



PHIL WEISER
ATTORNEY GENERAL



JOSH SHAPIRO
ATTORNEY GENERAL

March 31, 2021

Dear Secretary Cardona:

Congratulations on your recent confirmation. Like you, we are committed to protecting students and borrowers and addressing the student debt crisis. At present, there is \$1.6 trillion in federal student loan debt, posing a crushing burden for tens of millions of Americans and their families. Our current system of debt-financed higher education is neither effective nor fair. We need meaningful reform. Such reform is even more critical now as our nation navigates its way out of the financial distress created by the COVID-19 pandemic during the past year.

As costs continue to surge, we urge reforms to bring higher education within reach for all Americans. We applaud the Biden Administration's plan to make community college education free as well as the plan to make four-year public colleges and universities tuition-free for students with family incomes below \$125,000.

As our nation emerges from the pandemic, we encourage you to continue the policy of suspending student loan payments and waiving interest for as long as necessary to support struggling borrowers. This includes continued suspension of involuntary collections activities, as well as authorizing suspended payments to count towards both income-driven repayment ("IDR") plan forgiveness and Public Service Loan Forgiveness ("PSLF").¹ We applaud you for extending some pandemic protections to privately owned federal loans², and we encourage you to extend further protections for these loans. Continuing and expanding these protections will help borrowers survive the pandemic and enable the economy to recover more quickly.

In addition, we encourage the U.S. Department of Education ("Department") to take steps to protect borrowers after the COVID-19 forbearances and related relief ends. When these protections expire on September 30, 2021, forty-two million student loan borrowers will re-enter repayment at the same time. This is a massive and unprecedented challenge that has the potential to negatively impact borrowers and their families, the Department, student loan servicers, as borrowers contact their loan servicers to resume repayment. Call center wait times are likely to be extremely long, and given the disruptions caused by the pandemic to people's everyday lives, many borrowers may have moved but not had the opportunity to update their contact information with their loan servicers. In light of these daunting challenges for borrowers and servicers alike, the Department should confirm that recertification of all IDR plans will be extended by at least one year, if not longer. In addition, the Department should postpone when

¹ <https://studentaid.gov/announcements-events/coronavirus>

² <https://content.govdelivery.com/accounts/USED/bulletins/2ca3aaa>

servicers transfer accounts to collection agencies for a similar time period to allow borrowers an opportunity to cure any technical default for at least one year after the waivers end.

The Department has authority to take immediate action to grant borrower defense discharges for students defrauded by for-profit educational institutions.³ More broadly, the Department must better protect future student borrowers by issuing rules that will ensure that the Department enforces the Higher Education Act's gainful employment requirement. Future gainful employment rules must fulfill the Department's obligation to shield borrowers from for-profit programs that fail to prepare students for careers and, thereby, leave those borrowers with inadequate employment and income to repay such loans. We also believe that the Department must also issue robust borrower defense rules, including automatic closed school discharge.⁴

Borrower defense rules should also allow for group discharge submissions by law enforcement agencies. We applaud, as an important first step, the Department's recent announcement on rescinding the formula for calculating partial relief and adopting a streamlined approach for granting full relief under the regulations to borrower defense claims approved to date.⁵ Similarly, the Department can increase its scrutiny of accrediting bodies to ensure that all higher education institutions provide a quality education to students. In addition, the federal government, including the Treasury Department, should revisit the rules surrounding whether federal student loans may be dischargeable in bankruptcy.

Meaningful reform needs to address the student loan servicing industry's failures. The Department must act so that student loan borrowers can successfully navigate the repayment process. Notably, the Department must enact reforms so that student loan borrowers are able to access and remain in IDR plans to which they are entitled, enabling borrowers to have more affordable monthly payments, to avoid the serious consequences of default, and to secure loan forgiveness when appropriate. In addition, the Department must improve the implementation of the PSLF program – providing borrowers more information about denial rationales and application processing times, offering a clear, easy-to-navigate appeal process, and making publicly available a database of approved public and non-profit sector employers. The Department should also ensure that borrowers have access to their full repayment histories, including when loans are transferred between servicers.⁶

Finally, we welcome President Biden's commitment to consider using executive authority to cancel student debt. If the President cancels debt, we encourage the use of an automatic method to target those most in need of relief, and we strongly urge that any debt cancellation should apply to all federal loans – including Federal Family Education Loans and

³ *Vara v. DeVos*, No. 19-cv- 12175, 2020 WL 3489679 (D. Mass. June 25, 2020).

⁴ <https://finance.yahoo.com/news/attorneys-general-sue-education-secretary-betsy-de-vos-over-gainful-employment-rule-205153783.html>; <https://www.insidehighered.com/quicktakes/2020/07/16/23-ags-challenge-devoss-borrower-defense-rule>

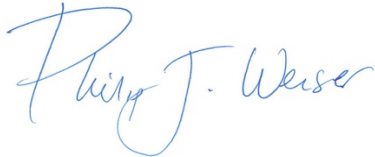
⁵ <https://www.ed.gov/news/press-releases/department-education-announces-action-streamline-borrower-defense-relief-process>

⁶ <https://protectborrowers.org/wp-content/uploads/2020/08/ECF-Failures.pdf>

Perkins loans that are not owned by the Department.⁷ The case for such forgiveness is strengthened because it would now not be taxed as income, thanks to the recently enacted American Rescue Plan.⁸

For many with student debt, the current system is highly complex and difficult to manage. This is a needless source of great anxiety and is plainly unfair. We can and must do better. We look forward to working with the Department to pursue these reforms and improvements.

Sincerely,



PHIL WEISER
Attorney General of Colorado



JOSH SHAPIRO
Attorney General of Pennsylvania



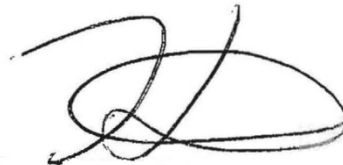
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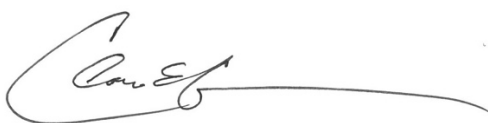
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⁷ To further protect borrowers whose federal loans are not owned by the Department, we urge the Department to adopt the recommendations outlined in the letter that the Student Borrower Protection Center and National Consumer Law Center sent to the Department on February 16, 2021. <https://protectborrowers.org/sbpc-and-nclc-demand-washington-stand-up-for-millions-of-student-loan-borrowers-struggling-without-relief-during-covid/>

⁸ <https://www.npr.org/sections/coronavirus-live-updates/2021/03/09/974841565/heres-whats-in-the-american-rescue-plan-as-it-heads-toward-final-passage>



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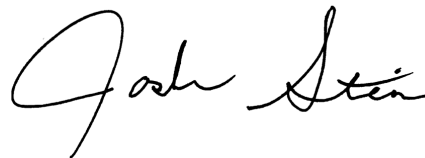
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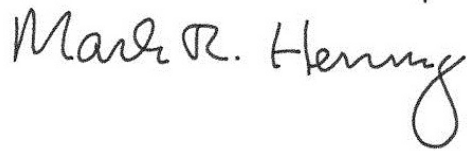
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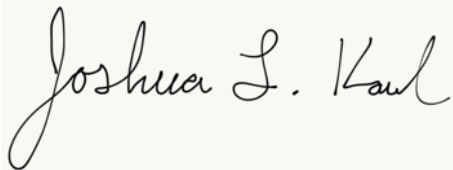
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Handwritten signature of Bob Ferguson in blue ink.

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Handwritten signature of Joshua L. Kaul in black ink, set against a light gray background.

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