

National Consumer Law Center Joins Legal Fight for Student Borrower Protections against Predatory Schools

FOR IMMEDIATE RELEASE: SEPTEMBER 28, 2017 || | **Contacts:** Abby Shafroth (ashafroth@nclc.org) or Jan Kruse (jkruse@nclc.org); (617) 542-8010

U.S. Department of Education Urged to Implement Critical Rule for Defrauded Students

(BOSTON) Today, the National Consumer Law Center (NCLC) and 17 civil legal aid and nonprofit organizations filed an amicus brief in two lawsuits challenging the U.S. Department of Education's (Department) unlawful delay of a 2016 rule designed to protect student loan borrowers from school fraud, abuse, and abrupt closures. The two cases, *Commonwealth of Massachusetts v. U.S. Department of Education* and *Bauer v. DeVos*, are brought respectively by 18 states and the District of Columbia, and two former students of the for-profit New England Institute of Art. The amicus brief explains the abuses the Department's Borrower Defense Rule was created to address and the harm to student loan borrowers that even a temporary delay will cause.

Predatory for-profit schools aggressively target low-income and minority students and veterans for recruitment to meet growth goals and access financial aid funds. The schools use deceptive and unfair tactics, including lying about their graduates' job placement rates, to enroll students eager to provide for their families. These schools then leave students buried in debt with expensive but worthless degrees, or no degree at all after their schools close unexpectedly. Students harmed by these schools are frequently unable to obtain relief through the courts, as for-profit schools use forced arbitration clauses and class action waivers in their enrollment contracts to strip students of their right to sue or join with other defrauded students in seeking relief.

The Borrower Defense Rule was created last year to protect students from these types of abusive practices. Among other protections, the rule creates a process for defrauded students to seek relief, limits schools' use of forced arbitration and class action waivers, expands access to loan discharges for students whose schools closed or falsely certified them for loans, and requires schools with poor loan repayment outcomes to include warnings in their advertising materials. The rule was created through an extensive public process and was set to go into effect this July.

However, just two weeks before the rule was to be implemented, Secretary of Education Betsy DeVos announced that the rule would be delayed indefinitely, pending a "regulatory reset" and new rulemaking process. Meanwhile, defrauded borrowers who are entitled to relief will instead be burdened by invalid and often unaffordable debt and mounting interest.

"Delaying this critical rule means denying relief to defrauded student loan borrowers—including more than 65,000 with pending borrower defense claims—with no idea when or if their rights under the rule will be restored," said Abby Shafroth, an attorney with the National Consumer Law Center. "Borrowers who are already struggling to pay heating, electric, and housing bills, or whose outstanding debt is harming their credit or preventing them from restarting their education at a quality school, will face devastating financial consequences as a result of the delay. This unlawful delay should be stopped so borrowers can get much-needed relief provided by the rule."

By unilaterally delaying the rule, the Department of Education has ignored both students' rights and the public's right to participate in rulemaking. The plaintiffs' lawsuits, and the National Consumer Law Center's briefs, seek implementation of the rule to restore vital protections for borrowers.

Related NCLC Resources

Issue Brief:

- The Borrower Defense Rule protects students and taxpayers against fraud and abuse in higher education. (January 2017)
- Comments of NCLC to the Department of Education Re: Borrower Defense Rule Delay and Intent to Establish Negotiated Rulemaking Committee (July 12, 2017)
- Comments of NCLC and 16 other legal aid groups to the Department 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)
- Report: Ensuring Educational Integrity: 10 steps to improve state oversight of for-profit schools. (June 2014)
- Report: Making the Numbers Count: Why proprietary school data doesn't add up, and what can be done about it. (June 2005)
- Further Information on school-related cancellation of federal student loan debt.