



February 13, 2020

Key Vote NO on the Borrower Defense Institutional Accountability Rule CRA Resolution, H.J.Res. 76

On behalf of FreedomWorks' activist community, I urge you to contact your senators and ask them to vote NO on the Borrower Defense Institutional Accountability Rule CRA Resolution, H.J.Res. 76, to roll back a Department of Education rule related to higher education. This Democrat-only Congressional Review Act (CRA) resolution would undo updated borrower defense regulations that will be a marked improvement over the existing set of regulations that were issued under President Obama.

Borrower defense policy, which is intended to allow students who were defrauded by institutions of higher education to receive relief for their federal student loans, has existed for more than two decades but was rarely used until the Obama Administration. Whatever one's opinion on the merits of loan forgiveness for alleged defrauding or even of federal student loans themselves, it can and should certainly be agreed upon that such a forgiveness program should be structured in such a way that it provides relief only to those who were truly defrauded, in the same way that the social safety net should apply only to the most vulnerable and in need amongst us.

The revised borrower defense regulations set to go into effect in July 2020 are the result of more than two years of deliberations and significant input from the public and from higher education stakeholders, following years of broad relief granted to groups under the existing regulations. As such, fortunately, the new regulations address many of the flaws of the existing structure of borrower defense. Chief among these is the narrowing of the definition of misrepresentation by requiring that the institution must have knowledge that the alleged misrepresentation is false.

For example, the new rule requires students to file their own claims instead of bringing what are effectively class-action suits against schools, which helps to eliminate the granting of relief to those who should not actually qualify. Additionally, it establishes a maximum time of three years from students' graduation or withdrawal from an institution to file a claim, which is both ample time and a reasonable limit to deter illegitimate claims from being filed years after the fact. The

rule also creates a streamlined procedure for processing claims and allows claims to be filed regardless of whether the loan is in default or not, which corrects the existing ill incentive for students to allow their loans to default if they believe they were defrauded, in order to file.

Furthermore, it also corrects some ill incentives in the handling of closed schools, by allowing students to choose between an institution's offer of a teach-out opportunity to complete their program if available and submitting a closed school discharge to the Department of Education. Under the existing rule, the only path of recourse is the latter, which is a burden to taxpayers and not advantageous for students of closed schools either in terms of completing their education.

As if the benefits of the more correctly-structured policy are not enough to convince that the rule should be allowed to go into effect, it would also produce budgetary savings. As a result of the new rule, taxpayers would see a net savings in the federal budget of \$11.1 billion over a ten-year window.

In the current political landscape, when it is no secret that Democrats -- including those running for president in 2020 -- increasingly want to fully forgive federal student loans with little to no exceptions, it is evident that the move to undo this new rule is made in bad faith. As Secretary Betsy DeVos told the House Education Committee during a hearing in December, "I understand that some of you here want blanket forgiveness for everyone who raises their claim, but that's not right." Allowing such broad and inappropriate forgiveness, as has happened under the existing rule, simply advances partisan Democrat priorities without regard for the good of Americans.

FreedomWorks will count the vote for H.J.Res. 76 on our 2020 Congressional Scorecard and reserves the right to score any related votes. The scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes Members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized flourish at the end.

Adam Brandon
President, FreedomWorks