

July 15, 2020

**ATTORNEY GENERAL RAOUL FILES LAWSUIT AGAINST DEPARTMENT OF EDUCATION OVER
CRITICAL BORROWER DEFENSE REGULATIONS**

Chicago — Attorney General Kwame Raoul today joined a coalition of 16 attorneys general in filing a lawsuit against U.S. Secretary of Education Betsy DeVos and the U.S. Department of Education challenging their action to unlawfully repeal the 2016 borrower defense regulations and replace them with regulations that do nothing more than benefit predatory for-profit schools at the expense of defrauded students.

[In the lawsuit](#), filed in the U.S. District Court for the Northern District of California, Raoul and the coalition argue that the department's decision to repeal and replace the regulations violates the Administrative Procedure Act (APA), and the coalition asks the court to vacate the department's new regulations.

"Students should not have to pay for student loans they obtained to attend fraudulent schools that promised education and training that they did not provide," Raoul said. "These students deserve a clear and convenient method to discharge their loans from schools that took advantage of them. My office has and will continue to investigate and protect students from institutions that use predatory methods to exploit borrowers."

The 2016 borrower defense regulations established critical protections for student-borrowers who were misled or defrauded by predatory schools by providing borrowers with an efficient pathway to obtain relief from their federal student loans. The regulations also created robust deterrents for schools that engage in predatory conduct. The department repealed the 2016 regulations and replaced them with new regulations that make it virtually impossible for victimized students to obtain financial relief, while rolling back oversight over unscrupulous and predatory schools.

The Higher Education Act requires the secretary of the Department of Education to issue regulations that provide a meaningful process for students to obtain federal student loan relief when their schools have engaged in misconduct. Consistent with this Congressional mandate, in November 2016, the department issued new borrower defense regulations that offered meaningful protections to defrauded student borrowers. The regulations built on lessons learned from the collapse of Corinthian Colleges – a predatory, for-profit chain of colleges that left tens of thousands of students across the nation in need of relief. Specifically, the 2016 regulations provided misled and defrauded borrowers access to a consistent, clear, fair, and transparent process to seek debt relief, and also protected taxpayers by holding schools that engage in misconduct accountable. The regulations also ensured that financially troubled schools provide financial protection to the government to ensure that, if they fail, taxpayers would not be left holding the bag.

Despite these new protections, upon taking office Secretary Betsy DeVos sided with for-profit schools and demonstrated public hostility to the 2016 borrower defense process. Just two weeks before the 2016 borrower-defense regulations were set to go into effect in 2017, the federal government unlawfully delayed them. The Illinois Attorney General's office, along with a coalition of 19 attorneys general, successfully sued Secretary DeVos over the illegal delay. In November 2019, after the secretary's failed delay attempts, the department issued replacement borrower defense regulations that put the interests of predatory schools ahead of student protections. The 2019 borrower defense regulations created a process designed to thwart relief for defrauded students and shield predatory schools from being held accountable.

In today's lawsuit, Raoul and the coalition argue that the department's repeal and replacement of the 2016 borrower defense regulations violates the APA because:

- **It is arbitrary and capricious.** The decision to repeal and replace the 2016 rule was not the product of reasoned decision making as required by the APA. In explaining its rationale for the new regulations, the department rejected prior agency determinations going back decades without explanation, grounded its analysis in fundamental misunderstandings, failed to consider alternatives, and disregarded facts and circumstances.
- **It does not comply with Congress's requirement that the secretary implement a meaningful process for borrowers to obtain relief.** Instead, it establishes an illusory process that makes it practically impossible for students to qualify for borrower defense relief. The department admits as much by acknowledging that only around 4 percent of borrowers eligible for relief will actually get relief.

The Illinois Attorney General's office has long been a national leader in investigating and enforcing consumer protection violations in the higher education field, including submitting group discharge applications pursuant to the borrower defense to repayment rule. In November 2019, Attorney General Raoul announced that more than \$10 million in student loans for former Illinois Institute of Art and Colorado Art Institute students would be discharged by the Department of Education following an application by Colorado and Illinois under the 2016 Borrower Defense to Repayment Rule.

Student borrowers who have questions or are in need of assistance can call the Attorney General's Student Loan Helpline at 1-800-455-2456. Borrowers can also file complaints on the [Attorney General's website](#).

Joining Raoul in filing the lawsuit are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, and Virginia.