



DELAYED AND DENIED

BORROWER DEFENSE RELIEF UNDER THE TRUMP ADMINISTRATION

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WHAT IS “BORROWER DEFENSE” AND WHY DOES IT MATTER?

Over the last decade, more than 100 for-profit colleges have abruptly closed, leaving students saddled with significant debt and few options to finish their degrees.¹ Some of these colleges, including two large for-profit chains, Corinthian Colleges, Inc. (Corinthian) and ITT Technical Institute (ITT), engaged in various frauds to attract students: offering false promises of guaranteed employment, incorrectly telling students their credits would transfer to other colleges, or inflating their job placement rates.²

Through these practices, low-quality for-profit colleges deceptively convinced students to enroll in their programs, raking in funds and remaining solvent.³ Investigations conducted by the Department of Education (“ED” or “the Department”), for example, found that Corinthian representatives consistently told students that a Corinthian degree would lead to promising careers with high salaries.⁴ Yet many students that enrolled did not graduate. In some academic years, *most* students that enrolled in Corinthian withdrew, but only after incurring substantial debt.⁵ When students graduated, many struggled to find work. In fact, ED fined Corinthian \$30 million for publishing job placement rates of 100% across all of its Heald-branded colleges, when those schools actually had placement rates as low as 38%.⁶ Corinthian recruiters also misled prospective students, claiming that their Corinthian credits would transfer to other colleges, when they would not.⁷ ED found that misconduct persisted for years, forcing

transferring students to retake classes and go deeper in debt.

“There is a huge cultural issue at Corinthian Colleges that quietly promotes dishonesty and fraud at all the Everest Campuses. This culture of dishonesty and intimidation is generated by the corporate office that has spread all over the company like cancer.”

Former Corinthian employee cited in Department of Education internal memo, “Recommendations for Everest/WyoTech Borrowers Alleging Transfer of Credit Claims,” October 24, 2016.

These misrepresentations were system-wide and “part of the Corinthian culture...enticing students to enroll at any cost.”⁸ Corinthian’s high-pressure sales tactics often targeted veterans, students of color, and low-

income or first generation college students.⁹ These students ultimately borrowed millions of dollars in federal student loans in pursuit of a worthless degree, if they even graduated at all.

As these frauds were discovered and for-profit closures occurred, ED turned to a little-known provision in the *Higher Education Act of 1965*, Borrower Defense to Repayment (Borrower Defense), to quickly and efficiently assist defrauded students and hold failed institutions accountable.¹⁰

“Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.”

- 20 U.S.C. 1087e(h).

Borrower Defense allows borrowers to have their loans forgiven if they can demonstrate that their college engaged in certain forms of misconduct, most commonly fraudulent representation or misleading advertising.¹¹ If a borrower succeeds on his or her Borrower Defense claim, ED determines the amount of relief, discharges the relevant loan(s), and may also reimburse borrowers the amount they already paid on the loans.¹² In short, it cancels debt for borrowers who took out loans and attended these colleges based on false or deceptive information.

A BRIEF HISTORY OF BORROWER DEFENSE

FOR-PROFITS' COLLAPSE AND AN INCREASE IN BORROWER DEFENSE CLAIMS DURING THE OBAMA ADMINISTRATION

Before the collapses of Corinthian and ITT, in 2015 and 2016 respectively, federal student loan borrowers rarely applied for Borrower Defense.¹³ However, when Corinthian – which operated Everest Institute, Wyotech, and Heald Colleges – shut its doors, tens of thousands of student borrowers who had enrolled based on Corinthian’s fraudulent claims were left with few options for relief.¹⁴ ED estimated that, due to the scale of Corinthian, which enrolled more than 100,000 students at its peak, and its years-long deceptive conduct, the total number of Corinthian student borrowers seeking relief could be as high as 350,000.¹⁵

The Borrower Defense provision provided ED with a mechanism to investigate an unprecedented surge of claims and award relief quickly and fairly. ED conducted extensive outreach to encourage impacted students to submit Borrower Defense applications and allowed borrowers to place their loans in forbearance or stop collections while it processed their applications.¹⁶ ED also streamlined the approval process by allowing groups of students, such as entire programs, to apply for relief at one time.¹⁷ To refine its Borrower Defense process, the Department appointed a “Special Master” to examine its policies and processes and created a Borrower Defense Unit within the Federal Student Aid Enforcement Office.¹⁸ Further, in November 2016, ED updated the Borrower Defense regulations, establishing a federal standard for misrepresentation and requiring institutions to both report high-risk financial events and provide ED with financial collateral to mitigate closure costs.¹⁹ This rule provided future victims of fraud a pathway to debt relief, while insulating taxpayers from liability created by fraudulent institutions.

After extensive investigations, ED, in partnership with state attorneys general, determined that the value of a Corinthian or ITT education was “likely either negligible or non-

existent...[a]ccordingly, it is appropriate for the Department to award eligible borrowers full relief.”²⁰ The Department established seven initial categories of relief that would qualify for loan discharge based on fraudulent claims the schools made regarding their job placement rates, the ability for students to transfer credits, and the promise that graduates would have guaranteed employment.²¹ As a result, the Obama administration processed more than 28,000 Corinthian College claims, providing approximately \$558 million in relief to borrowers.²²

THE TRUMP ADMINISTRATION HALTS RELIEF AND ENACTS UNFAIR AND UNLAWFUL POLICIES

Under the Trump administration, however, ED has taken a different approach on borrower defense. It has systematically undermined the promise of relief for defrauded borrowers by stalling decisions, adopting inconsistent policies, and rewriting federal regulations, which make it more difficult for borrowers to apply for relief in the future (Figure 1). For almost two years, ED did not process a single claim, causing the claims backlog to grow to more than 200,000 claims.²³ While borrowers waited for a decision on their claims, ED defied court orders and illegally billed or seized wages and tax refunds from tens of thousands of former Corinthian students.²⁴ When the Department finally started approving claims again in December 2019, it used a flawed Partial Relief methodology that experts have characterized as nonsensical and harmful, and awarded only a fraction of the relief that Department officials previously recommended for defrauded students.²⁵

Figure 1: Key Events in the Borrower Defense Program under the Trump Administration



Note: The information contained in this graphic is sourced throughout the section. *ED adjusted this figure to just over 30,100 in May 2020, attributing the change to excluding borrowers that were illegally billed before the court-ordered injunction was put in place.

ED also weakened protections for future Borrower Defense applicants by delaying the effective date of the 2016 Borrower Defense rules—which a federal court ruled illegal—and then re-writing that rule in 2019.²⁶ The rewritten rule was so extreme that both Democrats and Republicans in the House and Senate voted to repeal it.²⁷ President Trump vetoed this bipartisan resolution over the protests of veterans, student advocates, and State law enforcement officers.²⁸

To justify ED’s handling of Borrower Defense claims, Secretary of Education Betsy DeVos has made several misleading statements and ED has blamed the Obama Administration as well as

“It has crossed my mind so many times that I am the cause of 3 generations of pain and debt and that if I just didn’t exist in the first place everyone could have had a chance at being happy. It does not feel good to know that your mom’s retirement has been pushed back because of a debt you took out.”

Borrower Affidavit, Sweet v. DeVos

defrauded borrowers themselves for the Department’s delays. Most recently, at a December 12, 2019 hearing before the House Committee on Education and Labor, Secretary DeVos incorrectly claimed more than a dozen times that the Obama Administration had no

process in place for reviewing any claims.²⁹ In reality, the Office of Inspector General (OIG) audited the Obama-era Borrower Defense process, finding the Obama Administration had properly document claims and had made no errors.³⁰ In fact, at the time of the release of that report, during Secretary DeVos’s tenure as Secretary in December 2017, the Department responded to the report stating: “Despite these challenges, we are pleased to note that OIG did not identify any errors in the adjudicated claims, and that the review for each of the sampled claims was properly documented. In addition, OIG found that the Office of Federal Student Aid (FSA) created policies and procedures for borrower defense that have evolved over time as FSA has continued to refine its processes.”

The Trump Administration has turned the Borrower Defense provision from a promising tool to help victims of fraud into a barrier that has made it almost impossible for defrauded borrowers to get the relief they deserve.

