

October 12, 2022

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

**RE: Implementation Following the Congressional Passage of S. 1098, the Joint Consolidation Separation Act**

Dear Secretary Cardona,

We write today to express our concerns regarding the timely implementation of S. 1098, the Joint Consolidation Loan Separation Act, and to urge you to swiftly deliver on President Biden's promise to fix our broken student loan system.

When President Biden signed the bipartisan Joint Consolidation Loan Separation Act into law, he brought to an end a decades-long saga suffered by student loan borrowers trapped by Spousal Consolidation Loans. This bill allows borrowers with Spousal Consolidation Loans (also known as "Joint Consolidation Loans") to split those loans into two separately held federal Direct Loans that will now be eligible for a variety of critical student loan relief programs.

Borrowers with Spousal Consolidation Loans, especially those originated under the Federal Family Education Loan (FFEL) Program and held by third-party creditors, have been ineligible for nearly every student debt relief action taken by this Administration.

When Congress ended the Spousal Consolidation Loan program in 2006, it failed to provide a mechanism for borrowers to sever existing loans created under this plan—even in the event of domestic violence, economic abuse, or an unresponsive partner.

Estimates indicate that out of the more than 43 million borrowers with federal student loan debt, only thousands still hold Spousal Consolidation Loans. It is critical that the Department of Education ensure that each of these borrowers receives clear, timely, and actionable instructions about how to sever their Spousal Consolidation Loans and receive the debt relief that they have previously been denied.

For example, public service workers with Spousal Consolidation Loans face a variety of challenges when trying to access Public Service Loan Forgiveness (PSLF).<sup>1</sup> First, although

---

<sup>1</sup> See Emma Rindlisbacher, *Biden Promised Student Debt Relief for Public Service Workers. The Reality Has Been Painful*, Mother Jones (Jan. 5, 2022), <https://www.motherjones.com/politics/2022/01/biden-promised-student-debt-relief-for-public-service-workers-the-reality-has-been-painful/>; see also Emma Rindlisbacher, *She Accused Her Ex-Husband of Abuse. She's Still Stuck With His Student Loans*, Mother Jones (Apr. 29, 2022),



Spousal Consolidation Loan borrowers whose loans were originated under the Direct Loan program can access PSLF, the forgiveness for borrowers who accrue 120 credits of qualifying payments is prorated based on each spouse's work and prior debt balance.<sup>2</sup> This means that a borrower who spends 10 years repaying while in public service will still be saddled with debt unless her spouse (or, in the case of divorce, ex-spouse) also completed 10 years of public service work. Worse, there was previously *no* way for Spousal Consolidation borrowers whose loans were originated under the FFEL program to consolidate into a Direct Consolidation Loan, leaving these borrowers completely barred from accessing PSLF.<sup>3</sup>

Similarly, low-income borrowers who owe on FFEL Spousal Consolidation Loans have remained ineligible for Income-Driven Repayment plans created after the Great Recession, blocking them from accessing repayment plans meant to reduce borrowers' financial stress and lower the likelihood of delinquency and default. This resulted in higher monthly payments, for over a decade, for these borrowers who have no opportunity to change their loan type due to Congressional inaction.

With the passage of the Joint Consolidation Separation Act into law, the Biden Administration has an opportunity to finally deliver Spousal Consolidation Loan borrowers the relief they have long been denied. Accordingly, we recommend that the Administration immediately take the following steps to ensure that Spousal Consolidation Loan borrowers receive the maximum relief possible under this new law:

- **Ensure that the separation of these loans is completed in time for borrowers to apply for President Biden's student debt cancellation program.** These borrowers should not face months-long delays, and mounds of paperwork and bureaucratic hurdles that could jeopardize their opportunity to apply for the promised student debt relief. The Department must create and instruct servicers to implement a streamlined and efficient process that allows all borrowers to access debt relief.

---

<https://www.motherjones.com/politics/2022/04/spousal-consolidation-student-loans/>; Emma Rindlisbacher, *The US Government Pushed Hundreds of Married Couples Into Disastrous Student Loans* (Mar. 2, 2022), <https://www.motherjones.com/politics/2022/03/student-debt-spousal-consolidation-loans-biden-education-department/>.

<sup>2</sup> *I have a joint Direct Consolidation Loan that I obtained with my spouse. Can we receive Public Service Loan Forgiveness (PSLF)?* Student Fin. Aid, U.S. Dep't of Educ., <https://studentaid.gov/help-center/answers/article/joint-direct-consolidation-loan-with-spouse-receive-pslf> (last viewed June 12, 2022).

<sup>3</sup> *Can my and my spouse's joint consolidation loan from the Federal Family Education Loan (FFEL) Program be consolidated into a Direct Consolidation Loan so that one or both of us can qualify for Public Service Loan Forgiveness (PSLF)?* Student Fin. Aid, U.S. Dep't of Educ., <https://studentaid.gov/help-center/answers/article/joint-ff-el-consolidation-loan-consolidate-into-direct-consolidation-loan> (last viewed June 12, 2022).



- **Create a path to PSLF for Spousal Consolidation Loan borrowers.** Any borrower who works in public service but holds a Spousal Consolidation Loan should be considered under the PSLF Waiver if they take proactive steps to separate their loans prior to the October 31, 2022 deadline. President Biden and the Department have taken historic steps to ensure that this forgiveness program operates as intended. Spousal Consolidation Loan borrowers are no different and deserve the same protections and opportunity for relief.
- **Count all eligible time towards the Income-Driven Repayment (IDR) Account Adjustment and develop an appeals process to initiate a manual review if needed.** Servicing failures by FFEL servicers are well-documented, and borrowers who held Spousal Consolidation Loans should be made whole through an automatic IDR Account Adjustment review that other borrowers may benefit from. This will ensure that any time a borrower should have earned towards IDR cancellation is reflected on their current student loan.
- **Develop a direct outreach plan to reach every single borrower with a Spousal Consolidation Loan and notify them of their rights under this new law.** The Department must ensure that every borrower who could benefit from this new law is informed as quickly as possible of the process and receives clear guidance from their current student loan servicer.

The Department already has the legal authority to ensure that these borrowers have equal access to the Administration's PSLF, IDR, and cancellation opportunities. The Higher Education Act empowers the Secretary to compromise or modify the terms of any federal student loan.<sup>4</sup> The Department has already used this authority to implement the IDR Account Adjustment and to cancel the loans of students whose schools defrauded them. The Department can bring that authority to bear to ensure that Spousal Consolidation Loan borrowers can access the full suite of the Biden Administration's borrower relief policies, regardless of when their individual Direct Consolidation Loans are disbursed.

Additionally, we request that the Department host a listening session where borrowers with Spousal Consolidation Loans and advocates who work with such borrowers can voice their concerns as this newly passed law is implemented, and that the Department issue monthly progress reports on the status of how many borrowers have severed these loans and how many are in the process of doing so.

---

<sup>4</sup> See 20 U.S.C. § 1082(a).



STUDENT BORROWER  
PROTECTION CENTER

We believe these steps are necessary to deliver the relief that your administration has worked hard to provide and to ensure that all borrowers are given equal access to their rights under federal law. We appreciate your dedication to fixing the student loan system, and are ready to assist on this crucial new set of borrower rights.

Sincerely,

Center for Law and Social Policy (CLASP)

Center for Survivor Agency & Justice

Debt Collective

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

SpousalConsolidation.DoUsPart!

Student Borrower Protection Center

UC Berkeley Center for Consumer Law & Economic Justice