

Students and Consumer Groups Sue Biden Administration for Failing to Rule on State AG Group Borrower Defense Claims

April 26, 2022

New lawsuit calls attention to languishing Borrower Defense group applications

WASHINGTON - Today, Student Defense, the Project on Predatory Student Lending, and the National Consumer Law Center filed a **lawsuit** against U.S. Education Secretary Miguel Cardona and the Department of Education on behalf of student loan borrowers with unresolved Borrower Defense to Repayment claims. The lawsuit, filed in the federal District Court of Massachusetts, alleges the Department has for six years ignored its responsibility to issue a decision on a group borrower defense application submitted by the Massachusetts Attorney General (AGO) in May 2016 on behalf of eligible former students of the now-defunct Kaplan Career Institute.

This lawsuit builds upon a successful case the Project on Predatory Student Lending brought against the Department of Education under Betsy DeVos. In that case, *Vara v. Cardona* (formerly *Vara v. DeVos*), a court in the District of Massachusetts established that the Department of Education has a legal obligation to act on group borrower defense applications brought by state attorneys general.

"This six-year failure is unconscionable, given the detailed evidence of misconduct that the AGO provided to the Department," the lawsuit states. "As this court stated nearly two years ago, 'the [Department] [is] not free to simply ignore such an application.' With respect to the Kaplan Group Applications, the Department has done precisely that."

Under federal law, defrauded borrowers are eligible for debt relief under the Borrower Defense to Repayment program. The Massachusetts Attorney General submitted evidence of Kaplan's deceptive and illegal practices — uncovered during a sweeping investigation — with the group application for relief submitted in May 2016. However, the Department has failed to grant any known claims on behalf of former Kaplan students and the Biden Administration has not ruled on a single State AG group claim.

"The agency's inaction only fuels the financial insecurity of borrowers who have been through enough turmoil," **said Student Defense Senior Counsel Libby DeBlasio Webster**. "And while these claims didn't originate under this administration, the agency has had ample opportunity under Secretary Cardona's leadership to resolve this glaring issue. We're committed to holding the Department accountable and we look forward to securing long-overdue relief for these defrauded students."

This case is not the only one in which a state attorney general has submitted a group borrower defense application that the Department has ignored. According to an October 2020 report published as part of Student Defense's *100 Day Docket*, the Department has also received group borrower defense applications from State AG's on behalf of defrauded students who attended Westwood College, the Illinois Institute of Art and Art Institute of Colorado, Anthem University, Lincoln Technical Institute, Globe University and the Minnesota School of Business, and Corinthian Colleges. This case could potentially chart a path towards resolving other pending borrower defense group applications that remain unsettled.

“We have established in court that the Department of Education has a legal obligation to act on group discharges brought by attorneys general,” **said Eileen Connor, Director of the Project on Predatory Student Lending.** “When the Project partnered with Attorney General Healey to force the Department of Education to cancel debts for over 7,000 former Everest students in Massachusetts – and won – we set the precedent for attorneys general across the country to secure debt cancellation for their constituents who are defrauded by predatory schools. It is the Department’s responsibility to do what is right when there is evidence of widespread fraud and abuse and cancel these loans.”

“While these applications have been gathering dust on a Department of Education desk, borrowers have been frustrated that the government continued to ask them to repay debt from a school that misled and deceived them,” **said Kyra Taylor, Staff Attorney at the National Consumer Law Center.** “Many borrowers have no idea what borrower defense is or how to apply, and so their best shot at getting relief from these predatory debts is via a group discharge. Borrowers have suffered for too long under the weight of these debts. Enough is enough. They deserve better.”

A full copy of the legal complainant can be found [here](#).