

# United States Senate

WASHINGTON, DC 20510

May 17, 2024

The Honorable Miguel Cardona  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Docket ID ED-2023-OPE-0123

Dear Secretary Cardona:

We write in support of the U.S. Department of Education’s (“Department”) proposed rules regarding student loan debt relief. The Department’s proposed regulations would provide meaningful relief to millions of Americans currently struggling under the crushing burden of student loan debt.<sup>1</sup>

For too long, 43 million borrowers have struggled to repay over \$1.6 trillion in federal student loans.<sup>2</sup> Borrowers across the country have had to delay major life events due to the overwhelming burden of student debt.<sup>3</sup> In America today, 71 percent of student loan borrowers surveyed report that they delayed buying a home, buying a car, starting a business, getting married, having children, or moving out of their parents homes because of their student loans.<sup>4</sup> Additionally, nearly 75 percent of Black borrowers have a higher balance than they originally borrowed.<sup>5</sup> Access to higher education has long been touted as a pathway to the middle class, but the unfortunate truth is that for generations of borrowers, the burden of student loan debt creates a roadblock to that reality.

We applaud the Biden Administration’s leadership on pursuing every possible avenue to deliver meaningful debt relief to borrowers. We must act boldly so that the tens of millions of Americans who are struggling to pay the rent, put food on the table, and pay for the basic necessities of life are not crushed by a mountain of debt for getting a college education.

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<sup>1</sup> U.S. Department of Education, “Biden-Harris Administration Announces New Plans to Deliver Debt Relief to Tens of Millions of Americans,” press release, April 8, 2024, <https://www.ed.gov/news/press-releases/biden-harris-administration-announces-new-plans-deliver-debt-relief-tens-millions-americans>.

<sup>2</sup> U.S. Department of Education, “Federal Student Aid Posts New Quarterly Reports to FSA Data Center,” electronic announcement, December 20, 2023, <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2023-12-20/federal-student-aid-posts-new-quarterly-reports-fsa-data-center>.

<sup>3</sup> Gallup, “Most Student Loan Borrowers Have Delayed Major Life Events,” Stephanie Marken, April 17, 2024, <https://news.gallup.com/poll/643328/student-loan-borrowers-delayed-major-life-events.aspx>.

<sup>4</sup> *Id.*

<sup>5</sup> Brookings Institute, “Student loans, the racial wealth divide, and why we need full student debt cancellation,” Andre M. Perry, Marshall Steinbaum, and Carl Romer, June 23, 2021, <https://www.brookings.edu/articles/student-loans-the-racial-wealth-divide-and-why-we-need-full-student-debt-cancellation/>.

We support the Department's efforts to provide significant pathways to relief for student loan borrowers. These efforts are critical, especially in the wake of the Supreme Court's extreme, overreaching decision to strike down the Biden Administrations' original student debt relief plan.<sup>6</sup> Under the *Higher Education Act of 1965* (HEA), Congress has granted the Secretary of Education the clear authority to "enforce, pay, compromise, waive, or release" federal student loans. We urge the Department to utilize every tool at its disposal to provide debt relief for borrowers, and apply every provision in this proposed rule to deliver meaningful financial relief to as many people as possible, automatically, without delay.

The proposed methods of discharges included in this rule are historic, and would undoubtedly eliminate the crushing student debt burden for borrowers who have long been waiting for needed relief. We recommend the Department build upon the plan to provide substantial financial relief to even more Americans. As such, we are providing a number of recommendations to strengthen this plan including:

- Eliminating all of the excess interest that has accrued over what a person originally borrowed, regardless of the repayment plan they are on or what their income is. Doing so will help millions of borrowers get off the never-ending treadmill of student loan repayment and help them make progress toward eliminating their debt. We also recommend full cancellation for those borrowers who have repaid enough to cover their original principal balance, regardless of income.
- Discharging debt for borrowers who have been in repayment for over two decades on a rolling basis, so no borrower has to delay or forego retirement because of their student loan debt. Student loan debt should never be a life sentence.
- Providing relief to borrowers who have been victims of servicing errors or misconduct.
- Providing debt relief to every eligible borrower automatically. No one should be delayed in getting the debt relief they are eligible to receive under this proposal because of a bureaucratic application process.

We understand the Department intends to release the proposed final rule for debt relief for borrowers experiencing economic hardship soon, and encourage the Department to release that proposed rule as quickly as possible. The economic hardship pathway has the potential to provide needed relief to borrowers not otherwise captured in this proposal. Every day spent without relief is another day borrowers experiencing economic hardship face unnecessary financial burdens.

