

March 12, 2024
The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

VIA ELECTRONIC SUBMISSION

RE: “Solicitation for Public Comments on Joint Consolidation Loan Separation Application” (Docket No.: ED-2024-SCC-0005)

Dear Secretary Cardona:

We, the 33 organizations undersigned representing civil rights, consumer, disability, labor, legal aid, student loan borrowers, and advocacy organizations, write to urge you to swiftly finalize the Combined Application to Separate a Joint Consolidation Loan and Direct Consolidation Loan Promissory Note and begin to implement this vital benefit for tens of thousands of spousal consolidation borrowers.

Congress eliminated the Joint Consolidation Loan program in 2006, though it did not provide borrowers with any means of severing existing loans.¹ For some, this meant that borrowers remained financially intertwined with, and financially responsible for, former spouses, even in the event of domestic violence, economic abuse, or an unresponsive partner. To make matters worse, these borrowers lack full access to certain debt relief programs. For example, a borrower with a Direct Joint Consolidation Loan cannot access relief through the Public Service Loan Forgiveness (PSLF) program unless their co-borrower is also eligible for PSLF relief and cooperates in the application process. Moreover, as things currently stand, Federal Family Education Loan (FFEL) Joint Consolidation Loans are not eligible for consolidation into the Direct Loan program, so borrowers holding these loans did not receive relief through the payment pause, are not eligible for PSLF, and cannot access more generous Income-Driven Repayment (IDR) plans in periods of financial hardship.

Implement without further delay. Thankfully, Congress finally righted this wrong in October 2022 when it passed the Joint Consolidation Loan Separation Act (JCLSA).² Through this bipartisan measure, Congress directed the Department to allow these borrowers the opportunity to separate their loans and receive the benefits they have been unjustly denied. But today, nearly a year and a half later, the Department has failed to implement the JCLSA, blocking borrowers from much-needed relief. It is imperative that the Department finalize this application and begin to implement this law with urgency. While the Department has promised to deliver benefits to these borrowers, including access to PSLF Waiver and the IDR Account Adjustment, many of these borrowers are suffering in the meantime.

The proposed form is too long and complicated. The Department must make the form

¹ <https://protectborrowers.org/wp-content/uploads/2023/10/Delivering-Distress-Report.pdf>

² <https://www.congress.gov/bill/117th-congress/senate-bill/1098/text>

simpler and automate additional relief whenever possible. Borrowers with these types of loans report that the proposed form is confusing and burdensome to complete. The Department should ensure that all borrowers who need to submit separate applications can easily do so.³ In particular, until the fifth page, the form fails to provide clear instructions on whether both borrowers need to complete separate applications. Who must complete the form should be made clear at the outset.

In order to further reduce the administrative burden placed on borrowers entitled to student debt relief, the Department must streamline these benefits wherever possible based on information collected in the Separation Application. The Department should add an additional question inquiring if a borrower separating their loans intends to seek additional benefits, such as an IDR plan, PSLF, or Total and Permanent Disability, and fast-track these applications for additional relief as the new Direct Consolidation Loan is being originated.

Borrowers must be held harmless during the implementation of this law. Since payments have resumed, student loan companies contracted by the Department have consistently shown that they are struggling to deliver on the most basic tasks in a timely, accurate way,⁴ and have failed at an even grander scale when it comes to implementing new benefits.⁵ The Department must give these companies clear instructions on how to process this form and separate these loans, provide clear timelines for processing forms, and impose penalties on companies that fail to meet these expectations or cause financial harm to these borrowers. In addition, borrowers should not be required to continue making payments on their loans while the servicer is processing their application unless the borrower requests to do so. This will help limit further harm to borrowers who are currently required to make unaffordable payments while they await a decision yet will otherwise qualify for a low- or zero-dollar payment under IDR plans or for complete cancellation.

As the Department finalizes the application, it should keep in mind that these borrowers—including survivors of domestic abuse—are harmed each day they are tethered to their co-borrower's loans. Borrowers with Joint Consolidation Loans, especially those held by FFEL program lenders, have been ineligible for much of the historic debt relief actions taken by the Biden Administration. Separating these loans will finally allow these borrowers to access critical student loan relief programs and begin to restore faith in our student loan system. Again, we urge you to implement this law without any further delay and continue to deliver on President Biden's promise to fix the broken loan system under which these borrowers continue to suffer.

³ Section 4 of the application permits borrowers to have separate applications, but only if one of the borrowers has experienced economic abuse or an act of domestic violence as defined by the Violence Against Women Act (VAWA) of 1994, or if the borrower who's applying cannot reach or access their co-borrower's loan information. VAWA defines economic abuse as behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which the person is entitled. There are foreseeable circumstances within the statute's limitations when a borrower would need to apply separately, and for which ED should explicitly allow. For example, former spouses may purposely hold up the application process. ED should consider this to be a form of economic abuse as defined in VAWA.

⁴ <https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers>

⁵ <https://www.nytimes.com/2023/10/16/your-money/student-loans-save-mistakes.html>

Sincerely,

National Education Association

SpousalConsolidation.DoUsPart!

Student Borrower Protection Center

American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers (AFT)

Autistic Women & Nonbinary Network

Center for Law & Social Policy

Community Service Society of New York

Consumer Reports

Economic Action Maryland

Formerly Incarcerated College Graduates Network

Housing and Economic Rights Advocates

Latife Neu, Attorney at Law PLLC

Latinos for Education

Los Angeles Center for Law and Justice

National Association of Bankruptcy Attorneys

National Association of Social Workers

National Association of Student Loan Lawyers

National Consumer Law Center (on behalf of its low-income clients)

National Disability Institute

National Legal Aid & Defender Association

Navigate Student Loans

Public Counsel

Public Justice Center

Service Employees International Union (SEIU)

SEIU Local 500

Student Debt Crisis Center

The Autistic People of Color Fund

The Century Foundation Higher Education Team

The Education Trust

The Institute for College Access & Success (TICAS)

Washington Student Loan Advocate

Young Invincibles