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EDUCATION, AND RELATED AGENCIES

UNITED STATES
HOUSE OF REPRESENTATIVES

ROSA L. DELAURO
3RD DISTRICT, CONNECTICUT

October 4, 2021

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary Cardona,

In the 116th Congress, the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies held a hearing on predatory for-profit colleges. At this hearing, I heard testimony from a disabled veteran who was assured by a for-profit college that he could enroll using only grant aid and GI Bill benefits and would not need to take out any student loans to attend; however, he came to find out that he owed approximately \$100,000 in student loan debt and was unable to find employment in his field of study after graduating from the for-profit institution. Sadly, his story is not an outlier.

To protect borrowers like these, I am writing to urge you make changes to the Department's proposed process for recouping funds from predatory institutions. I appreciate that the Department recognizes how the recoupment process from institutions should serve as a strong deterrent to predatory for-profit colleges. Unfortunately, much of the language in Issue Paper #8 could render the recovery process toothless and fail to establish a strong deterrent effect that protects student borrowers.

Though I support the Department's proposal to separate the process of borrower relief from the adjudication of recoupment from institutions, I am concerned by the proposal to make the recovery process merely an option that can be exercised by the agency. The Department correctly recognizes that student borrowers who were harmed should receive swift relief without having to wait for potentially lengthy proceedings where institutions can contest determinations. However, the Department must draft strong rules that establish an expectation that there will always be straightforward, substantial consequences for the predatory actions that lead to a successful borrower defense claim. Under the previous administration, representatives of predatory for-profit colleges oversaw higher education policy at the Department and granted their sector every possible leniency and advantage during their tenure. If a proposal making

recoupment merely optional was in place during that time, these conflicted individuals would have never exercised the option to recoup, letting predatory for-profit colleges off the hook. To address this concern, the Department can retain its proposal to first complete the borrower approval process and grant relief to successful claims; however, procedures for the subsequent institutional recoupment process should be automatic and formalized rather than optional. The Department may want to establish a reasonable, de minimis threshold for initiating this process in instances where the institution has closed and clearly lacks sufficient assets to cover liabilities.

In addition, I am concerned by the Department's proposal that the recovery "amount could be no greater than the amount of approved [loan] discharges but could also be less." To establish a strong deterrent effect through recoupment amounts, the loans discharged should be the floor rather than the ceiling. The Department should not give predatory institutions hope that they can always seek the lowest possible penalty when they commit wrongdoings that harm student borrowers. Instead, the Department should formalize a process to use its authority to impose sanctions and corrective actions on predatory institutions on top of recouping full amounts from loans discharged. Such sanctions should include fines commensurate with the scope of the misrepresentations and wrongdoing committed by the institution. Further, the Department should establish procedures that ensure recoveries and fines are received from the institution in a timely manner.

Finally, I am concerned that the Department is seeking to limit its ability to recoup funds from predatory institutions to any borrower defense relief for loans issued after the effective date of these regulations, pushing the timeline for meaningful accountability far into the future. Like the proposal to develop a single federal standard for all borrower defense claims regardless of when the loan was first disbursed, the Department should also seek to recoup loan discharges regardless of when the loan was disbursed. By proposing to significantly delay recoupment and sanctions for institutions that commit substantial misrepresentations and other misconduct, the Department will be granting predatory colleges a lifeline to operate for years without suffering any meaningful financial penalty. The Department should change its proposal and recoup funds retroactively to avoid this negative incentive and to strengthen the deterrent effect of the recoupment process.

As your Department works on these proposed regulations, I appreciate your consideration of these recommendations for the recoupment process to establish a strong deterrent effect that protects student borrowers. Predatory for-profit colleges should be on notice that there will be straightforward, substantial financial consequences for any unscrupulous behavior that leads to a successful borrower defense claim. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Rosa L. DeLauro". The signature is written in a cursive style and is enclosed in a thin black rectangular border.

