

December 2, 2024

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The Honorable Dr. Miguel Cardona, Secretary of Education
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue SW
Washington, DC 20202

Re: Docket ID Docket ID ED-2023-OPE-0123, Student Debt Relief Based on Hardship for the William D. Ford Federal Direct Loan Program (Direct Loans), the Federal Family Education Loan (FFEL) Program, the Federal Perkins Loan (Perkins) Program, and the Health Education Assistance Loan (HEAL) Program

Dear Secretary Cardona:

On behalf of the Center for Responsible Lending,¹ thank you for the opportunity to comment on the notice of proposed rulemaking (Proposed Rule) by the U.S. Department of Education on Student Debt Relief Based on Hardship for the William D. Ford Federal Direct Loan Program (Direct Loans), the Federal Family Education Loan (FFEL) Program, the Federal Perkins Loan (Perkins) Program, and the Health Education Assistance Loan (HEAL) Program.

We strongly believe that the Proposed Rule is a critically important tool that fits well within the Department's compromise powers² and, if finalized, will prevent many student loan borrowers from needlessly falling through the cracks. It will also prevent taxpayers from incurring unreasonable costs to collect a debt when circumstances strongly indicate that it is unlikely to be fully repaid. Specifically, CRL believes that the proposed hardship provisions will create a sorely needed program for providing debt relief for Parent PLUS borrowers facing hardship. Roughly 3.3 million borrowers owe Parent PLUS loans equaling \$107 Billion as of 2024, close to 7% of the total student debt owed.³

We especially commend the Proposed Rule's effort to amend regulations to address long-standing issues these borrowers have identified and will focus the majority of our comments on discussing the Proposed Rule's impact on Parent PLUS borrowers.

Overall, the Department's Proposed Rule is designed to avoid default and unnecessary collection costs,⁴ which affects both borrowers and the Department of Education's bottom line. It properly focuses on relieving only those borrowers most in need of assistance who have no other avenues for relief under other programs. The proposed revisions to §30.91 specify the methods and provide ample definitions to execute hardship relief, with the flexibility to consider the myriad ways that financial difficulties come about for borrowers. The automatic relief provision is limited to those who are 80% or more likely to default in the next two years based on hard data. The separate application process considers a number of non-exhaustive, non-exclusive hardship factors and gives relief to those who have a high likelihood of

¹ The Center for Responsible Lending (CRL) is a non-profit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices, including student loan debt incurred as a result of fraudulent representations by higher learning institutions. CRL's views on student lending are informed by its affiliation with Self-Help, one of the nation's largest nonprofit community development financial institutions. Self-Help has provided \$6 billion in financing to 70,000 homebuyers, small businesses and nonprofits and serves more than 80,000 mostly low-income families through 30 retail credit union branches in North Carolina, California, and Chicago.

² See [eCFR :: 31 CFR 902.2 -- Bases for compromise](#).

³ [Federal Student Loan Portfolio | Federal Student Aid](#)

⁴ [31 CFR 902.2\(a\)\(1\)](#) and [\(2\)](#).

default or other severe, persistent negative consequences. For each approach, the Department has listed a range of factors that may be considered together or separately that will provide a comprehensive view of finances and the outlook needed to give relief to those facing hardships. For each of these reasons, we urge the Department to finalize the proposed rule swiftly.

I. The Proposed Rule Reflects the Administration’s Broad Authority to Compromise, Waive, and Release the Terms of Repayment for Individuals, as well as to Terminate Collection of, Federal Student Loans under §432(a) of the Higher Education Act, consistent with the Supreme Court’s decision in *Biden v. Nebraska*.

The authority of the Secretary to waive student loan debts is abundant and it is imperative that the regulations reflect the same. The Proposed Rule simply provides guidelines for existing authority and does not go outside the scope of what Congress intended.

The Proposed Rule describes, clarifies and codifies the Secretary’s existing authority to waive debt. Under §432(a)(6) of the Higher Education Act of 1965,⁵ Congress gave the Department of Education authority to “... compromise, waive, or release **any** right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption,” of Federal Family Education Loan Program (FFELP) and Perkins student loans.⁶ Under §432(a)(4), the Department also has authority “to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any [student loan].”⁷ Because 20 U.S.C. §1087 provides that Direct Program “loans...shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers of [FFELP loans],” these three statutory provisions have been recognized as granting the Secretary of Education broad settlement authority of any federal student loan’s repayment obligations.⁸

The Secretary further has the authority to compromise, suspend or terminate collection if the debt arises under the Federal Family Education Loan Program, the William D. Ford Federal Direct Loan Program, or the Perkins Loan Program.⁹

II. The Proposed Rule Is Consistent with *Biden v. Nebraska*, Which Simply Requires Specific Authority from Congress to Act.

