



Ending *Chevron* Deference

Impacts on Federal Education Policies

Center for American Progress January 10, 2024

Federal agencies that administer grants and benefits and that combat unscrupulous, low-quality, often for-profit education programs could have their authorities hamstrung if the U.S. Supreme Court overturns *Chevron* deference this term. The following highlights some of the benefits that education policies provide to everyday Americans, and what the Supreme Court is putting at risk.

Regulatory education benefits to everyday Americans:

- The U.S. Department of Education creates rules and administers grants under the Elementary and Secondary Education Act¹ to support rural schools, recruit and train teachers, provide after-school programs, and deliver aid to schools with high concentrations of low-income students.
- The Education Department oversees federal student loan programs through regulations. The Biden administration has undertaken rulemakings through these regulations to help alleviate nearly \$5 billion in debt for 80,000 borrowers under the income-driven repayment rule as well as provided \$34 billion in relief for 1.8 million students who either have a disability or were taken advantage of by an unscrupulous educational institution.²
- The Education Department promulgates rules under multiple statutes to protect students from discrimination based on race, age, sex, and disability, and it ensures parents' and students' privacy in data collection and access to educational records. An effective higher education system is one that protects students from harmful, costly, and low-quality institutions and programs that leave them with high debt loads and little in the way of career prospects.

Regulations at stake:

- **Rules guaranteeing students receive a quality education:** The Education Department created the gainful employment rule through the Higher Education Act (HEA)³ to protect students against unscrupulous⁴ and low-quality⁵ education programs that do not offer any benefit and indeed can leave students in significant debt.

Overruling *Chevron* could prevent the department from implementing and utilizing the rule⁶ to ensure students receive a quality degree that will allow them to successfully transition to the workforce without significant debt.

- **Rules protecting students from unscrupulous institutions:** Under the HEA, the Department of Education implements the borrower defense to repayment rule,⁷ which creates a process for defrauded student borrowers to seek relief from loans they took out to attend an institution that engaged in “fraudulent, misleading or illegal acts.”⁸ Overruling *Chevron* would prevent the Education Department from implementing this vital consumer protection mechanism.

- **Rules providing student debt relief:** Recently, the Department of Education concluded⁹ its rulemaking process to revise regulations stemming from the HEA to bring student debt relief to hundreds of thousands of Americans. Because the future of student debt relief hinges on federal regulations and agency action, overturning *Chevron* deference could provide another avenue to challenge these rules and put the possibility for any future student debt relief measures at risk.

Endnotes

1 Congressional Research Service, “The Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA): A Primer” (Washington: 2022), available at <https://crsreports.congress.gov/product/pdf/R/R45977>.

2 U.S. Department of Education, “Biden-Harris Administration Announces Nearly \$5 Billion in Additional Student Debt Relief,” Press release, December 6, 2023, available at <https://www.ed.gov/news/press-releases/biden-harris-administration-announces-nearly-5-billion-additional-student-debt-relief>.

3 Higher Education Act of 1965, Public Law 329, 89th Cong., 1st sess. (November 8, 1965), available at <https://www.govinfo.gov/content/pkg/COMPS-765/pdf/COMPS-765.pdf>.

4 Tom Winter and Dartunorro Clark, “Federal court approves \$25 million Trump University settlement,” NBC News, February 6, 2018, available at <https://www.nbcnews.com/politics/white-house/federal-court-approves-25-million-trump-university-settlement-n845181>.

5 Congressional Research Service, “Diploma Mills: A Legal Overview” (Washington: 2006), available at <https://www.everycrsreport.com/reports/RL32144.html>.

6 Madison Weiss, “The Tortured Path of the Gainful Employment Rule,” Center for American Progress, May 17, 2023, available at <https://www.americanprogress.org/article/the-tortured-path-of-the-gainful-employment-rule/>.

7 Federal Student Aid, “Borrower Defense Loan Discharge,” available at <https://studentaid.gov/manage-loans/forgiveness-cancellation/borrower-defense> (last accessed January 2024).

8 The Institute for College Access and Success, “What to Know About Borrower Defense to Repayment” (Washington: 2021), available at https://ticas.org/wp-content/uploads/2021/06/What-to-Know-About-Borrower-Defense-to-Repayment-rule_TICAS.pdf.

9 Sara Partridge and Madison Weiss, “The Future of Student Debt Relief: What To Expect Next,” Center for American Progress, October 6, 2023, available at <https://www.americanprogress.org/article/the-future-of-student-debt-relief-what-to-expect-next/>.