U.S. Dept. of Education and Secretary DeVos Sued for Illegally Seizing Student Borrowers' Paychecks During Coronavirus Emergency

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Share your story if you have had wages garnished in 2020 for a student loan.

WASHINGTON – Student Defense and the National Consumer Law Center (NCLC), with the support of the Student Borrower Protection Center (SBPC), filed a class action lawsuit against the U.S. Department of Education and Secretary Betsy DeVos, demanding an immediate halt to the Department's illegal garnishment of student borrowers' wages. The Coronavirus Aid, Relief, and Economic Security (CARES) Act prohibits the Department from garnishing wages of student borrowers through September 30, 2020. The lawsuit was filed last night on behalf of a class of distressed borrowers whose paychecks continue to be seized, in clear violation of federal law.

"With the President at her side, Secretary DeVos promised in March that she had stopped federal wage garnishments altogether, which is what the CARES Act requires," **said Alex Elson, senior counsel at Student Defense**. "The truth is, she keeps on taking wages from the paychecks of Americans struggling to make ends meet. We sued to make her stop."

"Right now, low-wage workers hit hardest by the economic impact of the pandemic need their paychecks to keep food on the table and a roof over their heads," **said Persis Yu, director of the National Consumer Law Center's Student Loan Borrower Assistance Project**. "By continuing to use its harsh collection tools during this public health and economic crisis, the Department of Education is placing the health, safety, and well-being of vulnerable student loan borrowers in peril."

"The Trump Administration is taking money from borrowers who are living on the edge of poverty, in the middle of a pandemic, and in violation of the law. It's completely outrageous," **said SBPC Executive Director Seth Frotman.** "We will continue to do everything in our power to stop Betsy DeVos from further driving struggling borrowers into despair. This lawsuit shines light on how she has been operating a student debt collection machine that is accountable to no one—and it must be stopped."

Lead plaintiff Elizabeth Barber works as a home health aide outside of Rochester, NY. She earns $12.89 per hour caring for clients with cerebral palsy, many of whom are at elevated risk of severe symptoms from the coronavirus. During the pandemic she has seen her weekly schedule reduced by 10 to 15 hours, greatly adding to her financial strain. Ms. Barber has had to leave bills unpaid in order to cover her basic needs, has no money in her bank account, is in arrears on various local taxes, and has a lien on her house. She is also past due on both her water and electric bills, which she cannot afford to pay in full each month. Despite the passage of the CARES Act, the Department has continued to garnish her paychecks through the pandemic. The very purpose of the CARES Act is to provide immediate emergency relief to Americans, like Elizabeth, suffering the economic consequences of the coronavirus pandemic.

“I am so worried about how I will get through this,” **said lead plaintiff Elizabeth Barber.** “I have no money in the bank. I need every dollar I earn at work to survive each day, but my hours have been cut because of the virus. I don’t understand why the government keeps taking my money away after it passed a law that says they will stop.”

Under normal circumstances, the Department has the extraordinary authority to garnish the wages—without a court order—of individuals who default on their federal student loans, withholding up to 15 percent of a borrower’s paycheck to collect on past-due student loan debts. In the 2018 fiscal year, the Department of Education seized more than $840 million using wage garnishment, and the Department estimates that approximately 285,000 borrowers were subject to the practice in the last month alone.

In the CARES Act, Congress gave most federal student loan borrowers a six-month reprieve from paying back their loans, and prohibited the Department of Education from using involuntary collection practices, including wage garnishment, against borrowers in default. But for Ms. Barber and many other borrowers, that hasn’t been the case. Guidance posted on the Department’s website asserts that borrowers may continue to see their wages garnished, promising a refund at some unspecified, future time–a practice that does not satisfy the clear requirements of the CARES Act and ignores the urgent current financial needs of borrowers during the coronavirus pandemic.

The lawsuit demands that the Department immediately implement the suspension of wage garnishment and refund any money taken from Ms. Barber and all other borrowers.

Over the past month, the Student Borrower Protection Center has been flooded with stories from borrowers across the country seeing their hard-earned wages unlawfully seized. These troubling accounts depict a broken collections system operating without regard for borrowers’ protections under the law. Following reports of illegal garnishment, Senator Cory Booker and Congresswoman Ayanna Pressley led a group of over forty members of Congress in a letter blasting Secretary DeVos earlier this month. The lawmakers called on the Secretary to issue guidance halting all involuntary collections effective immediately and to provide a clear timeline for refunds to borrowers who have had wages unlawfully garnished since the new protections were put in place. Today, more than six weeks after the national emergency was declared, advocates and news media continue to report on borrowers’ wages being illegally seized.

A copy of the class action complaint filed against the Department of Education is available here.