



# **Durbin Statement On DeVos' New Proposed Methodology For Denying Full Relief To Defrauded Student Borrowers**

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WASHINGTON – U.S. Senate Democratic Whip Dick Durbin (D-IL) today released the following statement after U.S. Secretary of Education Betsy DeVos announced the Department of Education has developed a new methodology using Gainful Employment data for determining the amount of relief defrauded student borrowers should receive for successful borrower defense claims:

“This latest scheme by Secretary Betsy DeVos to penalize student borrowers is an outrage. The Department refuses to use Gainful Employment data to hold poor-performing programs accountable but is willing to use it to punish defrauded borrowers. Secretary DeVos has the power to immediately grant full relief to defrauded student borrowers. Why won't she let these students who have been victimized by for-profit schools get on with their lives?” Durbin said.

The Department previously announced a method of determining partial relief for defrauded student borrowers using Gainful Employment data that was struck down by a federal court. Secretary DeVos was later held in contempt for violating an injunction against collecting on the loans of defrauded Corinthian borrowers in that case.

Today, an NPR [report](#) revealed that Secretary DeVos overruled her own Department's staff position that defrauded students deserved full relief. According to internal memos, Department staff found that the credits and education students received from Corinthian and ITT were essentially worthless. Against the evidence and her own staff, Secretary DeVos has pushed the argument that these students still received some value from the for-profit schools that defrauded them and should only be entitled to partial relief.

Durbin has also [criticized](#) Secretary DeVos' rewritten borrower defense rule that guts essential protections for student borrowers and taxpayers. The DeVos borrower defense

rule makes it almost impossible for borrowers who are defrauded by their school or harmed by their school's closure to receive the relief to which they are entitled, and which Congress intended, under the Higher Education Act (HEA).

In September, Durbin introduced a Congressional Review Act (CRA) resolution of disapproval to the DeVos rule. He has urged his Senate colleagues to vote for this CRA when it comes to the Senate floor for a vote in order to overturn the DeVos rule.

CRA resolutions of disapproval allow Congress to overturn the regulatory actions of federal agencies with a simple majority vote in both chambers. Time for consideration of the resolutions on the floor of each chamber will be coordinated with House and Senate leadership.

Specifically, the DeVos borrower defense rule:

- Cuts \$11.1 billion in expected relief to students compared to the 2016 rule, currently in effect, by making it more difficult for borrowers to obtain relief;
- Increases the burden on defrauded borrowers to gather and submit, often impossible to obtain, evidence to prove their claim including that the school intentionally harmed them;
- Requires borrowers to apply individually for relief rather than receiving automatic discharges when a group of borrowers has been harmed by widespread fraud or misconduct;
- Establishes a statute of limitations on claims—expiring 3 years after leaving school—despite the fact that a school's misconduct often doesn't become known until many years after it;
- Eliminates judgments against a school for misconduct as a sufficient ground for a borrower to receive a discharge;
- Eliminates prohibition on class action bans and mandatory arbitration clauses from the 2016 rule—practices used, primarily in the for-profit college industry, to prevent students from using a school for misconduct in court;
- Eliminates the ability for a borrower whose claims are denied from having their claims reconsidered with new evidence;
- Eliminates automatically closed school discharge provision from the 2016 rule for schools that close after July 1, 2020—provision requires the automatic discharge of loans for any borrower who has not enrolled in another Title IV program within three years of the school's closure.

A copy of the Senate resolution of disapproval (S.J. Res. 56) is available [here](#). U.S. Representative Susie Lee (D-NV-03) introduced a similar resolution in the House.