

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY  
ATTORNEY GENERAL

TEL: (617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

July 12, 2017

The Honorable Elisabeth DeVos  
Secretary  
United States Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Wendy Macias  
United States Department of Education  
400 Maryland Avenue, SW Room 6C111  
Washington, DC 20202

**Re: Docket ID ED-2017-OPE-0076**

Dear Secretary DeVos and Ms. Macias:

We, the undersigned Attorneys General of Massachusetts, California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Minnesota, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington write to oppose the U.S. Department of Education's ("Department") proposed rulemaking to replace the Department's borrower defense to repayment regulations ("Borrower Defense Rule") and gainful employment regulations ("Gainful Employment Rule") (collectively, "Rules").

Both the Borrower Defense Rule and the Gainful Employment Rule were recently finalized after robust and thorough negotiated rulemaking. Numerous stakeholders, including state attorneys general, participated in these rulemaking processes. The resulting Rules established protections for students and taxpayers from predatory schools, including those in the for-profit education sector. The Department cannot point to any new facts or compelling reasons for a new rulemaking. We are dismayed by the Department's decision to cast aside all the hard work and progress achieved during its previous rulemaking, and disheartened that the Department has decided to turn its back on the critical protections it promised to borrowers. This is both a waste of resources and a betrayal of students.

The Department is well aware of the abuses committed by predatory for-profit schools and the need for these Rules. Just last year, then Secretary of Education John King promised that the Department would “take action to protect students and taxpayers from unscrupulous companies trying to profit off of students who simply want to better their lives.” Unfortunately, rather than fulfilling this promise, the Department’s decision to revoke and replace the Rules imperils students and emboldens predatory schools.

Over the past several years, our Offices have made addressing the mistreatment of student borrowers by for-profit schools a priority. Through our investigations, we have documented outrageous misconduct on the part of such schools. We regularly speak with students who, while seeking new opportunities for themselves and their families, were lured into programs with the promise of employment opportunities and higher earnings, only to be left with little to show for their efforts beyond unaffordable debt.

Our Offices have undertaken numerous enforcement actions against schools to combat these practices. The Department likewise has a crucial and indispensable role to play in preventing misconduct by schools, protecting students from abuse, and protecting taxpayers from bearing the costs of schools’ misconduct. The Borrower Defense Rule and the Gainful Employment Rule were designed to make progress towards these very goals.

The Borrower Defense Rule was established to ensure that students have a fair and transparent process to effectuate a defense to loan repayment when their schools commit misconduct. This Rule also protects taxpayers by ensuring that schools engaging in misconduct take financial responsibility when their unlawful actions result in discharges of student loans, and by prohibiting schools from using arbitration agreements and class action waivers to stop students from bringing claims either individually or collectively against their schools in court.


Similarly, the Gainful Employment Rule was designed to ensure that students attending vocational programs receive education that will allow them, at a minimum, to repay their federal student loans. The Rule enables prospective students to receive important information about student outcomes at the programs they are considering. This information empowers students to make informed decisions about their education and protects students from programs that will leave them with burdensome debt and poor job prospects.

The Gainful Employment Rule also protects taxpayers by ensuring that federal student loan dollars are not spent to fund career training programs that consistently fail to prepare students for gainful employment in a recognized occupation.

Students count on the Department and offices like ours to protect their interests. The Gainful Employment Rule and the Borrower Defense Rule are steps in the right direction. These Rules are the products of a significant amount of time and effort on the part of numerous stakeholders

and the Department. Simply abandoning them is both a waste of Departmental resources and an injustice for students. For all of the reasons discussed herein, we call on the Department to fulfill its responsibilities to students and taxpayers and reconsider its decision to revoke and replace these critical protections.

Sincerely,

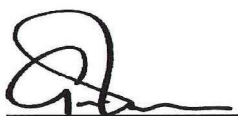
  
Maura Healey

Massachusetts Attorney General



Xavier Becerra

California Attorney General



George Jepsen

Connecticut Attorney General



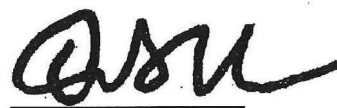
Matthew P. Denn

Delaware Attorney General



Karl A. Racine

District of Columbia Attorney General



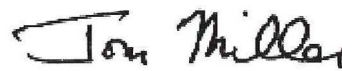
Douglas S. Chin

Hawaii Attorney General



Lisa Madigan

Illinois Attorney General



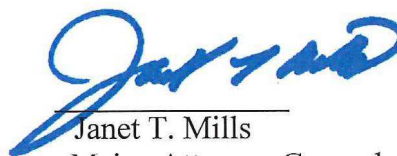
Tom Miller

Iowa Attorney General



Andy Beshear

Kentucky Attorney General



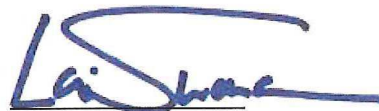
Janet T. Mills

Maine Attorney General



Brian E. Frosh

Maryland Attorney General



Lori Swanson

Minnesota Attorney General

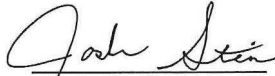




Hector Balderas  
New Mexico Attorney General



Eric Schneiderman  
New York Attorney General



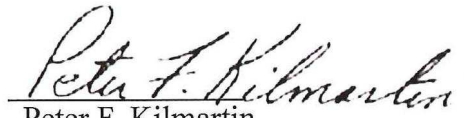
Josh Stein  
North Carolina Attorney General



Ellen F. Rosenblum  
Oregon Attorney General



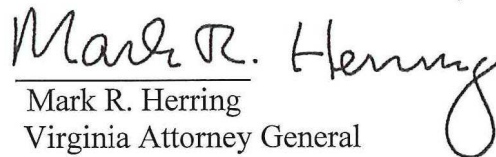
Josh Shapiro  
Pennsylvania Attorney General



Peter F. Kilmartin  
Rhode Island Attorney General



Thomas J. Donovan, Jr.  
Vermont Attorney General



Mark R. Herring  
Virginia Attorney General



Bob Ferguson  
Washington State Attorney General