March 19, 2020

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

Dear Secretary DeVos:

As you are aware, in 2003, Congress enacted the HEROES Act, vesting extraordinary authority in the Secretary of Education to "waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of" the Higher Education Act in "connection with a . . . national emergency" to ensure "administrative requirements placed on . . . recipients of student financial assistance are minimized . . . to ease the burden on such students and avoid . . . defaults."[1] Growing evidence suggests that, in the immediate future, tens of millions of Americans with student debt may struggle with the public health and economic fallout of the global coronavirus pandemic.

We are writing to urge you to immediately exercise this authority to take the following specific steps to "ease the burden" of student debt on Americans and to help them "avoid . . . defaults":[2]

- **Lower the barriers to enroll in income-driven repayment plans.** Virtually all borrowers who owe a federal student loan benefit from protections to prevent economic hardship. The most notable of these protections is income-driven repayment (IDR), which pegs borrowers' monthly payments to their income and can even lower payments to $0 for borrowers who are unemployed or have extremely low incomes. However, regulators, law enforcement officials, lawmakers, and experts have long warned that borrowers who would benefit from IDR face significant enrollment barriers, including illegal schemes by some servicers to steer borrowers away from IDR plans to minimize the cost associated with the enrollment process.[3]

  The Secretary should waive barriers to enrolling in IDR plans, including paperwork requirements, and allow borrowers to verbally attest to their income and family size to receive an IDR payment amount for 12 months. Data suggests that such a waiver would greatly benefit borrowers facing financial distress. In 2017, researchers undertook a limited pilot program to evaluate whether streamlined IDR enrollment was feasible and

[1] 20 U.S.C. § 1098bb (2003).
[2] *Id*.
[3] *See, e.g.,* Complaint, *Consumer Fin. Prot. Bureau v. Navient Corp.* (Jan. 18, 2017) (Case 3:17-cv-00101-RDM), https://files.consumerfinance.gov/f/documents/201701_cfpb_Navient-Pioneer-Credit-Recovery-complaint.pdf.

financially sound.[4] The findings of their pilot showed that simplifying IDR enrollment significantly increased IDR uptake, reduced delinquencies, strengthened household balance sheets, and empowered borrowers to lead successful financial lives.[5] The Secretary should act quickly on these findings.

- **Automatically recertify borrowers' IDR plans.** In order to maintain affordable payments under an IDR plan, borrowers must annually recertify their income and family size. Failure to timely complete the recertification process can result in unnecessary interest capitalization, surprise payment shocks, and missed credit towards loan forgiveness. Disturbingly, in spite of these consequences, data has shown that more than 60 percent of borrowers enrolled in IDR plans fail to recertify properly and on time.[6]

  The Secretary should ensure that all borrowers enrolled in IDR plans with upcoming enrollment anniversaries have their IDR plans automatically recertified at their current payment amount for an additional year or until they submit recertification paperwork. This action would go a long way towards helping borrowers continue to access the payment protections to which they are already entitled.

- **Halt forced collections of student debt by stopping use of the Treasury Offset Program and Administrative Wage Garnishment.** Each year, the federal government takes more than $3.6 billion from the paychecks, tax refunds, and Social Security benefits of defaulted student loan borrowers.[7] These forced collections withhold much needed cash from some of the lowest-income American families. For example, in 2015, the Government Accountability Office found that the offset of Social Security benefits alone pushed more than 70,000 seniors into or further into poverty.[8] And now, a looming recession threatens additional economic hardship for low-income student loan borrowers who are already on the precipice of severe financial distress.

  The Secretary should immediately halt all forced collections by stopping the Treasury Offset Program, which is used to seize tax refunds and Social Security benefits. The Secretary should also prohibit the use of Administrative Wage Garnishment across the federal student loan system. Immediate action is essential as borrowers file taxes and expect to receive tax refunds in the coming weeks. Further, the Secretary should take

[4] *See* Holger M. Mueller & Constantine Yannelis, *Reducing Barriers to Enrollment in Federal Student Loan Repayment Plans: Evidence from the Navient Field Experiment*, U. of Chicago Booth Sch. of Bus. (Nov. 2019), https://faculty.chicagobooth.edu/constantine.yannelis/IBR.pdf.
[5] *See id*., *see also* Daniel Herbst, *Liquidity and Insurance in Student Loan Contracts: Estimating the Effects of Income-Driven Repayment on Default and Consumption* (Jan. 31, 2018) (unpublished manuscript), https://perma.cc/2ALA-BK9H.
[6] *See* Seth Frotman, *When you make student loan payments on an income-driven plan, you might be in for a payment shock*, Consumer Financial Protection Bureau (Aug. 17, 2015), https://www.consumerfinance.gov/about-us/blog/when-you-make-student-loan-payments-on-an-income-driven-plan-you-might-be-in-for-a-payment-shock/; *CFPB v. Navient Corp.*, *supra* note 3.
[7] *See Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief* at 8, Gov't Accountability Office, GAO-17-45 (Dec. 2016), https://www.gao.gov/assets/690/681722.pdf.
[8] *See id*.

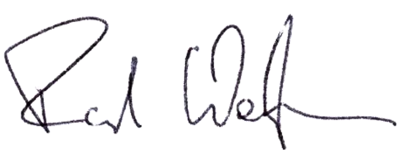
immediate action to return any tax refunds seized from borrowers who have already filed their 2019 tax returns.

- **Extend all military benefits that impose continued paperwork burdens, particularly for members of the National Guard who have been activated to respond to the coronavirus outbreak.** Military borrowers are guaranteed a series of protections under federal law designed to accommodate the unique financial circumstances of military life, including military deferment, interest rate reductions, and the complete cessation of interest charges when serving in combat. However, military borrowers often struggle to access these protections and may return from emergency situations to find that their loans are delinquent or have entered defaulted.

  The Secretary should ensure that no military borrower is forced to forfeit a military deferment because they were unable to timely complete their paperwork. While income-driven repayment plans may be more beneficial in the long-term, military deferments provide essential short-term relief that ensures these borrowers can serve our country without worrying about their student loans. The preceding recommendations related to streamlined IDR enrollment and recertification would also benefit military borrowers, particularly members of the National Guard who may work in public service jobs when their unit is not activated.

Nearly two decades ago, Congress granted the Secretary of Education the authority to respond to national emergencies like the coronavirus pandemic. You have an opportunity and an obligation to use this authority to mitigate student loan borrower distress, avert defaults, and protect borrowers from unnecessary loan repayment roadblocks to the fullest extent permitted by law.

Sincerely,



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