

## 4.5 Erroneous Data Appeal

### ***What is an erroneous data appeal?***

An erroneous data appeal alleges that because of “new data” and/or “disputed data” included in the official cohort default rate calculation, a school’s official cohort default rate is inaccurate.

<b>Erroneous Data Appeal Timeframe</b>		
<b>Draft Cycle</b>	Not applicable	
<b>Official Cycle</b>	School receives notice of loss of certification or notice of provisional certification	
	School sends Erroneous Data Appeal allegations to Data Manager	<i>Within 15 days of timeframe begin date</i>
	Data Manager sends Erroneous Data Appeal response to school	<i>Within 20 days of receipt of the school’s Erroneous data Appeal allegations</i>
	If necessary, school requests clarification.	<i>Within 15 days of receipt of data manager response</i>
	Data manager sends requested information to school	<i>Within 20 days of receipt of the school’s request for clarification</i>
	School sends completed Erroneous Data Appeal to Default Prevention and Management (DPM) <i>If the school is also filing a New Data Adjustment and/or a Loan Servicing Appeal, it may submit them together, by the date that the latest is due.</i>	<i>Within 30 days of receipt of final data manager response</i>

For domestic schools the “timeframe begin date” is the sixth business day after the cohort default rates are released as officially announced on the IFAP website: <http://ifap.ed.gov>.

### ***What is new data?***

New data occurs when loan data reported to the National Student Loan Data System (NSLDS) changes during the period between the calculation of the draft and official cohort default rates. NSLDS is continuously provided with new or updated information. Because the draft cohort default rates are calculated approximately six months before the official cohort default rates are calculated, the data used to calculate the draft cohort default rates may be different from the data used to calculate the official cohort default rates.

For foreign schools the “timeframe begin date” is the day after the date of receipt of the official cohort default rate notification package.

New data can be identified by comparing the loan record detail reports (LRDR) for the draft and official cohort default rates for the same cohort fiscal year and determining if any loan data is newly included, excluded, or changed in any manner. The school should then determine if the new data results in the loan data being reported incorrectly.

The following are examples of new data:

- ◆ a loan on the LRDR for the official cohort default rates is newly included, excluded, or changed in some manner when compared to the LRDR for the draft cohort default rates, and
- ◆ the school believes the loan is being incorrectly used in the official cohort default rate calculation.

### ***What if the new data is correct?***

If the new data in the LRDR for the official cohort default rates is correct, a school cannot submit an erroneous data appeal based on the correct new data. A school can only submit an erroneous data appeal when the school believes that the new data is incorrect even if the data manager disagrees with the school. Therefore, for the purposes of this chapter, any mentions of “new data” refer to “new incorrect data.”

### ***What is disputed data?***

Disputed data occurs when—

- ◆ a school submitted an incorrect data challenge allegation,
- ◆ the data manager for the loan disagreed with the incorrect data challenge allegation,
- ◆ the school believed the data manager was incorrect, and
- ◆ the same alleged error exists in the school’s official cohort default rate data.

### ***Which schools are eligible to submit an erroneous data appeal?***

In order to submit an erroneous data appeal, a school must meet all of the following criteria—

- ◆ The school’s official cohort default rate calculation must include new and/or disputed data.
- ◆ The school must be subject to official cohort default rate sanctions or provisional certification based solely on the school’s cohort default rate.
- ◆ The school’s successful erroneous data appeal, either by itself or in combination with an uncorrected data adjustment, a new data adjustment, or a loan servicing appeal, will result in a recalculated cohort default rate below the sanction threshold.

A school may submit an erroneous data appeal for any of the official cohort default rates upon which its sanction is based as long as the school has not previously appealed that official cohort default rate on the basis of erroneous data and has not previously been subject to sanction based on that official cohort default rate.

If a school is not subject to sanction, the school might be eligible to submit an *uncorrected data adjustment* (see Chapter 4.3) or a *new data adjustment* (see Chapter 4.4).

In certain circumstances, a school that is subject to provisional certification based solely on its cohort default rate is eligible to submit an erroneous data appeal. See the section of this chapter entitled “How does provisional certification affect a school’s ability to submit an erroneous data appeal?” for additional information.

***What benefit will a school gain from submitting an erroneous data appeal?***

If, as a result of an erroneous data appeal (or as the result of a school’s submission of any adjustment or appeal), DPM determines that a school’s official cohort default rate calculation data is incorrect, DPM will recalculate the cohort default rate using the corrected data. This may lower, raise, or not affect the cohort default rate. If the school is subject to sanction and the cohort default rate is lowered below the sanction level, the school is no longer subject to that sanction. In addition, a school that would otherwise be subject to sanction in a later year may avoid being subject to that sanction.