HARMING BORROWERS THROUGH DELAYS, PARTIAL RELIEF, AND WEAKENED BORROWER PROTECTIONS

DELAYING RELIEF

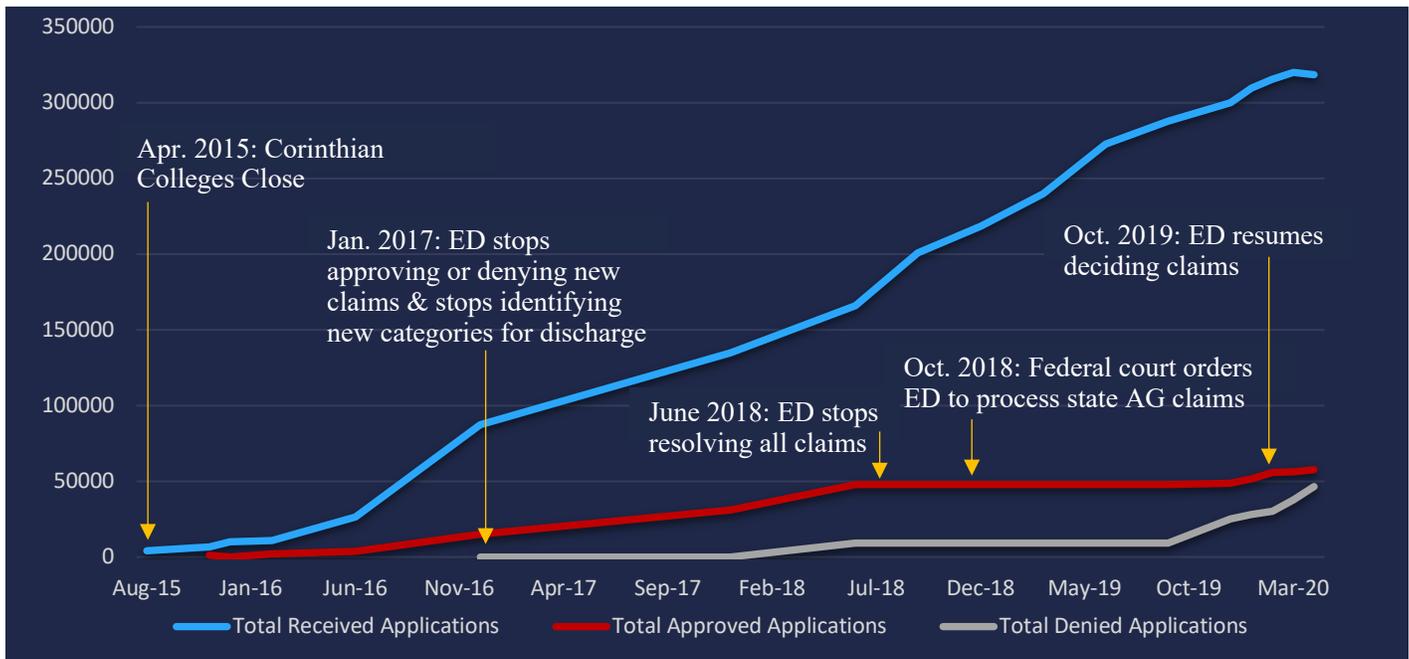
When President Trump was sworn into office, more than 50,000 Borrower Defense claims were ready to be reviewed by the new administration³¹ and the Obama-era ED officials estimated eligible borrowers would see relief within 6 months.³² In fact, the prior administration had approved thousands of claims, but had not finalized the borrowers’ loan discharges. Secretary

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DeVos was legally required to discharge these loans, but in approving the order to do so she wrote a note beneath her signature stating “with extreme displeasure.”³³

Within the first months of the Trump Administration however, ED issued an internal policy instructing the office that evaluates claims to stop forwarding them for approval or denial and to stop defining additional categories that could qualify for discharge.³⁴ ED’s Inspector General found that over the first six months of the Trump Administration, ED received almost 26,000 claims, but did not approve a single one.³⁵ This inaction continued over the next two years and the backlog grew to almost 224,000 claims (see Figure 2).³⁶

Figure 2: Status of Borrower Defense Claims August 2015-April 2020



Source: Department of Education, Reports of the Special Master for Borrower Defense to the Under Secretary, September 3, 2015 through June 29, 2016; Office of Postsecondary Education, “Borrower Defense Claims: Data Analysis”, November 2017; The Department of Education’s Office of Inspector General, *Federal Student Aid’s Borrower Defense to Repayment Loan Discharge Process*, ED-OIG/104R0003 (December 8, 2017); and Federal Student Aid’s “Borrower Defense to Repayment Loan Forgiveness Data,” June 2018 through April 2020.

This growing backlog included claims brought by 21 state attorneys general (“AG”) on behalf of their residents.³⁷ Initially, the Department attempted to summarily dismiss these claims by arguing a state AG could not assert a Borrower Defense claim on behalf of a group of borrowers.³⁸ But in 2018, a federal court (*Williams v. DeVos*) ruled that the Department’s actions were unlawful, and ordered ED to review these applications.³⁹ Despite this court order, ED has not, to date, responded to these group applications, nor has it indicated when these claims will be processed.⁴⁰ For example, one state’s AG wrote to ED a year ago imploring officials to examine the claims, but ED never responded.⁴¹ When Secretary DeVos testified before the House Education and Labor Committee in December 2019, she confirmed ED’s position, stating, “we don’t process [...] attorneys general claims.”⁴²

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In fact, the Department has continued to challenge the legitimacy of state AG claims in court, asserting that the *Williams* decision only “required the Secretary to decide... the two named plaintiffs’ borrower defenses” but not the remaining similarly situated 7,241 class members.⁴³ Adding insult to injury, the Department has admitted that it continues to subject these borrowers to collections.⁴⁴

The AG offices the Committee interviewed, who represent more than a quarter of all Borrower Defense claimants, outlined a stunning reversal of the collaborative relationship they had developed with the previous administration.⁴⁵ They noted that under the Obama administration, ED was a strong partner that worked with the states to identify predatory schools and secure relief for borrowers. In contrast, the AG offices stated that under the Trump administration, the Department has “reversed all of the gains and progress,” and “effectively ended the partnership and is now acting as an impediment.”⁴⁶

This partnership is paramount for the investigation of Borrower Defense claims. As one AG office noted, state AGs are the first line of defense for defrauded consumers and constantly communicate with students.⁴⁷ As the states’ law enforcement agency, they can gather evidence from both the defrauded borrowers and the schools under investigation. In fact, the Department relies on this partnership to adjudicate the majority of pending claims, as the standard for borrower defense up until 2016 required a cause of action based in *state* law. However, according to one state AG, “with the change of administration everything came to a screeching halt. All lines of communication closed.”⁴⁸

When Members of Congress asked high-ranking Department officials, including Secretary DeVos and Undersecretary Diane Auer Jones, to explain ED’s delays, their responses have been misleading. On March 28, 2019, Senator Patty Murray (D-WA) asked Secretary DeVos if the Department had approved even one Borrower Defense claim in the past six months, she responded, “I believe so,”⁴⁹ when the Department had not.⁵⁰ When Senator Murray then asked why the Department would not approve the claims of tens of thousands of defrauded Corinthian students, the Secretary stated: “The Corinthian College students’ claims are being processed and dealt with forthwith and will continue to be.”⁵¹ However, the Department had not decided a single claim for nine months prior to the Secretary’s statement and would not process any claims for more than seven months after that statement.⁵²

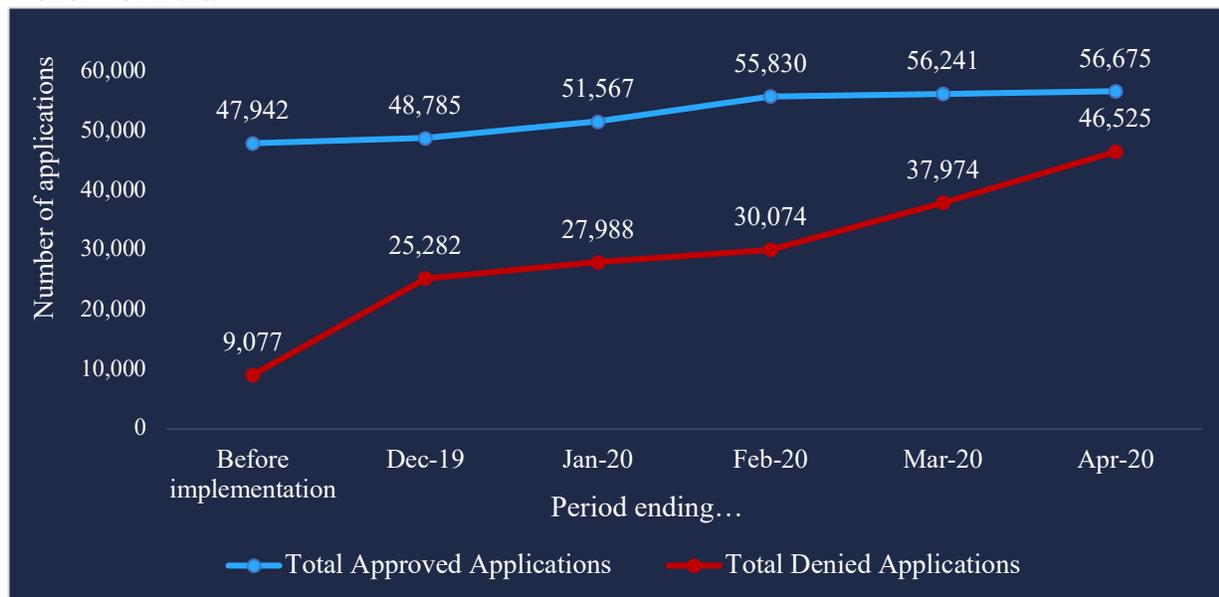
Other ED officials have attempted to justify delays by citing ongoing litigation related to its methodology for determining the level of relief for Borrower Defense claims. At a May 2019 hearing—when claims had remained in limbo for more than a year—Undersecretary Jones stated, “[ED is] not able to determine the level of harm or the level of relief that a borrower should get because the methodology we now use is now being challenged by the California courts.”⁵³ However, the court had not erected any legal barriers to developing a *new* methodology or fully discharging these loans. Instead, the court stated: “Nothing in this Order prohibits the Secretary from fully discharging the loans of any borrower who successfully completed or who successfully completes an attestation form.”⁵⁴ Full discharge would be equitable for pending Corinthian claims—the position taken by the Obama administration after its review. ED simply needed to develop a new methodology that followed the law or fully discharge the borrowers’ loans, but it refused to do so.

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In perhaps the most egregious delay, ED officials admitted to sitting on about 18,000 claims denials for more than 18 months without notifying borrowers, while interest accrued on their loans.⁵⁵ According to Undersecretary Jones, “in order to prevent confusion or distress to borrowers who are eligible for relief, the Department decided that it should not issue denials until it ha[d] a methodology in place that [would] also allow it to issue approvals and relief.”⁵⁶ ED also noted that it would cancel the interest that accrued on those loans while the Department waited to notify those borrowers.⁵⁷ In other words, although ED knew it would deny 18,000 claims, it delayed transmitting these denials to aggrieved borrowers for more than a year at taxpayers’ expense. This policy allowed ED to continue internally denying claims while reporting denial numbers to Congress and the public that appeared to hold steady for more than a year.

In the last quarter of 2019 (October through December), ED finally restarted processing claims after taking more than a year to update its relief methodology. From October 2019 to April 2020, the Department approved about 8,700 claims and denied close to 37,500. Comparing the number of approvals and denials before the partial relief formula was put in place (i.e. pre-October 2019), with those as of April 2020, claim approvals increased by 18 percent, while denials rose by 413 percent (Figure 3).

