

June 11, 2021

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

Dear Secretary Cardona,

We write on behalf of a diverse coalition of organizations that work to protect the rights of individuals with disabilities, student loan borrowers, consumers and veterans to ensure that borrowers with disabilities receive the protections and relief they are entitled to under the Higher Education Act. The U.S. Department of Education's ("Department") total and permanent disability ("TPD") regulations unnecessarily prevent qualifying borrowers from accessing and maintaining loan cancellation.

While the Department and Congress work on a long-term fix for TPD, we write in support of the [Section 553\(e\) Rulemaking Petition](#) ("the Petition") submitted on April 19, 2021 by The National Student Legal Defense Network ("Student Defense"), Community Legal Aid Society, Inc. of Delaware, and Justice in Aging, and supported by Senator Chris Coons (D-DE). We strongly urge you to grant the Petition's request to amend the TPD regulations to automatically discharge debt for all known eligible student borrowers with total and permanent disabilities. The Department should then immediately provide loan discharges to all borrowers whom the Department identifies as entitled to the relief through a match with the Social Security Administration ("SSA").

The Department's red tape is preventing hundreds of thousands of borrowers with disabilities from receiving the relief they are entitled to under the law. As of 2020, the SSA has provided information to the Department about over 625,000 individuals with disabilities who are entitled to a TPD discharge. Yet, because of the Department's unnecessary and byzantine application process, two-thirds of these borrowers—approximately 400,000 people—still do not have the relief they are unquestionably entitled to by law. Moreover, tens of thousands of these borrowers never received the notice to inform them of their entitlement to the TPD discharge,<sup>1</sup> so had no reason to even start the Department's unnecessary application process.

Failing to amend the regulations and provide relief before the student loan payment freeze expires on September 30, 2021 will cause significant financial harm to these hundreds of thousands of borrowers. Many will not be able to afford payments,

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<sup>1</sup> See, e.g., Government Accountability Office Report: "Social Security Offsets: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief" at 31, note 61 (Dec. 2016).

forcing them into collections and allowing the government to seize the disability benefits that they depend on to survive.<sup>2</sup>

As set forth in the Petition, the Department has “good cause” to waive both notice-and-comment rulemaking and negotiated rulemaking.<sup>3</sup> For these reasons and more, we support the Petition’s call for the Department to provide immediate, automatic relief to more than 400,000 individuals with disabilities and to also eliminate the three-year post-discharge monitoring period to ensure that unnecessary paperwork does not prevent eligible borrowers from maintaining their discharges. You have the power to quickly help these borrowers with disabilities by removing the unnecessary barriers that are preventing them from accessing the relief they are entitled to by law. You can ensure that not one more American loses their disability benefits paying back a debt they do not owe.

Sincerely,

American Association of University Professors (AAUP)  
Autistic Self Advocacy Network  
Community Legal Aid Society, Inc. of Delaware  
Consumer Action  
Hildreth Institute  
Housing and Economic Rights Advocates  
National Association of Consumer Bankruptcy Attorneys (NACBA)  
National Consumer Law Center (on behalf of its low-income clients)  
National Education Association  
Ohio Student Association  
Project on Predatory Student Lending  
Public Counsel  
Student Borrower Protection Center  
Student Debt Crisis  
Student Defense  
Student Veterans of America  
The Institute for College Access & Success (TICAS)  
Veterans Education Success

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<sup>2</sup> Between 2016 and 2019, the Department used treasury offsets to collect an estimated \$20 million in desperately needed benefits from over 20,000 borrowers to satisfy student loans that the Department knew were entitled to be discharged. *See* Office of the Inspector General, Social Security Administration Audit Report, “Social Security Administration Beneficiaries Eligible for Total and Permanent Disability Federal Student Loan Discharge” (Nov. 9, 2020) *available at*: <https://www.oversight.gov/node/92106>.

<sup>3</sup> 5 U.S.C. § 553(b)(3)(B).