

Sweet v. Cardona Settlement: Borrower Defense Notice to Revise and Resubmit

U.S. Department of Education <noreply@studentaid.gov>
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 To: evil.librarians@gmail.com

Thu, Jul 6, 2023 at 1:26 PM

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July 6, 2023

Borrower Defense Application #: 01305859
 Borrower Defense Applications School: University of Hawaii at Manoa

Dear Robert Wiesenberg:

You are receiving this letter because you are a Class Member of the *Sweet v. Cardona* ("Sweet") settlement, and you submitted a Borrower Defense to Repayment application on or before June 22, 2022. The Department of Education has reviewed your claim pursuant to the terms of the *Sweet* settlement and it cannot approve your application as currently written.

You have until six months from the date of this letter to revise and resubmit your application. This letter will:

- Explain why your initial application was not approved;
- Explain the criteria the Department will use to evaluate your application if you revise and resubmit it and provide examples of successful and unsuccessful applications; and
- Provide the deadline for resubmission.

To resubmit your application, visit [StudentAid.gov/borrower-defense](https://studentaid.gov/borrower-defense).

1. Why Your Application Was Not Approved

Under the *Sweet* class action settlement, the Department grants "Full Settlement Relief" to borrowers who satisfy one of three criteria listed below. Full Settlement Relief means that, for the school listed above, your federal loans will be discharged, you will receive a refund of any amount you paid on your federal loans to the Secretary, and the credit tradelines associated with your federal loan debt will be deleted. The three criteria are:

1. Attest that your school made a substantial misrepresentation, which means that your school or a representative of your school told you something false, wrong, or misleading about your school's educational program, financial charges, or the employability of its graduates; or
2. Attest that you obtained a nondefault, favorable contested judgment in court against your school (either individually or as a member of a class, or because of a government action); or
3. Attest that your school breached its obligations under a contract that existed between you and the school.

To attest means to swear under the penalty of perjury that the statement that you provide is true.

Your application was not approved because:

- You did not attest that your school made a substantial misrepresentation.
 - You did not attest that your school made a substantial misrepresentation because you attested that your school made a false, wrong, or misleading statement, but the statement was not about the school's educational program, financial charges, or the employability of its graduates or the reviewer could not tell if it was about one of those things because you did not provide enough

information.

- You did not attest that you obtained a contested judgment against the school.
- You did not attest that your school breached its contractual obligation.

2. Criteria for Revised Applications and Examples of Successful and Unsuccessful Applications

As discussed above, a successful claim for Settlement Relief for Class Members under the *Sweet* litigation must attest to a substantial misrepresentation, a judgment, or a breach of contract meeting specific criteria. Here are some examples of successful and unsuccessful applications for each:

A. Substantial Misrepresentation

A substantial misrepresentation has two parts. First, there must be an alleged misrepresentation, which means a statement from the school that is false, wrong, or misleading. The best way to do this is to write what your school represented to you and then to explain why that was false, wrong, or misleading, or, if your school did not tell you something important, to explain what the school did not tell you and why it was important. For example: My school said my credits could transfer to another school, but that statement was false because when I tried to transfer my credits, I applied to 10 schools and none of them would accept my credits. Another example: My school did not tell me that my credits wouldn't transfer. I told them I wanted to continue my education after graduating and my school did not tell me that other colleges would not accept my credits. I had to start over from scratch.

Second, the misrepresentation must relate to one of three things: the school's (1) educational program, (2) financial charges, or (3) the employability of its graduates. Each of these terms has a specialized meaning that is explained below. These meanings are from the 2016 Borrower Defense regulation. You can find the full text of this part of the regulation here: 34 C.F.R. 668.71 – 74 (<https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-F>).

i. Educational Program

The following are common things related to a school's educational program: whether a student may transfer courses, whether successful completion of a course qualifies a student to take a licensing or certification test, whether the program qualifies a student to work in certain field, the nature or extent of any prerequisites established for enrollment in any course, the number and qualification of its faculty; whether a degree or certificate has been authorized by the appropriate state educational agency. See below for examples of valid and not valid statements:

- Valid:
 - My school misrepresented the prerequisites required for major.
 - My admissions counselor told me that all my credits would transfer to a state school, but that wasn't true.
 - My school told me I would be able to graduate in three years, but then did not offer enough sections of required classes so that I could do so.
- Not Valid:
 - My school was bad. *Not valid because it lacks a specific allegation that an institution did something.*
 - My classes were boring. *Not valid because it lacks a specific allegation that an institution did something.*
 - I heard that other students were not able to take their licensing exam. *Not valid without additional information to indicate that school represented that a program qualified for a licensing test that turned out to be untrue.*
 - Pre-printed statement in the application that is checked by borrower states: My school misrepresented the qualifications of its faculty. But borrower writes in: My teachers were fully qualified. *Not valid because second statement contradicts first statement.*

ii. Financial Charges

The following are common things related to financial charges: the availability or nature of financial assistance offered to students (including a student's responsibility to repay loans after attending the school), the cost of the program

and the school's refund policy if the student does not complete the program, and the availability of scholarships. See below for examples of valid and not valid statements:

