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Attorney General Frosh Joins Amicus Brief Supporting Challenge to Trump-Era Borrower Defense Rule That Repealed Protections for Student Borrowers

BALTIMORE, MD – Maryland Attorney General Brian E. Frosh today joined a multistate [amicus brief](#) advocating for the rights of federal student loan borrowers. The brief, which was filed in the U.S. Court of Appeals for the Second Circuit, supports the New York Legal Assistance Group’s (NYLAG) lawsuit challenging action taken by the Trump administration’s Department of Education (ED) that unlawfully repealed and replaced federal “borrower defense” regulations.

Borrower defense is the process by which students can seek relief from their federal student loans when they have been defrauded by their school. The Trump administration scrapped previous borrower defense regulations that protected students from deceitful practices with new regulations that favor predatory, for-profit schools and all but precluded students from seeking debt relief. In its lawsuit, NYLAG, a legal aid organization, argues that the Trump administration’s 2019 Borrower Defense Rule is arbitrary and capricious and must be stricken.

“The previous administration enacted regulations protecting for-profit schools that defrauded students rather than protecting student borrowers,” said Attorney General Frosh. “We support NYLAG’s lawsuit to have those unlawful regulations repealed and replaced.”

The federal Higher Education Act requires the U.S. Education Secretary to issue “borrower defense” regulations that provide a pathway for students to discharge federal student loan debt if they were victimized by a school. In 2016, the Obama administration’s Department of Education created strong protections for student-borrowers who were defrauded by predatory, for-profit colleges by establishing a fair and transparent borrower defense process for student loan debt relief. However, in 2019, ED rescinded those regulations and replaced them with new rules designed to shield predatory schools from being held accountable for their misconduct and prevent defrauded students from obtaining loan relief. In July 2020, Attorney General Frosh filed a [lawsuit](#) against the ED and then-Secretary Betsy DeVos for unlawfully repealing the 2016 regulations.

Today's brief supports NYLAG's arguments that the Trump administration's 2019 borrower defense rule is arbitrary and capricious, and therefore should be repealed. It further supports NYLAG's allegations that in rescinding and replacing the 2016 borrower defense rule, ED relied on inaccurate, unsupported, and inconsistent assumptions, among other arguments.

In filing the brief, Attorney General Frosh joins the attorneys general of California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and Wisconsin.

<https://www.marylandattorneygeneral.gov/press/2021/072921.pdf>