

United States Senate
WASHINGTON, DC 20510

April 19, 2021

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20002

Dear Secretary Cardona:

We write to request that the U.S. Department of Education (“Department”) take swift action to address the student debt crisis by automatically removing all eligible federally-held student loan borrowers from default.

During this unprecedented pandemic, tens of millions of Americans have struggled to pay bills and put food on the table for their families. The devastating economic toll has been felt in every corner of the country, but coronavirus disease 2019 (COVID-19) has not affected all families equally, and it has exacerbated our growing racial wealth gap and public health disparities.¹

Nearly 40 million federal student loan borrowers have been able to take advantage of a halt to payments, interest, and collections first passed under the *Coronavirus Aid, Relief, Economic Security Act (CARES Act)* and recently extended by President Biden.² However, our student loan system was not working well for borrowers before payments were frozen. Alarming racial disparities in student loan borrowing, repayment, and default were growing before the pandemic began and, absent immediate interventions from the Department, this broken system will continue to fail millions of borrowers after the current crisis is over.³ Student debt has been particularly devastating for Black, Latino, and Native communities, who face significantly higher rates of student loan default and delinquency compared to white borrowers.⁴

¹ NPR, “How The Pandemic Is Widening The Racial Wealth Gap”, Rhitu Chatterjee, September 18, 2020, <https://www.npr.org/sections/health-shots/2020/09/18/912731744/how-the-pandemic-is-widening-the-racial-wealth-gap>, CDC, “Risk for COVID-19 Infection, Hospitalization, and Death by Race/Ethnicity, updated Mar. 12, 2021, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>.

² CNBC, “President Biden’s executive order extends federal student loan payment freeze for 8 months – what experts say borrowers should do,” Elizabeth Gravier, January 22, 2021, <https://www.cnbc.com/select/biden-extending-federal-student-loans-freeze/>.

³ Brookings Institution, “The looming student loan default crisis is worse than we thought,” Judith Scott-Clayton, January 11, 2018, <https://www.brookings.edu/research/the-looming-student-loan-default-crisis-is-worse-than-we-thought/>.

⁴ Center for American Progress, “The Forgotten Faces of Student Loan Default,” Colleen Campbell, October 16, 2018, <https://www.americanprogress.org/issues/education-postsecondary/news/2018/10/16/459394/forgotten-faces-student-loan-default/>.

The Department has the authority to address these accumulating financial pressures and inequities by automatically removing 7.5 million borrowers with federally-managed student loans from default status.⁵ Under the *Higher Education Act of 1965*, a borrower may rehabilitate their loan and exit default if they satisfy nine on-time payment obligations during a period of 10 consecutive months. Once a borrower completes the rehabilitation process, any record of default is removed from their credit history.⁶

The *CARES Act* specifically provided that the now-12-month long payment freeze counts toward rehabilitation, therefore all defaulted borrowers with federally-held student loans have now met the requirement for completing nine payment obligations and are thus eligible to exit default status.⁷ Although student loan rehabilitation typically requires an application process, as Secretary, you have the authority to waive the requirement for an application and to instead automatically rehabilitate these loans without any paperwork.⁸

Under normal circumstances, a borrower can only rehabilitate their loan one time. However, Section 2(a)(1) of the *Higher Education Relief Opportunities for Students (HEROES) Act of 2003* provides that the Secretary may “waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV” during a period of national emergency.⁹ This same authority forms the basis of the President’s extension of student loan relief through September 30, 2021. As such, the Department can waive the restriction that a borrower can rehabilitate only one time, and all 7.5 million borrowers can be eligible for automatic rehabilitation.

Removing borrowers from default status and eliminating their record of default will provide them significant financial benefits. It will ensure these borrowers do not immediately face the garnishment of wages, tax refunds, and Social Security, and additional collection fees, once the nationwide forbearance expires.¹⁰ The removal of the record of default will improve borrowers’ credit scores, helping them to gain access to credit and more affordable rates for a home or auto loan or credit cards, and in turn, their economic wellbeing.¹¹ It may also improve their ability to find employment or rent an apartment because potential employers and landlords can review

⁵ Department of Education, “Federal Student Loan Portfolio,” <https://studentaid.gov/data-center/student/portfolio>.

⁶ Federal Student Aid, “Don’t get discourage if you’re in default on your federal student loan,” <https://studentaid.gov/manage-loans/default/get-out>, Department of Education, “1998 Amendments to the Higher Education Act of 1965,” <https://www2.ed.gov/policy/highered/leg/hea98/sec464.html>.

