



Borrower Defense Issue Background

In August 2019, DeVos Announced Her Overhaul Of Obama-Era Borrower Defense To Repayment Rules, Adding Hurdles For Defrauded Students That File For Loan Forgiveness And Weakening The Protections Put In Place For All Borrowers.

In August 2019, Secretary DeVos Released Her Overhaul Of The Borrower Defense Rules, Making It “More Difficult” For Defrauded Borrowers To Get Their Debt Cancelled.

On August 30, 2019, Secretary DeVos Released Her Overhaul Of The Borrower Defense Rules Which Will “Make It More Difficult For Federal Student Loan Borrowers To Cancel Their Debt” If Their College Has “Defrauded Them.” “Education Secretary Betsy DeVos on Friday finalized rules that make it more difficult for federal student loan borrowers to cancel their debt on the grounds that their college defrauded them, scaling back an Obama-era policy aimed at abuses by for-profit colleges. [...] The overhaul of the rules — called ‘borrower defense to repayment’ — is a response to conservative criticism that the current federal standards, set by the Obama administration, are too lenient and expensive for taxpayers.” [Michael Stratford, [“DeVos tightens rules for forgiving student loans,” Politico](#), 08/30/19]

DeVos’ New Rule Will Decrease The Amount Of Loan Forgiveness By Over \$500 Million Annually.

DeVos’ New Rule “Will Reduce The Amount Of Loan Forgiveness” By Over “\$500 Million Each Year.” “The tighter standards will reduce the amount of loan forgiveness provided to students by more than \$500 million each year compared to the amount under the current Obama-era policies, the department estimated. The entire package of regulations — which also curtails loan discharges for students whose schools suddenly close — is projected to save taxpayers more than \$11 billion over the next decade.” [Michael Stratford, [“DeVos tightens rules for forgiving student loans,” Politico](#), 08/30/19]

The Rule Will Make Students “Jump Through More Hoops” By Having To Prove Their School Knowingly Defrauded Such That It Caused “Financial Harm.”

The Borrower Defense Rules Will Make Students “Jump Through More Hoops” By Having “To Show Their School Engaged In Actions Or Made Statements “With Knowledge Of Its False, Misleading, Or Deceptive Nature Or With A Reckless Disregard For The Truth” That Caused “Financial Harm.” “The Trump administration is asking students to jump through more hoops than



under existing rules. Borrowers will have to show their school engaged in actions or made statements “with knowledge of its false, misleading, or deceptive nature or with a reckless disregard for the truth.” Even if students convince the department that they were defrauded, they must still prove financial harm before loans are canceled.” [Danielle Douglas-Gabriel, “[Trump administration sets higher hurdles for defrauded students to erase debt](#),” *The Washington Post*, 09/03/19]

The New Rules Will Give Students “Less Time To Apply For Relief” With Just “Three Years” Even Though “There Is Currently No Statute Of Limitation On Claims.”

The New Borrower Defense Rules Will Give Students “Less Time To Apply For Relief” With Just “Three Years” Even Though “There Is Currently No Statute Of Limitation On Claims.” “Borrowers will have less time to apply for relief — three years from graduation or withdrawal from college. There is currently no statute of limitation on claims filed by borrowers who have loan balances.” [Danielle Douglas-Gabriel, “[Trump administration sets higher hurdles for defrauded students to erase debt](#),” *The Washington Post*, 09/03/19]

The Final Rule Also Permits Colleges To Use “Mandatory Arbitration Agreements” In Enrollment Agreements, Reversing A Ban Implemented By The Obama Administration.

The Final Rule Also “Allows Colleges To Resume Using Mandatory Arbitration Agreements In Their Enrollment Agreements With Students, Reversing An Obama-Era Ban.” “In addition, the final rule allows colleges to resume using mandatory arbitration agreements in their enrollment agreements with students, reversing an Obama-era ban on the practice, which was common at for-profit schools.” [Michael Stratford, “[DeVos tightens rules for forgiving student loans](#),” *Politico*, 08/30/19]

The For-Profit College Industry Has Repeatedly Claimed In Corporate Filings That The Obama-Era Borrower Defense Rule Would’ve Imposed “Risks” And “Restrictions” On Its Business.