Below, we provide more detailed input on the draft regulations proposed by the Department.

### **Eliminating debt above what was originally borrowed for borrowers on an IDR plan**

We applaud the Department for recognizing the financial and psychological harm incurred by borrowers enrolled in Income Driven Repayment (IDR) plans with student loan

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<sup>6</sup> *Biden v. Nebraska*, 143 S. Ct. 2355 (2023) [https://www.supremecourt.gov/opinions/22pdf/22-506\\_nmip.pdf](https://www.supremecourt.gov/opinions/22pdf/22-506_nmip.pdf).

balances that exceed what they originally borrowed, or “runaway balances.” Section 30.81 would eliminate accrued interest above the principal balance for borrowers on an IDR plan, providing meaningful relief to more than 6 million borrowers.<sup>7</sup>

However, the proposed rule includes income limitations on the borrowers who could qualify for relief under this provision. The proposed rule would limit discharge of the full amount that a borrower’s loan exceeds their original balance to borrowers with certain incomes. Namely, the discharge benefit would apply only to borrowers whose income is \$120,000 or less for single tax filers, \$180,000 or less for filers who are heads of households, or \$240,000 or less for borrowers who are married filing jointly.

These proposed income limits unnecessarily limit the scope of needed relief. The overwhelming majority of borrowers on an IDR plan have student loan balances that exceed what they originally borrowed,<sup>8</sup> which can lead to severe financial harm as growing balances make it less likely that a borrower can ever fully repay their debt.<sup>9</sup> Further, even borrowers with high original student loan balances, who typically incur that debt attending graduate or professional school programs,<sup>10</sup> face events where unpaid interest is added to the balance of the loan. When this occurs, the addition of that unpaid interest amount causes their balances to balloon and makes monthly payments unaffordable. In a recent focus group, borrowers of all types reported needing to prioritize other payments such as housing, car payments, childcare, or health care payments before student loans. As a result, these borrowers also report utilizing deferment and forbearance options that have led to their balances skyrocketing over time.<sup>11</sup>

When borrowers are faced with a growing student loan balance, they will often look for the cheapest payment plan available in order to keep their monthly costs low.<sup>12</sup> And long-term enrollment in income-driven repayment, where the monthly payments have not been enough to cover principal, are indicative of a borrower’s need for relief.

Student loan balances that far exceed what was originally owed represent a significant failure of the tools historically available to borrowers to make repayment easier and more accessible. While the Department has taken great strides to prevent current and future borrowers from facing the negative effects of outstanding balance growth<sup>13</sup> and interest accrual,<sup>14</sup> borrowers who entered repayment in the decades prior to the COVID-19 pandemic still face the

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<sup>7</sup> Student Debt Relief for the William D. Ford Federal Direct Loan Program (Direct Loans), the Federal Family Education Loan (FFEL) Program, the Federal Perkins Loan (Perkins) Program, and the Health Education Assistance Loan (HEAL) Program, 89 FR 27564 (proposed April 17<sup>th</sup>, 2024).

<https://www.federalregister.gov/documents/2024/04/17/2024-07726/student-debt-relief-for-the-william-d-ford-federal-direct-loan-program-direct-loans-the-federal>

<sup>8</sup> *Id.*

<sup>9</sup> The New York Times, “America’s Student Loans Were Never Going to be Repaid,” Laura Beamer and Marshall Steinbaum, July 13, 2023, <https://www.nytimes.com/interactive/2023/07/13/opinion/politics/student-loan-payments-resume.html>.

<sup>10</sup> Urban Institute. “Understanding College Affordability,” Borrowing, April 2017, [https://collegeaffordability.urban.org/covering-expenses/borrowing/#/by\\_student\\_characteristics](https://collegeaffordability.urban.org/covering-expenses/borrowing/#/by_student_characteristics)

<sup>11</sup> The Pew Charitable Trusts, “Borrowers Discuss the Challenges of Student Loan Repayment,” Student Borrower Success, May 20, 2020, <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/borrowers-discuss-the-challenges-of-student-loan-repayment>.

<sup>12</sup> *Id.*

consequences of runaway interest. For many borrowers, the circumstances that have led to accumulation of interest and balance growth were due to misinformation or student loan servicer errors: Student loan servicers steered borrowers into unnecessary forbearances, and some borrowers missed recertification deadlines due to customer service issues or other system failures.<sup>15</sup>

The proposed rule presents an opportunity to repair the harms of past policy failures that exacerbated the student debt crisis. Which is why it is imperative to provide this relief to borrowers regardless of their income, as many of the errors and policy failures that lead to runaway balance growth, occurred regardless of the borrower's income. Therefore, no borrower should be prevented from accessing a discharge of excess interest due to income caps that limit a borrower's ability to access relief. Even if a borrower experienced significant balance growth that proposed section 30.81 seeks to remedy, they could miss out on needed relief due to income that is just over the proposed caps.

