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October 6, 2021

The Honorable Robert C. "Bobby" Scott
Chairman
Committee on Education and Labor
2176 Rayburn House Office Building
Washington D.C. 20515

Dear Chairman Scott,

This Committee is required to conduct rigorous oversight of the Department of Education (Department). In fact, you spent a significant amount of time in the 116th Congress conducting "oversight" of Secretary DeVos and President Trump. Given this robust record you have set, I was therefore shocked and disappointed to see your response to the Department's proposed changes to the Public Service Loan Forgiveness (PSLF) program. Instead of questioning the Department's proposal, which is an abuse of executive authority, you published a tweet praising the proposed action.¹

This is too significant of an issue to allow the Secretary to act without Congressional approval. As was noted in the October 5 letter we sent to Secretary Cardona, each time Congress stepped in to "help," it made the PSLF program worse. For example, after a poorly managed rollout by the Obama administration, Congress pumped \$700 million into the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) to fix one of the problems in the PSLF program.² However, Congressional Democrats' action still did not address the program's underlying flaws. The fact of the matter is simple—Democrats wrote a bad program in 2007. More unilateral Democrat action will compound, not eradicate, these fundamental issues.

¹ Twitter, Rep. Bobby Scott, October 6, 2021, <https://twitter.com/BobbyScott/status/1445742685151580161>

² P.L. 115-141, P.L. 115-245

Progressives and some Members of this Committee repeatedly point to one statistic found in the related 2019 Government Accountability Office (GAO) report, that 99 percent of TEPSLF applicants were rejected over the course of 12 months.³ They are well aware this statistic is misleading at best. As Republicans noted in the 2019 hearing on this topic, it conveniently ignores that 71 percent of TEPSLF applicants were denied because they didn't first submit a PSLF application.⁴ Then, of the 29 percent who cleared the first hurdle by submitting a PSLF application, only 4 percent were ultimately eligible for TEPSLF.⁵ This number illustrates just how tightly Congress defined TEPSLF eligibility.

Additionally, nowhere in the GAO report does it conclude that the Department violated the law, which was confirmed by GAO at a congressional hearing, nor did it find that the Trump administration improperly denied borrowers forgiveness or delayed the program's implementation.⁶ This hasn't stopped advocates from pretending the low forgiveness rate within the PSLF and TEPSLF programs was an administrative issue. In fact, the Secretary appeared to support that assertion at a hearing before this Committee in June of this year.⁷ At the hearing with Secretary Cardona, I expressed my concern about the agency attempting to "fix" the program by circumventing Congress through executive action.⁸ And, according to the Department's announcement, this concern appears to have come to fruition.⁹

The assertion that following the statutory requirements set forth by Congress is mismanagement is simply inaccurate. Using this falsehood as the rationale to skirt the law is reprehensible. 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 clings to, the Department would have no such authority take this action. The Department itself recognized this in its document outlining the proposed changes that will be considered during negotiated rulemaking, noting that while "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."¹⁰

I agree this program is in desperate need of reforms to address the complexity for borrowers, the vast scope of the program and its burden to hardworking taxpayers; however, such reforms require legislative changes. My colleagues and I stand ready to tackle the hard work of bipartisan reform. In the meantime, however, we must hold an oversight hearing to understand the

³ <https://www.gao.gov/products/gao-19-595>

⁴ Ibid.

⁵ Ibid.

⁶ <https://edlabor.house.gov/hearings/broken-promises-examining-the-failed-implementation-of-the-public-service-loan-forgiveness-program>

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

⁸ Ibid.

⁹ <https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness>

¹⁰ <https://static.politico.com/0d/c5/300f6bb54c23a030186b55cf9d16/neg-reg-docs-combined.pdf>

Secretary's planned reforms and to reiterate in no uncertain terms that he should not be able to subvert the intent of Congress. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Virginia Foxx". The signature is written in a cursive, flowing style.

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