If a school’s cohort default rate is lowered below the sanction level, the school is no longer subject to that sanction.

However, even though DPM may revise a cohort default rate, subsequent copies of the LRDR for the official cohort default rates will not reflect the change. Therefore, it is important for a school to keep a copy of DPM’s final determination letter as the official record of the school’s revised cohort default rate.

***What roles do the Department and data managers have in a school’s erroneous data appeal?***

A data manager is required to review a school’s erroneous data appeal allegations if the erroneous data appeal allegations are submitted in a timely manner and the data manager has responsibility for the loans. If a school submits erroneous data appeal allegations to the wrong entity, the erroneous data appeal allegations will not be reviewed and the school could miss the deadline. The guarantor/servicer code on the LRDR identifies the data manager for a loan. See Chapter 2.3, “Reviewing The Loan Record Detail Report,” for information on determining the data manager for a loan.

The data manager must respond to the school’s erroneous data appeal allegations within 20 calendar days of receipt. However, the data manager must not review erroneous data appeal allegations if the school did not send the erroneous data appeal allegations within the 15-calendar-day timeframe. If the data manager does not respond within 20 calendar days, the school should advise DPM in writing of the delay.

The Department has two roles in the erroneous data appeal process. The primary role is to review a school’s erroneous data appeal, which is submitted to DPM once the school has received data manager responses for all of the school’s erroneous data appeal allegations.

The Department's other role is to respond to a school's erroneous data appeal allegations if the Department is the data manager for the loans. The Department is the data manager for Federal Family Education Loans (FFELs) the Department holds and for all William D. Ford Federal Direct Loans (Direct Loans).

DPM is responsible for responding to a school's erroneous data appeal allegations for FFELs that the Department holds. These loans are primarily identified in the LRDR with a guarantor/servicer code of 555. See the "Alphabetical Data Manager Contacts" on DPM's website for a listing of other codes that identify the Department as the holder of a loan.

The Department's Direct Loan servicer is responsible for responding to a school's erroneous data appeal allegations regarding all Direct Loans, even those that are in default. These loans are identified in the LRDR with a guarantor/servicer code of 0101.

### ***How does a school submit erroneous data appeal allegations to a data manager?***

Timing is critical when submitting an erroneous data appeal. A school begins the process by sending its erroneous data appeal allegations to the data manager responsible for a loan within 15 calendar days of the timeframe begin date. Chapter 3.1, "Reviewing Rates and Loan Data," outlines a method a school can follow to determine if the LRDR contains inaccurate data.

Upon receiving the LRDR for the official cohort default rates, a school should compare the LRDRs for the draft and official cohort default rates to determine if any loan data has changed between the loan record detail reports and, if so, whether the changes result in the loan being reported incorrectly. The school should also determine if the LRDR contains any disputed data. If either situation exists, the school should submit erroneous data appeal allegations to the data manager for the loan.

A school must list separate erroneous data appeal allegations for each loan record that the school believes contains new and/or disputed data. If one data manager is responsible for all the loans, the school must list all the erroneous data appeal allegations in one submission. However, if there are multiple data managers involved, the school must submit separate erroneous data appeal allegations to each data manager. For example, a school believes the LRDR contains three loans with new and/or disputed data. Two of the loans are held by one data manager; the other loan is held by a different data manager. The school must prepare two separate erroneous data appeal allegations packages, one for each data manager, listing only the loans held by each data manager.

The materials must include the following items—

- ◆ An erroneous data appeal allegations spreadsheet that lists the erroneous data. (See sample spreadsheet)
- ◆ Copies of the appropriate pages from the relevant LRDR to demonstrate that the loans are new data or disputed data (see Chapter 3.1, "Reviewing Rates and Loan Data," for examples of the LRDR pages a school should submit).

For domestic schools the "timeframe begin date" is the sixth business day after the cohort default rates are released as officially announced on the IFAP website: <http://ifap.ed.gov>

For foreign schools the "timeframe begin date" is the day after the date of receipt of the official cohort default rate notification package.

- ◆ Copies of relevant supporting documentation (see Chapter 3.1, "Reviewing Rates and Loan Data," for examples of other supporting documentation).
- ◆ A letter on the school's letterhead (see sample letter at end of chapter).