Additionally, setting eligibility limits based on income ignores the impacts of historic workforce discrimination and the continuing racial wealth gap.<sup>16</sup> Nearly 75 percent of Black borrowers, and 60 percent of Latino borrowers have a higher balance than they originally borrowed.<sup>17</sup> Black borrowers are also less likely than their White peers to receive generational wealth transfers that can help them afford other costs or build wealth themselves.<sup>18</sup> As such, not all high balance, high income borrowers have the same ability to repay their debt.<sup>19</sup> The Department clearly recognized the need to provide relief from runaway interest regardless of a borrower's current income in proposed section 30.82 and should use the same authority granted to them by Congress to provide relief to borrowers under section 30.81, regardless of income.

For these reasons, we urge the Department to eliminate the proposed income caps and to provide a full discharge of excess balances to all borrowers, or at a minimum, provide a pathway to relief for borrowers above the income-limit who have been subject to servicer error or misconduct that impacted their ability to repay or access existing relief programs.

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<sup>13</sup> U.S. Department of Education, "Education Department Releases Final Regulations to Expand and Improve Targeted Debt Relief Programs," press release, October 31, 2023,

<https://www.ed.gov/news/press-releases/education-department-releases-final-regulations-expand-and-improve-targeted-debt-relief-programs>.

<sup>14</sup> U.S. Department of Education, "Biden-Harris Administration to Shorten Path to Debt Cancellation for Some SAVE Borrowers," January 11, 2024, <https://www.ed.gov/news/press-releases/biden-harris-administration-shorten-path-debt-cancellation-some-save-borrowers>

<sup>15</sup> Consumer Financial Protection Bureau, report, "Report of the CFPB Education Loan Ombudsman," October 2023, p.8-9, [https://files.consumerfinance.gov/f/documents/cfpb\\_annual-education-loan-ombudsman-report\\_2023.pdf](https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf).

<sup>16</sup> Brookings Institute, "Student loans, the racial wealth divide, and why we need full student debt cancellation," Andre M. Perry, Marshall Steinbaum, and Carl Romer, June 23, 2021, <https://www.brookings.edu/articles/student-loans-the-racial-wealth-divide-and-why-we-need-full-student-debt-cancellation/>.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

In addition to waivers for borrowers who have experienced servicer error, we also encourage the Department to provide full debt cancellation for those borrowers who have repaid enough to cover their original principal balance, regardless of income. The average public university student borrower pays an extra \$7,800 in interest over the standard 10-year repayment period,<sup>20</sup> the Department should provide these borrowers with full debt relief, not just a waiver of debt that exceeds their original balance. We also encourage the Department to implement these discharges automatically, as quickly as possible. Requiring borrowers to apply could create an unnecessary barrier to relief, and prevent borrowers from accessing loan discharges they are otherwise eligible for due to bureaucratic hurdles.<sup>21</sup>

If the Department cannot provide the benefit supplied by section 30.81 universally, we urge the Department to consider additional waivers for Plus borrowers, or borrowers experiencing hardship enrolled in an IDR plan, regardless of income.

### **Waiving \$20,000 in excess interest over the amount that a borrower originally borrowed**

Section 30.82 of the proposed rule would provide a pathway to eliminating up to \$20,000 of excess interest for remaining borrowers, regardless of income. We support the Department in providing a pathway to relief from runaway interest for all borrowers, regardless of income, and were pleased to see the inclusion of Parent Plus borrowers in proposed section 30.82. Parent Plus borrowers often face unique and difficult hurdles in repayment, and their inclusion in any pathway to relief is a necessary and positive step in the right direction.