Figure 3: Number of Approvals and Denials following Implementation of the 2019 Partial Relief Formula



Note: Data are quarterly prior to 2020, while during 2020, data are monthly. As such, the period ending in December of 2019 includes October 2019-December 2019, while the pre-implementation period ends in September 2019.
Source: Department of Education, Federal Student Aid’s “Borrower Defense to Repayment Loan Forgiveness Data,” June 2018 through April 2020.

These delays have had real consequences for borrowers. Court cases show that some defrauded borrowers waited up to four years for ED to issue a decision and that those delays compounded their financial problems. For example, an analysis of almost 900 borrowers with pending claims found that they had been waiting on average 958 days for a response from the Department, and

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95% of those borrowers reported that their financial planning has been impaired because ED has not made a decision on their claim.⁵⁸ Some borrowers have postponed going back to school, starting families, or even getting married.⁵⁹ Borrowers who attended these failing colleges also have a much higher likelihood of defaulting on their loan, and ED or its contractors have reported those defaults to credit agencies while claims are pending.⁶⁰ For example, one borrower highlighted in the *Sweet v. DeVos* case who has five children was refused a loan to purchase a car by ten different banks after she defaulted on her loan. That same case noted that some borrowers have been denied jobs outright on account of their damaged credit.⁶¹

“The Department’s refusal to grant or deny my borrower defense has caused me to delay children because I cannot raise a child while trying to pay off fraudulent loans and trying to live in a high cost of living state like New Jersey. While I am married we pushed off our marriage for 2 years because of my loans...This administration has given me little hope that they care about borrowers. I feel hopelessness whenever I think about my future because of these loans.”

Borrower Affidavit, *Sweet v. DeVos*

There remains no factual or legal question regarding whether Corinthian Colleges and ITT Technical Institute systemically and pervasively defrauded their students. ED has even adopted this position internally.⁶² Yet the Department’s delays have

further harmed defrauded borrowers and its partial relief formula has deprived these defrauded borrowers of meaningful relief.

AWARDING ONLY PARTIAL RELIEF

Under the Obama Administration, career staff reviewed thousands of borrower complaints, collaborated with state law enforcement to assess their legitimacy, and incorporated all evidence into a determination of the appropriate level of relief. In the case of Corinthian borrowers, ED found that the misconduct was extensively well-documented, pervasive, and highly publicized.⁶³ The Department’s OIG found that while this process contained documentation weaknesses, the Obama administration had created and continued to refine it across an eight month period starting in April 2016.⁶⁴ Specifically, the OIG found the process to be “properly documented,” “consistently communicated,” and “absent of errors.”⁶⁵ Critically, the Obama Administration did not commit to granting full relief to every claim, but weighed the institution’s fraud and the victim’s harm to determine the appropriate relief.⁶⁶

By keeping the institution’s fraudulent activity central to the determination of relief, the Obama Administration used borrower defense to both provide relief to defrauded students and disincentivize deceptive practices on the part of institutions of higher education.

In stark contrast, the Trump Administration developed a formula to generate relief which it divorced from ED’s determination of fraud. This methodology does not recognize the inherent wrong of an institution deceiving its students, is unfair to said students, and is statistically flawed. First, in December 2017, ED published a partial relief methodology that relied on borrowers’ earnings data to demonstrate that the college they attended provided some value. The Department quantified that value by comparing Corinthian students’ average Social Security Administration earnings data with those from similar programs. ED used this metric, instead of

the college's fraudulent actions, to determine a borrower's level of relief. In this methodology, fraud itself is not inherently grounds for relief, suggesting there is some level of fraud an institution can commit against its students without fear of having to make student borrowers whole. In June 2018, a federal court found this approach to be unlawful and struck down ED's use of this data.⁶⁷

The Trump Administration's shift away from full relief based on a college's fraudulent actions to partial relief based on the "value" of the education they received from the failed college substantially deviated from the recommendations of career staff, who directly reviewed these claims. This shift sought to erase those college's years-long campaign of fraud, which career staff found "went to the overall value of the education."⁶⁸ Secretary DeVos' testimony before the House Education and Labor Committee espouses this view:

Mr. GRIJALVA: But the fundamental question with Corinthian, you can agree or disagree, and I will ask that Corinthian provided no educational value to its students as a result of fraud and that was pervasive...

Secretary DEVOS. I do not agree with that narrative. I think there are many students that received valuable education from Corinthian just like they do from many other institutions. The question is what students among them were financially harmed.⁶⁹

This public stance contradicts the findings and recommendations of career staff and advice from some of ED's political appointees. For instance, the findings of fraud against Corinthian were reiterated in an internal memo written by ED's acting General Counsel in December 2017.⁷⁰ According to the memo, "the Department concluded that [Corinthian] had made, on a widespread and systemic basis, unlawful misrepresentations to borrowers."⁷¹ It went on to say, "the Department has decided to allow claimants from [Corinthian] institutions to rely on the Department's findings about [Corinthian's] conduct."⁷² While Department officials in both the Trump and Obama Administrations agree that Corinthian and ITT perpetrated widespread and systemic fraud, this Department spent years and precious taxpayer resources to inflate the value fraudulent institutions provided to students.

In December 2019, a year and a half after a court struck down its first partial relief methodology, the Department unveiled its new "scientific" partial relief methodology that did not rely on individual earnings data but instead on earnings data for entire programs.⁷³ While ED claims this is a fair approach to awarding relief,⁷⁴ multiple state AG offices told Committee staff that the Department's formula "seemed designed to provide as little relief as possible."⁷⁵ Indeed, information recently released by the Department shows relief for borrowers now constitutes only a fraction of what the Obama Administration awarded.⁷⁶

Under the new partial relief formula, ED sharply dropped the average loan discharge amount for each approved borrower from over \$11,000 to about \$500 (Table 1). One state AG office described the disparate relief the Department awarded to students before and after implementation of the partial relief formula who Corinthian defrauded in the same way as "violat[ing] notions of fundamental fairness to its core."⁷⁷

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Table 1: Number of Approvals and Amount of Loan Discharge Prior To and After the Implementation of the 2019 Partial Relief Formula

	Prior to implementation of 2019 Partial Relief Formula (August 2015-September 2019)	After implementation of 2019 Partial Relief Formula (October 2019-March 2020)
Total Approved Applications	47,942	7,456
Total Amount Discharged	\$534,765,563	\$3,898,307
Average Amount Discharged Per Approved Borrower	\$11,154	\$523

Note: The Department of Education provides discharge amounts on a quarterly basis, therefore the most recent data is from the first quarter of 2020, ending in March.

Source: Department of Education, Federal Student Aid’s “Borrower Defense to Repayment Loan Forgiveness Data,” June 2018 through March 2020.

Not only does the new partial relief formula create vast inequities among approved borrowers depending on when ED happened to process their application, Members of Congress and higher education experts have also identified serious issues with the underlying methodology: it relies upon insufficient data and misuses statistical tests. This results in a formula that makes it impossible for some cohorts of borrowers to ever qualify for any relief from their debt, even if they have successfully proven that their school had acted dishonestly.

- Harm Determined Collectively, not Individually:** The Department is no longer considering any group claims; meaning a former student making a borrower defense claim cannot rely on the fact that a whole cohort of students may have been defrauded in the exact same way.⁷⁸ ED now requires that the student prove their case individually. But, if the student is successful in doing so, ED *does not* assess his or her injury individually. Instead, ED determines the relief due to the student based on all graduates of his or her program. If those graduates compared favorably to “similar programs,” many of which were also at low-quality for-profit colleges, ED determines the program had value, and awards the borrower less relief, even if the individual facts of the case show the borrower’s college committed egregious fraud to enroll him or her.
- Insufficient Data:** Under the Department’s new formula, to qualify for full relief a borrower must show their program’s earnings are so low that they are a statistical outlier when compared to programs offering similar degrees.⁷⁹ However, ED relies on outdated and severely limited data to make this comparison. First, ED only uses one year of publicly available Gainful Employment data from 2014 to establish the level of harm for Corinthian and ITT borrowers.⁸⁰ Given that Corinthian’s fraud spanned years, if not decades, and borrower claims date back to as early as the 1990s, ED cannot make relevant comparisons relying on 2014 data alone.⁸¹ Second, the Gainful Employment

data relies on graduates of a specific program to measure the value of a Corinthian and ITT education, even though a majority of students that attended those colleges never graduated.⁸² In fact, many – if not most – of the borrowers harmed by the fraudulent practices of ITT and Corinthian did not complete their programs. For example, according to 2015 Department data, only one-third of students who attended ITT graduated.⁸³

For programs that are still operational, ED will use College Scorecard data, but this is also incomplete. According to ED, College Scorecard data only captures earnings for 20 percent of programs.⁸⁴ While the data covers 80 percent of students, the calculations underlying the formula are based on programmatic information missing four-fifths of college programs, a considerable limitation. Similar to the Gainful Employment data, the College Scorecard data only cover one year and are an insufficient reference in many of the Borrower Defense cases.

- **Flawed Methodology:** ED determines the borrower’s level of relief by misapplying basic statistical concepts. In simple terms, the formula makes “apples to oranges” comparisons by inappropriately blending the use of median earnings and average earnings.