## Sample Erroneous Data Appeal Spreadsheet – School to Data Manager

Type: Erroneous Data Appeal  
 Cohort FY: 2004  
 From: Graphic Tech  
 Code: 099999  
 To: State Guaranty Agency  
 Code: 111

Number of Borrowers: 2  
 Number of Loans: 2

	A	B	C	D	E	F	G	H	I	J	K	L
	Borrower's SSN	Borrower's Name	Type of Loans	Number of Loans	Basis of Alleged Error	Earlier of LDA or LTH	Date Entered Repayment	CPD, DD, ICRD, or N/A	Cohort FY(s)	Effect on Calculation	Comments	Agree/ Disagree
1												
2	111-11-1111	Connell, Anissa	SF	1	New	02/11/2004	08/12/2004	N/A	FY 2004	+D	N/A	N/A
3	222-22-2222	Mackey, Caleb	SF	1	Disputed	11/18/2003	01/16/2004	N/A	FY 2004	-N	Borrower passed away prior to scheduled date entered repayment	N/A
4												
5												

Date 10/12/2006

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A blank version of this spreadsheet is posted on the Default Prevention and Management website at <http://www.ifap.ed.gov/DefaultManagement/DefaultManagement.html>.

If a school is submitting erroneous data appeal allegations for multiple official cohort default rates, the school should submit all the erroneous data appeal allegations in the same mailing to the data manager and to DPM.

The school must send a copy of the letter and the erroneous data appeal allegations spreadsheet to DPM at the same time it sends the complete erroneous data appeal allegations package to the data manager. The school does not need to send the pages of the LRDRs or the relevant supporting documentation to DPM at that time unless the school is making allegations about a FFEL that the Department holds.

*DPM recommends that a school send all erroneous data appeal allegations correspondence return receipt requested or via commercial overnight mail/courier delivery. This will be useful to a school if it is asked to authenticate the timeliness of its submission. A school should maintain the documentation which verifies the receipt of the materials as well as all electronic and hardcopy documentation submitted as a part of the erroneous data appeal process. If a school does not meet the 15-calendar-day timeframe for submitting erroneous data appeal allegations, the erroneous data appeal allegations will not be reviewed.*

### ***How does a school identify the data manager of a loan?***

The guarantor/servicer code on the LRDR shows the data manager responsible for a loan. A school can use this number to obtain the name and address of the data manager. See the “Numerical Data Manager Contacts” on the DPM’s website for a listing of data manager codes and addresses.

### ***How does a data manager respond to a school’s erroneous data appeal allegations?***

Timing is critical when responding to a school’s erroneous data appeal. The data manager should first determine if the school is eligible to submit an erroneous data appeal. See the section of this chapter entitled “Which schools are eligible to submit an erroneous data appeal?” for information on determining if a school is eligible.

A data manager is required to respond to a school’s timely submitted erroneous data appeal allegations for those loans for which the entity is the data manager and send a copy of the response to DPM. However, the data manager must not review erroneous data appeal allegations if the 15-calendar-day timeframe for a school to submit erroneous data appeal allegations has expired. If the school’s due date falls on a weekend or a federal holiday, a school may send its erroneous data appeal allegations to the data manager no later than the next federal business day.

Before denying a school’s erroneous data appeal allegations on the basis of a late submission, a data manager should verify the actual date the school received its official cohort default rate notification package from DPM. If the school did not submit the erroneous data appeal allegations in a timely manner, the data manager must not review any part of the submission. In its response to the school, the data manager should explain that it is unable to review the erroneous data appeal allegations because the school missed the regulatory deadline. The data manager must also send a copy of the response to DPM.

The data manager must respond to timely submitted erroneous data appeal allegations within 20 calendar days of receiving the submission. In its erroneous data appeal allegations response, the data manager will address each of the school’s timely submitted erroneous data appeal allegations. If the data manager does not respond within 20 calendar days, the school should advise DPM in writing of the delay.

If the school is eligible to submit an erroneous data appeal and the erroneous data appeal submission is timely, a data manager must review each erroneous data appeal allegation submitted by the school. The data manager should determine the following—

- ◆ *The data manager should determine if the erroneous data appeal allegations presented by the school are based on loans that the data manager currently holds.*

For domestic schools the “timeframe begin date” is the sixth business day after the cohort default rates are released as officially announced on the IFAP website:  
<http://ifap.ed.gov>.

For foreign schools the “timeframe begin date” is the day after the date of receipt of the official cohort default rate notification package.



If the data manager does not hold the loans, the data manager should notify the school and DPM that the erroneous data appeal allegations must be submitted to the appropriate data manager and remind the school that the erroneous data appeal allegations must be submitted to the appropriate data manager within 15 calendar days of the timeframe begin date.