We strongly urge the Department not to limit this relief to \$20,000. Instead, we urge the Department to provide full discharge of excess interest for borrowers, or at a minimum, provide a waiver for borrowers with unique circumstances such as Parent Plus borrowers, Graduate Plus borrowers, or borrowers facing economic hardship. In its reasoning for capping relief at \$20,000 the Department explained the cap was set so as not to provide a “windfall” amount of relief. This assumption is based on the flawed theory that higher balance borrowers would receive a larger amount of relief, and these borrowers tend toward higher incomes. However, as noted above, many economic, social, and historical factors come into play when considering the ability of higher balance borrowers to repay their loans effectively.<sup>22</sup> Further, the existence of excessive interest is itself an indication that these borrowers are not high earners as the result of their education. Removing the cap on relief provided by section 30.82 would not be an unnecessary “windfall”; uncapped relief would instead remove a tremendous barrier that has prevented borrowers from fully participating in the economy, and has exacerbated the racial wealth gap.<sup>23</sup>

<sup>20</sup> Business Insider, “Student Loan Borrowers’ interest rates would be ‘immediately eliminated’ if Democratic lawmakers’ new bill is passed,” Ayelet Sheffey, August 2<sup>nd</sup>, 2023, <https://www.businessinsider.com/eliminate-interest-rates-student-loan-debt-democrat-bill-relief-2023-8#:~:text=%22In%20fact%2C%20the%20average%20public,saving%20for%20a%20stronger%20retirement.%22>.

<sup>21</sup> Government Accountability Office, Statement of Melissa Emery-Arras, Director Education, Workforce, and Income Security, “College Closures Many Impacted Borrowers Struggled Financially Despite Being Eligible for Discharges,” September 30, 2021, <https://www.gao.gov/assets/gao-21-105373.pdf>.

<sup>22</sup> Brookings Institute, “Student loans, the racial wealth divide, and why we need full student debt cancellation,” Andre M. Perry, Marshall Steinbaum, and Carl Romer, June 23, 2021, <https://www.brookings.edu/articles/student-loans-the-racial-wealth-divide-and-why-we-need-full-student-debt-cancellation/>.

<sup>23</sup> *Id.*

If the Department cannot provide uncapped relief under section 30.82, at a minimum we urge the Department to include a waiver for borrowers in special circumstances, or that are experiencing hardship, to access greater amounts of interest relief. As college costs continue to rise, more and more families rely on Plus loans to subsidize the cost of college.<sup>24</sup> In particular, Parent Plus loans have fewer repayment options than do traditional non-Parent Plus loans. As a result, many parents spend more time paying off their Plus loans than is spent living with the child or dependent for whom they took out the loan.<sup>25</sup>

As a result, Parent Plus borrowers, who are ineligible without consolidation from participating in any IDR plans, and thus would be ineligible for relief under section 30.81, face a significant and persistent debt burden that can impact their ability to retire, receive their full Social Security benefits, and afford other basic needs.<sup>26</sup> In addition, Grad and Parent Plus borrowers face significantly higher interest rates, and can have difficulty navigating repayment or staying on a repayment plan that will keep their payments low or prevent their interest from being added on top of their principal balance.<sup>27</sup> It is imperative to include a pathway to meaningful relief for Plus borrowers as a part of this proposed final rule, and we encourage the Department to include waivers for these borrowers to access full relief on the balance of a loan that exceeds what was originally borrowed. We urge the Department to provide this relief to borrowers automatically, and encourage the Department to implement the discharges under proposed section 30.82 as quickly as possible when implemented.

### **Discharging debt for borrowers in repayment for 20 years or more**

We are pleased to see the Department include an automatic pathway to relief for borrowers with decades-old loans in section 30.83. To further strengthen this provision, we urge the Department to adapt section 30.83 to provide this relief for borrowers on an ongoing automatic basis, rather than as a one-time benefit.

According to data provided by the Department in the proposed rule, over 2 million borrowers have been repaying on their student loans for two decades or more, 64 percent of whom are over the age of 50. Borrowers who have been in repayment for 20 or 25 years are often close to retirement, in which they will have a fixed, sometimes lower income that can impact their ability to repay.<sup>28</sup> In making this provision a one-time benefit, the proposed rule

<sup>24</sup> The Century Foundation, “Parent Plus Borrowers: The Hidden Casualties of the Student Debt Crisis,” Peter Granville, May 31, 2022, <https://tcf.org/content/report/parent-plus-borrowers-the-hidden-casualties-of-the-student-debt-crisis/#:~:text=their%20loan%20supported.-,Many%20parents%20spend%20more%20years%20paying%20off%20their%20Parent%20PLUS,to%20basic%20subsistence%20cut%20off>.

<sup>25</sup> *Id.*

<sup>26</sup> The Century Foundation, “Parent Plus Borrowers: The Hidden Casualties of the Student Debt Crisis,” Peter Granville, May 31, 2022, <https://tcf.org/content/report/parent-plus-borrowers-the-hidden-casualties-of-the-student-debt-crisis/#:~:text=their%20loan%20supported.-,Many%20parents%20spend%20more%20years%20paying%20off%20their%20Parent%20PLUS,to%20basic%20subsistence%20cut%20off>.

