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September 19, 2018

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary DeVos:

On July 31, 2018, the U.S. Department of Education (Department) proposed new institutional accountability regulations to streamline and improve the borrower defense to repayment (borrower defense) process. Students defrauded by an institution of higher education must have a clearly established and navigable process to submit a claim. Unfortunately, the regulations promulgated by the previous administration drastically exceeded the scope of current law to the detriment of students, institutions, and taxpayers. I am pleased to see your proposal seeks to correct the negative impact the prior rules would have on the student aid system.

Through the *Higher Education Act*, Congress gave the Secretary authority to regulate the acts or omissions of an institution a borrower may assert as a borrower defense.¹ Borrowers have a responsibility to make informed decisions to best suit their needs, but if an institution knowingly misleads or is deceptive to students the school must be held accountable. This proposed rule protects students from financial injury imposed on them by institutions of higher education acting in bad faith.

Consequences borne by students must be at the forefront of statutory and regulatory changes, and this proposed rule is clearly crafted with them in mind. Also important is the impact of proposals on taxpayers and the larger postsecondary education system. Previous regulations were prohibitively expensive to the detriment of both students and taxpayers. This proposal aims to create a system for adjudicating borrower defense claims that provides adequate redress and discourages future acts of fraud, while also protecting taxpayers and future students from the consequences of litigation abuse. The effort to help borrowers make informed decisions before attending college, combined with this proposal to hold bad actors responsible, will result in a healthier education marketplace for all stakeholders.

¹ 20 U.S. Code § 1087e

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Overall, I applaud the Department's thoughtful borrower defense proposal that puts in place a framework that will benefit students and taxpayers. Although disappointed with the short 30-day comment period, I urge you to continue on the path to protect students from fraud. The proposed regulations are a responsible step forward to protect taxpayers, promote student access to higher education, and hold bad actors accountable.

If you have any questions, please contact my staff, Alex Ricci at alex.ricci@mail.house.gov or Jonas Linde at jonas.linde@mail.house.gov.

Sincerely,



Virginia Foxx
Chairwoman



Brett Guthrie
Chairman
Subcommittee on Higher Education and
Workforce Development