The formula compares the median earnings of a program where a borrower is seeking relief to the median earnings of borrowers who attended similar programs.⁸⁵ It uses standard deviation to determine if the earnings in the borrower's program are statistically different from the similar programs. This calculation determines of whether the borrower experienced harm from the colleges' fraudulent activities and what amount of relief, if any, a borrower deserves.⁸⁶

In order to qualify for full relief under the Department's partial relief formula, a borrower must show their program's earnings are so low that they are a statistical outlier when compared to programs offering similar degrees. Statistically, if a data point lies two or more standard deviations away from the average of the data set, this can indicate that the point is an *outlier* and statically different from the rest of the data set. However, the Department's formula compares each data point of the median earnings in a borrower's program to the median of similar program earnings data using standard deviation. The choice of the median, instead of the mean, is statistically inappropriate and leads to demonstrably absurd results, which harm borrowers.⁸⁷

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For example, according to the Department’s calculations, in 58 Corinthian programs, 50 percent or more of program graduates would need to earn **\$0 or less** for defrauded borrowers to receive full relief.⁸⁸ In some programs, borrowers must earn \$0 or less to obtain **any** relief. Given that no one can earn negative income, relief under these programs is impossible to achieve for a defrauded student. This policy stands in stark contrast to Secretary DeVos’s public claims that “no fraud is acceptable, and students deserve relief if the school they attended acted dishonestly.”⁸⁹

Examples of the 2019 Partial Relief Methodology’s Unrealistic Income Standards

For full relief, the Department’s methodology requires the median earnings of the program in question to be two standard deviations away from the median earnings of similar programs. Below are real-life examples of how this plays out for some borrowers:

- Borrowers’ earnings for the Corinthian Plumbing Technology/Plumbing diploma program would have to be less than negative \$14,700 for borrowers to receive full relief.
- For 98 percent of Corinthian programs and 65 percent of ITT programs, borrowers working 40 hours a week would have to make less than the federal minimum wage of \$15,080 dollars a year to be eligible for full relief. By comparison, according to BLS data, a fast food cook has a median annual income of \$22,330, a dishwasher \$22,730, and a cashier \$22,430. If a Corinthian criminology program graduated a class of fast food cooks, dishwashers, and cashiers, none of these borrowers would be close to eligible for full relief.
- The Department’s formula ensures that borrowers that attended 15 ITT programs will see no relief, irrespective of the actual fraud that occurred.

Source: Committee analysis of Borrower Defense Partial Relief Methodology, Corinthian Colleges, Inc. (CCI) Programs, December 2019, <https://studentaid.gov/sites/default/files/borrower-defense-partial-relief-methodology-cci.pdf> and Borrower Defense Partial Relief Methodology, ITT Educational Services, Inc. Programs, December 2019, <https://studentaid.gov/sites/default/files/borrower-defense-partial-relief-methodology-itt.pdf>.

Douglas Webber, a noted higher education economist and a bipartisan witness before the

“The Department of Education recognizes that I was defrauded by this school, but because of a ridiculous formula, I only get 10% relief. It’s insulting. I have worked hard to succeed despite all the harm that Everest caused to my life and career. I’m not looking for a handout. I just want accountability and a process that is fair for everyone.”

Sammia Pratt, plaintiff in Pratt v. DeVos

Committee, commented on the statistical choices made by the Department, saying, “[p]erhaps most concerning is the lack of rigor or thought put into a formula that will help shape the financial well-being of students who have already been materially wronged.”⁹⁰ Investigations and lawsuits

are now challenging the formula's development and use. The ED OIG recently confirmed to Committee staff that it will investigate how the formula was developed, and consumer advocates have filed a lawsuit asserting the new formula is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.⁹¹

WEAKENING BORROWER PROTECTIONS

On top of delaying relief, and reducing the amount of relief granted, the Trump-era ED is making it harder for borrowers to obtain relief in the future. ED weakened borrower protections by unlawfully delaying the 2016 Borrower Defense rule promulgated by the Obama Administration, which streamlined the adjudication process and provided new protections for borrowers that took out loans after July 2017.⁹² In June 2017, one month before the rule was scheduled to go into effect, Secretary DeVos delayed its implementation date by a full year, stating the rule was “rushed through” and that “all one had to do was raise his or her hands to be instantly entitled to so-called free money.”⁹³ In reality, the Department promulgated the 2016 rule through the same statutorily mandated negotiated rulemaking process that it later used to promulgate the 2019 rule. A federal court ruled this delay unlawful and ordered ED to immediately put the 2016 rule into effect in the fall of 2018.⁹⁴

While the Department delayed implementing the 2016 Obama-era Borrower Defense rule, it drafted a new rule for borrowers who took out loans after July 2020. The new rule, finalized in September 2019 (the “2019” rule), makes it much harder for students to successfully assert Borrower Defense claims. As a result, ED estimated that it would only forgive 3 percent of defrauded students' loan volume under the new rule, compared to more than 50 percent under the 2016 rule.⁹⁵

A side-by-side comparison of the 2016 and the 2019 rules shows just how difficult it will be for new borrowers to assert a Borrower Defense (see Table 2).

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Table 2: Comparing the 2016 and 2019 Borrower Defense Rule

	2016 Rule (for borrowers who took out loans between July 2017 and July 2020)	2019 Rule (for borrowers who take out loans after July 2020)
Timeframe for bringing the claim?	Within six years from when the borrower knew or should have known about the college’s misconduct. ⁹⁶	Within three years from when the borrower leaves school, regardless of when the fraud is revealed. If colleges successfully hide misconduct for three years, borrowers have no recourse. ⁹⁷
Group claims allowed?	Yes.	No, group claims are eliminated. Each student must submit an individual application—even if the college was successfully prosecuted by another federal or State agency for defrauding students.
What must a borrower prove to receive borrower defense?	Borrowers must show that the school’s information or omission was “misleading under the circumstances.” ⁹⁸	Borrowers must prove that the college made misrepresentations intentionally or with reckless disregard for the truth. ⁹⁹ Borrowers must also demonstrate they relied on the college’s misrepresentation when enrolling or continuing enrollment, or it relates to the provision of educational services for which the loan was made. ¹⁰⁰ Students cannot rely upon a favorable outcome in a lawsuit or a clear violation of their enrollment contract.
Must borrowers demonstrate that the college’s actions caused them financial harm?	No. The Department considers the act of taking out loans as evidence of financial harm. ¹⁰¹	Yes. The borrower will need to prove that the misrepresentation caused a specified amount of actual financial harm beyond simply taking out loans. ¹⁰² Borrowers must also extensively document their financial harm. ¹⁰³
Can a borrower appeal the Department’s decision?	Yes. Claims can be re-considered for new evidence not previously considered, either at the Department’s initiative or borrower request. ¹⁰⁴	No. Borrowers are not permitted to submit an appeal, reapply, or request reconsideration, and decision are final. ¹⁰⁵ If a borrower wishes to seek reconsideration, he or she may challenge the decision through a judicial proceeding, his or her State consumer protection agency, or other consumer protection avenues. ¹⁰⁶
Can a school impose a mandatory arbitration agreement on its students?	No. Institutions are prohibited from imposing mandatory pre-dispute arbitration agreements on their students and from forcing them to waive class action rights. ¹⁰⁷	Yes. Schools can require students to sign mandatory arbitration provisions and class action waivers as a condition of enrollment, provided that schools make certain disclosures. ¹⁰⁸
Can a school withhold a transcript from a borrower who obtains a borrower defense discharge?	No. Institutions must provide transcripts to students that request them. ¹⁰⁹	Yes. Schools may withhold official transcripts and/or refuse to verify the transcript of students with successful claims. ¹¹⁰

Source: Committee analysis of 84 Fed. Reg.49,788 and 34 C.F.R § 685.206; The Institute for College Access & Success, “Defrauded Students Left Holding the Bag Under Final ‘Borrower Defense’ Rule.” (September 3, 2019), <https://ticas.org/accountability/defrauded-students-left-holding-the-bag-under-final-borrower-defense-rule/>, and The Institute for

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College Access and Success, The Century Foundation, and the National Consumer Law Center, “Top 10 Ways The New Borrower Defense Rule Is Worse For Borrowers,” https://ticas.org/wp-content/uploads/2019/09/BD_Side-by-Side.pdf.

The 2019 rule also changes how the Department will monitor schools’ financial health, making it more difficult to anticipate if a school may close. According to experts, the 2019 rule will severely weaken accountability for colleges that engage in illegal conduct and may lead to school closures that would have been anticipated under the 2016 rule.¹¹¹

Specifically, the rule eliminates some of the “financial responsibility triggers” that require a school to report certain adverse financial actions to the Department. These triggers are intended to notify the Department when a school may be at risk for closure. When a school reports these actions, the Department can take steps to protect students and taxpayer dollars and help the school become more financially stable. For instance, it can require schools to file a “Letter of Credit,” essentially an insurance policy to help cover costs if a school should close. ED can also place schools on Heightened Cash Monitoring, a regulatory posture which increases the Department’s ability to oversee these schools until they can improve their financial condition.

The new rule, however, reduces the amount of information reported to the Department, severely limiting its ability to monitor a school’s financial challenges. For instance, institutions are no longer required to report when they are sued;¹¹² accreditors no longer have to require schools to submit teach out plans for closing schools;¹¹³ and ED has eliminated the trigger for schools that fail to meet Gainful Employment requirements.¹¹⁴ Put simply, ED has willfully blinded itself to the financial condition of risky institutions.

The collapse of Corinthian and ITT should compel the Department to enhance these tools, not eliminate them. In 2017, the Department’s OIG examined ED’s practices after Corinthian’s collapse and identified weaknesses in the Department’s oversight of Corinthian’s financial challenges.¹¹⁵ In fact, ED was not able to detect that the school had manipulated its financials for three years, helping it avoid posting a letter of credit.¹¹⁶ The report found that these oversight weaknesses put students and taxpayers at significant risk and recommended FSA *enhance* its use of triggering events to identify schools at risk of unexpected or abrupt closure.¹¹⁷

The new regulation’s removal of these financial triggers will allow failing schools to go unchecked until students and taxpayers are left holding the bag. And the COVID-19 crisis has created sector-wide closure risks increasing the need for financial monitoring.¹¹⁸ According to its own analysis, the Department expects that under the new rule, colleges will end up only repaying 1 percent of loan volume associated with their misconduct compared to 23 percent under the 2016 rule.¹¹⁹

The 2019 rule also eliminates automatic closed school discharge, which provides automatic relief to students whose schools close before they finished their programs. Eliminating this provision blocks off an important path for many financially harmed borrowers.