The Proposed Rule is solidly in line with *Biden v. Nebraska*, as only existing, specified authority to waive or compromise debt is implicated, which has been endowed by Congress through the Higher Education Act. *Biden v. Nebraska* ruled that the Secretary of Education acted outside of the power of the HEROES Act and was not authorized to enact a loan forgiveness program.

Biden notes that waiver “requires that Congress speak clearly before a Department Secretary can unilaterally alter large sections of the American economy.”¹⁰ Congress has spoken with the Higher Education Act which has given the Secretary the specific and clear power to waive, compromise or

⁵ HIGHER EDUCATION ACT, PUB. L. NO. 89-329, 79 STAT. 1219 (1965), codified as 20 U.S.C. §1082(a).

⁶ *Id.* (Emphasis added).

⁷ 20 U.S.C. § 1082(a)(4) (emphasis added) (FFELP); *id.* §1087hh(1) (emphasis added) (Perkins).

⁸ See Luke Herrine, *The Law and Political Economy of a Student Debt Jubilee*, 68 BUFFALO L. REV. 281, 296, 395 (2020).

⁹ 34 CFR 30.1(c)(6); 34 CFR Part 30; 34 CFR Parts 682 and 685

¹⁰ *Biden* at 25.

terminate collection of debts related to federal student loans.¹¹ There is no ambiguity in the provision upon which the Department of Education relies.

The Secretary is simply making right what went wrong somewhere along the way, which was borrowers being locked into unaffordable, insurmountable student debt, without regard to hardship and the ability of the government to collect on the debt.

Similarly, should this program implicate the major questions doctrine, Congress' language in HEA regarding said waiver does not use "modest words, vague terms, or subtle devices"¹² that suggest further scrutiny is needed.

III. Parent PLUS Borrowers Are Particularly Vulnerable to Default and It Is Critical They Are Considered Under Hardship Determinations

Two factors make Parent PLUS borrowers particularly vulnerable to default: 1) structural limitations and unique features of the program and 2) the inherent characteristics of those families who take advantage of Parent PLUS loans.

As an initial matter, Parent PLUS loans have no limits on the amount available to borrow so families can take out up to the cost of attendance.¹³ Even with an adverse credit history parents may obtain a loan.¹⁴ However, despite the larger amounts of debt that can be incurred, these loans have worse terms and fewer repayment options than other loans held by the Department of Education.

The current interest rate for Parent PLUS is 9.08%, in comparison to the 6.53% subsidized rate offered to undergraduates or the 8.08% unsubsidized rate offered to graduate Direct Loan recipients.¹⁵

Income-Contingent Repayment (ICR) is available to Parent PLUS borrowers who consolidate but does not offer as generous repayment terms as IDR.¹⁶ IDR can significantly help alleviate unaffordable student loan debt for other borrowers, but not for all those with Parent PLUS loans, because IDR is not available to Parent Plus borrowers unless they consolidate into a Direct Loan. Yet not all borrowers are eligible for Direct Loan consolidation. In addition, Parent PLUS loans are not eligible for Public Service Loan Forgiveness (PSLF) unless consolidated into a Direct Loan.

The lack of repayment options can impair the borrower's ability to repay the loan. The terms and more limited repayment options of Parent PLUS allow little progress toward repayment:¹⁷

- After ten years—the length of the standard Parent PLUS repayment plan—more than half of the initial balance (55 percent) still remains, on average, because parent-borrowers have trouble maintaining the repayment schedule; after twenty years, the remaining balance is still a whopping 38 percent. In other words, many parents spend more years paying off their Parent PLUS loans than the years they spent living with and raising the child whose education their loan supported.

¹¹ HIGHER EDUCATION ACT, PUB. L. NO. 89-329, 79 STAT. 1219 (1965), codified as 20 U.S.C. §1082(a).

¹² *West Virginia v. EPA*, 597 U.S. at 723

¹³ [Parent PLUS Loans | Federal Student Aid](#)

¹⁴ *Id.*

¹⁵ [Federal Interest Rates and Fees | Federal Student Aid](#)

¹⁶ See [Public Service Loan Forgiveness FAQs | Federal Student Aid](#), [Parent PLUS Loans | Federal Student Aid](#)

¹⁷ See [Parent PLUS Loan Consolidation Loophole & 2025 Cliff | Britannica Money](#); [What to Know About Parent PLUS Loans: 5 Startling Statistics | BestColleges](#)

- Sixty-eight institutions show 10 percent of parents or fewer making progress after three years.

