July 20, 2023

The Honorable Miguel Cardona
U.S. Secretary of Education
U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue SW
5th Floor
Washington, D.C. 20202

Comments on: Docket ID ED-2023-OPE-0123 - Notice of Intent to establish a negotiated rulemaking committee to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965 - (88 FR 43069)

Dear Secretary Cardona:

On behalf of the Center for Law and Social Policy (CLASP), I would like to thank you for the opportunity to comment on the intent to establish a negotiated rulemaking committee to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965.

CLASP is a national, nonpartisan, nonprofit advancing anti-poverty policy solutions that disrupt structural and systemic racism and sexism and remove barriers blocking people from economic security and opportunity. With deep expertise in a wide range of programs and policy ideas, longstanding relationships with anti-poverty, child and family, higher education, workforce development, and economic justice stakeholders, including labor unions and worker centers, and over 50 years of history, CLASP works to amplify the voices of directly-impacted workers and families and help public officials design and implement effective programs.

We would like to express our appreciation to the Administration for taking prompt action to provide student loan debt relief to borrowers, in response to the recent U.S. Supreme Court decision on student debt cancellation. We commend the Administration for introducing the Saving on a Valuable Education (SAVE) plan which will reduce borrowers' monthly payments by half, enable many borrowers to make $0 monthly payments, address the increasing burden of student loan balances by waiving borrowers' unpaid monthly interest, and provide a shorter time to loan forgiveness.

CLASP recognizes the significance of ensuring equitable access, affordability, and completion of postsecondary education. Evidence indicates that students with a postsecondary credential earn more than those with just a high school diploma.[1] However, disparities within our postsecondary education system still exist. High college costs and limited financial resources disproportionately

[1] "Mean earnings in the United States in 2021, by highest educational degree earned and ethnicity/race." Statista, August 2022, https://www.statista.com/statistics/184259/mean-earnings-by-educational-attainment-and-ethnic-group/#:~:text=U.S.%20mean%20earnings%20by%20educational%20attainment%20and%20ethnicity%2Frace%202021&text=In%202021%2C%20the%20mean%20income,Americans%20with%20a%20Bachelor's%20degree.

affect Black families, leading them to rely more on federal financial aid, particularly federal student loans.[2] On average, Black student borrowers have more federal student loan debt compared to their white peers, $53,200 and $39,500 respectively.[3] Making college more affordable for Black borrowers is one mechanism to dismantle systemic and racist policies and outcomes. The racial wealth gap perpetuates the conditions that force Black students and families to borrow more than their white peers as Black parents often have lower incomes and less wealth. In 2019, the median wealth in a Black household was $24,100 compared to $188,200 in a white household.[4]

At CLASP, we strongly support the U.S. Department of Education's (Department) and Administration's effort to address the college accessibility and affordability crisis. However, we believe the Department can take additional measures to better serve Black, Latinx, Indigenous students, immigrants, youth, and individuals impacted by the criminal legal system.

#1 – Cancel Student Loan Debt

The Department should proceed with student debt cancellation using the Secretary's authority under the Higher Education Act (HEA) which would advance the Administration's racial equity goals and provide critical relief to student borrowers and their families.[5] Canceling up to $20,000 in student loan debt for individuals earning less than $125,000 annually, would provide relief to 43 million borrowers, including full cancellation of the remaining balance for roughly 20 million borrowers.[6]

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[2] Judith Scott-Clayton and Jing Li. "Black-white disparity in student loan debt more than triples after graduation." Brookings Institution, October 2016, https://www.brookings.edu/research/black-white-disparity-in-student-loan-debt-more-than-triples-after-graduation/.

Victoria Jackson, Brittani Williams, and Jalil B. Mustaffa. "Parent PLUS loans are a double-edged sword for black borrowers." The Education Trust, June 2023, https://edtrust.org/resource/parent-plus-loans-are-a-double-edged-sword-for-black-borrowers/#:~:text=Black%20families%20rely%20heavily%20on,to%20take%20out%20PLUS%20loans.

