

LEGAL UPDATES

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ED Pushes Borrower Defense Reporting Q&A

Update: On August 30, 2019, the U.S. Department of Education released extensive final regulations addressing, among other topics, Borrower Defense to Repayment reporting requirements. The new final regulations, effective July 1, 2020, substitute new language around required litigation reporting. That language indicates that—rather than frequent reporting at various junctures across a broad swath of litigation—institutions need only report “liability from a settlement, final judgment, or final determination” if it arises from “an administrative or judicial action or proceeding” with a “Federal or State entity.” There is ambiguity in the regulations themselves on this issue, but we read the Comments as clarifying this limitation. We look forward to additional clarification from the Department and are continuing to monitor this issue.

Yesterday evening, the U.S. Department of Education (ED) released a much-anticipated Q&A regarding Borrower Defense to Repayment Reporting due from institutions of higher education beginning on May 14, 2019. The key points of the brief Q&A are:

1. Public institutions are subject to certain reporting requirements.
2. Debts and liabilities arising from all settlements are subject to reporting.
3. Institutions must report all types of litigation brought on or after July 1, 2017.

What this means to you

Colleges and universities should implement systems to provide notifications to ED as directed. Reporting requirements are not static: they require timely

updates to ED as litigation proceeds, settlements are entered, and liabilities arise.

Contact us

If you have questions about these reporting requirements, contact Anne Cartwright, Julie Miceli or your Husch Blackwell attorney.