In response to these harmful changes, Congress exercised a rarely used tool, the Congressional Review Act, in early 2020 to overturn the 2019 rule.¹²⁰ Democrats and Republicans listened to veterans’ advocates, consumer groups, and state law enforcement officers’ deep concerns with

the rule.¹²¹ However, President Trump vetoed the bipartisan bill. Barring Congressional overturn of the Presidential veto, the 2019 rule will go into effect July 1, 2020.¹²²

ILLEGAL COLLECTIONS AND PROGRAM MISMANAGEMENT

Borrowers' challenges caused by the Department's unfair policies have been compounded by ED's mismanagement of the program. This dynamic is particularly evident in the *Calvillo Manriquez v. DeVos* class action lawsuit. In December 2017, borrowers brought a nationwide class action lawsuit against the Department because it failed to provide debt relief despite the Obama Administration's determination that these students were entitled to full loan discharges.¹²³ According to ED, the class has since grown to 76,000 borrowers.¹²⁴

Department policy and multiple court orders have required ED to stop collections on these borrowers' loans while they pursue Borrower Defense claims.¹²⁵ Yet in May 2018, borrowers raised concerns that ED was still demanding payments. In response, a court required ED to confirm it had stopped collecting payments from the *Manriquez* borrowers.¹²⁶ In October 2019, ED reported that it had erroneously billed 16,000 *Manriquez* borrowers covered by the case, or 1 in 5 seeking relief.¹²⁷ Shortly thereafter, ED revised this figure, admitting to illegally billing more than 30,000, or almost half of the borrowers in the class.¹²⁸

In response to these findings, a federal district judge stated that she was "deeply disturbed" by the Department's "lack of compliance with the injunction ... and the sheer scale of violations."¹²⁹ Citing the Department's violation of the court order, the judge took an extraordinary step: the court held Secretary DeVos in contempt and subjected the Department to \$100,000 in sanctions.¹³⁰ On October 10, reflecting on the judge's reactions, Secretary DeVos tweeted, "Loan servicers made an error on a small # of loans. We know and we're fixing it."¹³¹



The Secretary's public statements are inconsistent with the Department's court filings and the facts. Five days after this tweet, the Department indicated in court filings that it "appreciates...the gravity of its noncompliance and the significant impact such noncompliance has had on affected borrowers" and that it "understands that this is unacceptable."¹³² And the most recent compliance report from the Department shows that, as of May 1, 2020, the Department had illegally billed 30,103 borrowers in the *Manriquez* class.¹³³ Of those

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borrowers, 10,804 had made one or more payments and the Department illegally seized taxes or garnished the wages of 995 additional borrowers.¹³⁴ Since May 2018, ED’s servicing errors have subjected 3,885 borrowers to adverse credit reporting (Figure 4).¹³⁵

Figure 4: 30,103 *Manriquez* Borrowers Illegally Billed for Payment



Source: U.S. Department of Education, Office of Federal Student Aid, “Seventh Monthly Compliance Report in Response to ECF 130, *Manriquez et al. v. DeVos*, Case No. 17-cv-07210-SK, U.S. District Court for the Northern District of California.”

Shortly after notifying the court it illegally collected payments from thousands of borrowers, the Department admitted to “gross negligence, including negligent oversight of the Department’s servicers.”¹³⁶ It noted that it would remedy the errors through closer monitoring of the servicers and monthly reporting on the status of the *Manriquez* class. ED does not have a reliable record in ensuring its contracted servicers do not mistreat borrowers. External reviews have consistently found that ED’s internal oversight has not meaningfully identified or stopped servicer non-compliance.¹³⁷ For instance, neither ED nor its servicers ever identified the errors outlined in the *Manriquez* court order. Instead, borrowers raised these issues with the court.

A full two years after borrowers began raising concerns, the Department has reported that it initiated refunds for most of borrowers whose wages or tax refunds were seized and corrected the

“I know if my wages hadn’t been garnished, I would have a new reliable car, and no stress due to trying to feed my children over paying my bills or registration.”

Former Corinthian Student part of the *Manriquez v. DeVos* lawsuit

credit reports for affected borrowers in the *Manriquez* case. However, this issue was only corrected because the court closely monitored the Department’s handling of the *Manriquez* class.

Other cases highlight the Department’s ongoing illegal collections on borrowers with pending borrower defense claims. Four separate court cases have now brought this issue to light, indicating it is more widespread than reported in *Manriquez*.

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In October 2018, a federal judge ruled in *Williams v. DeVos* that ED made a similar “error” by illegally taking the tax refunds of two former Corinthian students who had pending Borrower Defense claims.¹³⁸ Of the almost 900 affidavits submitted in another case filed in June 2019 (*Sweet v. DeVos*), one-third of those students asserted that ED had subjected them to collections even though they had already submitted Borrower Defense claims.¹³⁹

A class action lawsuit filed in October 2019 covering more than 7,000 Corinthian students in Massachusetts (*Vara v. DeVos*) alleges the same issue. Despite a 2016 Massachusetts court finding that the college had violated state law and defrauded students, ED admitted that it continues to collect on their loans, including by seizing tax refunds and garnishing wages.¹⁴⁰

The Department has repeatedly proven that despite its vast resources, including unique access to data and dedicated oversight staff, it is incapable of identifying issues and addressing their root causes. These illegal actions have resulted in real harm to borrowers. According to court documents, many of the seized tax returns were Earned Income Tax Credits, essential anti-poverty benefits. As a result, “students are likely suffering significant ‘emotional distress’ and struggling with ‘their ability to pay for basic life expenses like food and rent.’”¹⁴¹

A FAIR WAY FORWARD: RECOMMENDATIONS FOR ADMINISTRATIVE ACTION

The Borrower Defense provision was designed to help students who took on debt based on a college’s false promises and illegal claims. After large predatory for-profit chains began to collapse in 2015, the Obama Administration engaged in extensive investigations with states AGs, the traditional guardians of consumer protection. After uncovering pervasive fraud, ED turned to the Borrower Defense provision to award relief quickly and fairly, and updated its implementing regulations to ensure future closures were recognized earlier and mitigated. But the Trump administration has ignored these findings of fraud. Instead, it has based its approach on the false premise that these failed colleges provided defrauded students some educational value. As a result, the Department has allowed proven claims to languish for years while crafting policies and regulations to lessen borrowers’ relief and make it more difficult to hold failed institutions accountable.

“The biggest reason [I joined the lawsuit] is because of the lack of accountability towards the Department of Education. They shouldn’t be able to just ignore students and the law and the Attorney General’s application for borrower defense. It’s unfair. A lot of people worked hard, graduated at the top of their class, and were still left in this spot. We were cheated. It destroys your faith in the government and in our system of education and I think it is important to stand up to that.”

Former Corinthian student, party to the *Vara v. DeVos* lawsuit

Congress has taken steps to mitigate this damage. Rep. Lucy McBath (GA-6) introduced H.R. 3662, *Relief for Defrauded Students Act*, which would restore the 2016 Obama-era regulation. In 2019, the Committee on Education and Labor introduced the

College Affordability Act, which included this provision, and passed it out of Committee by a vote of 28-22. Shortly thereafter, Rep. Susie Lee (D-NV) and Senator Dick Durbin (D-IL)

spearheaded the Congressional Review Act resolution (H.J. Res. 76), which passed out of both chambers with bipartisan support in 2020.

While these efforts were not signed into law, they demonstrate that a broad coalition of lawmakers across party lines find the Department's actions unfair and in conflict with the goal of the Borrower Defense provision. In addition, the recently passed H.R. 6800, *the Heroes Act*, includes a provision to provide full relief to borrowers who attended Corinthian and ITT and were subject to misrepresentation regarding job placement rates, guaranteed employment, and transferability of credits.

ADMINISTRATIVE RECOMMENDATIONS

The Department must take immediate action to make defrauded students whole, hold fraudulent institutions accountable, and protect taxpayers by:

1. Providing full relief for all former Corinthian and ITT students who have alleged that Corinthian or ITT made a false or misleading representation with respect to job placement rates, guaranteed employment, or transferability of credits.
2. Following the *Williams v. DeVos* court order by considering and processing claims brought by state attorneys general.
3. Establishing working relationships with state law enforcement, including state attorneys general, to collaborate on institutional oversight.
4. Ensuring the application process is straightforward and guides borrowers through the Department's expectations for evidence and other submissions.
5. Implementing internal controls to ensure loan servicers are not collecting on borrowers with active complaints, in accordance with various court orders.
6. Relying on the expertise of career staff and evidence of fraud and deception submitted by stakeholders, borrowers, and state law enforcement to determine the appropriate level of relief.

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⁵ See S. Rep. No. 112-37, at 389 (2012) (“Information Corinthian provided to the committee indicates that, of the 130,920 students who enrolled at Corinthian in 2008-9, 50.5 percent, or 66,150 people, withdrew by mid-2010. The median withdrawn student was enrolled for just over 3 months.”)

⁶ See generally Dep't of Educ. Office of Federal Student Aid, *RE: Notice of Intent to Fine Heald College*, OPE-ID: 00723400 (2015), <https://www2.ed.gov/documents/press-releases/heald-fine-action-placement-rate.pdf>

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⁸ *Id.*

⁹ See S. Rep. No. 112-37, at 66-67 (2012). See also Tressie McMillan Cottom, *Lower Ed: The Troubling Rise of For-Profit Colleges in the New Economy*, The New Press, 2017.

¹⁰ 20 U.S.C. 1087e(h). While the law applies to Direct Loans, the implementing regulations expanded borrowers with other federal loans to assert a borrower defense claim. Congressional Research Service, R44737, *The Closure of Institutions of Higher Education: Student Opinions, Borrower Relief, and Other Implications*, 12 (February 5, 2019). ED also provided relief through Closed School Discharge. 34 C.F.R. § 685.214. Generally, students are eligible for this type of federal student loan discharge if the college closed while they were enrolled or with a period, specified in regulation, after the student withdrew. The student is not eligible if he or she is completing a comparable educational program at another school. Dep't of Educ, *Closed School Discharge*,, <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/closed-school>.

