

House Democrats Blast DeVos in Hearing on ED Handling of Borrower Defense Backlog

By [Hunter B. Martin, NASFAA Staff Reporter](#)

Secretary of Education Betsy DeVos testified before the House Committee on Education and Labor during a [more than four-hour hearing](#) on Thursday regarding the Department of Education's (ED) lack of progress in processing borrower defense claims in a timely manner.

Over the last several years, dozens of for-profit colleges have closed their doors, leaving thousands of students without degrees and others with degrees but no jobs — many of whom also have large loan balances they are unable to repay. Former students of the now-defunct Corinthian Colleges and ITT Technical Institute campuses claimed the schools defrauded them, and became the source of hundreds of thousands of applications for [borrower defense](#) to repayment. However, since 2018, ED has not processed any pending claims, leaving a backlog of 240,000 borrowers awaiting relief.

Throughout the hearing, partisan lines of questioning were apparent as DeVos and committee Republicans stressed fairness to taxpayers and student loan borrowers who are currently or have already paid back their student loans. On the other side of the aisle, Democrats stressed how many students have been harmed, often using anecdotal evidence from constituents.

“Madam Secretary, your refusal to process claims is inflicting serious harm on students that you have the duty to serve,” said Rep. Bobby Scott (D-Va.), chairman of the committee, during his [opening statement](#). “While [ED] has been searching for a legal method to shortchange these defaulted borrowers, those defaulted borrowers have been left with mountains of debt, worthless degrees, and none of the job opportunities they were promised.”

Borrower defense regulations allow students to submit claims for loan forgiveness in certain instances, such as if their school closed while they were enrolled or shortly after they withdrew, or if the institution at which the borrower enrolled made a misrepresentation of a material fact upon which the borrower reasonably relied in deciding to obtain a federal student loan.

The standard by which borrowers can bring a borrower defense claim depends on when their student loan was [disbursed](#), due to the fact that the regulations have changed numerous times over the years. Although some form of the regulation has existed for many years, it was rarely utilized before 2015 when Corinthian Colleges abruptly closed, leading thousands of claims to pour into ED.

According to DeVos, from 1995 to 2015 there were only 59 borrower defense applications submitted, but since 2015 there's been a 5,000% increase of claims. By the time the Trump administration took office, 28,000 Corinthian College students had already received loan forgiveness and ED claimed the remaining 54,000 pending claims were on track to be processed by spring of 2017.

“Borrower defense seems like an inefficient way to protect taxpayers from fraud given that the government is losing money in the end,” said Rep. Jim Banks (R-Ind.), questioning DeVos on what reforms she is making to the program.

Under DeVos' leadership, ED halted implementation of the former borrower defense regulations and began a rewrite through negotiated rulemaking in 2017-18, during which time

ED [announced](#) a new process to review applications through a tiered system. But in 2018 a federal court [blocked](#) ED's attempts to create a tiered or partial relief system, for violating the Privacy Act. On Thursday, DeVos said ED could not process any of the backlogged loans until a new formula was created, which she [unveiled](#) this week.

“Without a methodology to utilize, we couldn't continue to process,” DeVos said during her testimony. DeVos also claimed that under the Obama administration there had been no process by which ED could continue to review applications. “The policy of the previous administration was to simply forgive claims,” she added.

However, House Democrats repeatedly challenged that narrative by asking DeVos about several memos that were revealed in an [NPR story](#) that detailed the process that borrower defense claims went through during the Obama administration, and DeVos' apparent disagreement with ED career staff assertions that the students in question gained little to no educational value in attending Corinthian and ITT institutions.

DeVos had not previously turned over the memos to House Democrats despite repeated requests for information but claimed her office's response rate to congressional requests for information has been at 95% since she took office — she also noted that her office has turned over 18,000 pages of documents in the past month.

Assisting DeVos during her testimony, Mark Brown, chief operating officer of Federal Student Aid (FSA), explained that — using the newly developed [methodology](#) — ED has resumed processing borrower defense claims and has notified students of eligibility or ineligibility as recently as within 24 hours before the hearing.

“We expect to clear the majority of this backlog, minus any litigation, within the next 12 months,” Brown said.

That backlog of pending claims has ballooned in the past few years, and during the hearing committee Republicans pointed out that the spike in claims is a recent trend and applauded DeVos' commitment to protecting taxpayers' dollars from unnecessary spending.

“There's been a culture change in our country in what people believe they're owed,” said Rep. Virginia Foxx (R-N.C.), ranking member of the committee, in response to the steep increase in borrower defense applications.

During the hearing DeVos also said she was committed to ensuring students who experienced financial harm are made whole during the borrower defense application process but stood behind her decision to only offer partial relief to borrowers from the now-defunct Corinthian Colleges and ITT institutions.

“There are many Corinthian students and ITT students who have done very well,” DeVos said.

She also stated that moving forward she would hold all institutions equally accountable and not target for-profit colleges, which she believed the Obama administration had done by placing [financial restrictions](#) on the institution that ultimately resulted in Corinthian's closure.

Several Democrats on the committee argued that [for-profit institutions](#) often target low-income students, students of color, and veterans using deceptive practices, and how many governmental officials had established misconduct had been committed at the two institutions. According to

Rep. Andy Levin (D-Mich.), the Consumer Financial Protection Bureau, numerous state attorneys general, and many career ED staff members had determined that Corinthian had committed fraud.

“Madam Secretary, you appear to be the only person who does not believe there was fraud at Corinthian Colleges,” Levin said.

An internal ED memo dated Jan. 10, 2017, for example, stated that given the “extensively well-documented, pervasive, and highly-publicized misconduct, [ED] has determined that the value of an ITT education — like Corinthian — is likely either negligible or non-existent.”

During her testimony DeVos repeatedly pointed out she did not take her office until February 2017 and refused to comment on any individual memos.

Rep. Lori Trahan (D-Mass.), also disagreed with both the assertion that Corinthian or ITT students benefited from their degrees and the belief that ED’s formula would be able to make them whole. Trahan used an example of a student she named “Betsy” to illustrate that defrauded borrowers making \$2 less than minimum wage would still only qualify for 25% loan forgiveness under the new formula.

“The new partial relief formula that you came out with two days ago, it doesn't benefit students who've been fleeced. It doesn't take into account individualized earnings, debt load, whether Betsy is back in a full-time or part-time college program — which is why my friend from Pennsylvania, Rep. [Susan] Wild, and economists alike call it ‘nonsensical,’” Trahan said.

During her testimony, DeVos was also questioned about her involvement in the [erroneous collection](#) of student loan debts from former Corinthian College students for which ED was fined and she was held in contempt of court.

“What we have acknowledged is that there were human errors made at [FSA] and with our student loan servicers, and that we acknowledge them, we take responsibility for them, and we have corrected them,” DeVos said.

The partisan viewpoints were clear throughout the hearing, but one especially contentious moment came when Rep. Frederica Wilson (D-Fla.) questioned DeVos’ motivations.

“I have worked in education my entire life. I have dedicated my entire life to this work. I’ve worked with Democrats and Republicans to advance the goal of advancing quality education for young people,” she said. “I’ve had some honest disagreements with my friends in the Republican party with how to move education forward, but I’ve never, not one time, believed that they were out to destroy public education until I met you. Why has every decision you've made harmed student instead of empowering them?”

Foxx requested the comment be struck from the official record, which Scott declined.

ED is expected to in the coming days release the first batch of decisions on several thousand borrower defense claims processed under the partial relief methodology.

