HIGHER EDUCATION LAW
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Navigating the Evolving BDTR Landscape: New Claims, Litigation Updates and Regulatory Shifts

Higher education institutions across the country are facing a new wave of borrower defense to repayment (BDTR) claims. This recent development comes just as the federal government is working to comply with the final terms of a class action settlement involving the backlog of BDTR claims, and after yet another shift in the BDTR regulatory scheme as a result of the One Big Beautiful Bill Act last year.

BDTR Background

The BDTR system is a federal process that allows borrowers with U.S. Department of Education student loans to request loan cancellation if their school misled them or engaged in misconduct related to their education or loans. Borrowers can apply for relief if they believe their institution made false claims about things like job placement rates, accreditation, program quality or transferability of credits. If a borrower's claim is approved, the government may forgive some or all of the borrower's federal student loan debt and potentially refund payments already made, and in certain circumstances may seek reimbursement from the institution. BDTR claims therefore represent a potential source of exposure for institutions to which they are directed.

Regulations implementing the BDTR process have been repeatedly revised by successive federal administrations and therefore the precise scope of the standards that apply to any BDTR claim vary depending on timing. Further complicating the picture has been years of litigation surrounding BDTR, including challenges to the regulations themselves along with challenges to the DOE's handling of BDTR claims.

Updates on the *Sweet* Settlement

Notably, in June of 2022, the U.S. Department of Education reached a settlement in the *Sweet v. McMahon* (formerly *Sweet v. Cardona* and *Sweet v. DeVos*) litigation involving pending BDTR claims submitted from Jan. 1, 2015 through the date of the settlement (along with post-settlement, pre-court approval BDTR claims through Nov. 15, 2022). The lawsuit challenged the way the Department dealt with borrower defense applications, including delays in issuing final decisions and the denial of certain applications.

Under the settlement, borrowers who attended specific schools the Department determined were "highly suspect" for misconduct (known, per the settlement, as "Exhibit C" schools) had their loans fully discharged. A second group of borrowers who submitted BDTR claims from 2015 through 2022 were provided with defined deadlines tied to the date of their original BDTR claim by which the Department would render a decision. If the Department failed to render a decision by the set deadlines, borrowers would be entitled to certain relief under the settlement, effectively discharging their debt. The settlement does not address recoupment from institutions. However, the Department represented in the course of the litigation that it would not seek recoupment from institutions for claims covered by the settlement, at least as to "Exhibit C" schools – a process that would, if deployed, have questionable legality, given the settlement's procedures were a negotiated resolution outside of the regulatory procedural requirements for recoupment from schools.

In December of 2025, the U.S. District Court for the Northern District of California denied the Department's request for an 18-month extension of the January 2026 deadline for post-class claims, citing nearly 200,000 remaining applications and a lack of personnel and funding to review them. The motion was denied, holding in place the Jan. 28, 2026 deadline for student claims arising from loans at "Exhibit C" schools, but approving a modest extension to April 15 to adjudicate the remaining claims. In rendering the Court's decision, District Judge William Alsup questioned why the request for an extension was made only six weeks before the original deadline,

given the Department's knowledge of the number of pending applications since the settlement was reached.

Following Judge Alsup's retirement and the case's reassignment, the Department filed in late January 2026 a second motion for relief from the deadline. This motion was also denied, citing no meaningful progress since the last motion was denied and no new developments to justify the lengthy 18-month extension; as of January 22, the Department had adjudicated less than 2,000 of the nearly 200,000 claims that were outstanding at the time of the December ruling. The Department has since appealed to the Ninth Circuit Court of Appeals and sought a stay of the district court's ruling, which has not been ruled on as of March 12, 2026.

A New Wave of BDTR Applications and More Regulatory Shifts

As the government litigates its appeal and presumably continues to process the 2022 claims under the settlement, institutions across the country in early March 2026 have begun to see a new wave of BDTR claims released by the Department of Education. These claims appear to have been submitted after Nov. 22, 2022 and therefore fall outside the scope of the *Sweet* settlement. Notice from the Department is typically sent by email to an institution's president and financial aid leadership, though institutions can check for claims directly on the Department's Common Origination & Distribution website.

These claims will likely be adjudicated under existing regulatory frameworks, though litigation persists on this BDTR front as well. Although the BDTR regulations were updated during the Biden administration, these changes were enjoined by a court order in 2024 and did not take effect. And since that time, the One Big Beautiful Bill Act delayed implementation of the Biden-era 2022 regulations, moving the effective date of the regulations by limiting their application to loans that have an origination date after July 1, 2035. This change effectively ended certain aspects of the litigation over the 2022 regulations and revived the BDTR regulations put into effect by the first Trump administration in 2019, which applied to loans disbursed on or after July 1, 2020. But on March 6, 2026, an amended complaint in the suit challenging the 2022 regulations has raised claims about both the 2022 regulations – arguing that they have been merely delayed – along with claims related to the 2019 regulations' lawfulness. Adding to the regulatory morass are the 2016 regulations, which still apply to loans made between July 1, 2017, and July 1, 2020, and the 1994 regulations for all loans disbursed prior to July 1, 2017.

Next Steps for Colleges and Universities

Institutions responding to newly received complaints will look to the applicable regulations to inform their response, but given the pending litigation involving the 2019 regulations, uncertainty may for some time hang over how the Department will be able to address BDTR claims. Notwithstanding the uncertainty, it is still advisable for institutions to give timely attention to any claims they receive and respond prior to the applicable deadline (typically 60 days after receipt), among other reasons to bolster a defense against the possibility of the Department granting claims and seeking institutional reimbursement.

Bond continues to monitor the BDTR landscape and will provide further updates as they arise. For questions or assistance in responding to a BDTR claim, contact Brit Schoepp-Wong or any member of the higher education practice.

*Special thanks to associate trainee Timothy Bouffard for his assistance in the preparation of this memo. Timothy is admitted to practice law in Massachusetts.