In 2016, Apollo Education Group, A For-Profit Education Company, Claimed That Proposed Borrower Defense Regulations “Could Result In Significant Potential Risks For Our Business” As “Student Loan Discharge” Due To Enforcement Could Bring “Potential Adverse Consequences.”



In A 2016 SEC Filing, Apollo Education Claimed That Proposed Borrower Defense Regulations “Could Result In Significant Potential Risks For Our Business” As “Student Loan Discharge” Due To Enforcement Could Bring “Potential Adverse Consequences.” “The proposed [borrower defense] regulations, if adopted, could result in significant potential risks for our business, since the precise standards for student loan discharge may be unclear or subject to interpretation in a manner that is adverse to us and not fully known or predictable in advance, and certain of the potential adverse consequences could arise from the mere commencement of enforcement actions by state or federal government entities, or the filing of student claims for debt relief, even if these actions and claims ultimately are found to lack merit.” [[Apollo Education Group, Inc. 2016 Form 10-K](#), U.S. Securities and Exchange Commission, 10/20/16]

In 2019, Bridgepoint Education, A For-Profit Education Company, Claimed That “The Reinstatement” Of The 2016 Borrower Defense Rule Could Impose “Significant Restrictions On Us And Our Ability To Operate.”

In A 2019 SEC Filing, Bridgepoint Education Claimed That “The Reinstatement Of The 2016 Regulations Regarding Borrower Defense” Could Impose “Significant Restrictions On Us And Our Ability To Operate.” “The reinstatement of the 2016 regulations regarding borrower defense to repayment expand the circumstances in which students may assert a defense to repayment against an institution and provide that certain conditions or events could trigger, automatically or in some cases at the Department’s discretion, a requirement that an institution post a letter of credit or other security that could result in the imposition of significant restrictions on us and our ability to operate.” [[Bridgepoint Education, Inc. 2018 Form 10-K](#), U.S. Securities and Exchange Commission, 03/12/19]

In 2019, Laureate Education, A For-Profit Education Company, Claimed That If It Had To Repay ED For “Successful” Borrower Defense Claims, It Could Have An Impact On Their “Business, Financial Conditions And Results Of Operations.”

In A 2019 SEC Filing, Laureate Education Claimed That If It Was “Required To Repay The DOE For Any Successful” Borrower Defense Claims, “It Could Materially Affect Our Business, Financial Conditions And Results Of Operations.” “We cannot state with any certainty the impact that complying with the 2016 DTR regulations might have on our business. If we are required to repay the DOE for any successful DTR claims by students who attended our U.S. Institutions, or if we are required to obtain additional letters of credit or increase our current letter of credit, it could materially affect our business, financial conditions and results of operations.” [[Laureate Education Inc. Form 10-K](#), U.S. Securities and Exchange Commission, 02/28/19]



The For-Profit College Industry Has Given Over \$1.5 Million In Political Contributions Since The 2018 Election Cycle—About The Same Amount Of Time Betsy DeVos Has Been Secretary Of Education.

Since The 2018 Election Cycle, The For-Profit College Industry Has Made \$1,539,994 In Political Contributions.

So Far In The 2020 Election Cycle, The For-Profit Education Industry Made \$456,544 In Political Contributions To Candidates From Both Political Parties. [[“For-profit Education: Money to Congress,”](#) OpenSecrets, accessed 01/29/20]

During The 2018 Election Cycle, The For-Profit Education Industry Made \$1,083,450 In Political Contributions To Candidates From Both Political Parties. [[“For-profit Education: Money to Congress,”](#) OpenSecrets, accessed 01/29/20]

Betsy DeVos Became The Secretary Of Education In February 2017.

Betsy DeVos Began Her Role As U.S. Secretary Of Education In February 2017. “U.S. Secretary of Education Betsy DeVos began her first day in office by thanking and praising the Department’s career employees for ensuring a smooth and professional transition.” [[Press Release](#), U.S. Department of Education, 02/08/17]

Betsy DeVos Blatantly Admitted That Her Family Is “Buying Influence” With Its Political Contributions, Saying “We Expect A Return On Our Investment.”

At A Time When Her Family Was “The Biggest Contributor Of Soft Money” To The Republican National Committee, Betsy DeVos Wrote She No Longer Took “Offense” At Claims They Were “Buying Influence”—DeVos Said, “Now I Simply Concede The Point.”

