

IV.C. Identity Theft Involving Federal Student Loans

In some cases, identity thieves get student loans in other people's names. The following information discusses the particular issues that arise with respect to federal student loans from Federal Family Education Loan (FFEL) and William D. Ford Federal Direct Loan (Direct Loan) program loans disbursed after Jan. 1, 1986.¹

How to Dispute the Fraudulent Loan

Regulations governing FFEL and Direct Loan programs provide that a loan may be discharged if it was falsely certified, i.e. obtained, as a result of identity theft. (See 34 CFR 682.402(e)(14) and 685.215(c)(4) at [Appendices E.19](#) and [20](#).) The regulations specify how a victim must provide proof of the identity theft to the holder of the loan. At present, there is no separate form for the identity theft discharge request.

Disputing a fraudulent student loan is more demanding than for other types of fraud. For example, a copy of a police report is not enough to support discharge of a loan on the basis of identity theft. Rather, clients must certify that they did not sign the promissory note or receive benefit of the loan; they might also be asked to provide a copy of a court verdict or judgment that determined they were a victim of identity theft.

If your client is unable to provide a court document that expressly states that the loan was made as a result of identity theft, she must provide other evidence of the fraud. In most cases, authentic signature specimens and other means of identification corresponding to the means of identification falsely used to obtain the loan will suffice. Regulations at 34 CFR 682.402(e)(14)(ii)(A) and (B) give examples of identifying information. These include name, Social Security number, date of birth, official State or government issued driver's license or identification number, alien registration number, passport number or taxpayer identification number, as well as unique biometric data.

If your client cannot provide proof of the crime of identity theft, she may qualify for discharge under other provisions of 34 CFR 682.402 or 685.215 (e.g., false certification of eligibility to borrow or unauthorized disbursement). In those cases, 34 CFR 682.402(3) and 685.215(c) specify information needed to prove eligibility for the discharge. For example, the loan holder will ask the victim to present detailed documents proving the loan is eligible for a discharge. The documents might include a sworn statement and several samples of the victim's handwriting.

When the loan holder is satisfied that the loan was certified as a result of identity theft, the holder will then make corrections to its own records, to the victim's credit record, and to the National Student Loan Data System (NSLDS).

¹ FFELs loans include FFEL Stafford Loans, FFEL PLUS Loans and FFEL Consolidation Loans. Direct Loans include Direct Stafford Loans, Direct PLUS Loans and Direct Consolidation Loans.

You can find loan holder contact information on billing statements and related lender correspondence. If the victim is unsure who holds the loan, she may call the Federal Student Aid Information Center at 1-800-4-FED-AID or check NSLDS at www.nsls.ed.gov to find out.

Assistance from the Department of Education

If the loan holder is uncooperative in helping the victim resolve the situation, the victim may request help from the Ombudsman at the U.S. Department of Education's Office of Federal Student Aid. Attorneys working with clients on the identity theft process may contact the Ombudsman at 202-277-3800. The Ombudsman may ask them to send notice of representation so the Ombudsman can open a case and begin working with them quickly. Attorneys also can send an inquiry via fsaombudsmanoffice@ed.gov, with confirmation of representation. The attorney will need to submit a privacy release form, which can be downloaded at www.ombudsman.ed.gov. The Ombudsman's office will work with the attorney to resolve the issues arising from the fraudulently obtained loan.

The U.S. Department of Education's Office of Inspector General (OIG) requests that victims report to that office instances of identity theft that affects federal student aid. The OIG Hotline can be reached at 1-800-MIS-USED (1-800-647-8733) or online at www.ed.gov/misused. The OIG screens complaints for possible prosecution.

The following resources provide more information on student-loan related identity theft:

- www.ed.gov/misused —the Office of Inspector General at the U.S. Department of Education
- www.studentaid.ed.gov/LSA —a Web resource providing information about avoiding financial aid fraud and identity theft
- “Student Aid and Identity Theft”—a fact sheet at <http://studentaid.ed.gov/students/attachments/siteresources/73.pdf>
- “Save Your Money, Save Your Identity”—a brochure available in PDF at [http://studentaid.ed.gov/students/attachments/siteresources/SYMI08-09\(en\)2007-09-17Final.pdf](http://studentaid.ed.gov/students/attachments/siteresources/SYMI08-09(en)2007-09-17Final.pdf) or in hard copy from www.edpubs.org or 1-800-4-FED-AID

For more information about student loan cancellation, your clients may visit www.studentaid.ed.gov/repaying and click on the “Loan Discharge (Cancellation)” link.