<sup>27</sup> The Pew Charitable Trusts, “Borrowers Discuss the Challenges of Student Loan Repayment,” Student Borrower Success, May 20, 2020, <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/borrowers-discuss-the-challenges-of-student-loan-repayment>.

<sup>28</sup> Goldman Sachs, “A Majority of Retirees Live on Less Than 50% of Pre-Retirement Income and Inflation has Driven Broad Uncertainty, Goldman Sachs Asset Management Report Shows,” October 12, 2022, <https://www.gsam.com/content/gsam/us/en/institutions/about-gsam/news-and-media/2022/retirement-survey-press->



creates a “cliff effect” whereby borrowers who entered repayment just beyond the July 1 deadline, (e.g., on August 1, 2000 or 2005) would be ineligible for debt relief. We urge the Department to provide ongoing debt relief under this provision so borrowers can continue to receive the relief they are due, and not be subject to a life sentence of student loan debt because of an arbitrary cutoff date.

The number of borrowers aged 60 or older is six times what it was 20 years ago in 2004, and the amount of debt held by this population is 19 times higher.<sup>29</sup> To date, approximately 3.5 million Americans 60 and over hold \$125 billion in federal student loans.<sup>30</sup> While we understand the Department did not want to disincentivize borrowers from making payments on loans that are months away from the 20 or 25 year mark, that rationale is not sufficient to shut the door on ongoing relief for borrowers who have been in repayment for over two decades. Borrowers can face significant negative credit effects for missed payments, and it is unlikely a borrower would threaten their financial health for a possibility at relief, especially if it is not clear to the borrower they are eligible. We encourage the Department to consider structuring this provision so that borrowers who, in this case, have loans that entered repayment more than 240 or 300 months ago, for undergraduate or graduate loans respectively, would be eligible for debt relief on an ongoing, rolling basis.

As noted in the proposed rule, 74 percent of borrowers who entered repayment 25 years ago and still have outstanding debt, have been in default at some point through the course of repayment.<sup>31</sup> As such, the Department should provide special consideration for borrowers unable to successfully rehabilitate their older loans, and/or are facing economic hardship that make repayment unfeasible.

### **Discharging debt for eligible borrowers based upon repayment plan**

We commend the Department for reaching consensus on section 30.84 for borrowers who are otherwise eligible for discharge under an income-based, income-contingent, or other repayment plan, but not currently enrolled in that plan. As the Department finalizes this rule and moves toward implementation, we urge the Department to notify borrowers of their eligibility for discharge under this provision and provide relief automatically, as quickly as possible. We support the Department’s proposal to provide discharges under section 30.84 on an opt-out basis, as opposed to opt-in, as many borrowers remain unaware of their ability to benefit under past, current, or future relief options.

### **Discharging debt that should be forgiven under a targeted forgiveness opportunity**

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[release-retired.html](#).

<sup>29</sup> New America, “Why Do So Many Older Americans Owe Student Loans?” Tia Caldwell and Sarah Sattelmeyer, May 31, 2023, <https://www.newamerica.org/education-policy/edcentral/why-do-so-many-older-americans-owe-student-loans/>.

<sup>30</sup> *Id.*

<sup>31</sup> Urban Institute, “When Student Loans Linger,” Kristin Blagg, January 8, 2020, <https://www.urban.org/research/publication/when-student-loans-linger#:~:text=More%20than%201.5%20million%20borrowers,more%20recent%20student%20loan%20borrowers>.

We support the Department's proposed provision in section 30.85, which would provide a discharge for borrowers who have not successfully applied for, but are otherwise eligible for, relief under any other loan discharge or cancellation program. We are encouraged to see the Department's recognition that many borrowers have unsuccessfully applied for the debt relief they are due, such as through the closed school discharge, false certification discharge, and PSLF programs. Borrowers can be denied relief for a multitude of reasons, including and in large part due to servicer error.<sup>32</sup> This provision is an important step in providing a relief pathway that ensures the Department has the ability to proactively identify borrowers who have slipped through the cracks in recent years, and provide them the relief they are owed. We were also encouraged to see the Department's proposal to provide discharges under proposed section 30.85 through an opt-out versus opt-in basis. Providing this relief to borrowers automatically, will ensure borrowers who are unaware of, or limited in their ability to proactively seek a discharge under this provision, receive it.

