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May 5, 2021

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

Dear Secretary Cardona:

We are writing to request information about the steps you have taken to transition millions of federal student loan borrowers back into repayment once the pause on student loan payments and interest ends in September. The United States faces a historic student debt crisis, with nearly 43 million Americans crushed under $1.6 trillion in federal student loan debt[1] and millions of borrowers defaulting on their loans every year.[2] The CARES Act paused payments for millions of borrowers – but they now risk being thrown into extraordinary financial hardship when the current pause on payments ends. Simultaneously, the Office of Federal Student Aid (FSA) is facing a massive administrative undertaking to ensure that every borrower is protected. We support cancelling $50,000 of debt for each borrower to relieve this burden on our economy, but until that decision is made, we are requesting information on how the Department of Education (ED) and FSA are preparing for this transition and holding loan servicers accountable to inform and support borrowers.

On March 20, 2020, the U.S. Department of Education (ED) provided temporary relief for federal student loan borrowers due to the COVID-19 pandemic, which included setting a 0% interest rate on direct federal student loans, suspending loan payments, and halting collections on defaulted loans.[3] Following the passing of the Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020, these student loan relief measures were extended through September 30, 2020. Recognizing the significant burden that student debt places on borrowers during an economic crisis, both President Trump and President Biden have extended this pause throughout the pandemic.[4] In one of his first acts as President, President Biden extended the

[1] Department of Education, Office of Federal Student Aid, "Federal Student Loan Portfolio," https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.
[2] Educationdata.org, "Student Loan Default Rate," accessed on April 2, 2021, https://educationdata.org/student-loan-default-rate.
[3] Federal Student Aid, U.S. Department of Education, "Coronavirus and Forbearance Info for Students, Borrowers, and Parents," accessed on March 30, 2021, https://studentaid.gov/announcements-events/coronavirus.
[4] *Id*.

waived interest period and payment suspensions through September 30, 2021, at which point loan payments will resume.[5] This suspension applies to borrowers with direct federal loans, who make up about 87% of borrowers.[6]

Borrowers have reaped significant benefits from this payment pause, taking the opportunity to pay down other debt, relieve financial pressures from lost jobs or decreased earnings, and support their families' needs.[7] To date, ED has waived nearly $60 billion in interest – money that has been reinvested into the economy.[8] According to a Pew survey, however, many borrowers are also confused about how pandemic assistance provisions apply to them, suggesting that proactive steps prior to the end of the payment pause are needed to prevent them from falling through the cracks.[9]

The COVID-19 pandemic continues to wreak havoc on our economy and has resulted in prolonged unemployment rates for many households,[10] making it difficult for them to make ends meet.[11] This dire situation is unlikely to improve in September, when the extended unemployment benefits from the American Rescue Plan are set to expire.[12] For student loan borrowers, and in particular borrowers of color, who disproportionately shoulder the burden of student debt,[13] this financial situation is dire. If struggling borrowers are dropped back into repayment on their student loans with no adjustments or support – and at a time that their financial circumstances are likely to become worse as their unemployment benefits run out – they could find themselves in default or distress, facing a vulnerable situation and disastrous long-term economic consequences.

According to FSA's website, borrowers who were previously making auto-debit payments will see those payments "resume automatically on [the] first due date when payments begin

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[5] *Id*.

[6] Consumer Financial Protection Bureau, "The state of student loans during the COVID-19 pandemic," March 2021, https://files.consumerfinance.gov/f/documents/cfpb_student-loans-during-covid_infographic_2021-03.pdf.

[7] Wall Street Journal, "A Year Without Student-Loan Payments," Amber Burton and Julia Carpenter, March 20, 2021, https://www.wsj.com/articles/a-year-without-student-loan-payments-11616252402.

[8] *Id*; $4.8 billion per month for one year equals $57.6 billion in waived interest.