[3] Mihaela Henderson, Mary Drummond, Erin Thomsen, Shauna Yates, Jennifer Cooney. "Baccalaureate and Beyond (B&B: 16/20): A First Look at the 2020 Employment and Education Experiences of 2015-16 College Graduates." U.S. Department of Education, National Center for Education Statistics, 2022, https://nces.ed.gov/pubs2022/2022241.pdf.

[4] Emily Moss, Kriston McIntosh, Wendy Edelberg, and Kristen Broady. "The Black-white wealth gap left Black households more vulnerable." Brookings, December 2020, https://www.brookings.edu/blog/up-front/2020/12/08/the-black-white-wealth-gap-left-black-households-more-vulnerable/.

[5] Adewale Maye, "The Student Loan Debt Crisis Impedes Black Women's Economic Security," Center for Law and Social Policy, 2021, https://www.clasp.org/blog/student-loan-debt-crisis-impedes-black-womens-economic-security

Ruth Igielnik, Scott Keeter, Hannah Hartig, "Behind Biden's 2020 Victory: An examination of the 2020 electorate, based on validated voters," Pew Research Center, 2021, https://www.pewresearch.org/politics/2021/06/30/behind-bidens-2020-victory/

[6] "Fact Sheet: President Biden Announces Student Loan Relief for Borrowers Who Need it Most," White House, August 2022, 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/

However, the Administration should consider increasing the debt cancellation amount to $50,000 for the most significant impact in achieving racial justice goals. Cancelling $50,000 in student loan debt would result in full cancellation for 76 percent of student loan borrowers, including 95 percent of those who were delinquent or in default before the COVID-19 pandemic began.[7] Additionally, it would substantially reduce the share of all Black adults with student loan debt from 24 percent to 6 percent,[8] significantly narrow the gap in student loan debt between Black and white individuals, and increase the wealth of Black Americans by 40 percent.[9] Student debt cancellation could play a crucial role in narrowing the racial wealth gap and moving Black individuals closer to economic justice.

Particularly for Black borrowers, student loan debt is an intergenerational crisis. Therefore, Parent PLUS loans must also be included in student debt relief. Parent PLUS loans account for $104 billion in outstanding federal student loan debt, representing 23% of all federal education loans disbursed for undergraduates. Parent PLUS loans disproportionately impact Black borrowers and families.[10] Black Parent PLUS borrowers are more likely to take on student loan debt to support their child's college education and often face challenges in repayment.[11] Black parents tend to borrow more in relation to their incomes and assets. In the 2015-16 academic year, 5.4% of Black parents took out a Parent PLUS loan — a higher percentage than any other race and ethnicity.[12] Debt cancellation that includes Parent Plus loans provides a path to achieve economic security for Black families.

#2- Stop allowing predatory schools to continue to receive Title IV aid

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[7] J. Geiman and Alpha Taylor, "Disproportionately Impacted: Closing the Racial Wealth Gap through Student Loan Cancellation, Payment Reforms, and Investment in College Affordability," CLASP, June 2022, https://www.clasp.org/wp-content/uploads/2022/06/2022_Disproportionately-Impacted.pdf

[8] Charlie Eaton, Adam Goldstein, Laura Hamilton, et al, Letter to Senator Elizabeth Warren, 2022, https://www.warren.senate.gov/imo/media/doc/warren%20cancelation%20letter%20final_05.03.221.pdf

[9] Alí Bustamante, "How Canceling Student Debt Would Bolster the Economic Recovery and Reduce the Racial Wealth Gap," Roosevelt Institute, 2021, https://rooseveltinstitute.org/2021/12/08/how-canceling-student-debt-would-bolster-theeconomic-recovery-and-reduce-the-racial-wealth-gap/

[10] Victoria Jackson, Brittani Williams, and Jalil B. Mustaffa. "Parent PLUS loans are a double-edged sword for black borrowers." The Education Trust, June 2023 https://edtrust.org/resource/parent-plus-loans-are-a-double-edged-sword-for-black-borrowers/#:~:text=Direct%20PLUS%20(Parent%20Loans%20for,cover%20the%20cost%20of%20college.