Rosa L. DeLauro
Chair
House Appropriations Committee

MARK TAKANO

41ST DISTRICT, CALIFORNIA

COMMITTEE ON VETERANS' AFFAIRS
CHAIRMAN

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Congress of the United States
House of Representatives
Washington, DC 20515

September 29, 2021

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

Dear Secretary Cardona,

Thank you for your tireless and steadfast commitment to improving public education for students across the country. I am thankful now to have a Secretary of Education who prioritizes the success of our public schools and students alike. While the agency has taken great strides to improve the state of public education in the wake of your predecessor, I write to you today regarding a pressing matter.

I am urging you to take swift and immediate action to address and collect the roughly \$1 billion in outstanding funds owed to the Department of Education by institutions, many of which are for-profit entities. A recent report from the National Student Legal Defense Network highlights that there are approximately 1,300 colleges that currently owe money to the Department of Education.ⁱ The Department has failed to pursue collecting these funds to date, despite having authority to pursue debt repayment.

These institutions, majority of which are for-profit, currently owe the Department this staggering amount due to misconduct and fraud. While the federal government has made great strides in assisting students who were defrauded by bad actors, it has yet to direct equal attention towards seeking repayment from such institutions.

Every fiscal year, the Department of Education sends more than \$120 billion in federal financial aid in the form of Pell Grants, work-study, and loans to help students afford a college education.ⁱⁱ This generous federal student aid often provides an incentive for predatory for-profit colleges to engage in fraudulent practices to target students and the financial aid dollars they bring. More than often, the students that are targeted are low-income and people of color.

The Department of Education has statutory authority to pursue collection and repayment towards institutions, key executives, and CEOs, even if the doors to the university have been shut.ⁱⁱⁱ It is imperative that these bad actors be held accountable. There are tools at the Department's

disposal to pursue collection of these missing funds, yet no significant action has been pursued for retrieval. In contrast, the Department continues to aggressively pursue debt from individual student borrowers, including wage garnishment.^{iv} The National Student Legal Defense Network highlighted the case of Ronishia, a single mother living in Ohio who attended two for-profit schools, who filed for bankruptcy.^v As part of that process, she attempted to have her student loans discharged, totaling an amount of roughly \$50,000.^{vi} The court approved her general bankruptcy, yet Ronishia encountered significant opposition and hurdles to have her student loans discharged. The Department of Education assessed her situation and claimed that she did not experience an “undue hardship.” The Department alleged Ronishia’s cell phone bill was too high and that her unemployed school-aged son meant that her financial situation was not sufficiently precarious.^{vii} This unfair and aggressive pursuit of funds from struggling students is unconscionable, the Department should be recouping funds from schools instead.

Institutions should be held accountable for defrauding students and taxpayers, even if their brick-and-mortar buildings are closed. Accountability is key in ensuring former institutions and CEOs are paying back their debt to society. Pursuing this debt also sends a clear and resounding message to future institutions that consider engaging in misrepresentation and fraud. The Department of Education has the responsibility and authority to pursue retrieving these owed funds and it should fulfill its promise of accountability by aggressively pursuing these funds immediately.

I implore you to take swift and immediate action to address this issue of unpaid debt.

Sincerely,



MARK TAKANO
Member of Congress

ⁱ National Student Legal Defense Network: https://www.defendstudents.org/news/body/NSLDN_paper_Missing_Billion.pdf

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ⁱⁱⁱ National Student Legal Defense Network:

<https://www.defendstudents.org/news/body/docket/100-Day-Docket-Personal-Liability-Report.pdf>

^{iv} National Student Legal Defense Network: https://www.defendstudents.org/news/body/NSLDN_paper_Missing_Billion.pdf

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^{vi} National Student Legal Defense Network: https://www.defendstudents.org/news/body/NSLDN_paper_Missing_Billion.pdf

^{vii} National Student Legal Defense Network: https://www.defendstudents.org/news/body/NSLDN_paper_Missing_Billion.pdf