

## **Prepared Oral Comments of Julie Murray, Attorney, Public Citizen**

***Department of Education Hearing, Washington, DC, July 10, 2017***

Good morning. I'm Julie Murray, an attorney at Public Citizen, a non-profit consumer advocacy group. Public Citizen has been involved in the development and legal defense of the Gainful Employment and Borrower Defense rules.

I'm here to urge you in the strongest possible terms not to revisit these critical rules, which remain necessary to protect students and taxpayers. If the Department walks away from these rules, it will effectively wave a white flag of surrender to predatory schools that defraud students and offer useless degrees.

As just one example of the need for these rules, I'd like to highlight the Borrower Defense rule's provisions on arbitration and class-action waivers. The rule cuts off Direct Loan funding to any school that requires students to bring certain future claims, including fraud claims, against the school in secretive arbitration proceedings. Once in these proceedings, students generally can't join their claims with those of other students harmed by the school, and the deck is stacked against them.

Corinthian Colleges provides a case in point. It used forced arbitration provisions to evade accountability, and students and taxpayers have paid a steep price. As of January 2017, the federal government had discharged more than \$558 million in federal loans held by students who attended one of the Corinthian schools. We know, and the Department found, that these students were victims of systematic wrongdoing by the school. They deserved relief that they could not get from their now-bankrupt school. The same is true for the tens of thousands of others whose borrower defense applications remain pending, and many more who are eligible but do not know it and have not applied.

But many of these students could have been made whole by Corinthian—or might never have been harmed by the school in the first place—had the company not been able to rely on forced arbitration provisions to avoid accountability. In the years just before Corinthian went bankrupt, Corinthian relied on forced arbitration provisions to force case after case out of court.

Forced arbitration provided no meaningful avenue for relief for students and did not stand as an effective deterrent to Corinthian. Using publicly available arbitration data, Public Citizen found that between 2011 and 2015, only one student—a *single student* out of the thousands that attended Corinthian during that

time—received a monetary award against the company through an arbitrator’s final decision. And only 71 students brought arbitration claims against Corinthian in the first place, a reflection of the cost of litigating individual arbitration claims and the poor outlook for recovery in that biased forum.

There is no sound reason for taxpayers to subsidize a school that uses this kind of abusive scheme to avoid accountability for its proven wrongdoing.

The Borrower Defense rule should be implemented immediately, as the law requires. And the Department should abandon its plans to revisit the rule, which has already been the subject of extensive negotiation and public comment.

Thank you.