- Valid:
 - My school told me I was receiving grants and scholarships, but I found out later that some or all of the funds were loans.
 - My school misrepresented the overall cost of my program, but it was more expensive than they told me.
- Not Valid:
 - Food and books and housing cost more than I thought they would. *Not valid unless the school gave you a specific cost for these items.*
 - The school did not tell me that the cost of textbooks was not included in tuition. *Not valid unless the school told you that textbooks were included with tuition or that tuition was the total cost of attendance.*
 - Pre-printed statement in application that is checked by borrower states: My school misrepresented the overall cost of my program. But borrower writes in: The school correctly told me how much the program cost. *Not valid because second statement contradicts first statement.*

iii. Employability of Graduates

The following are common things related to employability of a school's graduates: job placement statistics, whether the school offers graduates a job placement service or assists graduates with obtaining employment, whether the school has a relationship with employers leading directly to employment or has information about the current or likely future conditions, compensation, or employment opportunities within the student's chosen field. See below for examples of valid and not valid statements:

- Valid:
 - My school guaranteed a job after graduation, but I couldn't find one.
 - My school told me I would get an internship or externship once I enrolled but they did not place me in an internship or help me find one.
 - My school told me that they would help me with resumes and job interviews, but they never did.
- Not Valid:
 - I couldn't find a job after graduation. *Not valid unless the school promised that it would help you find a job.*
 - Pre-printed statement in application that is checked by borrower states: My school did not fulfill its promise that I would find future employment. But borrower writes in: I found a job right after graduating. *Not valid because second statement contradicts first statement.*
 - I did not find the career services to be helpful. *Not valid without additional information because the reader cannot tell if the school made representations about career services that turned out to be untrue.*

B. Judgment

To state a judgment, you must attest that you obtained a nondefault, favorable contested judgment in court against your school (either individually or as a member of a class, or as a result of a government action). Please note that the Sweet settlement agreement is a settlement and is therefore not the result of a contested judgment. See below for examples of valid and not valid statements:

- Valid:
 - I received a nondefault, favorable contested judgment against my school in the following case: [list name of case, court that heard case, and date of decision].
- Not Valid:
 - I read about the Sweet settlement online or I am a member of the Sweet class. *Not valid because Sweet was resolved with a settlement and the regulation requires that the judgment was the result of a contested judgment.*
 - DOJ sued my school and I read there was a settlement agreement. *Not valid because a settlement agreement is not a contested judgment.*

C. Breach of Contract

To state a breach of contract, you must attest that your school breached its obligations under a contract that existed between you and the school. This requires that you show that a contract exists between you and the school, and that the school's conduct caused it not to satisfy the terms of the contract. See below for examples of valid and not valid statements:

- **Valid Basis**

- My school breached a contract with me because I signed a contract stating I would receive a 100% tuition refund if I withdrew before the first week of class. I did withdraw in that timeframe, but the school did not issue me a refund.
- The school promised they would provide lifetime career services in my enrollment agreement but when I went in for help, they didn't even have a career services office.

- **Not Valid Basis**

- I was expelled and not allowed to complete my program. *Not valid because the borrower does not point to a specific contract that he or she had with the school.*
- I got a C on my final but I did all of the work. *Not valid because the borrower does not allege a contract with the school or that the contract was violated.*

3. **Deadline for Resubmission**

You must resubmit your claim within 6 months of the date at the top of this letter, using the link that is provided on the first page of this letter, to qualify for resubmission under the special process for Class Members in the Sweet litigation.

If you do not resubmit your claim within 6 months, this letter will be considered a final denial letter by the Department of Education. You have the right to file a lawsuit in U.S. District Court challenging the Department's denial of your application for Borrower Defense to Repayment.

Any future application filed after six months will not be considered under the terms of the Sweet settlement.

What happens next?

Your loan will stay in forbearance or stopped collection status for six months. If you elect to revise and resubmit before the deadline, your loan will stay in forbearance or stopped collection status until your revised application is granted or denied. For this period of forbearance or stopped collection status, the Department will not make you pay any interest that accrues on your federal loans.

If you have any additional questions, you may contact the borrower defense hotline at 1-855-279-6207.

Sincerely,



Richard Cordray
Chief Operating Officer
Federal Student Aid

Federal Student Aid
AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION

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StudentAid.gov/borrower-defense