. However, given the initial six-month grace period, the nine-months of delinquency required to default, and years of available deferments and forbearances, it is simple for such borrowers to delay default well beyond the CDR measurement period to which a borrower is assigned. Combined with access to various income-

driven repayment plans that provide for monthly payments as a percentage of discretionary income, many borrowers who will ultimately default remain in good standing during the CDR measurement period without ever making a payment.

2. For any law school which has not been assigned an ED identification number discrete from the larger institution with which it is affiliated, which includes the vast majority of law schools, the CDR data cannot be disaggregated to show law school borrowers only. As a result, only the small number of stand-alone law schools or law schools that otherwise have a unique ED identification number can even know the CDR, which, as discussed above, is of little to no value in any case.
3. The CDR does not measure students who are delinquent on their payments, or those who are making timely payments but failing to make any progress toward reducing their debt, each of which indicates a borrower's difficulty in meeting their student loan debt obligations. To illustrate, the Federal Reserve Bank of New York reports that 15 percent of student loan borrowers were delinquent or in default on their student loans in the second quarter of 2019, and only 36 percent were current and paying down their balance.<sup>1</sup> The remaining 49 percent of borrowers were current on payments but their balance either remained the same or was increasing.

**About AccessLex Institute:** AccessLex Institute is a nonprofit organization committed to helping talented, purpose-driven students find their path from aspiring lawyer to fulfilled professional. In partnership with its nearly 200 Member law schools, improving access and positively influencing legal education have been at the heart of the Company's mission since 1983.

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<sup>1</sup> Federal Reserve Bank of New York. (October 2019). Who Borrows for College—and Who Repays? *Liberty Street Economics Blog*. <https://libertystreeteconomics.newyorkfed.org/2019/10/who-borrows-for-collegeand-who-repays.html>.