There will be some instances where the data manager was the former holder of the loans but those loans have been assigned to the Department and the LRDR for the official cohort default rates does not yet reflect the assignment. In that event, the data manager should send the school and DPM a notice stating that the loans have been assigned to the Department. The school then has until 15 calendar days after receipt of the letter from the data manager to submit the erroneous data appeal allegations to DPM.

- ◆ *The data manager should determine if all relevant material is present.*

See the section of this chapter entitled “How does a school submit erroneous data appeal allegations to a data manager?” for information on the materials a school is required to submit with its erroneous data appeal. If a school fails to provide the data manager with all of the necessary information, the data manager must ask the school to submit the missing information. However, the school must submit this additional information to the data manager within the initial 15-calendar-day deadline for submitting erroneous data appeal allegations. If the school does not submit the additional information within the deadline, the data manager must not review the erroneous data appeal allegation.

- ◆ *The data manager should determine if its documentation supports or refutes each of the erroneous data appeal allegations listed on the school's spreadsheet.*

The data manager should agree with the school if the data manager's documentation supports the school's claim or if the school has demonstrated that the data manager has failed to take into account correct information the school timely sent to the data manager or NSLDS.

The data manager should disagree with the school if the data manager's documentation refutes the school's claim or if the school failed to demonstrate that the correct information was timely submitted to the data manager or NSLDS. The data manager must explain to the school why it disagrees with the school and send the school a copy of the data manager's supporting documentation. The data manager must send a copy of the response and the supporting documentation to DPM.

After making its determinations, the data manager must compile a list of the data manager's responses to the school's list of erroneous data appeal allegations. The data manager must record the responses to each of the erroneous data appeal allegations on an erroneous data appeal allegations response spreadsheet and provide comments on why the data manager agrees

or disagrees with each of the school's erroneous data appeal allegations. If the data manager agrees that a change should be made, it must correct the data in its internal data system and in NSLDS. Before the release of the draft cohort default rates, the data manager must ensure that the changes they agreed to make were successfully loaded into NSLDS. The data manager should check the NSLDS error report.

The data manager must provide supporting documentation if the data manager disagrees with the school's erroneous data appeal allegations. In addition, if the data manager's response indicates that a loan has been repurchased, the data manager should provide the original claim paid date, the repurchase date, the reason the loan was repurchased, and the default date if any subsequent claim was filed.

The data manager's erroneous data appeal allegations response should include the following—

- ◆ A spreadsheet of the data manager's responses to the school's list of allegations (see sample spreadsheet below).
- ◆ Copies of supporting documentation for each allegation with which the data manager disagreed.
- ◆ A letter on the data manager's letterhead with the school's name and OPE ID number (see sample letter at the end of the chapter).

### Sample Data Manager Erroneous Data Appeal Spreadsheet

Type: Erroneous Data Appeal  
 Cohort FY: 2004  
 From: State Guaranty Agency  
 Code: 111  
 To: Graphic Tech  
 Code: 099999

Number of Borrowers: 2  
 Number of Loans: 2

	A	B	C	D	E	F	G	H	I	J	K	L
1	Borrower's SSN	Borrower's Name	Type of Loans	Number of Loans	Basis of Alleged Error	Earlier of LDA or LTH	Date Entered Repayment	CPD, DD, ICRD, or N/A	Cohort FY(s)	Effect on Calculation	Comments	Agree/ Disagree
2	111-11-1111	Connell, Anissa	SF	1	New	12/07/1999	06/08/2000	N/A	FY 2004	No Change	The most recent enrollment notification from the school shows the last date of attendance is 12/07/1999. There is no documentation of 02/11/2004 as last date of attendance.	Disagree
3	222-22-2222	Mackey, Caleb	SF	1	Disputed	11/18/2003	01/16/2004	N/A	FY 2004	-N	School timely submitted a letter and a copy of death certificate.	Agree
4												

Date 10/30/2006

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The data manager must send its erroneous data appeal allegations response within 20 calendar days of receiving the erroneous data appeal allegations from the school. The data manager sends its erroneous data appeal allegations response to the school and a copy of the erroneous data allegations response to DPM. If the school submitted allegations for multiple cohort fiscal years, the data manager should prepare separate responses for each cohort fiscal year. However, the data manager should send the separate responses in the same mailing.