¹¹ Specifically, the statute provides that, “Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.” 20 U.S.C. § 1087e(h). Regulations implementing this law were promulgated in 1995, 2016, and 2019. The vast majority of borrowers with pending claims are subject to the 1994 and 2016 rules. The 1995 rules apply to loans issued before July 1, 2017 and include provisions aimed at protecting borrowers from school’s misconduct. See *id.*; see also 34 C.F.R. § 685.206(c). The Obama Administration further refined the rules in 2016, applicable to loans issued between July 1, 2017 and July 1, 2020. See Student Assistance

General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program, 84 FR 49,788, at 49,814, September 23, 2019, (codified at 34 C.F.R. § 668, 34 C.F.R. § 682, 34 C.F.R. § 685). Also, see <https://ifap.ed.gov/electronic-announcements/112519implschoolnoticerequnder2016bordefensereg> and *Borrower Defense to Repayment; Applicable Law*, Dep't of Educ., <https://studentaid.gov/manage-loans/forgiveness-cancellation/borrower-defense>. In September 2019 ED finalized another set of rules that apply to newer loans and are scheduled to go into effect in 2020. Student Assistance General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program, 84 Fed. Reg. 49,788 (Sept. 23, 2019) (to be codified at 34 C.F.R. parts 668, 682, and 685).

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¹⁶ See Dep't of Educ., *First Report of the Special Master for Borrower Defense to the Under Secretary*, 6 (Sept. 3, 2015).

¹⁷ See *id.* at 4.

¹⁸ On July 25, 2015 ED's Under Secretary appointed a Special Master to develop processes and systems to provide relief to borrowers with legal claims against their schools. The Special Master produced four reports that discussed the development of these processes, findings of fraud, and status of claims from September 3, 2105 through June 29, 2016. See, e.g., *id.*

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⁴⁶ *Id.*

⁴⁷ *Id.*

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⁴⁹ See Department of Education Budget Request for FY 2020: Hearing Before the Subcomm. On Labor, Health, and Human Services, Education, and Related Agencies of the S. Comm. On Appropriations, 116th Cong. (2019) (questioning by Sen. Murray of Sec'y DeVos).

⁵⁰ See U.S. Dep't of Education, *Borrower Defense Quarterly Report* (Mar.31, 2019); see also U.S. Dep't of Education, *Borrower Defense Quarterly Report* (Sept. 19, 2018), <https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data>.

⁵¹ See Department of Education Budget Request for FY 2020: Hearing Before the Subcomm. On Labor, Health, and Human Services, Education, and Related Agencies of the S. Comm. On Appropriations, 116th Cong. (2019) (questioning by Sen. Murray of Sec'y DeVos).

⁵² See U.S. Dep't of Education, *Borrower Defense Quarterly Report* (June 30, 2018); see also U.S. Dep't of Education, *Borrower Defense Quarterly Report* (December 31, 2019). <https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data>.

⁵³ *Examining for Profit College Oversight and Student Debt: Hearing Before the H Comm. on Oversight and Gov. Reform Subcomm. on Economic and Consumer Policy*, 116th Cong. (2019) (testimony of Diane Auer Jones).

⁵⁴ *Calvillo Manriquez v. DeVos*, 345 F. Supp. 3d 1077 (N.D. Cal. 2018).

⁵⁵ Michael Stratford, *DeVos orders partial loan relief for many duped student borrowers*, Politico (Dec. 6, 2019), <https://www.politico.com/news/2019/12/06/devos-student-loan-relief-077539>.

⁵⁶ *Id.*

⁵⁷ ED's Borrower Defense website does not clearly lay out its policy regarding interest accrual. First, in the section *Will interest be waived in addition to my discharge?* it states: "For borrower defense applications received by ED on or before Jan. 1, 2020, ED will waive interest on the federal student loans that it holds for the period between the date you submitted your borrower defense application and the date of your notification email. ED is waiving interest in these cases because of the extended period of time it took to review claims." However, later in the *Forbearance/Stop Collections Status* section it states: "NOTE: If you do not select one of the forbearance or stopped collection options within the application, your federal student loans will be placed into forbearance or stopped collection, and ED will request forbearance or stopped collection for any commercially held Federal Family Education Loan (FFEL) Program loans that you have currently. **Interest** will continue to accrue for the loans in forbearance while your application is evaluated." Dep't of Educ., Office of Federal Student Aid, *Borrower Defense to Repayment*, <https://studentaid.gov/manage-loans/forgiveness-cancellation/borrower-defense>

⁵⁸ Of the 892 former students who submitted testimony in the *Sweet v. DeVos* lawsuit 845, or 94.73 percent, "report their financial planning is impaired because of no decision." See *New Data: 96% of Students Defrauded By For-Profit Colleges Report Their Lives are Worse Now Than Before They Went to School*, press release, The Project on Predatory Student Lending, July 23, 2019, <https://predatorystudentlending.org/news/press-releases/new-data-96-of-students-defrauded-by-abusive-for-profit-colleges-waiting-for-betsy-devos-to-process-their-claims-report-their-lives-are-worse-off-now-than-before-they-went-to-school/> and *The Students and Data Behind Sweet v. DeVos*, <https://predatorystudentlending.org/wp-content/uploads/2019/07/The-Students-And-Data-Behind-Sweet-v-DeVos.pdf>.

⁵⁹ *Cavillo Manriquez v. DeVos*, Student Testimony, <https://predatorystudentlending.org/calvillo-manriquez-v-devos-studentloantruth/>; Compl. , *Sweet v. DeVos*, No. 19-cv-03674 (N.D. Cal. 2019); and Compl. at 2, *Vara v. Secretary DeVos*, No. 1:19-cv-12175 (D. M.A. October 22, 2019).

⁶⁰ Chris Kirkham, *Corinthian boosted figures to obtain federal funds*, Los Angeles Times (July 16, 2014), <https://www.latimes.com/business/la-fi-corinthian-colleges-20140716-story.html>; Dept. of Educ. Office of Federal Student Aid, Seventh Monthly Compliance Report in response to ECF 130, *Manriquez et al. v. DeVos*, Case No. 17-cv-07210-SK (N.D. Cal.) , <https://predatorystudentlending.org/wp-content/uploads/2018/02/may-1-compliance-rept.pdf>.

⁶¹ Compl. at 32 and 44, *Sweet v. DeVos*, No. 19-cv-03674 (N.D. Cal. 2019).

⁶² Dep't of Educ. Office of the General Counsel, *Legal bases for approval and discharge of pending borrower defense claims for former Corinthian students qualifying for approval on the groups of Job Placement Rate, Guaranteed Jobs, and Transfer of Credit Findings* 3 section III B (Dec. 14, 2017), <https://int.nyt.com/data/documenthelper/6576-menashi-memo/e1518a22b8810dd9f9a3/optimized/full.pdf#page=1>

⁶³ Dep't of Educ. Office of Federal Student Aid, *Recommendations for Corinthian Borrowers Alleging That They Were Guaranteed Employment*, 13 (Jan. 9, 2017), <https://apps.npr.org/documents/document.html?id=6572882-1-9-2017-Memo>.

⁶⁴ Dep't of Educ. Office of Inspector General, ED-OIG/I04R0003, *Federal Student Aid's Borrower Defense to Repayment Loan Discharge Process 5* (Dec. 8, 2017), <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/i04r0003.pdf>.

⁶⁵ According to a 2017 report, the Department's OIG found that the Office of Federal Student Aid (FSA) had "established policies and procedures related to the intake and discharge of borrower defense claims in 2015 and refined the claims intake policies and procedures throughout our review period." The OIG identified weaknesses with some of FSA's procedures, but as FSA's response stated, "Despite these challenges, we are pleased to note that OIG did not identify any errors in the adjudicated claims, and that the review for each of the sampled claims was properly documented. In addition, OIG found that FSA created policies and procedures for borrower defense that have evolved over time as FSA has continued to refine its processes. While the Report notes that these policies and procedures were not always reduced to writing in formal policy documents, the policies and procedures were consistently communicated and understood throughout the borrower defense program as demonstrated by the absence of errors identified by OIG." Dep't of Educ. Office of Inspector General, ED-OIG/I04R0003, *Federal Student Aid's Borrower to Defense to Repayment Loan Discharge Process* (2017), <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/i04r0003.pdf>.

⁶⁶ See, e.g., Dep't of Educ. *Recommendation for Everest/WyoTech Borrowers Alleging Transfer of Credit Claims* (Oct. 24, 2016), <https://apps.npr.org/documents/document.html?id=6572884-10-24-2016-Memo>.

⁶⁷ ED's first partial relief formula was put into effect in December 2017. Six months later, however, in June 2018, a federal court ordered ED to stop using the partial relief formula because the practice violated the Privacy Act. *Manriquez et al. v. DeVos*, Case No. 17-cv-07210-SK (N.D. Cal.). Erica L. Green and Stacy Cowley, *Betsy DeVos Is Held in Contempt over Judge's Order on Loan Collection*, *New York Times* (Oct. 24, 2019), <https://www.nytimes.com/2019/10/24/us/politics/education-dept-loan-repayments-corinthian.html>.

⁶⁸ Dep't of Educ. *Recommendations for Corinthian Borrowers Alleging That They Were Guaranteed Employment* 12 (Jan. 9, 2017), <https://apps.npr.org/documents/document.html?id=6572882-1-9-2017-Memo>.

⁶⁹ *Examining the Education Department's Implementation of Borrower Defense*: Hearing Before the H. Comm. on Educ. And Labor, 116th Cong. (2019).

⁷⁰ Dep't of Educ. Office of the General Counsel, *Legal bases for approval and discharge of pending borrower defense claims for former Corinthian students qualifying for approval on the groups of Job Placement Rate, Guaranteed Jobs, and Transfer of Credit Findings* (Dec. 14, 2017), <https://int.nyt.com/data/documenthelper/6576-menashi-memo/e1518a22b8810dd9f9a3/optimized/full.pdf#page=1>.

