

Betsy DeVos' Borrower Defense Rule Made It More Difficult For Defrauded Student To Gain Loan Forgiveness

In December 2019, DeVos Announced That ED Would Begin Determining The Amount Of Loan Relief Defrauded Borrowers Would Receive Based On How Their Incomes Compare To Those Of Students Who Participated In Comparable Programs – Rather Than Providing Full Relief To All Defrauded Students.

In December 2019, DeVos Announced A New Method To Process Borrower Defense Claims That Would Give “Partial Loan Forgiveness” Based On How A Student’s “Estimated Earnings’ Differed From” The Earnings Of Students Who Attended Comparable Programs.

On December 10, 2019, Betsy DeVos Announced “A New Strategy” To Process Borrower Defense Claims That Would Give “Partial Loan Forgiveness” Based On “How Much A Defrauded Student’s ‘Estimated Earnings’ Differed From Those Of Students Who Attended Similar Programs.” “The Trump administration on Tuesday rolled out a new strategy for how it will address the backlog of more than 200,000 pending claims for loan forgiveness by borrowers, unveiling a new formula that will provide many defrauded students with only partial loan forgiveness. The new policy [...] will calculate the amount of debt relief based on how much a defrauded student’s ‘estimated earnings’ differed from those of students who attended similar programs across the country.” [Politico Pro, [12/10/19](#)]

DeVos’ Policy “Is A Departure” From That Of The “Obama Administration, Which Provided Full Relief To All Borrowers” Determined To Have Been Defrauded.

DeVos’ Policy “Is A Departure” From That Of The “Obama Administration, Which Provided Full Relief To All Borrowers” Determined To Have Been Defrauded.” “[The Education Department] calculates loan forgiveness based on how much a defrauded student’s ‘estimated earnings’ differed from those of students who attended similar programs across the country. The policy is a departure from the practice of the Obama administration, which provided full relief to all borrowers that the Education Department determined were defrauded.” [Politico Pro, [12/10/19](#)]

DeVos’ New Policy Could Financially Benefit For-Profit Colleges Who May Be Able To Return Less Money To The Government To Cover Loan Discharges As Many Borrowers Will Only Receive “Partial Loan Forgiveness.”

DeVos’ New Policy Would Provide Many Borrowers With Just “Partial Loan Forgiveness” And “ Full Loan Forgiveness Only When A Borrower” Earned “The Very Lowest” When “Compared To Those At Similar Programs.”

DeVos' New Policy Would Provide Many Defrauded Students With Only "Partial Loan Forgiveness" And "Full Loan Forgiveness Only When A Borrower" Earned "The Very Lowest — The Bottom 2.5 Percent — Compared To Those At Similar Programs Across The Country." "DeVos in recent weeks directed the Education Department to carry out a new policy that will provide partial loan forgiveness to many borrowers whom the agency determines were duped or cheated by their colleges, according to an internal memo obtained by POLITICO. [...] Under the policy, the department will provide full loan forgiveness only when a borrower attended a program where graduates ended up earning the very lowest — the bottom 2.5 percent — compared to those at similar programs across the country. Those programs have such low median earnings that the memo refers to them as 'outliers.'" [Politico Pro, [12/10/19](#)]

Under Both The Obama And Trump Borrower Defense Rules, The Education Department Can Seek To Have Schools Cover The Cost For Loan Discharge And The Government Only "Shoulders The Cost" When They Cannot "Recoup" The Funds From A School.

The Federal Government Only "Shoulders The Cost Of Loan Discharge" When It Cannot "Recoup Funds From The Institutions Themselves." "The DeVos regulations will save the federal government about \$11 billion over 10 years, the department estimates (the federal government shoulders the cost of loan discharge if it cannot recoup funds from the institutions themselves). Consumer advocates argue those savings are created by rigging the system against borrowers." [Inside Higher Ed, [09/03/19](#)]

- **The Obama Administration Had Updated The Regulation To "Shift More Of The Cost Of Forgiveness Onto Schools."** "The Obama administration updated the regulation to shift more of the cost of forgiveness onto schools, after the closure of for-profit giant Corinthian College ushered in a flood of claims." [Washington Post, [06/26/19](#)]
- **Even Under Betsy DeVos' Rule, The Department Of Education May Seek Repayment From Schools Found To Have Made "Misrepresentation[s]" Resulting In Successful Borrower Defense Claims.** "ED may initiate a proceeding to require the school whose misrepresentation resulted in the borrower's successful borrower defense to repayment to pay discharged amounts to ED, but will not do so later than 5 years after the discharge decision." [National Association of Student Financial Aid Administrators, [09/10/19](#)]

DeVos' New Policy Overruled The Recommendation Of Her Own Department, Which Determined That Students Defrauded By Some For-Profit Colleges Deserve "Full Relief From Their Debts."

