

Congress of the United States

Washington, DC 20515

January 24, 2024

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Cardona:

We are writing regarding the Department of Education’s (“ED” or “the Department”) ongoing efforts to pursue student loan relief for millions of Americans through the negotiated rulemaking (“neg-reg”) process.¹ While we appreciate the efforts of the Department and the negotiating committee, we are concerned that, without full consideration of cancellation targeted toward borrowers facing financial hardship, the rule will not provide adequate debt relief for the most vulnerable borrowers. We urge ED to hold a fourth session to consider student debt relief for borrowers experiencing financial “hardship that is not otherwise addressed by the existing student loan system”² and deliver cancellation as soon as possible.

In the months since President Biden’s announcement that he would pursue an alternative path for student debt relief after the Supreme Court struck down his initial plan, ED and the negotiating committee have completed three sessions of the student debt neg-reg.³ In the most recent session, negotiators came to consensus on a few provisions that would provide relief for borrowers, including borrowers who were eligible for cancellation but were not enrolled in the right income-driven-repayment plan and borrowers who attended poor performing or predatory colleges.⁴ However, the negotiators were unable to vote on a final category, “those experiencing hardship that is not otherwise addressed by the existing student loan system,”⁵ because ED did

¹ POLITICO, “Biden admin will resume interest on federal student loans Sept. 1; monthly payments due in October,” Michael Stratford, June 12, 2023, <https://www.politico.com/newsletters/weekly-education/2023/06/12/biden-adminwill-resume-interest-on-federal-student-loans-sept-1-monthly-payments-due-in-october-00101431>; Fiscal Responsibility Act of 2023, H.R.3746, <https://www.congress.gov/bill/118th-congress/house-bill/3746>.

² U.S. Department of Education, “Borrower Hardship Issue Paper Negotiated Rulemaking, Session 2, November 6-7, 2023,” p. 1, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/session-2-borrower-hardship-issue-paper-pdf-accessible.pdf>.

³ The Washington Post, “Experts can’t agree on Biden’s new student loan relief plan. What’s next,” Danielle Douglas-Gabriel, December 13, 2023, <https://www.washingtonpost.com/education/2023/12/13/biden-new-student-loan-forgiveness-plan-negotiations/>.

⁴ The Washington Post, “Experts can’t agree on Biden’s new student loan relief plan. What’s next,” Danielle Douglas-Gabriel, December 13, 2023, <https://www.washingtonpost.com/education/2023/12/13/biden-new-student-loan-forgiveness-plan-negotiations/>; U.S. Department of Education, “NEGOTIATED RULEMAKING STUDENT DEBT RELIEF COMMITTEE SESSION 3, DAY 2, AFTERNOON,” December 12, 2023, pp. 81-87, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/negotiated-rulemaking-student-debt-relief-committee-december-12-2023-pm-final.pdf>.

⁵ U.S. Department of Education, “Borrower Hardship Issue Paper Negotiated Rulemaking, Session 2, November 6-7, 2023,” p. 1, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/session-2-borrower-hardship-issue->

not propose regulatory language.⁶ Much of the work to prepare such language had been done: following the second session, ED released an issue paper proposing that the rule address this category and presenting examples of forms of hardship that the rule could capture.⁷ But the negotiators only had a limited time to discuss hardship in the third neg-reg session, and several asked if another session would be scheduled to consider hardship.⁸

We join the calls of those negotiators. The Department should announce a fourth session of the neg-reg to allow the appropriate time for negotiators to discuss and vote upon a relief proposal for borrowers experiencing financial hardship.

In an earlier letter to ED, some of us proposed what a hardship category could look like.⁹ Hardship could be measured using factors such as debt-to-income ratio and student-debt-to-income ratio. A University of California study revealed that middle-income borrowers with a student-debt-to-income ratio of over 30 percent are likely to face serious financial hardship and that low-income households making below \$71,000 typically face hardship repaying their student loans regardless of their debt-to-income ratio.¹⁰ Other indications of hardship could include whether a borrower has filed for bankruptcy, did not complete their degree, owns Parent PLUS loans while still repaying their own loans, has chronically been in default, or is over a certain age and has limited income.¹¹ Besides income itself, income-based indicators could include whether a borrower was a Pell Grant recipient or had an Expected Family Contribution of \$0 when applying for loans, given evidence that a borrower's need when entering school is correlated with their degree of hardship in paying off debt.¹² We also believe that regulatory text

[paper-pdf-accessible.pdf](#).

⁶ The Washington Post, "Experts can't agree on Biden's new student loan relief plan. What's next," Danielle Douglas-Gabriel, December 13, 2023, <https://www.washingtonpost.com/education/2023/12/13/biden-new-student-loan-forgiveness-plan-negotiations/>.

⁷ U.S. Department of Education, "Borrower Hardship Issue Paper Negotiated Rulemaking, Session 2," November 6-7, 2023, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/session-2-borrower-hardship-issue-paper-pdf-accessible.pdf>.