⁷¹ *Id.*, pg 2.

⁷² *Id.*, pg 3.

⁷³ Dep't. of Educ., *Policy Statement: Tiered relief methodology to adjudicate certain borrower defense claims 4* (Dec. 10, 2019), <https://www.ed.gov/sites/default/files/documents/borrower-defense-relief.pdf>. Also, The Rule applies to borrowers with successful borrower defense claims except for claims based on Corinthian's misrepresentation of the rates at which its graduates were placed into jobs. Compl. at 12, *Pratt v. DeVos*, No. 1:20-cv-01501 (D.D.C. Jun. 9, 2020).

⁷⁴ Lauren Camera, *Student Loan Borrowers Defrauded by For-Profits Will Only Receive Partial Relief Under New DeVos Plan*, *U.S. News and World Reports* (Dec. 11, 2019), <https://www.usnews.com/news/education-news/articles/2019-12-11/student-loan-borrowers-defrauded-by-for-profits-will-only-receive-partial-relief-under-new-devos-plan>.

⁷⁵ Committee interviews with state attorneys general.

⁷⁶ Dept. of Educ., Office of Federal Student Aid, *Borrower Defense to Repayment Loan Forgiveness Data*, <https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data>. ED last reported on discharge amounts in its March 2020 report.

⁷⁷ Committee interviews with state attorneys general.

⁷⁸ The Institute for College Access & Success, The Century Foundation, and the National Consumer Law Center; *Top 10 Ways The New Borrower Defense Rule Is Worse For Borrowers* (Sept. 2019), https://ticas.org/wp-content/uploads/2019/09/BD_Side-by-Side.pdf.

⁷⁹ Dep't. of Educ., *Policy Statement: Tiered relief methodology to adjudicate certain borrower defense claims 5-6* (Dec. 10, 2019), <https://www.ed.gov/sites/default/files/documents/borrower-defense-relief.pdf>.

⁸⁰ *Id.* pg 7.

⁸¹ Dep't of Educ. Office of Federal Student Aid, *Recommendation for Everest/WyoTech Borrowers Alleging Transfer of Credit Claims 4* (Oct. 24, 2016), (“1998: “I attended the school due to the flexible hours and the fact that I was told by the [the school] that my credits in fact would transfer over to other schools.””), <https://apps.npr.org/documents/document.html?id=6572884-10-24-2016-Memo>.

⁸² According to a Senate report, over 50 percent of Corinthian and ITT students withdrew from those institutions in the 2008-09 school year. Because these colleges have closed and no longer report data to the Department of Education, this is the most recent data that remains publicly available. U.S. Senate Committee on Health, Education, Labor and Pensions, *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, Appendix: 15: Retention and Withdrawal, pg. A15-2 and A15-3, https://www.help.senate.gov/imo/media/for_profit_report/Appendixes/Appendix15.pdf.

⁸³ Compl. at 18, *Pratt v. DeVos*, No. 1:20-cv-01501 (D.D.C. Jun. 9, 2020).

⁸⁴ According to College Scorecard earnings data on the Department’s website (see “Most Recent Data by Field of Study”) there are 216,638 programs in the dataset, of which 171,267 (or 79 percent) have privacy suppressed earnings data and therefore no earnings data available for use, <https://collegescorecard.ed.gov/data/>.

⁸⁵ Dep't. of Educ., *Policy Statement: Tiered relief methodology to adjudicate certain borrower defense claims 5* (Dec. 10, 2019), <https://www.ed.gov/sites/default/files/documents/borrower-defense-relief.pdf>.

⁸⁶ *Id.*, pg 5 & 6.

⁸⁷ Such a comparison is only be valid if the data are normally distributed. However, the earnings data the Department used to evaluate harm were not normally distributed. In fact, earnings data are virtually never normally distributed. For example, a small number of exceptionally high wage earners, the fact that earnings are truncated at zero, and the existence of the minimum wage, are all factors that cause the mean and the median to diverge.

⁸⁸ Dep't. of Educ, *Borrower Defense Partial Relief Methodology, Corinthian Colleges, Inc. (CCI) Programs, December 2019*, <https://studentaid.gov/sites/default/files/borrower-defense-partial-relief-methodology-cci.pdf>.

⁸⁹ Erica L. Green, *For Students Swindled by Predatory Colleges, Relief May Only Be Partial*, *The New York Times* (December 21, 2017), <https://www.nytimes.com/2017/12/21/us/politics/for-profit-universities-debt-relief-devos.html>.

⁹⁰ Douglas Webber, Education Expert: DeVos’ New Borrower Defense Scheme is Nonsensical, *Medium* (December 12, 2019), <https://medium.com/@repmarktakano/education-expert-devos-new-borrower-defense-scheme-is-nonsensical-b232a096c1a2>.

⁹¹ *Chairman Scott Asks Education Department Watchdog to Investigate DeVos’ Plan to Deny Full Debt Relief for Defrauded Borrowers* (March 9, 2020), <https://edlabor.house.gov/media/press-releases/chairman-scott-asks-education-department-watchdog-to-investigate-devos-plan-to-deny-full-debt-relief-for-defrauded-borrowers> and *Pratt v. DeVos*, No. 1:20-cv-01501 (D.D.C. Jun. 9, 2020).

⁹² Dep't of Educ., *Borrower Defense Final Regulations: Summary of Major Provisions*, 1, [⁹³ Andrew Kreighbaum, *DeVos: Borrower Defense Rule Offered ‘Free Money,’* *Inside Higher Ed* \(September 26, 2017\), <https://www.insidehighered.com/quicktakes/2017/09/26/devos-borrower-defense-rule-offered-%E2%80%98free-money%E2%80%99>](https://www2.ed.gov/documents/press-releases/borrower-defense-final-regulations.pdf#:~:text=Borrower%20Defense%20Final%20Regulations%3A%20Summary%20of%20Major%20Provisions,claims%20are%20processed%20more%20efficiently%2C%20transparently%2C%20and%20fairly; Bauer v. DeVos, No. 1:17-cv-01330-RDM, Memorandum Opinion and Order, (D.D.C. September 12, 2018).</p></div><div data-bbox=)

⁹⁴ *Bauer v. DeVos*, No. 1:17-cv-01330-RDM, Memorandum Opinion and Order, (D.D.C. September 12, 2018) and *CAPPS v. Secretary DeVos*, No. 17-999, p. 2-4 (D.D.C 2018).

⁹⁵ The Institute for College Access & Success, “Defrauded Students Left Holding the Bag Under Final ‘Borrower Defense’ Rule.” (September 3, 2019), <https://ticas.org/accountability/defrauded-students-left-holding-the-bag-under-final-borrower-defense-rule/>.

⁹⁶ The Institute for College Access & Success, The Century Foundation, and the National Consumer Law Center, *Top 10 Ways The New Borrower Defense Rule Is Worse For Borrowers* (Sept. 2019), https://ticas.org/wp-content/uploads/2019/09/BD_Side-by-Side.pdf; 34 C.F.R. § 685.206 (e); Press Release, Dep't. of Educ., Borrower

Defense Final Regulations: Summary of Major Provisions (Oct. 26, 2016), <https://www2.ed.gov/documents/press-releases/borrower-defense-final-regulations.pdf>.

⁹⁷ 34 C.F.R. § 685.206(e)(2019).

⁹⁸ Kate Lee Carey, Jonathon Glass and Mike Goldstein, *Borrower Defense to Repayment Rule 3.0 – Part II: Student Relief*, CooleyED (Sept. 11, 2019), <https://ed.cooley.com/2019/09/26/borrower-defense-to-repayment-rule-3-0-part-ii-student-relief>.

⁹⁹ 84 Fed. Reg.49,788, at 49,803.

¹⁰⁰ *Id.*, at 49804. See also 34 C.F.R § 685.206 (e) (3) (i) through (xi).

¹⁰¹ The Institute for College Access & Success, The Century Foundation, and the National Consumer Law Center, *Top 10 Ways The New Borrower Defense Rule Is Worse For Borrowers* (Sept. 2019), https://ticas.org/wp-content/uploads/2019/09/BD_Side-by-Side.pdf.

¹⁰² 34 C.F.R. § 685.206(e)(4).

¹⁰³ 34 C.F.R. § 685.206(e)(8)(vi), See The Institute for College Access & Success, The Century Foundation, and the National Consumer Law Center, *Top 10 Ways The New Borrower Defense Rule Is Worse For Borrowers*, https://ticas.org/wp-content/uploads/2019/09/BD_Side-by-Side.pdf.

¹⁰⁴ 34 C.F.R. § 685.222(e)(5)(effective 2020).

¹⁰⁵ 34 C.F.R. § 685.206 (13).

¹⁰⁶ *Id.*

¹⁰⁷ The Institute for College Access & Success, The Century Foundation, and the National Consumer Law Center,, *Top 10 Ways The New Borrower Defense Rule Is Worse For Borrowers* (Sept. 2019), https://ticas.org/wp-content/uploads/2019/09/BD_Side-by-Side.pdf.

¹⁰⁸ 84 Fed. Reg.49,788 at 49,840-1.

¹⁰⁹ 84 Fed. Reg.49,788 at 49,805.

¹¹⁰ 34 C.F.R. § 685.206(e)(8)(vi); The Institute for College Access & Success, The Century Foundation, and the National Consumer Law Center,, *Top 10 Ways The New Borrower Defense Rule Is Worse For Borrowers* (Sept. 2019), https://ticas.org/wp-content/uploads/2019/09/BD_Side-by-Side.pdf.

¹¹¹ Ashley Harrington, *House Votes to Overturn DeVos Borrower Defense Rule*, Center for Responsible Lending (January 16, 2020), <https://www.responsiblelending.org/media/house-votes-overturn-devos-borrower-defense-rule>.