### How a data manager submits a copy of the erroneous data appeal allegations response to the Department

*DPM recommends that a data manager send all correspondence return receipt requested or via commercial overnight mail/courier delivery. This will be useful to a data manager if it is asked to authenticate the timeliness of its response. A data manager should maintain the documentation that verifies the receipt of the erroneous data appeal allegations response as well as all other electronic and hardcopy documentation submitted as a part of the erroneous data appeal process.*

*The data manager can use this information when submitting monthly status reports to DPM. For additional information on monthly status reports, see Chapter 3.3, "Data Manager Strategies and Reports."*

*If sending by courier:*

U.S. Department of Education  
Default Prevention and Management  
Union Center Plaza 084F  
830 1<sup>st</sup> Street, NE  
Washington, DC 20002

*If sending by U.S. Postal Service:*

U.S. Department of Education  
Default Prevention and Management  
Union Center Plaza 084F  
400 Maryland Avenue, SW  
Washington, DC 20202-5353

Do not send materials to any other address at the Department

If a data manager is unable to respond within 20 calendar days of receiving the school's erroneous data appeal allegations, it should send the school a letter on its official letterhead explaining the circumstances causing the delay, telling the school when it will respond, and indicating that DPM has been informed of the delay.

If a data manager can respond to only a portion of a school's erroneous data appeal allegations within 20 calendar days, it should hold that portion of the response until it can provide a response to all of the school's erroneous data appeal allegations. The data manager should send a letter to the school and DPM that provides the information outlined above.

### ***What does a school do with the data manager's erroneous data appeal allegations response?***

Timing is critical after receiving a data manager's erroneous data appeal response. In those cases where the data manager's erroneous data appeal allegations response is unclear, incorrect, missing, or incomplete, the school may submit a request to the data manager for a clarification. The school must submit the request to the data manager within 15 calendar days of the receipt of the erroneous data appeal allegations response. The school should also send a copy of the inquiry letter to DPM. The data manager must respond to the school's inquiry within 20 calendar days of receiving the inquiry and send a copy of the response to DPM.

Within 30 calendar days of receiving the last response to all of the school's erroneous data appeal allegations, the school must decide how to proceed and prepare a response to DPM accordingly. The school should do one of three things:

- ◆ If the data manager's erroneous data appeal allegations response indicates that there is erroneous data in the school's official cohort default rate calculation, the school should submit an erroneous data appeal to DPM. Only the Department can make the recommended changes to the school's cohort default rate.
- ◆ If the data manager's erroneous data appeal allegations response indicates that there is no erroneous data in the school's official cohort default rate calculation and the school agrees with the data manager's erroneous data appeal allegations response, the school should notify DPM that the school is withdrawing the erroneous data appeal.
- ◆ If the data manager's erroneous data appeal allegations response indicates that there is no erroneous data in the school's official cohort default rate calculation and the school disagrees with the data manager's erroneous data appeal allegations response, the school should submit an erroneous data appeal to DPM.

No matter what course of action the school chooses to follow, it must send its erroneous data appeal or withdrawal letter to DPM within 30 calendar days of receiving the last response to the school's erroneous data appeal allegations with the following exception: If the school is submitting the erroneous data appeal to DPM along with a timely new data adjustment and/or a timely loan servicing appeal, the school may submit all materials within 30 calendar days of the later of:

- ◆ receipt of the last response to all of the school's new data adjustment allegations,
- ◆ receipt of the last response to all of the school's erroneous data appeal allegations, or
- ◆ receipt of the last response to all of the school's requests for loan servicing records.

If the school does not submit the erroneous data appeal in a timely manner, DPM will not review the erroneous data appeal. If a school is submitting an erroneous data appeal for multiple official cohort default rates, it should submit all the erroneous data appeals in the same mailing to DPM.

The school must submit to DPM the following:

- ◆ A spreadsheet that lists the erroneous data appeal allegations (see sample spreadsheet).
- ◆ Copies of relevant supporting documentation (see Chapter 3.1, "Reviewing Rates and Loan Data," for examples of other supporting documentation).
- ◆ Copies of the data manager incorrect data challenge responses for disputed data.
- ◆ Copies of the data manager erroneous data appeal allegations responses.
- ◆ A letter on the school's letterhead (see sample letter at the end of this chapter).

