



ALBUQUERQUE – Attorney General Hector Balderas joined a coalition of 19 states July 6, in suing the U.S. Department of Education and Secretary Betsy DeVos for abandoning critical federal protections for students that were set to go into effect on July 1, 2017.

The complaint, filed in U.S. District Court, alleges that the Department of Education violated federal law by abruptly rescinding its Borrower Defense Rule which was designed to hold abusive higher education institutions accountable for cheating students and taxpayers out of billions of dollars in federal loans.

The rule was finalized by the Obama administration in November 2016 after nearly two years of negotiations, following the collapse of Corinthian Colleges, a national for-profit chain.

“President Trump and Secretary DeVos are failing hardworking New Mexico students and families with their rollback of critical protections from abusive and predatory for-profit colleges,” Balderas said. “I filed this lawsuit because I will not stand by while New Mexico students fall victim to predatory, out-of-state education companies seek to harm them and drown them in unnecessary debt. Thousands of New Mexicans are still suffering the effects of these predatory practices from for-profit institutions we have already shut down, and our office continues to seek and secure financial relief for those students.”

In May 2017, Secretary DeVos announced that the Department was reevaluating the Borrower Defense Rule. On June 14, the Department announced its intent to delay large portions of the Borrower Defense Rule without soliciting, receiving, or responding to any comment from any stakeholder or member of the public, and without engaging in a public deliberative process. The Department simultaneously announced its intent to issue a new regulation to replace the Borrower Defense Rule.

In a short notice published in the Federal Register, the Department cited pending litigation in the case California Association of Private Postsecondary Schools (CAPPS) v. Betsy DeVos as an excuse for delaying implementation of the Borrower Defense Rule. State attorneys general argue in their lawsuit that “the Department’s reference to the pending litigation is a mere pretext for repealing the Rule and replacing it with a new rule that will remove or dilute student rights and protections.”

Last month, Attorney General Balderas joined a coalition of attorneys general in filing a motion to intervene in the CAPPS case in order to defend students and taxpayers from the challenge to the Borrower Defense Rule brought by the plaintiffs – a trade association representing many for-profit schools.

Additionally, without the protections of the current Borrower Defense Rule, many students who are harmed by the misconduct of for-profit schools are unable to seek a remedy in court. The Borrower Defense Rule limits the ability of schools to require students to sign mandatory arbitration agreements and class action waivers, which are commonly used by for-profit schools to avoid negative publicity and to thwart legal actions by students who have been harmed by schools’ abusive conduct.

Today’s complaint asks the Court to declare the Department’s delay notice unlawful and to order the Department to implement the Borrower Defense Rule.

The Department of Education’s negotiated rulemaking committee helped develop the Borrower Defense Rule – in large part as a result of state and federal investigations into for-profit schools such as Corinthian Colleges. Under the rule, a successful enforcement action against a school by a state attorney general entitles borrowers to obtain loan forgiveness, and enables the Department of Education to seek repayment of any amounts forgiven from the school.

AG Balderas sues DeVos, Trump administration for abandoning student protections

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The coalition involved in today's lawsuit includes the attorneys general of New Mexico, California, Connecticut, Delaware, Hawaii, Iowa, Illinois, Maryland, Massachusetts, Minnesota, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Washington, Vermont, Virginia, and the District of Columbia.

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