[11] Victoria Jackson, Brittani Williams, and Jalil B. Mustaffa. "Parent PLUS loans are a double-edged sword for black borrowers." The Education Trust, June 2023 https://edtrust.org/resource/parent-plus-loans-are-a-double-edged-sword-for-black-borrowers/#:~:text=Direct%20PLUS%20(Parent%20Loans%20for,cover%20the%20cost%20of%20college.

[12] Victoria Jackson, Brittani Williams, and Jalil B. Mustaffa. "Parent PLUS loans are a double-edged sword for black borrowers." The Education Trust, June 2023 https://edtrust.org/resource/parent-plus-loans-are-a-double-edged-sword-for-black-borrowers/#:~:text=Direct%20PLUS%20(Parent%20Loans%20for,cover%20the%20cost%20of%20college.

For decades, predatory for-profit schools have targeted Black and Latinx students, immigrants, first-generation students, women, adult learners, and students with low-incomes.[13] For-profit colleges charge significantly higher tuition and fees compared to comparable programs at state schools leading students who enrolled in for-profit institutions to accumulate more educational debt compared to their counterparts at public or nonprofit institutions.[14] Unfortunately, students' investment in for-profit colleges often fails to pay off. Students who have attended for-profit institutions often experience worse labor market outcomes and are more likely to default.[15] Graduation rates are lower among students attending for-profit colleges,[16] with students often struggling to find employment in their field, and nearly half defaulting on their federal student loans.[17] In fact, 75 percent of Black non-completers enrolled in for-profit colleges in 2003-2004 defaulted on their student loans[18] and 65 percent of Black borrowers in four-year for-profit programs withdrew from the program.[19]

The Higher Education Act contains protections to prevent poorly performing and predatory schools from continuing to receive federal aid and to discharge student debt resulting from institutional misconduct. The Department of Education must utilize its authorities to exclude these underperforming schools and provide student loan relief to individuals harmed by these practices. The Department must build a robust enforcement unit and reinstate the Gainful Employment rule. The Department must better regulate how schools advertise and recruit prospective students. Numerous enforcement agencies such as the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC) have documented the deceptive and misrepresented tactics used

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[13] "Mapping Exploitation: Examining For-Profit Colleges as Financial Predators in Communities of Color." Student Borrower Protection Center, July 2021, https://protectborrowers.org/for-profit-mapping/.

[14] J. Geiman and Alpha Taylor, "Disproportionately Impacted: Closing the Racial Wealth Gap through Student Loan Cancellation, Payment Reforms, and Investment in College Affordability," CLASP, June 2022, https://www.clasp.org/wp-content/uploads/2022/06/2022_Disproportionately-Impacted.pdf

[15] Stephanie Riegg Cellini. "The alarming rise in for-profit college enrollment." Brookings, November 2020, https://www.brookings.edu/blog/brown-center-chalkboard/2020/11/02/the-alarming-rise-in-for-profit-college-enrollment/.

Peter Smith & Leslie Parrish. "Do students of color profit from for-profit college?: poor outcomes and high debt hamper attendees' futures." Center for Responsible Lending, October 2014, https://www.responsiblelending.org/student-loans/research-policy/CRL-For-Profit-Univ-FINAL.pdf.

[16] Kevin Lang and Russell Weinstein. "Evaluating student outcomes at for-profit colleges." National Bureau of Economic Research, June 2012, https://www.nber.org/system/files/working_papers/w18201/w18201.pdf.

[17] "For-Profit Colleges: By the Numbers," Center for Analysis of Postsecondary Education and Employment, 2018, https://capseecenter.org/research/by-the-numbers/for-profit-college-infographic/

[18] Miller, Ben. "New Federal Data Show a Student Loan Crisis for African American Borrowers." Center for American Progress, October 2017, https://www.americanprogress.org/article/new-federal-data-show-student-loan-crisis-african-american-borrowers/.

[19] "For-Profit Colleges: By the Numbers," Center for Analysis of Postsecondary Education and Employment, 2018, https://capseecenter.org/research/by-the-numbers/for-profit-college-infographic/

by for-profit institutions. However, the Department is in the best position to protect students from these predatory institutions and prevent them from accessing federal financial aid. Additionally, gainful employment regulations are intended to protect students from low-quality programs that would leave them with unmanageable debt and few opportunities for high-quality employment. Gainful employment regulations also protect taxpayers from subsidizing low-quality programs. The Department must reinstate the gainful employment rule to ensure that investments in postsecondary education training programs lead to a high-quality job and protect students from programs that would leave them worse off than they began.

