

# Education Department Unlawfully Withholding Records Concerning Delay of Rule to Protect Student Borrowers from Fraud

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## Consumer Group Argues Agency Did Not Conduct Adequate Search and Is Improperly Withholding Requested Documents

WASHINGTON, D.C. – The U.S. Department of Education must hand over records related to its justification for delaying implementation of a rule to help student loan borrowers, including records of communications between agency officials and representatives of the for-profit college industry, the National Consumer Law Center (NCLC) said in a lawsuit filed today.

Public Citizen Litigation Group serves as co-counsel with NCLC in this lawsuit brought against the department in the U.S. District Court for the District of Massachusetts.

In 2017, the department postponed the effective date of a set of rules known as the Borrower Defense Regulations, which were designed to protect student borrowers from school fraud, abuse and abrupt closures that have been prevalent in the for-profit higher education sector. As justification for the delay, the agency cited a lawsuit filed by the California Association of Private Postsecondary Schools (CAPPS) challenging the implementation of the rules.

On June 30, 2017, NCLC submitted a Freedom of Information Act (FOIA) request seeking communications from senior department employees concerning potential or current litigation over the Borrower Defense Regulations, including communications with representatives of CAPPS and Career Education Colleges and Universities, both of which represent the for-profit college sector. NCLC is seeking to determine whether the responsive records would reveal the extent to which department officials communicated with industry representatives regarding how and whether the department would delay the Borrower Defense Regulations.

The department disclosed some records in December but withheld others. Moreover, the department failed to disclose information known to be in its possession that is responsive to the FOIA request, the lawsuit states.

In the lawsuit, NCLC asks the court to declare that the department's search was inadequate and its withholding of the records is unlawful, and to order the agency to make the requested records available without delay.

"Delaying the Borrower Defense Regulations harms borrowers struggling with student loan debt taken out to attend a school that lied to them to get them to enroll, or that closed before they could complete their degree," **said Abby Shafroth, an attorney with NCLC.** "These borrowers – and the public – deserve to know why rules designed to protect borrowers and taxpayers from predatory school conduct have not been implemented."

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