ED's Own Borrower Defense Unit Determined That Students Defrauded By Some "Now-Defunct, For-Profit Colleges" Should Receive "No Less Than Full Relief From Their Student Debts."

The Borrower Defense Unit At ED Determined That Students Defrauded By "Now-Defunct, For-Profit Colleges, Including Corinthian Colleges And ITT Technical Institute" Should Receive "No Less Than Full Relief From Their Student Debts." "[Student loan] borrowers — more than 200,000 of them — say some for-profit colleges lied to them about their job prospects and the transferability of credits. They argue they were defrauded and that the Education Department should erase their federal student loan debt under a rule called 'borrower defense.' [...] Now, internal Education Department memos obtained by NPR show that career staff in the department's Borrower Defense Unit came down firmly on the side of defrauded borrowers. The memos show this unit reviewed thousands of borrower complaints against now-defunct, for-profit colleges, including

Corinthian Colleges and ITT Technical Institute. Just weeks before DeVos was sworn in as secretary, the unit recommended to the department's political leadership that these borrowers deserve no less than full relief from their student debts." [NPR, [12/11/19](#)]

However, In Announcing Her New Policy, DeVos Has Overridden The Recommendations Of Career Staff At Her Department.

DeVos Overrode “The Recommendations Of Department Staff” In Announcing Her “New Plan To Calculate How Much” Debt Relief “Defrauded Students” Deserve. “The education secretary has the authority to override the recommendations of department staff, and DeVos has done just that. On Tuesday, the department unveiled a new plan to calculate how much defrauded students benefited from their educations and thus how much, if any, debt relief they deserve.” [NPR, [12/11/19](#)]

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. [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. [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.” [Department of Education, [02/08/17](#)]

After Passing The House And Senate, Trump Vetoed A Resolution Blocking Devos Borrower Defense Rule, With The House Ultimately Failing In Its Efforts To Overturn This Veto.

In January 2020, 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.'" [Washington Post, [01/16/20](#)]

In March 2020, The Senate Voted 53-42 To Join The House In Blocking The Education Department's Borrower Defense Rule.

On March 11, 2020, The Senate Voted 53-42 To Block The Education Department's 2019 Borrower Defense To Repayment Rule Through The Congressional Review Act. "Today, National Consumer Law Center advocates applauded the U.S. Senate's bipartisan use of the Congressional Review Act to block the 2019 Borrower Defense to Repayment rule from going into effect and to preserve the existing rules protecting borrowers from school fraud and closures. The vote was 53 – 42." [National Consumer Law Center Press Release, [03/11/20](#)]

In June 2020, The House Failed To Overturn Trump's Veto Of The Bill Blocking The Borrower Defense Rule.

In June 2020, The House Failed To Overturn Trump's Veto Of The Bill Blocking The Education Department's Borrower Defense After A 238 To 173 Vote Fell Short Of The Two-Thirds Needed. "In a victory for DeVos, the Democratic House failed to override President Donald Trump's veto of a bill that would have undone DeVos's controversial borrower-defense rule. Both the House and Senate had passed a resolution to block DeVos's rule from going into effect for new borrowers on July 1, but it was vetoed by Trump. Six Republicans joined Democrats Friday as a majority of the House voted for the override, 238-173. But it fell short of getting the necessary two-thirds support to pass." [Inside Higher Ed, [06/29/20](#)]

Diane Auer Jones Wouldn't Say When The Trump Administration Would Start Processing Over 158,000 Outstanding Borrower Defense Claims – Leaving Thousands Of Student Borrowers Waiting On Debt Relief After Reporting They Were Defrauded.

Diane Auer Jones Was Unable To Give Congress A Timeline For Processing Over 158,000 Outstanding Borrower Defense Claims.