#3 – Stop the seizure of tax credits and public benefits for borrowers in student loan default
Borrowers who have missed payments for at least 270 days are considered to have defaulted on their federal student loans. The majority of those who default on student loans are individuals who face persistent economic and social challenges. Black students are more likely to borrow for college and struggle with repayment.[20] Pell Grant recipient borrowers constitute 90 percent of those who default on their loans within 12 years of enrolling in school.[21] Additionally, first-generation students are more prone to defaulting on their federal loans within 12 years, with a default rate of 23 percent compared to 14 percent for non-first-generation students.[22] Students who started school but did not complete a degree or credential are at higher risk of default, since they have taken on debt without receiving the associated economic benefits. These borrowers, who account for about half of all defaulters, typically owe small balances, with nearly two-thirds owing less than $10,000; more than one-third owing less than $5,000.[23]

Defaulting on federal student loans has severe consequences as borrowers' loan balances become immediately due. They are also at risk of wage garnishment, seizure of social security payments and tax refunds, additional fees, and damage to their credit scores. Through the garnishment of wages and seizure of public benefits, millions of families face the risk of losing vital financial lifelines that help reduce poverty. The Department must take further action to address the harm experienced by borrowers who have defaulted on their student loans.

[20] Ben Miller, "The Continued Student Loan Crisis for Black Borrowers," Center for American Progress, December 2019, https://www.americanprogress.org/article/continued-student-loan-crisis-black-borrowers/

[21] Adam Looney, "Does Biden's student debt forgiveness achieve his stated goals?", Brookings, September 2022, https://www.brookings.edu/articles/does-bidens-student-debt-forgiveness-achieve-his-stated-goals/

[22] Michele Streeter, "Opinion: If We Don't Act Quickly, the Student Loan Default System Could Plunge More Families Into Poverty," The Institute for College Access & Success, March 2022, https://ticas.org/affordability-2/opinion-if-we-dont-act-quickly-the-student-loan-default-system-could-plunge-more-families-into-poverty/

[23] Ben Miller, "Who are Student Loan Defaulters?," Center for American Progress, December 2017, https://www.americanprogress.org/article/student-loan-defaulters/

We commend the Department for proposing a rule[24] to automatically enroll delinquent borrowers into income-driven repayment (IDR) plans, potentially reducing their monthly payment to $0. However, borrowers still face other penalties that can impede their education and employment journey. These penalties include restricted access to further financial aid, withholding student's academic transcripts, and suspension of professional and driver's licenses. By undermining an individual's ability to cover basic expenses, return to school, maintain employment, or even drive a car, the student loan default system creates additional obstacles for those who are already struggling to achieve economic security.

Conclusion

Broader reforms are necessary to ensure that college becomes a reliable pathway to economic security for Black, Latinx, and Indigenous students, immigrants, youth, and individuals impacted by the criminal legal system. Given the longstanding racial and gender wealth gaps, as well as limited upward mobility among children from low-income families, addressing the college affordability crisis is crucial in advancing equity and promoting economic mobility.

Postsecondary education has the potential to be transformative. It can help students acquire new knowledge and skills, broaden their career opportunities, earn higher wages, and help students move out of poverty. However, mere access to postsecondary education is insufficient. We must alleviate the financial burden faced by students pursuing postsecondary education and invest in resources that support their program completion.

We thank the Department for the chance to share comments on the federal financial aid system and for considering our comments. If you have any further questions, please contact India Heckstall at ihecksall@clasp.org.

Sincerely,
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Center for Law and Social Policy (CLASP)

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[24] "Improving Income-Driven Repayment for the William D. Ford Federal Direct Loan Program," U.S. Department of Education, Federal Register, January 2023, https://www.federalregister.gov/documents/2023/01/11/2022-28605/improving-income-driven-repayment-for-the-william-d-ford-federal-direct-loan-program