

December 9, 2019

Senator Dick Durbin
711 Hart Senate Building
Washington, D.C. 20510

Representative Susie Lee
522 Cannon HOB
Washington, DC 20515

Submitted by electronic mail

Dear Senator Durbin and Representative Lee,

As 57 organizations representing and advocating for students, families, taxpayers, veterans and service members, faculty and staff, civil rights and consumers, we write in support of your efforts to disapprove the 2019 Borrower Defense to Repayment rule pursuant to the Congressional Review Act.

The purpose of the borrower defense rule as defined by the Higher Education Act is to protect students and taxpayers from fraud, deception, and other illegal misconduct by unscrupulous colleges. A well-designed rule will both provide relief to students who have been lied to and cheated, and deter illegal conduct by colleges.

However, the final rule issued by the Department of Education on September 23, 2019, would accomplish neither of these goals. An [analysis](#) of the Department's own calculations estimates that only 3 percent of the loans that result from school misconduct would be cancelled under the new rule. Schools would be held accountable for reimbursing taxpayers for just 1 percent of these loans.

The DeVos Borrower Defense rule issued in September imposes unreasonable time limits on student borrowers who have been deceived and misled by their schools. It requires applicants to meet thresholds that make it almost impossible for wronged borrowers to obtain loan cancellation.

The rule eliminates the ability of groups of borrowers to be granted relief, even in cases where there is substantial compelling evidence of widespread wrongdoing. It prohibits the filing of claims after three years even when evidence of wrongdoing emerges at a later date. It requires borrowers to prove schools intended to deceive them or acted recklessly, although students have no ability to access evidence that might show this intent. And the rule stipulates that

student loans taken by students under false pretenses are insufficient evidence of financial harm to allow the loans to be cancelled.

Additionally, the 2019 rule eliminates the promise of automatic loan relief to eligible students whose school closed before they could graduate. Instead, the Department would force each eligible student impacted by a school closure to individually find out about their statutory right to relief, apply, and navigate the government's bureaucracy to have their loans cancelled.

[Many of us wrote](#) to the Department in August 2018 in response to the notice of proposed rulemaking and offered carefully considered recommendations. However, the Department rejected our recommendations that would have provided a fair process that protects students and taxpayer dollars. Instead, the new rule would do little to provide relief to students who have been lied to, and even less to dissuade colleges from systematically engaging in deceptive and illegal recruitment tactics. Moreover, a borrower defense rule that fails to adequately protect students harms the most vulnerable students, including first-generation college students, Black and Latino students, and military-connected students, who are targeted by and disproportionately enroll in predatory for-profit colleges.

Meanwhile, the Department refuses to take action on a massive backlog of over 200,000 pending borrower defense claims, having failed to approve or deny a single claim in over a year. We fully support your effort to repeal the 2019 borrower defense rule, and look forward to restoration of the 2016 rule, which took major steps to provide a path to loan forgiveness for the hundreds of thousands of students who attended schools where misconduct has already been well documented.

Signed,

AFL-CIO

AFSCME

Allied Progress

American Association of University Professors

American Federation of Teachers

Americans for Financial Reform

Association of Young Americans (AYA)

Campaign for America's Future

Center for Public Interest Law

Center for Responsible Lending

Children's Advocacy Institute

CLASP

Clearinghouse on Women's Issues

Consumer Action

Consumer Advocacy and Protection Society (CAPS) at Berkeley Law

Consumer Federation of America

Consumer Federation of California

Demos
Duke Consumer Rights Project
East Bay Community Law Center
Economic Mobility Pathways (EMPath)
The Education Trust
Empire Justice Center
Feminist Majority Foundation
Government Accountability Project
Higher Education Loan Coalition (HELIC)
Hildreth Institute
Housing and Economic Rights Advocates
The Institute for College Access & Success (TICAS)
Maryland Consumer Rights Coalition
NAACP
National Association for College Admission Counseling
National Association of Consumer Advocates
National Association of Consumer Bankruptcy Attorneys (NACBA)
National Consumer Law Center (on behalf of its low-income clients)
National Education Association
National Urban League
New America Higher Education Program
New Jersey Citizen Action
One Wisconsin Now
PHENOM (Public Higher Education Network of Massachusetts)
Project on Predatory Student Lending
Public Citizen
Public Counsel
Public Good Law Center
Public Law Center
Service Employees International Union (SEIU)
Southeast Asia Resource Action Center (SEARAC)
Student Debt Crisis
Student Defense
Student Veterans of America
Third Way
U.S. Public Interest Research Group (PIRG)
UnidosUS
Veterans Education Success
Veterans for Common Sense
Young Invincibles