Dear Commissioner O’Malley, Secretary Yellen, and Secretary Cardona:

We write to request that the Social Security Administration (SSA), the U.S. Department of the Treasury (Treasury), and the U.S. Department of Education (ED) consider seeking an end to the practice of offsetting Social Security benefits to pay off defaulted student loans, a particularly devastating practice for seniors and people with disabilities who rely on Social Security as their sole source of income. We applaud the Biden Administration’s ongoing efforts to address student debt by providing relief to nearly four million Americans, including automatic cancellation for half a million people with total and permanent disabilities, and urge you to build on this success by protecting Social Security benefits from being offset to pay down student loan debt.

The Treasury Offset Program (TOP), established under the Debt Collection Improvement Act of 1996, authorizes the collection of defaulted federal student loans and other federal nontax debt by the Treasury Department. As a growing number of older Americans have federal student loan debt when they near or enter retirement age, we are concerned that these older borrowers are disproportionately subject to TOP collection. In these cases, the Department of Education and

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3 The Debt Collection Improvement Act of 1996, Public Law 104–134.

Treasury coordinate to withhold a portion of Social Security or disability benefits to recoup funds for defaulted loans, in a process known as “administrative offset.”

The number of older Americans with student loan debt has been rising steadily. In 2023, over 3.5 million Americans aged 60 and older had outstanding student loan debt, worth a total of over $125 billion. This represents a six-fold increase in the number of older borrowers and a nineteen-fold increase in the amount owed by older Americans compared to 2004.

Unfortunately, older borrowers often face the greatest repayment struggles, with nearly 40 percent of federal borrowers over the age of 65 in default on their student loans. These borrowers who have struggled with their student loan repayment progress could see their wages, tax refunds, and Social Security checks garnished or offset. Under TOP, the federal government can withhold up to 15 percent of monthly Social Security or disability benefits for defaulted student loans. Roughly 44 percent of borrowers who were 50 years and older at the time of their initial offset were subject to this maximum Social Security benefit withholding. When borrowers are in collections, on average their Social Security benefits are estimated to be reduced by $2,500 annually. This can be a devastating blow to those who rely on Social Security as their primary source of income. According to SSA, Social Security benefits represented 90 percent or more of total income for about one-third of beneficiaries aged 65 and older in 2014, the last year of available data.

There is little evidence that these offsets are a meaningful solution to collecting outstanding debt. Almost a third of borrowers 50 and older who had offsets lasting five years or longer had their loan balances increase during this time period. And more than 70 percent of the loan repayments collected through Social Security offsets were applied to fees and interest.

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6 Id.
 Nonetheless, in the years prior to the March 2020 COVID-19 student loan payment pause, the number of Social Security beneficiaries subjected to offsets due to defaults surged dramatically. From fiscal years 2002 to 2015, the number of defaulted federal student loan borrowers of any age with Social Security offsets more than quadrupled, jumping from around 36,000 to 173,000 borrowers.\(^\text{14}\) This trend was particularly pronounced for borrowers aged 65 and older: the number of borrowers in that age range with offsets increased by a staggering 540 percent.\(^\text{15}\) By fiscal year 2015, Social Security checks of approximately 114,000 borrowers aged 50 and older were being offset to repay defaulted federal student loans.\(^\text{16}\)

The payment pause offered temporary relief for Americans struggling with student debt and allowed for older Americans to retain their full Social Security checks. However, on October 1, 2023, ED lifted the suspension of loan payments, and student loan repayments resumed.\(^\text{17}\) This unprecedented restart of payments for tens of millions of borrowers raises serious concerns about their financial well-being. While we commend the Biden Administration’s 12-month on-ramp to repayment, which offers temporary protection from delinquency, reporting, and debt collection, we are concerned that borrowers will face the extreme consequences associated with missed payments when protections expire in late 2024.\(^\text{18}\) At this point, many borrowers could once again face Social Security offsets due to defaulted student loans.

Given alarming reports exposing the crushing impact of offsets on older Americans dependent on Social Security,\(^\text{19}\) we urge you to consider seeking an end to administrative offset of student loan debts for all Social Security benefits. Under the \textit{Debt Collection Improvement Act}, the head of a benefit-paying agency may request the Treasury Secretary exempt certain federal payments from administrative offset when such offset would “tend to interfere substantially with or defeat the purposes of the payment certifying agency’s program.”\(^\text{20}\) Offseting Social Security benefits


\(\text{15}\) \textit{Id}.

\(\text{16}\) \textit{Id}.


\(\text{20}\) The Secretary’s exemption authority appears at 31 U.S.C. § 3716(c)(3)(B), which reads: “The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere
can push beneficiaries closer to—or even into—poverty, undermining the Social Security Act’s mission of providing for “the general welfare,” basic economic security, and the well-being of vulnerable Americans. Accordingly, we urge you to explore exempting Social Security retirement, survivor, and disability benefits from administrative offset due to student loan debt.

We ask that you provide a briefing on your efforts no later than April 3, 2024. Thank you for your attention to this important matter.

Sincerely,

Elizabeth Warren
United States Senator

Ron Wyden
United States Senator

Ayanna Pressley
Member of Congress

Pramila Jayapal
Member of Congress

Raúl M. Grijalva
Member of Congress

John B. Larson
Member of Congress

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Jeffrey A. Merkley  
United States Senator

Richard Blumenthal  
United States Senator

Sheldon Whitehouse  
United States Senator

Alex Padilla  
United States Senator

Laphonza Butler  
United States Senator

Peter Welch  
United States Senator

Brian Schatz  
United States Senator

Tina Smith  
United States Senator

Bill Pascrell, Jr.  
Member of Congress

Doris Matsui  
Member of Congress
Jan Schakowsky
Member of Congress

Edward J. Markey
United States Senator

Chris Van Hollen
United States Senator

Bernard Sanders
United States Senator

Danny K. Davis
Member of Congress

James P. McGovern
Member of Congress

Frederica S. Wilson
Member of Congress
Ranking Member,
Subcommittee on Higher
Education and Workforce
Development

Robert Garcia
Member of Congress

Jamaal Bowman, Ed.D.
Member of Congress

Alexandria Ocasio-Cortez
Member of Congress
Becca Balint
Member of Congress

Cori Bush
Member of Congress

Alma S. Adams, Ph.D.
Member of Congress

Mazie K. Hirono
United States Senator

Sheila Jackson Lee
Member of Congress

Jerrold Nadler
Member of Congress

Grace F. Napolitano
Member of Congress