¹¹² 34 C.F.R. § 668.171(c)(i), (ii)

¹¹³34 C.F.R. § 668.171(c)(iii)

¹¹⁴ 34 C.F.R. § 668.171(c)(iv).

¹¹⁵ Dept. of Educ. Office of Inspector General, ED-OIG/A09Q0001 *Federal Student Aid’s Processes for Identifying At-Risk Title IV Schools and Mitigating Potential Harm to Students and Taxpayers* (February 24, 2017), <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2017/a09q0001.pdf>.

¹¹⁶ *Id.* at 11-13.

¹¹⁷ *Id.* at 13,15.

¹¹⁸ See, e.g. Moody’s Investors Service, *Higher Education – US: Outlook shifts to negative as coronavirus outbreak increases downside risks* (Mar. 18, 2020).

¹¹⁹ The Institute for College Access & Success, *Defrauded Students Left Holding the Bag Under Final ‘Borrower Defense’ Rule*, (September 3, 2019), <https://ticas.org/accountability/defrauded-students-left-holding-the-bag-under-final-borrower-defense-rule/>. According to the Department’s analysis, under the 2016 rule, colleges would have repaid 23%of the loan volume associated with misconduct.

¹²⁰ Providing for congressional disapproval under Chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to “Borrower Defense Institutional Accountability,” H.J. Res 76, 116th Cong. (2020); Kery Murakami, *GOP-Led Senate Joins House in Rebuking DeVos on Loan Forgiveness*, Inside Higher Ed (March 12, 2020), <https://www.insidehighered.com/news/2020/03/12/senate-republicans-join-democrats-rebuke-devos-borrower-defense-rule>.

¹²¹ *Letter to President Donald J. Trump from 34 Military & Veteran Service Organizations Urging Support for H.J. Res 76*, Veterans Education Success, <https://vetsedsuccess.org/letter-to-president-donald-j-trump-from-32-military-veteran-service-organizations-urging-support-for-h-j-res-76/> and Letter to House of Representatives urging YES vote on H.J. Res. 76, National Education Association, <https://educationvotes.nea.org/wp-content/uploads/2020/01/H.J.-Res76-Borrower-Defense-to-Repayment-010920.pdf>. See also comments made by the

National Student Legal Defense Network,

<https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1840-AD26&meetingId=3172&acronym=1840-ED/OPE>; California Department of Justice, <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1840-AD26&meetingId=3173&acronym=1840-ED/OPE>; The Century Foundation, <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1840-AD26&meetingId=3174&acronym=1840-ED/OPE>; and Young Invincibles, <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1840-AD26&meetingId=3171&acronym=1840-ED/OPE>

¹²² Kery Murakami, *Borrower-Defense Rule Saved by Trump Veto but Still Faces Fight in Court*, Inside Higher Ed, (June 1, 2020), <https://www.insidehighered.com/quicktakes/2020/06/01/borrower-defense-rule-saved-trump-veto-still-faces-fight-court>.

¹²³ . of Educ., *Department of Education and Attorney General Kamala Harris Announce Findings from Investigation of Wyotech and Everest Programs* (November 17, 2015): <https://www.ed.gov/news/press-releases/department-education-and-attorney-general-kamala-harris-announce-findings-investigation-wyotech-and-everest-programs>.

Department of Education Illegally Slashes Debt Relief for Corinthian Borrowers, The Project on Predatory Student Lending (December 21, 2017) and Compl. at 1 *Manriquez v. Secretary DeVos*, Case 3:17-cv-07210-SK, (N. D. Cal. December 20, 2017).

¹²⁴ Court documents filed by Education on 5/1/2020 state the Department have identified 76,203 potential Manriquez class members. Compl. at 3, *Calvillo Manriquez v. Secretary DeVos*, No.17-cv-07210-SK, *Dept. of Educ. Office of Federal Student Aid, Seventh Monthly Compliance Report in response to EFC 130, Manriquez et al. v. DeVos, U.S. District Court for the Northern District of California*.

¹²⁵ Compl. at 1 *Manriquez v. Secretary DeVos*, Case 3:17-cv-07210-SK, (N. D. Cal. June 19, 2018); Compl. at 29, *Williams v. Secretary DeVos*, Case 1:16-cv-11949-LTS, (U.S.D.C. MA, October 24, 2018); and Dep't of Educ. Office of Inspector General, 104R0003, *Federal Student Aid's Borrower Defense to Repayment Loan Discharge Process*, 13 (Dec. 8, 2017), <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/i04r0003.pdf>.

¹²⁶ *Cavillo Manriquez et al. v. DeVos*, Case 3:17-cv-07210-SK Document 70 (N. D. Cal. June 19, 2018).

Specifically, in May 2018, a judge ordered ED to put a hold on collecting loan payments from Corinthian students. A month later the judge clarified the order and instructed ED to cease all collection efforts and provide forbearance to the *Manriquez* class and any other borrower who has successfully completed an attestation.

¹²⁷ While borrowers are waiting for their borrower defense claim to be decided, borrowers are not required to make payments on their loans. Unless the borrowers request otherwise, they are automatically placed into administrative forbearance. For defaulted borrowers they are required to go into stopped collection status. While they are in non-payments status, interest will continue to accrue, but after a year in pending status the accrued interest will be erased. This equals one in five students in the *Manriquez* class action suit (16,034 out of 74,781).

¹²⁸ In December 2019 the department reported it had illegally billed 45,801 borrowers in the *Manriquez* class. This was more than half of the borrowers in the class. The Department's May 2020 compliance updated that number to 30,103 due to over counting and shortening the applicable period to only include borrowers that were illegally billed after the injunction was in place. *Calvillo Manriquez v. Secretary DeVos*, No.17-cv-07210-SK, *Dept. of Educ. Office of Federal Student Aid, Seventh Monthly Compliance Report in response to EFC 130, Manriquez et al. v. DeVos, U.S. District Court for the Northern District of California*.

¹²⁹ Danielle Douglas-Gabriel, *Federal judge slams DeVos and Education Department for violating order and weighs sanctions*, Washington Post (October 9, 2019), <https://www.washingtonpost.com/education/2019/10/09/federal-judge-slams-devos-education-department-violating-order-weighs-sanctions/>.

¹³⁰ Compl. at 6, *Calvillo Manriquez v. Secretary DeVos*, No.17-cv-07210-SK, (N.D. Cal. October 24, 2019).

¹³¹ Compl. at 13, *Calvillo Manriquez v. Secretary DeVos*, No.17-cv-07210-SK, (N.D. Cal. October 21, 2019).

¹³² Defendants' Brief in Response to October 8, 2019 Order, *Calvillo Manriquez v. Secretary DeVos*, No.17-cv-07210-SK 2, (N.D. Cal. 2019).

¹³³ Compl. at 8, *Calvillo Manriquez v. Secretary DeVos*, No.17-cv-07210-SK, *Dept. of Educ. Office of Federal Student Aid, Seventh Monthly Compliance Report in response to EFC 130, Manriquez et al. v. DeVos, U.S. District Court for the Northern District of California*.

¹³⁴ *Id.*, at 8 & 9.

¹³⁵ *Id.*, at 11.

¹³⁶ Defendants Brief in Response to October 8 2019 Order, at 6 *Calvillo Manriques V. Secretary DeVos*, No. 17-cv-07210-SK, (N.D. Cal. October 15, 2019).

¹³⁷ All three recommendations made in *Federal Student Loans: Education Could Improve Direct Loan Program Customer Service and Oversight* to improve loan servicing oversight have not been implemented (GAO-16-523), <https://www.gao.gov/products/GAO-16-523>. In February 2019, ED's OIG found that, among other things, FSA did not track all identified instances of noncompliance and the information it collects to ensure servicer compliance was not always complete. This prevents FSA from identifying trends and recurring noncompliance. Overall in the IG's testimony on this report "Our audit found that FSA's oversight policies, processes, and activities collectively did not provide reasonable assurance that the risk of servicer noncompliance with requirements for servicing federally held student loans was being mitigated or reduced." The recommendations made in this report were closed in January 2020. Department of Education Office of Inspector General, *Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans*, ED-OIG/A050008 and Testimony of Bryon Gordan, Assistant Inspector General for Audit. March 6, 2019.

¹³⁸, *Judge Declares Department of Education's Seizure of Corinthian Colleges Borrowers' Tax Refunds Illegal*, The Project on Predatory Student Lending, (October 26, 2018), <https://predatorystudentlending.org/news/blog/update-judge-declares-department-EDs-seizure-corinthian-colleges-borrowers-tax-refunds-illegal/>.

¹³⁹ 892 former students submitted testimony in the *Sweet v. DeVos* lawsuit. Of those 892 students, 284, or 32 percent, "are continuing to receive payment demands after submitting their borrower defense claim." See *New Data: 96% of Students Defrauded By For-Profit Colleges Report Their Lives are Worse Now Than Before They Went to School*, press release, The Project on Predatory Student Lending, July 23, 2019, <https://predatorystudentlending.org/news/press-releases/new-data-96-of-students-defrauded-by-abusive-for-profit-colleges-waiting-for-betsy-devos-to-process-their-claims-report-their-lives-are-worse-off-now-than-before-they-went-to-school/> and <https://predatorystudentlending.org/wp-content/uploads/2019/07/The-Students-And-Data-Behind-Sweet-v-DeVos.pdf>.

¹⁴⁰ Compl. at 2, *Vara v. Secretary DeVos*, No. 1:19-cv-12175 (D. M.A. October 22, 2019).; Compl. at 5, *Vara V. Secretary DeVos*, No. 1:19-cv-12177-LTS (D. M.A. October 22, 2019)

Paragraph 19, Joint stipulation of facts, filed 1/22/20, Case 1:19-cv-12177-LTS *Vara v. DeVos*.

¹⁴¹ Plaintiffs Brief in support of Contempt and Sanctions. At 10, *Manriquez v. DeVos*, No. 3:17-cv-07210-SK (N.D. Cal. October 21, 2019).