Congress of the United States
Washington, DC 20510

April 15, 2022

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary Cardona:

We write to express support for the steps you have taken to provide relief to student loan borrowers thus far and to urge you to build on those efforts by enacting meaningful and lasting reforms to the federal student loan system. The COVID-19 pandemic has both highlighted and heightened longstanding inequities in higher education, and the relief you have provided to date has helped ensure millions of borrowers do not have to choose between paying down their loans and putting food on the table or paying their rent. We commend your efforts to expand relief to defrauded borrowers, make good on the promises made to public servants, and provide struggling borrowers with a fresh start. We were also glad to see the payment and interest pause extended through August 31, 2022. However, we strongly believe further action is needed. We urge you to extend this essential relief through at least the end of the year due to the economic fallout of the pandemic, using the intervening time to finalize and implement a comprehensive approach to student loan relief—because no borrower should have to resume payment until you make critical and urgently needed reforms to fix our student loan system. To provide meaningful, lasting relief, this comprehensive approach must include critical changes to income-driven repayment (IDR).

The Department of Education should repair the broken safety net for low-income borrowers by addressing past failures and establishing a new income-driven repayment (IDR) plan that keeps payments affordable, prevents debts from ballooning over time, and provides a reliable pathway out of perpetual repayment. We commend your efforts to revise the IDR regulations through the negotiated rulemaking process and your proposal to create a new plan that caps monthly payments at no more than 10 percent of discretionary income and forgives remaining balances after 20 years of qualifying payments. While this proposal represents a laudable first step, we urge you to go further in improving and simplifying the federal student loan system to ensure IDR lives up to its promise of ensuring student loan borrowers have a monthly payment they can manage and can work towards having their loans discharged.

As the Department of Education prepares to release regulations for public comment, we ask that you ensure the proposed IDR plan addresses longstanding issues plaguing the student loan system and allows borrowers to easily access affordable payments and a reliable pathway out of debt. As Congressional Democrats have proposed previously, the final IDR rule should: create a new, more generous IDR plan that is available to all federal student loan borrowers, including parent and graduate borrowers; protect income equal to at least 250 percent of the federal poverty line so borrowers can prioritize basic needs; and sunset existing IDR plans to reduce borrower confusion and administrative complexity.

Additionally, the new IDR plan should fully eliminate negative amortization, or the growth of a total loan balance that occurs when interest exceeds monthly payments, for all borrowers enrolled in IDR. Federal student loan borrowers experience negative amortization when their payments under an IDR plan are less than the interest that accrues. Research has shown this has been particularly harmful for Black borrowers, among whom the median student loan balance grows to 113 percent of the original balance within 12 years of college entry.[1]

For some borrowers, the only hope of exiting repayment comes in the form of IDR discharge, which occurs after 20 or 25 years of repayment. However, as recent reporting has demonstrated, borrowers are being denied IDR discharges even after decades of repayment as a result of inadequate tracking among student loan servicers and paperwork errors during loan transfers.[2] In particular, zero-dollar payments made by the most vulnerable borrowers were not accurately tracked. Other borrowers have seen their balances grow and their IDR discharges delayed as a result of forbearance steering, the practice of pushing borrowers into forbearance rather than helping them access an affordable repayment plan through IDR.[3] Federal investigations have found student loan servicers and default management companies have engaged in forbearance steering to maximize profits and help colleges evade penalties.[4] Troublingly, many of the borrowers who entered forbearance at the urging of these companies went on to default shortly after exhausting their eligibility for forbearance.[5]

Under existing IDR plans, borrowers who spend time in forbearance or deferment will have to pay for months or even years longer due to the misconduct of private companies that sought to profit at their expense. While we commend the renewed enforcement efforts being undertaken by the Consumer Financial Protection Bureau and the Office of Federal Student Aid, we implore you to address the harm already done to borrowers by retroactively counting all past periods of deferment and forbearance towards IDR discharge. The same policy should be applied prospectively under the new IDR rule to further simplify the student loan system and ensure future borrowers do not once again fall through the cracks.

In addition to finalizing a new IDR plan reflecting the policies outlined above, the Department of Education should provide immediate relief and undo past harms by implementing a retroactive IDR payment correction. Borrowers have for too long, lived with ballooning debts and the false promise of loan forgiveness after 20 or 25 years in income-driven repayment. Payments must be corrected retroactively in order to provide relief to borrowers who have already been harmed by this broken safety net. An IDR payment correction applied retroactively should, at a minimum:

- count all months that a borrower has been in repayment as qualifying months toward IDR discharge regardless of payment plan, loan type, prior default or delinquency, or time spent in deferment or forbearance;

---

[1] https://www.americanprogress.org/article/new-federal-data-show-student-loan-crisis-african-american-borrowers/

[2] https://www.npr.org/2022/04/01/1089750113/student-loan-debt-investigation

[3] https://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf

[4] https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/; https://www.gao.gov/assets/gao-18-163.pdf

[5] https://www.gao.gov/assets/gao-18-163.pdf

- provide, to the greatest extent practicable, automatic benefits to impacted borrowers; and
- in the case of borrowers for whom automation is not possible (e.g., those who have Federal Family Education Loans (FFEL) and Perkins loans and who may need to consolidate to access IDR discharge), give borrowers a minimum of one year to take any steps necessary to be eligible for the IDR payment count correction.

We further urge you to use the Department of Education's existing authorities under the Higher Education Act (HEA) to implement the final IDR regulation early, similar to the early implementation of the Revised Pay As You Earn (REPAYE) Plan under the Obama Administration, so borrowers can access the new IDR plan as soon as the payment pause ends. The Department of Education should also work with student loan servicers to ensure the process for enrolling in the new IDR plan is seamless and conduct outreach to the borrowers who are at risk of delinquency and default regarding their ability to enroll in the new IDR plan.

We commend your efforts to reform the student loan program and restore trust in programs meant to provide borrowers with relief and forgiveness they are entitled to under the HEA. We urge you to take similar actions to restore trust in IDR so that all borrowers can afford their loan payments and avoid the consequences of default. Thank you for your attention to our requests.

Sincerely,

Patty Murray
Chair
U.S. Senate Committee on Health, Education, Labor, and Pensions

Robert C. "Bobby" Scott
Chairman
U.S. House Committee on Education and Labor