



NYLAG
NEW YORK LEGAL ASSISTANCE GROUP

False Certification Discharges for Wilfred Academy Students

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For-Profit Schools and the Federal Student Loan Program

- 1965: Higher Education Act, 20 U.S.C. § 1070 *et seq.* – created federal student loan program
- 1972: For-profit colleges become eligible to receive Federal student aid loans and grants.
- 1980: Program extended to “vocational schools”; Ability to Benefit Exception created.
- 1986: Students who don’t have high school diploma must pass a standardized aptitude test

Ability to Benefit Fraud

- Ability to benefit exception: students without high school diplomas or GEDs can nonetheless take out federally guaranteed student loans if they have the “ability to benefit” from a postsecondary school education.
- Can measure “ability to benefit” by administering a standardized test.
- Schools used this exception as an opportunity to defraud both the government and the students by falsely certifying that students had the “ability to benefit” without testing them at all or without properly testing them.

Ability to Benefit Discharge

- 1992: Congress passes amendments to HEA creating statutory discharges, including false certification discharge
 - One type of “false certification discharge” is based on false certification of students’ “ability to benefit”
- Criteria for False Certification Discharge:
 - No high school diploma or G.E.D.
 - Not administered a valid ATB Test
 - Loan disbursed in whole or in part after January 1, 1986

History of Wilfred Academy

- Wilfred operated over 50 schools across the country, including:
 - Wilfred Beauty Academy
 - American Business Institute
 - Washington School of Secretaries.
- Between 1980 and 1989, Wilfred drew at least \$405 million in loans and grants under the federal student aid program. Between 80 and 90% of its revenue was from student loans.

Locations of Wilfred Schools

- California
- Connecticut
- Washington D.C.
- Florida
- Illinois
- Massachusetts
- Maryland
- New Jersey
- New York
- Pennsylvania
- Texas

It is important to note that the last Wilfred School closed in 1994 and many students have moved since then.

History of Wilfred Academy (cont.)

- 1983-86: USED Office of Inspector General investigates Wilfred
- 1986, 1988: Department of Justice indicts current and former Wilfred officials for fraud in connection with student financial aid
- 1989: OIG Memorandum finds widespread ATB fraud among Wilfred schools
- 1994: Last Wilfred school closes
- 1996: USED issues report finding that Wilfred committed “[s]ystemic violations” and engaged in a “[c]onsistent pattern of gross violations of [Department] regulations,” “indicat[ing] a strong resistance to following [Department] regulations for administering funds and ATB student testing.” The Department “recommended that all ATB applications be discharged.”

History of Salazar Litigation

- 2013-14: NYLAG writes series of letters to USED demanding that USED (a) issue a group discharge, or, in the alternative, (b) notify all Wilfred borrowers and suspend collection on loans
- February 2014, May 2014: NYLAG files Complaint and Amended Complaint.
- January 2015: Judge Robert W. Sweet grants Defendant's motion to dismiss; denies as moot Plaintiffs' motion for class certification.
- May 2016: Second Circuit vacates District Court's order, finding agency action subject to judicial review.
- August 2017: District Court approves settlement agreement.

Overview of Settlement Relief

- Notices
 - letter from USED or Guaranty Agency
 - letter from Plaintiffs' Counsel
 - ATB Application
- Suspension
 - Non-defaulted loans
 - Defaulted loans
 - Rehabilitation, consolidation
- Adjudication
 - Presumption
- Relief
 - Cancellation
 - Refunds

Important Dates for Settlement Relief

- December 9, 2017: USED/Guaranty Agencies must send notices
- February 7, 2018: Applications must be received by USED/Guaranty Agencies
- December 9, 2018: Timely applications will be decided
- June 9, 2019: Approved applications will get relief

Screening Questions

- Have you received the notice regarding the Salazar Class Action Settlement?
- What school did you attend?
- Did you take out a student loan to attend the school?
- What year did you register or enroll at the school?
- When you enrolled, did you have a high school diploma or GED?
- If you did not have a high school diploma or GED, did the school give you any sort of entrance exam?

Types of Wilfred Borrowers

- **Client meets the requirements AND has already received the notice**
- **Client meets the eligibility requirements AND has not yet received the notice**
- **Client DOES NOT meet the eligibility requirements:**
 - Client thinks they do not meet the “post-1986” requirement *and has received a notice*
 - Client does not meet the “post-1986” requirement *and has not received a notice*
 - Client went to school (or had at least part of a loan disbursed) after 1986 BUT did have a HS diploma/GED

Frequently Asked Questions

- How specific do students need to be on their application?
- What if the student doesn't remember something?
- Where should the student send the application?
- Does the student need to submit any other materials along with the application?
- Should the student continue to make payments on the loan after submitting the application?
- When will students hear back about the application?
- Does the application come in Spanish?
- What if the client has already paid off the loan in full?
- Why is this particular discharge only for students who *did not* have a high school diploma or GED when they enrolled at Wilfred?

Resources

- NYLAG Salazar Class Action Hotline: 212-659-6162
- NYLAG Salazar Website: <https://nylag.org/salazar-class-action>
- Case Documents and Summaries:
<https://nylag.org/units/special-litigation/active-cases/salazar-v-devos-sec-of-u-s-dept-of-education>
- Jane Greengold Stevens: jstevens@nylag.org; 212-613-5031
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Questions?