In May 2019, Diane Auer Jones Told A House Oversight Subcommittee That "She Could Offer No Timeline For The Review Of More Than 158,000 Outstanding Borrower-Defense Claims." "A top Education Department official said Wednesday that she could offer no timeline for the review of more than 158,000 outstanding borrower-defense claims. Diane Auer Jones, the department's principal deputy under secretary, said at a House oversight subcommittee hearing that the Trump administration hasn't taken any action on the claims in close to a year because a federal judge in California blocked the use of a formula for awarding partial relief of loan forgiveness rolled out in 2017. 'We are not able to determine the level of harm or level of relief a borrower should get because the methodology we have used is being blocked by a California court,' she said." [Inside Higher Ed, [05/23/19](#)]

The Borrower Defense Rule Provides A Path To Debt Forgiveness For Students Who Were Defrauded By Their Colleges, Often For-Profit Institutions.

Borrower Defense To Repayment Is An "Obama-Era Rule" That "Allows Students Who Believe They Were Defrauded By Their College To Apply For Loan Forgiveness." "The Obama-era rule, known as Borrower Defense to Repayment, allows students who believe they were defrauded by their college to apply

for loan forgiveness. The idea is that if they didn't get the education they were promised, they shouldn't have to pay back their debt. The number of these applications soared as the Obama administration cracked down on for-profit colleges. Sometimes nursing students, for example, found out after finishing their program that it didn't have the right accreditation -- keeping them from getting a job." [CNN, [03/26/19](#)]

- **The Majority Of Borrower Defense Claims Are Filed Against For-Profit Colleges.** "As of last fall, more than 200,000 people had applied for loan forgiveness, a majority of whom went to for-profit colleges. Nearly 48,000 received debt relief and 9,000 have been denied." [CNN, [03/26/19](#)]

Diane Auer Jones Spent Nearly Five Years Lobbying For A For-Profit College Corporation That Drew The Fire Of Federal And State Regulators For Deceiving Students.

For Nearly Five Years, Diane Auer Jones Was A Chief Lobbyist For Career Education Corporation.

From 2010 To 2015, Diane Auer Jones Worked On "Regulatory Operations" And "Government Affairs" As An Executive At Career Education Corporation. Diane Auer Jones was "SVP and Chief External Affairs Officer" of Career Education Corporation from October 2010 to March 2015. She said she, "[s]erved as the senior executive responsible for company-wide regulatory operations, licensure and accreditation, corporate communications, public relations, government affairs and centralized academic services." [[LinkedIn Profile for Diane Jones](#), accessed 05/23/18]

Career Education Corporation Has Faced "Near Constant Scrutiny From Accreditors And Law Enforcement Entities," Including The Senate, FTC, SEC, And 22 Attorneys General For "Misleading And Deceptive Recruiting Tactics."

Career Education Corporation "Is One Of The Largest For-Profit Education Companies" That "Has Been Under Near Constant Scrutiny From Accreditors And Law Enforcement Entities." "Career Education Corporation ('CEC') is one of the largest for-profit education companies offering many types of programs from certificate to Bachelor's degrees. Like many for-profit education companies, in recent years CEC has experienced significant growth in student enrollment, Federal funds collected, and profit realized. At the same time, the company has been under near constant scrutiny from accreditors and law enforcement entities." [[For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success](#)," U.S. Senate Health, Education, Labor and Pensions Committee, 07/30/12]

During Jones' Tenure At CEC, A Senate HELP Committee Report Noted There Were "Allegations of Misleading And Deceptive" Recruiting Practices Against CEC. "The company appears to offer little in the way of student support services, and has struggled to address allegations of misleading and deceptive recruiting tactics as well as misrepresentations in its job placement rates." [[Career Education Corporation](#)," U.S. Senate Committee on Health, Education, Labor, and Pensions, accessed 10/11/18 and "[FOR PROFIT HIGHER EDUCATION: The Failure to Safeguard the Federal Investment and Ensure Student Success](#)," U.S. Senate Committee on Health, Education, Labor, and Pensions, 07/30/12]

Career Education Corporation Has Been Investigated By The FTC, SEC, And Twenty-Two Attorneys General. "In recent years the company has been under investigation for deceptive practices by the Federal Trade Commission; the Securities and Exchange Commission; and the attorneys general of Arkansas, Arizona, Connecticut, Idaho, Iowa, Kentucky, Missouri, Nebraska, North Carolina, Oregon, Pennsylvania, Washington, Illinois, Tennessee, Hawaii, New Mexico, Maryland, Florida, Massachusetts, Minnesota, New York, and the District of Columbia." [Republic Report, [03/06/18](#)]

