



March 5, 2018

ATTORNEY GENERAL MADIGAN CALLS ON EDUCATION SECRETARY DEVOS TO REJECT TOOTHLESS BORROWER DEFENSE PROPOSAL

Chicago — Attorney General Lisa Madigan and a coalition of 20 attorneys general today submitted a letter to the U.S. Department of Education criticizing proposals that the Department offered during its recent rulemaking sessions to redraft regulations on borrower defense and financial responsibility.

The Borrower Defense to Repayment Rule was established in 1995 and updated in 2016 to give students who were defrauded by their schools a fair and transparent process to have their federal student loans discharged. In the letter today to Education Secretary Betsy DeVos, Madigan and the other attorneys general underscore that the Department's recent proposals are a major step backwards that do nothing to protect students and taxpayers from deceptive practices and fraud.

The attorneys general wrote:

"From top to bottom, the Department has offered proposals that, if enacted, will be disastrous for students and taxpayers. These proposals provide no realistic prospect for borrowers to discharge their loans when they have been defrauded by their schools. Similarly, these proposals will not identify problematic schools and hold them accountable when they engage in misconduct. The only winners will be predatory schools."

The [letter](#) urges the Department to address the serious concerns of Madigan and the other attorneys general before moving forward with rulemaking.

"Education Secretary DeVos revoked critical protections for federal student loan borrowers, and failed to set forth a realistic proposal for these defrauded borrowers who continue to have to pay for a worthless education," Madigan said. "DeVos and the Department of Education must ensure that students are not left footing the bill for schools that broke the law and broke their promise to students."

The Department's recent rulemaking comes on the heels of its decision last year to throw out its borrower-defense regulations that were promulgated in November 2016. These regulations went a tremendous distance to achieving the Department's then-stated goal of giving defrauded borrowers access to a consistent, clear, fair, and transparent process to seek debt relief. The Department, however, has unlawfully delayed implementation of these rules and decided to draft new rules from scratch. On July 6, 2017, Madigan and a coalition of attorneys general sued DeVos and the Department over this unlawful delay.

In their letter today, Madigan and the other attorneys general highlight some of the most glaring issues with the Education Department's proposals:

- The Department proposes a "federal standard" that requires a higher burden of proof than courts require for civil lawsuits and would serve only to limit defrauded students' access to critical loan relief;
- The Department proposes a borrower-defense process that excludes any role for state attorneys general;
- The Department proposes imposing a three-year statute of limitations on borrower-defense claims. The imposition of any statute of limitations on these claims is patently unfair;
- The Department proposes preserving mandatory arbitration, which suppresses students from bringing meritorious claims and prevents information about the few disputes that are brought from ever coming to light; and
- The Department fails to propose a streamlined process to discharge groups of similar borrower-defense claims.

Attorney General Madigan is a national leader in investigating and enforcing consumer protection violations in the higher education field. Madigan has investigated for-profit schools for fraud and repeatedly called on the U.S. Department of Education to immediately forgive federal loans of students who attended fraudulent for-profit schools. Madigan has also testified before Congress and urged the U.S. Department of Education to crack down on the many abuses and scams facing student borrowers.

Madigan also filed a lawsuit against one of the largest student loan servicers, Navient, for abuses in the student loan servicing industry that made it more expensive to repay. Last year, Madigan initiated the Illinois Student Loan Bill of Rights that protects student borrowers from the problems uncovered in her Navient investigation and ensures they are provided information and an affordable repayment plan. This year, Madigan is also working to pass Senate Bill 2439 to end the state's practice of suspending or terminating the professional licenses of student loan borrowers who are behind on their student loan payments.

Madigan also instituted a free Student Loan Helpline to provide student borrowers with resources about repayment options, avoiding default or how to file a complaint about loan servicing at (800) 455-2456 (TTY: 1-800-964-3013). More information can also be found on her [website](#).

Joining Attorney General Madigan in signing today's letter are the attorneys general of California, Connecticut, Delaware, District of Columbia, Hawai'i, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington.

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