[9] Pew Charitable Trusts, "Outreach From Borrowers Could Overwhelm Student Loan System When Pandemic Pauses End," Sarah Sattelmeyer and Lexi West, November 3, 2020, https://www.pewtrusts.org/en/research-and-analysis/articles/2020/11/03/outreach-from-borrowers-could-overwhelm-student-loan-system-when-pandemic-pauses-end.

[10] The New York Times, "Why Are Jobless Claims Still High? For Some, It's the Multiple Layoffs," Ben Casselman, March 18, 2021, https://www.nytimes.com/2021/03/18/business/economy/unemployment-claims.html.

[11] Center on Budget and Policy Priorities, "Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships," March 29, 2021, https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and.

[12] U.S. Department of Labor, "The American Rescue Plan," accessed on April 29, 2021, https://www.dol.gov/general/american-rescue-plan.

[13] Data for Progress, "The President Doesn't Need Congress to Cancel Student Loan Debt. Democrats Will Push for Action in 2021," September 17, 2020, https://www.dataforprogress.org/blog/2020/9/17/the-president-doesnt-need-congress-to-cancel-student-loan-debt-democrats-will-push-for-action-in-2021; Center for American Progress, "New Federal Data Show a Student Loan Crisis for African American Borrowers," Ben Miller, October 16, 2017, https://www.americanprogress.org/issues/education-postsecondary/news/2017/10/16/440711/new-federal-data-show-student-loan-crisis-african-american-borrowers/; Brookings, "Black-white disparity in student loan debt more than triples after graduation," Judith Scott-Clayton and Jing Li, October 20, 2016, https://www.brookings.edu/research/black-white-disparity-in-student-loan-debt-more-than-triples-after-graduation/.

again," unless borrowers contact their loan service or private collection agency ahead of time.[14] Currently, loan servicers are required to give borrowers only three weeks' notice before their payments resume.[15] Congress specifically appropriated $91 million to FSA in the American Rescue Plan for outreach to borrowers.[16] This outreach must go beyond blanket emails and form letters. Borrowers will need individualized support to assess their current circumstances, identify the repayment plan that best meets their needs, and navigate enrollment or re-enrollment – a process that is likely to take more than a few weeks for any one borrower and that must be repeated on a scale of millions.

Student loan servicers have an abysmal track record of helping borrowers navigate these complex processes.[17] These loan servicers are currently being paid more than twice the usual rate for loans in forbearance,[18] with no expectations of improved service for borrowers during this time. If all loans are placed back into active repayment when the pause lifts, servicers would experience a financial windfall (since they are paid at the higher rate for loans in active repayment), even if many of those loans eventually move into default or forbearance. FSA will need to exercise significant oversight to ensure that servicers are communicating with borrowers proactively and have enough staffing to create individualized plans. Additionally, ED may need to extend additional flexibilities, such as simplifying enrollment in IDR plans, as the date for restarting payments nears.

In order to better understand how ED, FSA, and affiliated student loan servicers plan to ensure a smooth transition to repayment and protect at-risk student loan borrowers, we ask that you provide answers to the following questions no later than May 19, 2021:

1) Please provide specific steps that ED and FSA have taken and will take to ensure the successful transition back to student loan repayments on October 1, 2021.

2) Given the logistical challenges and the likelihood that a large share of borrowers will still be struggling economically, do you believe that payments should resume on October 1, 2021? If not, does ED plan to recommend an additional extension of the payment pause?

3) How have ED and FSA communicated expectations to loan servicers to ensure that they are prepared and well-staffed in advance of these resumed payments? Please provide details of these communications and accountability provisions for servicers.