⁸ U.S. Department of Education, "NEGOTIATED RULEMAKING STUDENT DEBT RELIEF COMMITTEE SESSION 3, DAY 2, AFTERNOON," December 12, 2023, pp. 81-87, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/negotiated-rulemaking-student-debt-relief-committee-december-12-2023-pm-final.pdf>; U.S. Department of Education, "2023 Negotiated Rulemaking Student Debt Relief Committee Session 3 Agenda," December 11-12, 2023, p. 2, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/new-student-loan-debt-relief-negotiated-rulemaking-agenda-session-3.pdf>.

⁹ Senator Elizabeth Warren, "Warren, Pressley, Schumer, Sanders Urge Dept. of Education to Use Full Authority, Expand Student Debt Cancellation by Strengthening Proposed Rules for Relief," press release, December 11, 2023, <https://www.warren.senate.gov/newsroom/press-releases/warren-pressley-schumer-sanders-urge-dept-of-education-to-use-full-authority-expand-student-debt-cancellation-by-strengthening-proposed-rules-for-relief>.

¹⁰ University of California Student Loan Law Initiative, Jain Family Institute, and The University of Utah, "Financial Hardship Among Student Borrowers," Sultana Fouzia, Marshall Steinbaum, Dalié Jiménez, and Jonathan Glater, December 12, 2023, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/financial-hardship-among-student-borrowers-non-federal-negotiators-requested-presentation.pdf>.

¹¹ Senator Elizabeth Warren, "Warren, Pressley, Schumer, Sanders Urge Dept. of Education to Use Full Authority, Expand Student Debt Cancellation by Strengthening Proposed Rules for Relief," press release, December 11, 2023, <https://www.warren.senate.gov/newsroom/press-releases/warren-pressley-schumer-sanders-urge-dept-of-education-to-use-full-authority-expand-student-debt-cancellation-by-strengthening-proposed-rules-for-relief>.

¹² The White House, "FACT SHEET: President Biden Announces Student Loan Relief for Borrowers Who Need It Most," press release, August 24, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/#:~:text=Nearly%20every>

should provide the Secretary with the flexibility to waive debt based on other unanticipated forms of financial hardship.

We appreciate the Department’s efforts to provide student debt relief through negotiated rulemaking, but we believe that in order for any final rule to meet President Biden’s objective of “provid[ing] student debt relief to as many borrowers as possible as quickly as possible,” it must include relief for a broader set of borrowers experiencing financial hardship.¹³ The Biden Administration must continue to use its authority to deliver on the promises made to student loan borrowers and hold a fourth negotiated rulemaking session, as quickly as possible, to complete discussion of hardship-based relief—and once complete, swiftly propose and implement debt relief for millions of hard-working Americans.

Sincerely,



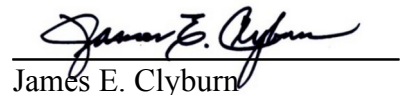
Elizabeth Warren
United States Senator



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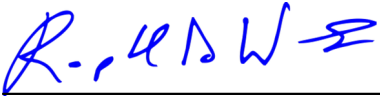
Bernard Sanders
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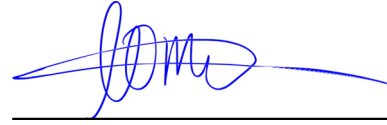
Frederica S. Wilson
Member of Congress

[%20Pell%20Grant%20recipient,their%20debt%20than%20other%20borrowers.](#)

¹³ The White House, “Remarks by President Biden on the Supreme Court’s Decision on the Administration’s Student Debt Relief Program,” speeches and remarks, June 30, 2023, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/06/30/remarks-by-president-biden-on-the-supreme-courts-decision-on-the-administrations-student-debt-relief-program/>.



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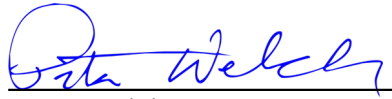
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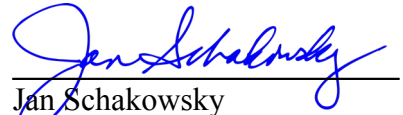
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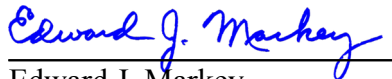
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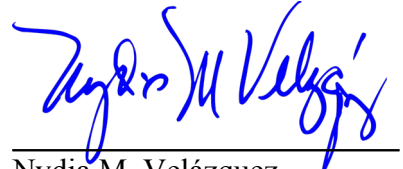
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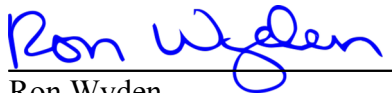
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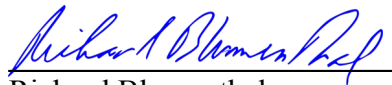
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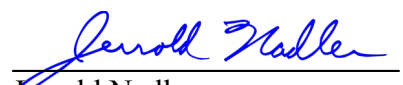
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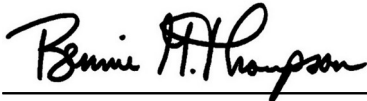
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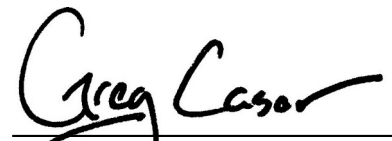
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