In 2013 Career Education Corporation Had To Pay \$9.25 Million In Restitution And A \$1 Million Penalty For Having “Significantly Inflated Its Graduates’ Job Placement Rates.” “Attorney General Eric T. Schneiderman today announced a \$10.25 million settlement with Career Education Corporation (‘CEC’), a for-profit education company. The settlement resolves an investigation that revealed that in disclosures made to students, accreditors, and New York State, CEC significantly inflated its graduates’ job placement rates. CEC will pay \$9.25 million in restitution to students, a \$1 million penalty, and has agreed to substantial changes in how the company calculates and verifies placement rates.” [Press Release, [08/19/13](#)]

In 2011 Career Education Corporation Settled A \$40 Million Class Action Lawsuit For Claiming Its Job Placement Rate Was 97% Without Noting That A “Substantial Majority” Of The Jobs Paid Less Than \$12 An Hour And Were Largely Entry-Level. “In 2011, CEC agreed to pay \$40 million to settle a class action lawsuit involving another of one its subsidiaries, the California Culinary Academy in San Francisco. In that case, former students allege that the college’s admissions representatives and catalog boasted a job placement rate of 97 percent, but that the college did not tell applicants that the statistics included graduates working as baristas, prep cooks, line cooks and waiters, jobs for which no degree was necessary. The complaint also contends that wages for a ‘substantial majority’ of the jobs included in the statistics paid \$12 an hour or less.” [“[Career Education Corporation](#),” U.S. Senate Committee on Health, Education, Labor, and Pensions, accessed 10/11/18]

A Whistleblower At The Education Department (ED) Alleged DeVos-Appointee Diane Auer Jones Rejected A Proposed Website Because It Gave Borrowers “Too Much Information” And Made The Loan Forgiveness Process For Defrauded Students “Too Easy.”

ED “Rejected” A Website Designed To Help Defrauded Students Apply For Loan Forgiveness Because, A Whistleblower Alleges, It “Made The Process Too Easy.”

ED “Rejected A Website” That FSA Designed To Help Defrauded Students “Apply For Loan Forgiveness” Because “The Tool Made The Process Too Easy, According To A Whistleblower Complaint.” “The Trump administration rejected a website that the Education Department’s Federal Student Aid office designed to help students who have been defrauded by their colleges apply for loan forgiveness, arguing the tool made the process too easy, according to a whistleblower complaint.” [U.S. News & World Report, [06/23/20](#)]

Diane Auer Jones, A Deputy To DeVos And Political Appointee, Supposedly “Pushed Back On” Some User-Friendly Parts Of The Site And Did Not Respect The Firewall Intended To Separate ED And FSA.

Diane Auer Jones, A Political Appointee And DeVos’ Principal Deputy Undersecretary, “Pushed Back On Some Of The More User-Friendly Features Of The Site” And “Was Not Respecting The Firewall That’s Supposed To Exist Between The Education Department And The Federal Student Aid Office.” “But problems arose in late February, the whistleblower says, [...] when Diane Auer Jones, principal deputy undersecretary at the Education Department, asked to meet with the team in charge of developing the new borrower defense website and instantly pushed back on some of the more user-friendly features of the site. That’s when the whistleblower, a career staffer who was involved in the development of the website, first lodged a complaint with the Office of Inspector General, noting that Jones, who is a political appointee, was not

respecting the firewall that's supposed to exist between the Education Department and the Federal Student Aid office." [U.S. News & World Report, [06/23/20](#)]

According To The Whistleblower, Jones Said The Site Provided Borrowers “With Too Much Information” And Ordered FSA Staff Two Weeks Ago “To Scrap It Entirely.”

According To The Whistleblower, Jones Said The Site Provided Borrowers “With Too Much Information” And Two Weeks Ago “Ordered Staff At The Federal Student Aid Office To Scrap It Entirely .” “Jones, who the whistleblower says was unhappy with the prompts the smart application would ask of borrowers and said it provided them with too much information, told the team it didn't match the vision she had for the borrower defense policy. Two weeks ago, Jones told the Federal Student Aid team that it could not launch the website, effectively killing it. That's when the whistleblower filed the second complaint with the Office of Inspector General. According to the whistleblower, Jones said the website provided borrowers with too much information and ordered staff at the Federal Student Aid office to scrap it entirely.” [U.S. News & World Report, [06/23/20](#)]