

August 6, 2020

The Honorable Betsy DeVos  
Secretary of Education  
400 Maryland Ave., SW  
Washington, DC 20202

Dear Secretary DeVos:

We are Student Loan Ombudspersons writing to you on behalf of the student loan borrowers we serve from seven states and the District of Columbia. Although we applaud the protections and relief that the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) has provided during the current health and economic crisis to borrowers whose loans are owned by the federal government, we are concerned that many borrowers are being left behind and that borrowers will face hardships once the CARES Act coverage expires on September 30, 2020.

States continue to face unprecedented unemployment rates, furloughs, wage cuts, and budget shortfalls. For millions of student loan borrowers and their families, many of whom were already struggling to repay their loans, this pandemic has made repayment a near impossibility. There is a great need for long-term, robust, and comprehensive protections as borrowers and the economy recover.

We therefore urge you to take additional and necessary steps to protect all federal loan borrowers as the current CARES Act relief comes to an end:

- expand the CARES Act's protections to include the millions of federal borrowers who are not currently covered and extend the term of those protections;
- ensure servicers are prepared for the current CARES Act end date; and
- streamline access to affordable repayment plans.

Some of these steps have been included in proposed legislation, such as H.R. 6800, The Health and Economic Recovery Omnibus Emergency Solutions Act (The HEROES Act). We urge you to adopt and advocate for these borrower protections whenever possible and to consider these recommendations as both economic and public health imperatives.

### **Expand and Extend CARES Act Relief to All Federal Loan Borrowers**

The CARES Act relief is available only through September 30, 2020, and applies only to federal loan borrowers whose loans are owned by the U.S. Department of Education (Department). This excludes all Federal Family Education Loan Program (FFELP) borrowers whose loans are owned by commercial lenders and all Perkins Loan borrowers whose loans are owned by their

schools, representing approximately eight million federal loan borrowers.<sup>1</sup> Borrowers play no role in deciding who owns their loans, and it is essential that all federal loan borrowers receive equal treatment.

We ask that the Department do everything within its authority to provide the same relief to their FFELP and Perkins borrowers as the CARES Act provides to loans owned by the Department, whether instructing private loan holders to extend this relief, purchasing these loans so that they qualify for CARES Act protections, or supporting legislation, such as The HEROES Act, to extend the CARES Act to cover privately-held federal loans.

Additionally, to ensure that further harm is not caused to borrowers, we recommend extending the term of CARES Act benefits to September 30, 2021, given that the pandemic's economic impacts and unemployment will extend well beyond the Act's current expiration for student loan relief on September 30, 2020. Even without Congressional action, you have extraordinary control over federal student loan repayment terms<sup>2</sup> and should use those powers to hold federal borrowers harmless during this unprecedented crisis.

### **Ensure Servicers Are Prepared For Millions of Simultaneous Changes to Accounts and Requests for Relief**

It is critical that the Department closely and rigorously oversee student loan servicers' conduct to ensure that no errors or harm to borrowers take place on October 1, 2020, the date on which the CARES Act relief is currently set to end and millions of student loan accounts will be placed back into repayment status. This is a foreseeable transition, and given the six-month lead time for servicers to prepare, any mishandling of accounts and harm to borrowers would be inexcusable and reflect poorly on the Department.

Additionally, as loans return to repayment, there will likely be a spike in applications to enroll in income-driven repayment (IDR) plans. This is in part because Congress specifically instructed the Department in section 3513(g)(2)(B) of the CARES Act to notify every covered borrower about repayment plan availability beginning on August 1.<sup>3</sup> If they do not properly prepare,

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<sup>1</sup>Tariq Habash, *Student Borrower Protection Center*, "The CARES Act Leaves Behind Millions of Student Loan Borrowers," (March 27, 2020) <https://protectborrowers.org/the-cares-act-leaves-behind-millions-of-student-loan-borrowers/>.

<sup>2</sup> See, e.g., 20 U.S.C. § 1082(a)(4) ("... the Secretary may ... consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part[.]."); see also Memorandum from Eileen Connor, Deanne Loonin, Toby Merrill, Project on Predatory Student Lending, to Sen. Elizabeth Warren (Jan. 13, 2020), [https://assets.ctfassets.net/4ubxbgy9463z/2uD5wivUoQ0z2do0dtxMP4/26e1c137389de86cbce575e68c6f908b/Ltr\\_t\\_o\\_Warren\\_re\\_admin\\_debt\\_cancellation.pdf](https://assets.ctfassets.net/4ubxbgy9463z/2uD5wivUoQ0z2do0dtxMP4/26e1c137389de86cbce575e68c6f908b/Ltr_t_o_Warren_re_admin_debt_cancellation.pdf) (discussing the Secretary's broad statutory authority to modify or compromise existing student loans); see also the Higher Education Relief Opportunities for Students Act of 2003, 108 P.L. 76, 117 Stat. 904, Sec. 2(a)(1) (giving the Secretary the power to "waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the [Higher Education] Act as the Secretary deems necessary in connection with a ... national emergency").

<sup>3</sup> As state Ombudspersons, we have heard some concerning reports from borrowers about servicers refusing to enroll borrowers in IDR plans in advance of August, despite borrowers' statutory right to apply to these programs. Not only should the Department clarify these programs' availability with its servicers, the Secretary should instruct

servicers may be overloaded with application requests. As discussed below, these programs offer important relief for borrowers—our offices actively encourage them—and the Department should do everything to facilitate enrollment. This includes putting servicers on notice that they must be prepared for a foreseeable influx in requests, which must be processed correctly and swiftly.

To ensure servicers are prepared, the Department must direct them to assess staffing levels and put into place policies and protocols for swift and decisive action at the first indication of error and consumer harm. As Secretary, you have expansive authority over servicers to implement these protections.

### **Streamline Access to IDR Plans**

It is critical that borrowers are able to easily receive immediate payment relief once the current CARES Act coverage expires. IDR plans help borrowers avoid default by lowering monthly payments.

We urge you to use your authority as Secretary to take all necessary steps to eliminate logistical and administrative barriers to automated IDR plan enrollment, such as paperwork associated with income verification or job loss. We recommend that borrowers be able to self-report income and that applications be deemed provisionally approved upon submission, even if incomplete, so that relief is given as quickly as possible.

For borrowers who are already enrolled in IDR plans, the Department should not require individual borrowers to recertify their enrollment and should instead automatically renew plans through September 30, 2021. This would extend the Department's current administrative forbearance of recertification for loans covered by the CARES Act and is in line with Congressional intent to ensure borrowers remain in affordable plans.

These protections should be extended to all federal loans, not just those currently covered by the CARES Act, to ensure that all struggling federal borrowers have easy access to immediate relief.

This is an unprecedented event in our nation's history, which calls for extraordinary actions to help student loan borrowers handle their debt burden. As the crisis continues, the need for borrower protections remains clear. The protections we are advocating for in this letter help individual borrowers and households, but also contribute to the financial stability of the entire country. It is within your authority to provide and oversee these recommended forms of relief. We welcome the opportunity to discuss these recommendations with the Department and urge you to act quickly on behalf of all student loan borrowers.

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servicers to notify borrowers about the programs' benefits and potential drawbacks and endeavor to spread the submission of applications and avoid a backlog.

Sincerely,



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Washington Student Achievement Council



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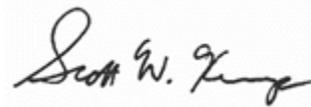
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