

Department of Education Intends to Revisit Rules that Provide Relief and Protections to Students, Taxpayers from School Fraud

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Secretary DeVos intends to delay borrower defense rule that would help students avoid unfair debt and holds predatory schools accountable.

BOSTON – Today, National Consumer Law Center advocates deplored the decision by Secretary of Education Betsy DeVos to revise rules designed to protect federal student loan borrowers—including a disproportionate share of low-income students, women, people of color, and veterans—and taxpayers from predatory schools and abrupt school closures.

Together, the borrower defense and gainful employment rules provide important safeguards for students and taxpayers. “These rules were created through robust negotiation processes,” **said Persis Yu, director of the National Consumer Law Center’s Student Loan Borrower Assistance Project.** “Starting over wastes taxpayer money and creates uncertainty for students who are wondering how to protect themselves from being ripped off by predatory schools.”

The Secretary also intends to delay implementation of the rules that would provide defrauded borrowers with relief. “It is outrageous that the Secretary intends to block a rule that protects federal student loan borrowers, veterans, and taxpayers when schools like Corinthian Colleges or ITT Technical Institutes engage in fraud or abruptly close,” **said NCLC attorney Joanna Darcus** of the borrower defense rule.

Under the Higher Education Act (“HEA”), borrowers already had a right to cancel their loans due to a defense to repayment. The borrower defense rule created a much-needed—and long-overdue—process for borrowers harmed by illegal conduct at predatory schools to get the loan relief they are entitled to under the HEA. It also provides for automatic discharges of federal student loans in certain cases when a school closes abruptly. The rule shores up the protections for students whose schools fraudulently enroll them or obtain unauthorized loans in their names.

It also bars schools that rely on federal student loan dollars from using forced arbitration clauses to block court claims arising out of fraud. “Delaying the borrower defense rule would allow schools to continue to use forced arbitration rip-off clauses to avoid accountability for fraud, deny victims their day in court, and leave taxpayers on the hook,” **said Darcus.**

Similarly, the gainful employment rule, which went into effect on July 1, 2015, ensures that students in career education programs, such as those offered by for-profit schools, are not burdened by excessive debt that they cannot afford to repay on the incomes they earn after graduation. This rule protects students and taxpayers from overpriced, poor-quality education programs.

“These rules prevent predatory schools from lining their pockets by funneling taxpayer dollars through defrauded students,” **said Yu.** “Defrauded students have been in limbo for far too long. We urge the Secretary to change course and stand up for students, veterans, and taxpayers and against

fraud by quickly processing the applications of the borrowers who are still awaiting relief, and ensuring full, timely implementation of the borrower defense and gainful employment rules.”

Additional Resources

- NCLC: Defend the Department of Education’s Borrower Defense Rule (Issue Brief), January 2017.
- Department of Education: Borrower Defense Final Regulations: Summary of Major Provisions, October 28, 2016.
- NCLC: Comments from NCLC and 16 other legal aid groups to the Dept. of Education re: Proposed Regulations on Borrower Defenses and Use of Forced Arbitration by Schools in the Direct Loan Program, and Proposed Amendments to Closed School and False Certification Discharge Regulations, August 1, 2016.
- NCLC: Coalition Comments of 41 student, veteran, civil rights, and consumer groups re: the Department of Education’s Proposals on Forced Arbitration, Class-Action Bans, and Mandatory Internal Dispute Processes, August 1, 2016.
- NCLC: 47 Groups Call on Department of Education to Halt Federal Funding for Predatory Schools That Deny Students’ Legal Rights, March 4, 2016.
- NCLC: Coalition comments to Department of Education regarding process to assert defense to repayment of federal loans based on school misconduct, August 12, 2015.
- NCLC: Comments on Program Integrity: Gainful Employment Proposed Rule, September 2010.
- NCLC Report: Making the Numbers Count: Why Proprietary School Data Doesn’t Add Up and What Can Be Done About It, June 2005.