⁷ Washington Post, “After Biden request, Education Department extends pause on federal student loan payments through September,” Danielle Douglas-Gabriel, Jan 20, 2021, <https://www.washingtonpost.com/education/2021/01/20/biden-student-loan-payment-freeze-extension/>, H.R. 748 CARES Act, <https://www.congress.gov/bill/116th-congress/house-bill/748/text>.

⁸ H.R. 1414, Higher Education Relief Opportunities for Students Act of 2003, <https://www.congress.gov/108/plaws/publ76/PLAW-108publ76.pdf>.

⁹ *Id.*

¹⁰ The Washington Post, “Education Department to halt collection of defaulted student loans, refund \$1.8 billion”, Danielle Douglas-Gabriel, March 24, 2020, <https://www.washingtonpost.com/education/2020/03/24/student-loans-collection-coronavirus/>, Experian, “What to Expect If You Default on a Student Loan”, Brianna McGurran, January 9, 2020, <https://www.experian.com/blogs/ask-experian/what-happens-if-you-default-on-student-loans/>.

¹¹ CNBC, “Here’s how student loans show up on your credit report and impact your credit score”, Elizabeth Gravier, Mar 10, 2021, <https://www.cnbc.com/select/how-student-loans-impact-credit-score/>, CNBC, “What are the biggest advantages of a good credit score? A consumer advocate explains”, Megan DeMatteo, Dec 2, 2020, <https://www.cnbc.com/select/advantages-of-a-good-credit-score/>.

credit reports.¹² And, borrowers will regain eligibility for student aid, allowing them to go back to school for new education or training opportunities.¹³ As part of this effort, the Department should explore ways to remove negative credit history for previous periods of delinquency and ensure that borrowers do not face any additional negative repercussions for their credit history if they re-default.

Once the Department has removed borrowers from default status, it should prepare a comprehensive plan to ensure that student loan servicers will provide timely, actionable, and accurate customer service to assist these borrowers with any transition back into repayment, including by providing information about opportunities for student loan cancellation or discharge and income-driven repayment.¹⁴ The plan should consider the extent to which borrowers formerly in default may benefit from additional support, the standards that student servicers should meet in assisting these borrowers, and how simple self-service options can help borrowers navigate transition out of default. As the Department continues its work to redesign student loan servicing, this comprehensive plan should also be formalized in all major Next Gen contracts.

We urge the Department to take swift action to assist student loan borrowers throughout this pandemic using every available statutory, regulatory, and administrative authority. Given that all defaulted borrowers have satisfied the statutory requirements for rehabilitation, in accordance with the *CARES Act* the Department should automatically rehabilitate all 7.5 million federally-managed student loans without the need for application. The Department should complete this process before any notices are sent to borrowers about resumption of payments, and subsequently develop a comprehensive plan to assist formerly defaulted borrowers with their student debt. Thank you for your prompt attention to this request.

Sincerely,

/s/

Elizabeth Warren
United States Senator

/s/

Raphael Warnock
United States Senator

¹² CNBC, "What are the biggest advantages of a good credit score? A consumer advocate explains", Megan DeMatteo, Dec 2, 2020, <https://www.cnbc.com/select/advantages-of-a-good-credit-score/>.

¹³ Student Borrower Protection Center, "New Data Show Student Loan Defaults Spiked in 2019 – A Warning to Industry and DeVos Amid Economic Fallout," Ben Kaufman, March 13, 2020, <https://protectborrowers.org/every-26-seconds/>, Wall Street Journal, "A Year Without Student-Loan Payments," Amber Burton and Julia Carpenter, March 20, 2021, <https://www.wsj.com/articles/a-year-without-student-loan-payments-11616252402>.

¹⁴ Pew Charitable Trusts, "Outreach From Borrowers Could Overwhelm Student Loan System When Pandemic Pauses End," Sarah Sattelmeyer and Lexi West, November 3, 2020, <https://www.pewtrusts.org/en/research-and-analysis/articles/2020/11/03/outreach-from-borrowers-could-overwhelm-student-loan-system-when-pandemic-pauses-end>.

/s/

Bernard Sanders
United States Senator

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Cory A. Booker
United States Senator

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Edward J. Markey
United States Senator

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Richard J. Durbin
United States Senator

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Sherrod Brown
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Tammy Baldwin
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Tammy Duckworth
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Tina Smith
United States Senator