### Sample School Erroneous Data Appeal Spreadsheet to DPM

Type: Erroneous Data Appeal  
 Cohort FY: 2004  
 From: Graphic Tech  
 Code: 099999  
 To: State Guaranty Agency  
 Code: N/A

Number of Borrowers: 2  
 Number of Loans: 2

	A	B	C	D	E	F	G	H		J	K	L	M
	Borrower's SSN	Borrower's Name	Type of Loans	Number of Loans	Basis of Alleged Error	Earlier of LDA or LTH	Date Entered Repayment	CPD, DD, ICRD, or N/A	Cohort FY(s)	Effect on Calculation	Comments	Agree/Disagree	Data Manager Code
1													
2	111-11-1111	Connell, Anissa	SF	1	New	02/11/2004	08/12/2004	N/A	FY 2004	+D	Data Manager disagreed and stated borrower's last date of attendance was December 7, 1998.	N/A	111
3	222-22-2222	Mackey, Caleb	SF	1	Disputed	11/18/2003	01/16/2004	N/A	FY 2004	-N	See Data Manager response	N/A	111
4													
5													

Date 11/13/2006

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A blank version of this spreadsheet is posted on the Default Prevention & Management website at <http://www.ifap.ed.gov/DefaultManagement/DefaultManagement.html>.

If the school does not submit the erroneous data appeal in a timely manner, DPM will not review the erroneous data appeal and will return all erroneous data appeal materials to the school.

If a school is submitting erroneous data appeal allegations for multiple official cohort default rates, the school should submit all the erroneous data appeal allegations in the same mailing to the data manager and to DPM.

## How a school submits an erroneous data appeal to DPM

*DPM recommends that a school send all correspondence return receipt requested or via commercial overnight mail/courier delivery. This will be useful if the school is asked to authenticate the timeliness of its response. The school should maintain the documentation that verifies the receipt of the erroneous data appeal as well as all other electronic and hardcopy documentation submitted as a part of the erroneous data appeal process.*

*If a school does not meet the timeframe for submitting an erroneous data appeal, the erroneous data appeal will not be reviewed*

*If sending by courier:*

U.S. Department of Education  
Default Prevention and Management  
Union Center Plaza 084F  
830 1<sup>st</sup> Street, NE  
Washington, DC 20002

*If sending by U.S. Postal Service:*

U.S. Department of Education  
Default Prevention and Management  
Union Center Plaza 084F  
400 Maryland Avenue, SW  
Washington, DC 20202-5353

*Do not send materials to any other address at the Department*

### ***What happens after the school submits the erroneous data appeal?***

DPM will review only the information submitted with the erroneous data appeal and will not review information submitted after the deadline. DPM will send the school and each involved data manager written notification of DPM's decision. The data manager must ensure that NSLDS is correctly updated. The data manager must also ensure that its internal records are correctly updated. DPM's decision is final and no further administrative review is provided.

If DPM determines, using the standard of review described in 34 CFR 668.189(f), that a school's official cohort default calculation data is incorrect, DPM will recalculate the cohort default rate based on the corrected data.

If the school was notified that it was subject to sanction and the erroneous data appeal is successful and the revised cohort default rate is below the sanction level, DPM will withdraw that sanction notice. If the school was notified that it was subject to sanction and the erroneous data appeal is unsuccessful and the school has no other outstanding adjustments or appeals (or if the erroneous data appeal is successful but the revised cohort default rate remains above the sanction level), DPM will notify the school of the effective date of that sanction.

A school that submits an adjustment and/or an appeal but fails to avoid sanctions is liable for certain costs associated with the FFELs it certified and delivered and/or the Direct Loans it originated and disbursed during the adjustment and appeal process. Liabilities are not calculated for loans that were delivered or disbursed more than 45 calendar days after the school submits its completed adjustment and/or appeal to the Department. Schools may avoid this liability if they choose not to certify or originate loans during the adjustment and appeal process.

### ***How does provisional certification affect a school's ability to submit an erroneous data appeal?***

To participate in the Department's Title IV programs, a school must demonstrate that it is capable of adequately administering those programs under the standards provided in the Title IV program regulations. In order to demonstrate administrative capability, a school must meet several requirements, including the requirement that the school's three most recent official cohort default rates are each less than 25.0 percent. If the school has impaired administrative capability solely because of its official cohort default rate, the Department may provisionally certify the school.

A school that is provisionally certified solely due to its official cohort default rates can submit an erroneous data appeal. If the erroneous data appeal is successful, DPM will recalculate the school's cohort default rate using the corrected data. If as a result of the recalculation the school's three most recent cohort default rates are all less than 25.0 percent, the Department will withdraw the provisional certification.

A school must wait until it receives notice of provisional certification to submit an erroneous data appeal outside of the regular appeal process. A school should not submit an erroneous data appeal solely because it believes it may be subject to provisional certification in the future. If a school does submit an erroneous data appeal without first receiving notice of provisional certification, the erroneous data appeal will not be reviewed.

The process for submitting an erroneous data appeal for schools that receive a notice of provisional certification is the same as it is for those schools appealing at the time of the release of the official cohort default rates except for the following differences:

The School Participation Team, not DPM, notifies schools subject to provisional certification. The School Participation Team will notify DPM of the provisional certification.

