



Secretary DeVos is Blocking Debt Relief for Defrauded Students

A brief overview Secretary DeVos' refusal to faithfully implement the Borrower Defense rule

What is the Borrower Defense rule?

Under the *Higher Education Act*, student borrowers who are defrauded by their college have access to relief from the loans they took out to attend that schools. This provision was rarely used until 2015, when Corinthian Colleges suddenly closed following years of recruiting students using fabricated job placement data, false promises of guaranteed job placement, and misleading statements on credit transferability. At the time, it was the biggest school closure in the history of U.S. higher education. At its peak, Corinthian Colleges enrolled more than 80,000 students across more than 100 campuses.

The collapse of Corinthian Colleges and other for-profit institutions spurred the Obama administration to create stronger consumer protections and a streamlined process to help defrauded borrowers access relief. The Borrower Defense rule, which was finalized in 2016, ensured that students would not be held responsible for paying back the loans they took out to attend fraudulent schools.

Borrower Defense Under Secretary DeVos

In June 2017, one month before the Borrower Defense rule was set to take effect, Secretary DeVos issued an order to delay implementation of the rule. (A judge later ruled that the delay was unlawful.) At the same time, the Department began rewriting the rule to significantly restrict who would be eligible for debt relief and how much relief they could receive.

Throughout her tenure, Secretary DeVos has deliberately refused to process claims from defrauded borrowers, which is producing a growing backlog of claims from students who desperately need relief. When she took office, there were approximately 54,000 Borrower Defense claims awaiting action from the Department of Education. Currently, there are roughly 240,000 pending claims. The Department did not process a single claim for more than 18 months (June 2018-December 2019).

On August 30, 2019, Secretary DeVos finalized a new Borrower Defense rule that creates a complex, individualized process for evaluating claims that shields predatory schools from accountability and denies defrauded borrowers billions of dollars in relief. A month later, Congresswoman Susie Lee (NV-03) and Sen. Dick Durbin (D-IL) introduced a Congressional Review Act (CRA) resolution of disapproval on Secretary DeVos' rewritten rule.

On December 10, 2019, Secretary DeVos released a new partial relief formula, which provides most borrowers either no debt relief or just a fraction of the full relief they deserve.

What is happening in the Courts?

Students have repeatedly sued Secretary DeVos for actions related to Borrower Defense. After years of waiting for relief, 60,000 defrauded Corinthian students collectively sued Secretary DeVos for her refusal to discharge their loans. That case is ongoing but in March 2018, the Court ordered the Department to stop collecting payments on these loans.

In October 2018, the Court ordered the Department to implement the Borrowers Defense rule using the 2016 Obama-era standard. Since then, Secretary DeVos has not filed to provide full loan relief to a single defrauded borrower using that standard.

And in October 2019, a federal court found Secretary DeVos in civil contempt of Court for continuing to collect on the loans of defrauded students despite a Court order, writing: *“There is no question that [the Secretary’s] violations harmed individual borrowers who were forced to repay loans.”* In December 2019, the Department was forced to disclose that it illegally collected on more than 45,000 Corinthian borrowers, nearly three times the amount it previously admitted.

What oversight has the Committee done?

Starting in November 2018, Committee staff requested information from the Department. After months of reiterating the importance of this request, on March 25, 2019, Chairman Scott sent a letter to the Secretary detailing the Department’s stonewalling and demanding documents, data, and a briefing from the Department.

The Department continued to refuse to provide any materials, and on June 21, 2019, Chairman Scott sent a follow-up request. Committee staff reiterated this request by email or phone close to more than 40 times and repeatedly requested briefings on the Department’s production of materials. Only after the threat of an imminent subpoena did the Department finally begin to provide documents and necessary briefings to Committee staff.

Secretary DeVos will testify before the full Committee on December 12, 2019, to answer Members’ outstanding questions about the Department’s policy to deny students full debt relief.