Betsy DeVos Once Admitted That Her “Family Is The Biggest Contributor Of Soft Money” To The Republican National Committee. “My family is the biggest contributor of soft money to the Republican National Committee,’ she wrote in the Capitol Hill newspaper *Roll Call*.” [Jane Mayer, [“Betsy DeVos, Trump’s Big-Donor Education Secretary,”](#) *The New Yorker*, 11/24/16]

DeVos Said She No Longer Took “Offense” At “The Suggestion That We Are Buying Influence. Now I Simply Concede The Point.” ‘I have decided to stop taking offense,’ she wrote,



'at the suggestion that we are buying influence. Now I simply concede the point.'" [Jane Mayer, "[Betsy DeVos, Trump's Big-Donor Education Secretary](#)," *The New Yorker*, 11/24/16]

Betsy DeVos Wrote That Her Family Expects “Something In Return” For Their Political Contributions And “We Expect A Return On Our Investment.”

Betsy DeVos Wrote That Her Family Expects “Something In Return” For Their Political Contributions And “Expect A Return On Our Investment.” “They are right. We do expect something in return. We expect to foster a conservative governing philosophy consisting of limited government and respect for traditional American virtues. We expect a return on our investment.” [Jane Mayer, "[Betsy DeVos, Trump's Big-Donor Education Secretary](#)," *The New Yorker*, 11/24/16]

In January 2020, A Bipartisan Group Of House Members Voted To “Overturn” Betsy DeVos’ Borrower Defense Rule That Would “Make It More Difficult” For Defrauded Students To Have Their Loans Forgiven.

In January 2020, The A Bipartisan House Majority Voted To “Overturn A Trump Administration Policy That Makes It More Difficult” For Defrauded Students To Have Their Loans Forgiven.

On January 16, 2020, A Bipartisan Majority Of The U.S. House Voted To “Overturn A Trump Administration Policy That Makes It More Difficult For Students Who Say They Were Defrauded By Colleges” To Have Their Loans Forgiven. “The House voted Thursday to overturn a Trump administration policy that makes it more difficult for students who say they were defrauded by colleges to have their federal education loans canceled, setting the stage for a fight in the Senate. The 231-to-180 vote fell largely along party lines, with six Republicans endorsing a resolution to scrap the administration’s overhaul of a 1995 law known as ‘borrower defense to repayment.’” [Danielle Douglas-Gabriel, "[House votes to overturn Trump rule that makes loan forgiveness harder; Senate fight looms](#)," *The Washington Post*, 01/16/20]

Now The Issue Moves To The Senate Where The Congressional Review Act Permits Senate Democrats To Force A Vote On The Proposal.

The Congressional Review Act Permits Senate Democrats To Force A Vote On The Proposal To Overturn DeVos’ Borrower Defense Rule,

The “Congressional Review Act” Permits “Democrats To Force A Vote On The Senate Floor” To “Overturn Recent Regulatory Actions Of Federal Agencies With A Simple Majority Vote In Both Chambers.” “Democrats have signaled for months their intentions to sideline the policy by



using the Congressional Review Act, which lets lawmakers overturn recent regulatory actions of federal agencies with a simple majority vote in both chambers. Although the statute allows Democrats to force a vote on the Senate floor, they face a formidable challenge in getting any Republicans on board with the measure.” [Danielle Douglas-Gabriel, [“House votes to overturn Trump rule that makes loan forgiveness harder; Senate fight looms,”](#) *The Washington Post*, 01/16/20]

- **The House Voted “To Overturn” DeVos’ “Policy That Makes It More Difficult For Students Who Say They Were Defrauded By Colleges To Have Their Federal Education Loans Canceled,” Known As The “Borrower Defense” Rule.** “The House voted Thursday to overturn a Trump administration policy that makes it more difficult for students who say they were defrauded by colleges to have their federal education loans canceled, setting the stage for a fight in the Senate. The 231-to-180 vote fell largely along party lines, with six Republicans

endorsing a resolution to scrap the administration’s overhaul of a 1995 law known as ‘borrower defense to repayment.’” [Danielle Douglas-Gabriel, [“House votes to overturn Trump rule that makes loan forgiveness harder; Senate fight looms,”](#) *The Washington Post*, 01/16/20]