Applications for student loan debt relief can pose a significant challenge to borrowers already struggling financially, in fact, many borrowers that could benefit from existing programs fail to apply.<sup>33</sup> In recent years, we have also seen how the failures of the PSLF servicer MOHELA have led to borrowers being wrongfully denied or delayed in getting the relief they are eligible for, often with no explanation.<sup>34</sup> As such, we support the Department's proposal to provide automatic relief to these otherwise-eligible borrowers wherever and whenever possible. Doing so ensures that no borrower risks going into delinquency or default on a loan that could otherwise be forgiven through an existing student debt relief program.

### **Discharging debt for borrowers who attended low-quality institutions subject to final action by the Secretary**

We support the Department's proposal in section 30.86 to provide debt relief to borrowers who attended an institution or program that was subject to final Secretarial action, such as termination of an institution's or program's eligibility for Title IV aid, a denial for recertification, or determination that an institution or program loses Title IV eligibility. All of these actions are directly related to the value a borrower received for the program or institution for which they took out their student loans. A program or institution that misrepresented outcomes or job placements, provided poor financial value to its students, or failed accountability metrics clearly did not provide a borrower with the value or job prospects they were promised when taking out a student loan.

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<sup>32</sup> Consumer Financial Protection Bureau, report, "Report of the CFPB Education Loan Ombudsman," October 2023, p.8-9, [https://files.consumerfinance.gov/f/documents/cfpb\\_annual-education-loan-ombudsman-report\\_2023.pdf](https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf).

<sup>33</sup> Government Accountability Office, Statement of Melissa Emery-Arras, Director Education, Workforce, and Income Security, "College Closures Many Impacted Borrowers Struggled Financially Despite Being Eligible for Discharges," September 30, 2021, <https://www.gao.gov/assets/gao-21-105373.pdf>.

<sup>34</sup> Student Borrower Protection Center, "The MOHELA Papers: The Rise of a Student Loan Servicing Giant and the Fall of the Student Loan System," February 2024, <https://protectborrowers.org/the-mohela-papers-report/>.



Black and Latino borrowers represent a disproportionately larger share of students enrolled in programs that fail accountability metrics,<sup>35</sup> and borrowers who complete these programs are significantly more likely to fall into delinquency or default due to poor job prospects or workforce returns.<sup>36</sup> This makes it even less likely that a borrower can ever repay that loan in full, and can prevent some borrowers from pursuing other higher value programs or credentials. To date, over 60,000 borrowers have applications pending with the Department due to debt they incurred at an institution that closed or defrauded them, and this provision would ensure past and future borrowers receive relief from loans taken out for programs that did not provide the return on investment that was promised.<sup>37</sup>

We commend the Department for reaching consensus on this proposed rule, and encourage the Department to provide relief under proposed section 30.86 automatically, to all eligible borrowers. In reaching consensus on this language, the Department opted to clarify how in addition to final secretarial action, a finding by an accreditor that terminates the accreditation of an institution or program would also qualify a borrower for relief under section 30.86. The Department's proposed language states if an accreditor determines that an institution or program should lose accreditation, based upon findings that the institution or program engaged in substantial misrepresentation, misconduct, or omission, that determination could also entitle a borrower to relief. We support the Department in making this change to clarify the intent and scope of accreditor action in section 30.86.

#### **Discharging debt for borrowers who attended an institution that closed due to final action by the Secretary**

Whereby the prior provision, section 30.86, would provide relief for those borrowers who attended an institution or program that closed due to final secretarial action that terminated access to Title IV, this provision (section 30.87) would ensure that programs that closed prior to the Secretary being able to enforce or deliver a final action, see relief. Final action to eliminate Title IV eligibility can take months, and in that time many institutions or programs proactively close in anticipation of that action. As such, those borrowers can be left in the lurch, this proposal would provide needed relief to those borrowers. We commend the Department for reaching consensus on proposed section 30.87, and encourage the Department to provide automatic discharges to borrowers under this provision to ensure all who are eligible receive needed relief without delay.

#### **Discharging debt for borrowers who attended gainful employment programs that closed**

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<sup>35</sup> The White House, "FACT SHEET: President Biden Announces New Plans that would Provide Relief to Borrowers Disproportionately Burdened by Student Loan Debt," fact sheet, April 08, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/08/fact-sheet-president-biden-announces-new-plans-that-would-provide-relief-to-borrowers-disproportionately-burdened-by-student-loan-debt/>

<sup>36</sup> Federal Reserve Bank of New York, "Student Debt and Default: The Role of For-Profit Colleges," Luis Armona, Rajashri Chakrabarti, and Michael F. Lovenheim, April 2017; revised October 2021, [https://www.newyorkfed.org/medialibrary/media/research/staff\\_reports/sr811.pdf?la=en](https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr811.pdf?la=en).