The school will not automatically receive the LRDR with the notice of provisional certification. As a result, a school subject to provisional certification that wishes to submit an erroneous data appeal must request a copy of the school's LRDR within 15 calendar days of receipt of the notice of provisional certification. See Chapter 2.2, "How Schools Get the Rates and Loan Data," for information on requesting a LRDR. The timeframes for submitting the erroneous data appeals based upon provisional certification are based first upon the date the school receives the notice of provisional certification and then upon the date the school receives the LRDR.

Within 15 calendar days after receiving the LRDR, the school must send its erroneous data appeal allegations to each relevant data manager and a copy to DPM. See the section of this chapter entitled "How does a school submit erroneous data appeal allegations to a data manager?" for the process for submitting the erroneous data appeal allegations to a data manager.

Within 20 calendar days after receiving the school's erroneous data appeal allegations, the data manager must send a response to the school and a copy to DPM. See the section of this chapter entitled "How does a data manager

A school that is provisionally certified solely due to its official cohort default rates can submit an erroneous data appeal.

respond to a school's erroneous data appeal allegations?" for additional information about responding to a school's erroneous data appeal allegations.

Upon receipt of the school's erroneous data appeal allegations, the data manager should contact DPM to obtain the date that the school received its notice of provisional certification and its LRDR in order to verify the timeliness of the school's submission. If the submission is not timely, or if the school has not received a notice of provisional certification, the data manager must not review any portion of the school's erroneous data appeal allegations. The data manager should send the school a letter explaining why the erroneous data appeal allegations are not being reviewed and send a copy of the letter to DPM.

Within 30 calendar days after receiving the last response to its erroneous data appeal allegations, the school must submit its erroneous data appeal to DPM. If the school is submitting an erroneous data appeal for more than one cohort fiscal year, it should send the erroneous data appeals to the Department in one mailing. See the section of this chapter entitled "*What does a school do with the data manager's erroneous data appeal allegations response?*" for additional information on submitting an erroneous data appeal to DPM.

DPM will review only the information submitted with the erroneous data appeal and will not review information submitted after the deadline. DPM will send the school and each involved data manager written notification of DPM's decision. The data manager must ensure that NSLDS is correctly updated. The data manager must also ensure that its internal records are correctly updated. DPM's decision is final and no further administrative review is provided.

If DPM determines, using the standard of review described in 34 CFR 668.189(f), that a school's official cohort default calculation data is incorrect, DPM will recalculate the cohort default rate based on the corrected data. If the erroneous data appeal is successful and the cohort default rate is recalculated below 25.0 percent, the School Participation Team will provide the school with a Program Participation Agreement (PPA) to sign.



## Sample Letter 1: School to Data Manager



# Graphic Tech

2341 Toulouse Street  
Cape Canaveral, FL 34321-2341

October 12, 2006

ATTN: Lisa Neiers  
Compliance Officer  
State Guaranty Agency  
132 Ocean Front Road  
Black Diamond Bay, Nebraska 13213-0132

Dear Ms. Neiers:

Graphic Tech, OPE ID 099999, is submitting a list of erroneous data appeal allegations for cohort FY 2004 for review by State Guaranty Agency. Please see the enclosed spreadsheet, relevant pages of the loan record detail reports for the draft and official cohort default rates, and supporting documentation.

I, the undersigned, certify under penalty of perjury that all information submitted in support of this erroneous data appeal is true and correct.

Thank you for your consideration.

Sincerely,

Alexander Peachum  
President, Graphic Tech

Enclosures

cc: U.S. Department of Education  
Default Prevention and Management

*The letter must include the school's OPE ID number, a statement indicating that the school is submitting erroneous data appeal allegations, and the cohort fiscal years to which the erroneous data appeal allegations apply. The letter must feature a subject line that reads "Subject: Cohort FY [insert cohort fiscal years being used in the appeal] Erroneous Data Appeal Allegations."*

*The letter must also include a certification that the information provided is true and correct under penalty of perjury and a notation that the school is sending a copy of the letter and the spreadsheet to DPM. The school's President/CEO/Owner must sign the letter, and the signature must be followed by a signature block showing the signer's name and job title.*

## Sample Letter 2: Data Manager to School

**State Guaranty Agency**  
132 Ocean Front Road  
Black Diamond Bay, Nebraska 13213-0132

October 30, 2006

Alexander Peachum  
President  
Graphic Tech  
2341 Toulouse Street  
Cape Canaveral, Florida 54321-2341

OPE ID 099999

Subject: Cohort FY 2004 Erroneous Data Appeal Allegations Response

Dear Mr. Peachum:

This is State Guaranty Agency's response to the cohort FY 2004 erroneous data appeal allegations Graphic Tech, OPE ID 099999, submitted on October 12, 2006. Please see the enclosed spreadsheet.