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[14] Federal Student Aid, U.S. Department of Education, "Coronavirus and Forbearance Info for Students, Borrowers, and Parents," accessed on March 30, 2021, https://studentaid.gov/announcements-events/coronavirus.
[15] Id.
[16] H.R. 1319, American Rescue Plan Act of 2021, Section 2007, https://www.congress.gov/117/bills/hr1319/BILLS-117hr1319enr.pdf.
[17] See, for example, U.S. Department of Education Office of the Inspector General, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," February 12, 2019, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf.
[18] According to information provided in response to a FOIA request from the Student Borrower Protection Center, servicers are being paid a rate of $2.19 per borrower per month, versus the usual forbearance rate of $1.05 per borrower per month, under contract change CR 5055. FOIA production available upon request.

4) What status will student loan borrowers be placed into when repayment resumes?

    a) If they are placed into active repayment status, how will ED ensure that loan servicers are providing individual counseling and solutions for student loan borrowers to ensure borrowers are in the best payment plan?
        i) What measures will ED put in place to ensure loan servicers protect borrowers moved into active repayment status from defaulting on their loans, particularly given the financial benefits that servicers will receive from keeping borrowers in active repayment status even when they may face difficulty making payments?

    b) If they are placed into their pre-pandemic status, how will ED ensure that loan servicers are providing individual counseling and solutions for student loan borrowers whose circumstances have changed?

5) What proactive approaches will ED, FSA, and servicers take to make sure that student loan borrowers are in the right payment plan once their payments resume? Please provide details on these outreach efforts.

6) Millions of borrowers have allegedly been denied the benefits of programs intended to protect borrowers, including Income Driven Repayment, Public Service Loan Forgiveness, and the TEACH Grant program, as a result of government mismanagement and abuses by the student loan industry. What steps are ED, FSA and Servicers prepared to take to ensure all borrowers can benefit from these protections before payments resume?

7) How are FSA and loan servicers identifying at-risk student loan borrowers who struggled prior to the pandemic and targeting outreach to these borrowers prior to automatic repayments going into effect?

    a) Of these at-risk borrowers, how many were enrolled in auto-debit payments prior to the pandemic?

    b) Please describe the targeted outreach efforts, if any, that ED and/or FSA have taken or intend to take to prepare at-risk student loan borrowers for the reactivation of their student loan payments on October 1, 2021.

    c) Has ED considered changing policies that require student loan interest to capitalize in certain situations[19] for these struggling borrowers once they enter repayment?

8) To date, what percentage of student loan borrowers have contacted ED, FSA, or their servicers to let them know their financial circumstances have changed?

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[19] Federal Student Aid, U.S. Department of Education, "Coronavirus and Forbearance Info for Students, Borrowers, and Parents," accessed on March 30, 2021, https://studentaid.gov/announcements-events/coronavirus.

9) What steps are ED, FSA, and student loan servicers taking ahead of October 1, 2021 to be prepared to handle many of these circumstantial changes simultaneously?

10) Given the multitude of consumer complaints lodged against student loan servicers,[20] how does ED plan to ensure proper oversight of these servicers once student loan payments resume to ensure they are engaging in ethical business practices and effectively serving borrowers?

11) How will ED consider servicer performance during the pandemic in its upcoming renegotiations of servicer contracts?

12) What flexibilities does ED plan to use to streamline enrollment in IDR programs to ensure that borrowers are able to enroll quickly and easily?

13) Has ED considered a brief penalty-free period for non-payment after the pause ends?

14) Recognizing that ongoing, independent oversight is a critical precondition to ensure a functioning financial services sector, what steps are ED, FSA, and servicers taking to allow independent regulators, including the CFPB and state banking departments, to oversee the transition back into repayment?

Thank you for your attention to this important matter, and we look forward to your response.

Sincerely,

Elizabeth Warren
United States Senator

Tina Smith
United States Senator

Sherrod Brown
United States Senator

Edward J. Markey
United States Senator

[20] Consumer Financial Protection Bureau, "Annual Report of the CFPB Private Education Loan Ombudsman 2019," October 15, 2019, https://www.consumerfinance.gov/documents/8132/cfpb_annual-report_private-education-loan-ombudsman_2019.pdf.