<sup>37</sup> Inside Higher Ed, "Colleges Confounded by Flood of Borrower-Defense Claims," Katherine Knott, October 24, 2023, <https://www.insidehighered.com/news/government/student-aid-policy/2023/10/24/colleges-concerned-about-rise-borrower-defense-claims>.

We support the Department’s proposal in section 30.88 that would provide debt relief to borrowers whose loans were taken out to enroll in a gainful employment (GE) program. This relief would be provided if the program or institution closed, the GE program was not a professional medical or dental program, and the time in which the borrower was enrolled, the Department has data that demonstrate the program was failing GE metrics. The GE rule is a critical safeguard for students and borrowers. GE aims to shield students from enrolling in, and borrowing loans for, programs that shortchange them. Namely, the rule requires career training programs to provide financial value, have low debt-to-earnings rates for its graduates, and lead graduates to jobs with earnings that exceed that of an individual that did not pursue higher education. All of these metrics combined will help steer borrowers towards programs that can actually provide them with the economic benefits they are seeking when pursuing higher education.

However, in order to lose Title IV eligibility through the GE rule, programs must fail either the debt-to-earnings, or earnings premium metric in two out of three consecutive award years. In that time, some programs might proactively close before officially losing Title IV eligibility. The proposed discharge pathway included in section 30.88 would ensure borrowers who enrolled in those programs that were failing required outcomes metrics, get those loans discharged. No borrower should be left on the hook for loans taken out for poor quality or failing programs. We commend the Department for reaching consensus on this proposed rule, and encourage the Department to provide automatic discharges to borrowers under proposed section 30.88 to ensure all who are eligible receive the relief they are due.

### **Discharges for Federal Family Education Loans (FFEL)**

We support the Department’s proposed provisions in section 682.403 to provide a pathway to student debt relief for commercially held Federal Family Education Loans (FFEL) borrowers. We were encouraged to see the Department provide relief to FFEL borrowers most at risk of delinquency or default, including for FFEL borrowers who have had their loans for 25 years or more, have not received a closed school discharge they are eligible for, or attended an institution that lost Title IV eligibility due to high cohort default rates. Over 8 million borrowers have a FFEL loan<sup>38</sup>, and these borrowers are unable to access the same benefits as their peers who have federally held direct loans.<sup>39</sup> For example, during the course of the pandemic, when Federal Direct student loan borrowers received a pause on their payments, or benefitted from payment count adjustments that counted additional years in repayment toward full debt relief, FFEL borrowers were often unable to access those pathways to relief.<sup>40</sup> Additionally, FFEL borrowers are only eligible for one IDR plan, and they must consolidate their loan into a direct loan before they can benefit from existing relief programs available to Federal Direct loan

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<sup>38</sup> U.S. Department of Education, “Federal Student Loan Portfolio,” Federal Student Aid Portfolio Summary, 2023 Q4, <https://studentaid.gov/data-center/student/portfolio>.

<sup>39</sup> U.S. Department of Education, “What to Know About Federal Family Education Loan (FFEL) Program Loans,” <https://studentaid.gov/articles/what-to-know-about-ff-el-loans/>.

<sup>40</sup> Washington Post, “Why Some Student Loan Borrowers are Locked out of Biden’s Debt Relief Efforts,” Danielle Douglas Gabrielle, February 28, 2024, <https://www.washingtonpost.com/education/2024/02/28/ff-el-uninsured-student-loans-debt-relief/>.

borrowers.<sup>41</sup> As a result, FFEL borrowers face unique hurdles and challenges when it comes to student loan repayment.

There are over 3 million FFEL borrowers in default<sup>42</sup>, and given the barriers in accessing traditional pathways to relief, FFEL borrowers need a process for debt relief that is not only accessible to them, but minimizes any proactive action a borrower needs to take to access the relief they are due. We support the Department in providing relief for these borrowers, and encourage the Department to provide the proposed methods of debt relief for FFEL borrowers as quickly as possible.

No borrower should have to incur a life sentence of student loan debt. We urge the Department to provide discharges for FFEL borrowers that have been in repayment for more than 25 years, and implore the Department to provide this relief on an automatic, rolling basis so that no borrower misses out on relief because they were just months shy of the deadline for when this rule is implemented. FFEL borrowers who have had their loans for 25 years or more are nearing retirement, and have a fixed income that make it less likely they will be able to make payments that pay down their loans.<sup>43</sup> As such, no borrower who has reached the age of retirement should have their Social Security payments withheld due to outstanding student loan debt.