For each "Agree" in the "Agree/Disagree" column of the spreadsheet, we will update the National Student Loan Data System (NSLDS) and our internal records. You should submit the allegation to Default Prevention and Management.

For each "Disagree" in the "Agree/Disagree" column of the spreadsheet, we have reviewed our records and determined that they do not support the allegation. We have included a comment stating our position and attached copies of the documentation supporting our position. We will not make a change to NSLDS or to our internal records. If you disagree with our determination, you should submit the allegation to Default Prevention and Management.

Sincerely,

Lesia Neiers  
Compliance Officer

Enclosures

cc: U.S. Department of Education  
Default Prevention and Management

*The letter must indicate that the data manager is responding to the schools erroneous data appeal allegations and include the cohort fiscal years to which the erroneous data appeal allegations response applies. The letter must feature a subject line that reads "Subject: Cohort FY [insert cohort fiscal years being used in the appeal] Erroneous Data Appeal Allegations Response." The letter must also include a statement that a copy of the response has been sent to DPM. The responsible data manager official must sign the letter, and the signature must be followed by a signature block showing the signer's name and job title.*

## Sample Letter 3: School to DPM



# Graphic Tech

2341 Toulouse Street  
Cape Canaveral, FL 34321-2341

November 13, 2006

U.S. Department of Education  
Default Prevention and Management  
Union Center Plaza, 084F  
400 Maryland Avenue, SW  
Washington, DC 20202-5353

OPE ID 099999

Subject: Cohort FY 04 Erroneous Data Appeal

To Whom It May Concern:

Graphic Tech, OPE ID 099999, is submitting an erroneous data appeal to its cohort FY 2004 official cohort default rate. Please see the enclosed spreadsheet and supporting documentation. Also enclosed are copies of the data manager erroneous data appeal allegation responses and the data manager incorrect data challenge responses.

I, the undersigned, certify under penalty of perjury that all information submitted in support of this erroneous data appeal is true and correct.

Graphic Tech is also submitting a loan servicing appeal to the Department.

Thank you for your consideration.

Sincerely,

Alexander Peachum  
President, Graphic Tech

Enclosures

cc: State Guaranty Agency

*The letter must include the school's OPE ID number, a statement indicating that the school is submitting an erroneous data appeal, and a reference to the applicable cohort fiscal years to which the appeal applies. The letter must feature a subject line that reads "Subject: Cohort FY [insert cohort fiscal years being used in the appeal] Erroneous Data Appeal." The letter must also include a certification that the information provided is true and correct under penalty of perjury and a list of any other adjustments and appeals the school intends to submit to DPM. Finally, there must be a notation that the school is sending a copy of the letter and the spreadsheet to the data manager(s). The school's President/CEO/Owner must sign the letter, and the signature must be followed by a signature block showing the signer's name and job title.*

# Erroneous Data Appeal Checklists

## 1. School to Data Manager

### Determine

- Does the LRDR for the official cohort default rates contain new data or disputed data
- Is the school subject to sanction
- Is the school subject to provisional certification based solely on the school's cohort default rate?
  
- Submit to Data Manager**
- Spreadsheet
- Relevant pages of Loan Record Detail Report
- Supporting documentation.
- Letter

## 2. Data Manager to School

### Determine

- Is the school subject to sanction?
- Is the school subject to provisional certification based solely on the school's cohort default rate?
- Was the school submission timely?
- Does the data manager hold the loans?
- Does the submission include all required materials?
- Does the data manager agree or disagree with the school?

### Response to the school

- Spreadsheet
- Supporting documentation.
- Letter

### Followup

- Send copy of response to DPM
- Update NSLDS and internal records, if necessary
- Send monthly status report to DPM

## Erroneous Data Appeal Checklists (continued)

### 3. School to Default Prevention and Management

#### Determine

- Did the data manager agree with any of the erroneous data appeal allegations?
- Does the school agree or disagree with the data manager's decision?
- Does the school have outstanding new data adjustment allegations or outstanding requests for loan servicing records?
  
- Submit to Default Prevention and Management**
- Withdrawal notice

#### OR

- Spreadsheet
- Supporting documentation.
- Copy of the Data Manager Incorrect Challenge Response and/or Erroneous Data Appeal Response
- Letter