(3) Adjudication of borrower defense claim. The Secretary determines whether the borrower has presented a qualifying borrower defense claim in accordance with the standards in § 685.222.

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(iii) If the Secretary determines that the borrower meets the minimum threshold for consideration of a borrower defense claim as described in paragraph (d)(3)(ii) of this section, the Secretary provides written notification of the determination to the borrower and the school, and informs both parties of the opportunity to participate in Voluntary Claim Resolution, which shall be carried out in a form and manner to be specified by the Secretary, and shall at a minimum provide—

1. That the purpose of Voluntary Claim Resolution is to permit the parties (the borrower and the institution that is the subject of the claim) an opportunity to resolve the claim allegations quickly;
2. That both parties must agree to participate in Voluntary Claim Resolution and to act in good faith;
3. That the parties have 60 days from the date they both elect to participate in Voluntary Claim Resolution to reach agreement;
4. That if both parties are willing to participate, the Secretary will facilitate settlement discussions between the parties, including the exchange of relevant information, and work with the parties to help them understand the applicable standards and possible remedies;
5. That to the extent possible, staff assigned by the Secretary to facilitate Voluntary Claim Resolution will not be the staff assigned to adjudicate the borrower defense claim, in the event Voluntary Claim Resolution is unsuccessful;
6. That either party may elect to discontinue its participation in Voluntary Claim Resolution at any time without prejudice;

(iv) If the parties do not elect to participate in Voluntary Claim Resolution within 30 days of receiving the notice described in (d)(3)(iii) of this section, or do not reach agreement through Voluntary Claim Resolution within the required 60-day timeframe, the Secretary notifies the school and the borrower that the Secretary will proceed to adjudicate the borrower defense claim, provides the school with a copy of the borrower’s application and any supporting evidence submitted with the application, and affords the school 45 days from the date the application and supporting evidence is received to respond to the borrower’s claim.

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