We applaud the Department for reaching consensus on section 682.403(b)(1) and section 682.403(b)(3), which would provide discharges for FFEL borrowers who qualify for but did not receive a closed school discharge and for borrowers who attended an institution that lost Title IV eligibility due to high cohort default rates.

## **Conclusion**

We commend the progress the Department has already made to provide meaningful relief to millions of Americans struggling with the overwhelming burden of student loan debt.<sup>44</sup> This proposal represents another important step forward in that effort, and when finalized, will eliminate outstanding student loan debt for millions of borrowers, and help countless others struggling with repayment.<sup>45</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> U.S. Department of Education, “Federal Student Aid Posts New Quarterly Reports to FSA Data Center,” electronic announcement, August 30, 2023, <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2023-12-20/federal-student-aid-posts-new-quarterly-reports-fsa-data-center>.

<sup>43</sup> Goldman Sachs, “A Majority of Retirees Live on Less Than 50% of Pre-Retirement Income and Inflation has Driven Broad Uncertainty, Goldman Sachs Asset Management Report Shows,” October 12, 2022, <https://www.gsam.com/content/gsam/us/en/institutions/about-gsam/news-and-media/2022/retirement-survey-press-release-retired.html>.

<sup>44</sup> U.S. Department of Education, “Biden-Harris Administration Release First Set of Draft Rules to Provide Debt Relief to Millions of Borrowers,” press release, April 16, 2024, <https://www.ed.gov/news/press-releases/biden-harris-administration-releases-first-set-draft-rules-provide-debt-relief-millions-borrowers>.

<sup>45</sup> The White House, “President Joe Biden Outlines New Plans to Deliver Student Debt Relief to Over 30 Million Americans Under the Biden-Harris Administration,” press release, April 8, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/08/president-joe-biden-outlines-new-plans-to-deliver-student-debt-relief-to-over-30-million-americans-under-the-biden-harris-administration/>.

As the Department works to finalize these regulations, we urge you to build upon this progress by strengthening the proposed rule for borrowers experiencing economic hardship, and making that pathway as robust and inclusive as possible. We also encourage the Department to provide automatic discharges to borrowers wherever possible, and eliminate unnecessary hurdles to relief. Additionally, we urge the Department to consider borrowers who have been victims of student loan servicer misconduct or error as part of that effort.<sup>46</sup> It is imperative the Department utilize every tool under their authority granted by Congress to deliver on the President’s stated goal to provide student debt relief to as many borrowers as possible, as quickly as possible.<sup>47</sup> Thank you for your attention to our requests.

Sincerely,



Bernard Sanders  
United States Senator  
Chairman, Committee on  
Health, Education, Labor, and  
Pensions



Mazie K. Hirono  
United States Senator



Elizabeth Warren  
United States Senator



Tina Smith  
United States Senator

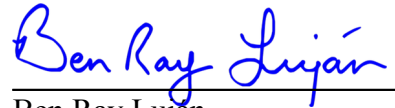
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<sup>46</sup> Student Borrower Protection Center, “The MOHELA Papers: The Rise of a Student Loan Servicing Giant and the Fall of the Student Loan System,” February 2024, <https://protectborrowers.org/the-mohela-papers-report/>.

<sup>47</sup> The White House, “Remarks by President Biden on the Supreme Court’s Decision on the Administration’s Student Debt Relief Program,” speeches and remarks, June 30, 2023, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/06/30/remarks-by-president-biden-on-the-supreme-courts-decision-on-the-administrations-student-debt-relief-program/>.



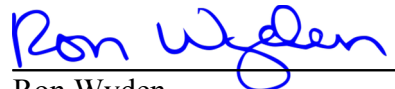
Alex Padilla  
United States Senator



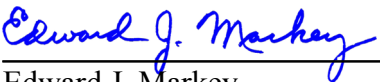
Ben Ray Lujan  
United States Senator



Raphael Warnock  
United States Senator



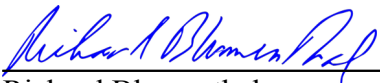
Ron Wyden  
United States Senator



Edward J. Markey  
United States Senator



Robert Menendez  
United States Senator



Richard Blumenthal  
United States Senator



Peter Welch  
United States Senator



Chris Van Hollen  
United States Senator



Cory A. Booker  
United States Senator