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October 5, 2021

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

Dear Secretary Cardona,

Congress is enabling America's student loan addiction. The Public Service Loan Forgiveness (PSLF) program is a perfect example of a good intention gone horribly wrong. PSLF was created to encourage individuals to enter and continue working in public service professions. Today, it's an open-ended loan forgiveness program that's spiraling out of control.

Following a tumultuous PSLF rollout by the Obama administration, Congress created the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program that was narrowly focused to assist some borrowers who hadn't previously qualified for PSLF. However, as has been proven time and time again, Congress only made it more complicated and failed to fix PSLF. The program has been a magnet for confusion and mismanagement from day one. But your Department is misconstruing the facts to justify an abuse of executive authority to carry out an unworkable overhaul of this program.

Democrats and other advocates repeatedly point to one misleading statistic as proof of the program's failure. While the Government Accountability Office (GAO) stated that 99 percent of TEPSLF applicants were rejected over the course of 12 months, GAO went on to clarify that 71 percent of the applicants were denied because they didn't first submit a PSLF application, a

prequalification for forgiveness.¹ Of the 29 who submitted a PSLF application, only 4 percent were ultimately eligible for TEPSLF.² This number does not illustrate a failure. It illustrates just how tightly Congress intentionally defined the program's eligibility, and Congress' intent should not be subverted by administrative fiat.

At your hearing before the Committee in June 2021, you appeared to support the false claim that the low forgiveness rate within the PSLF program was an administrative issue.³ As confirmed by GAO at the hearing, the GAO report did not find that the Trump administration improperly denied borrowers forgiveness or delayed the implementation process of the program.⁴ In other words, the program, albeit flawed, was working as Democrats wrote it when they unilaterally passed this legislation.

Conflating abiding by Congressional requirements with mismanagement is inaccurate, and using this falsehood as the rationale to skirt the law is reprehensible. According to the Department's leak, you plan to "fix" PSLF in two phases, "a long-term renovation to make the program easier to navigate, achieved through the federal process known as rulemaking, and a temporary move using the department's executive authority to retroactively relax the program's rules to immediately help thousands of affected borrowers."⁵ We need to be honest about what this really is: an abuse of "executive authority" to override legislated program requirements to appease progressive advocates. In fact, without the permanent pandemic narrative the Biden administration so desperately clings to, you would have no such authority take this action, as you note in the summary of changes to the PSLF program as a part of the negotiated rulemaking process.⁶

At your June hearing, Ranking Member Foxx expressed her concern that you would seek to "fix" the program by circumventing Congress through executive action.⁷ And, according to a carefully placed leak, her concerns appear to be valid.⁸ We agree this program is in desperate need of reform; however, such reforms require Congressional action, and we encourage you to work with us to fix the federal loan and repayment program. To begin that process, we ask that you respond to the following questions prior to any official public announcement of this plan.

¹ <https://www.gao.gov/products/gao-19-595>

² Ibid.

³ <https://edlabor.house.gov/hearings/06/16/2021/examining-the-policies-and-priorities-of-the-us-department-of-education>

⁴ <https://edlabor.house.gov/hearings/broken-promises-examining-the-failed-implementation-of-the-public-service-loan-forgiveness-program>

⁵ <https://www.npr.org/2021/10/01/1041872045/education-dept-plans-to-overhaul-the-troubled-public-service-loan-forgiveness-pr>

⁶ "Although the Department is concerned that only payments made on Direct Loans count toward PSLF, this is a statutory limitation for PSLF that we cannot change without Congressional action."

<https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/4improvpslfappprocess.pdf>

⁷ <https://edlabor.house.gov/hearings/06/16/2021/examining-the-policies-and-priorities-of-the-us-department-of-education>

⁸ <https://www.npr.org/2021/10/01/1041872045/education-dept-plans-to-overhaul-the-troubled-public-service-loan-forgiveness-pr>

1. Under what authority are you retroactively relaxing PSLF or TEPSLF requirements?
2. What actions are you planning to address during rulemaking and what actions will be taken under executive authority?
3. For the items that will be addressed in rulemaking, will that be a part of the recently started negotiated rulemaking for the student loan programs, a separate negotiated rulemaking session, or another rulemaking process?
4. With whom did you consult in developing this PSLF "fix?" Please provide any memos or other correspondence received in this process and used to develop this plan.

Thank you for your attention to this matter. Please contact Chance Russell (chance.russell@mail.house.gov) and Mandy Schaumburg (mandy.schaumburg@mail.house.gov) with the Committee staff should you have any questions about the request. We look forward to your reply.

Sincerely,



Virginia Foxx
Ranking Member
U.S. House Committee on Education and Labor



Gregory F. Murphy, M.D.
Ranking Member
Subcommittee on Higher Education
and Workforce Investment