The population that uses Parent PLUS borrowers tends to be vulnerable to delinquency and default. Data regarding household income and wealth are a testament to how difficult it is for Parent PLUS borrowers to meet their repayment obligations:¹⁸

- Between 1996 and 2018, the number of Parent PLUS recipients under the federal poverty line rose by an astonishing 350 percent. In 2020, the average Parent PLUS loan debt held by borrowers was \$37,970, a 40 percent increase since 2000. In 2015, 40,000 disabled or retired Parent PLUS borrowers had their Social Security benefits garnished after defaulting on their loans;¹⁹
- Black parents are struggling disproportionately; the share of Black Parent PLUS borrowers with incomes below \$30,000 nearly tripled from 2008 to 2018. In 2018, 44 percent of Black Parent PLUS borrowers had an annual income below \$30,000 compared to only 10 percent of White Parent PLUS borrowers; and
- In the month they were surveyed, 37 percent of Black parent-borrowers said they expected to be unable to make a partial payment on their student loan bills, compared to 20 percent for all other groups.

These data show that Black and Latino borrowers are experiencing disproportionate financial distress related to Parent PLUS loans. The Proposed Rule is indeed particularly important for Black and Latino borrowers, as well as borrowers from low- to moderate-income (LMI) communities because they lack generational wealth and therefore do not have a financial safety net. As a result, they are more likely to take out Parent PLUS loans. For example, in 2019-2020, 25% of Black families used Parent PLUS.²⁰ More than half were unable to contribute to their child's education beyond the PLUS program.²¹

In addition, it is very concerning that aging Parent PLUS borrowers still hold their own student loans. Many more Black parents (33 percent) and Latino parents (29 percent) who hold student loans for their children's education also hold student loans for their own education, compared to just 13 percent of white parents who hold these loans.²² We have previously addressed unlawful interest capitalization, which can severely slow progress and lead to ballooning balances for those with older loans and lead to balance growth rather than reduction.²³ How are borrowers who rely upon Social Security supposed to pay for expenses, when they have Parent PLUS and their own student loans? The answer in some cases is, they don't. Social Security can and does get garnished.²⁴ Those without generational wealth can ill afford a cut on an already meager income.

¹⁸ See [Parent PLUS Loan Consolidation Loophole & 2025 Cliff | Britannica Money, What to Know About Parent PLUS Loans: 5 Startling Statistics | BestColleges](#), [Federal Student Loan Portfolio by Loan Type](#). U.S. Department of Education, Federal Student Aid.

¹⁹ [\[2024-09-19\] Van Hollen, Adams Introduce Bicameral Legislation to...](#)

²⁰ [What to Know About Parent PLUS Loans: 5 Startling Statistics | BestColleges](#)

²¹ Table: [Expected Family Contribution by Race/Ethnicity](#). U.S. Department of Education, NCES, National Postsecondary Student Aid Study: 2020 Undergraduate Students (NPSAS:UG).

²² [Parent PLUS Borrowers: The Hidden Casualties of the Student Debt Crisis](#)

²³ [crl-comment-capitalized-interest-may2024.pdf](#)

²⁴ [GAO-17-45, SOCIAL SECURITY OFFSETS: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief](#)

Again, Parent PLUS borrowers are not eligible for the same benefits as others unless they are able to consolidate into Direct Loans. Fresh Start did not apply when available, which would have stopped collections and garnishment of federal benefits and tax refunds.²⁵ With such circumstances in mind, it is unsurprising that the default rate for Parent PLUS Loans is notably higher than for other federal student loans. A report from the U.S. Department of Education indicated that about 20% of Parent PLUS Loans were in default or near default (e.g., 270 days delinquent) in recent years.²⁶

Indeed, because of the stark and concerning situation for families, legislation was introduced in 2024 called the Parent PLUS Parity Act to try to improve the life chances of these borrowers.²⁷ The Parent PLUS Parity Act seeks to expand IDR access to these borrowers, offering forgiveness to the parent when the student's debt is discharged for disability or borrower defense, or forgiven due to PSLF. It would also codify elements of the proposed hardship rule when it comes to these borrowers.

We firmly support the Administration's proposal and believe that these regulatory changes will have a positive impact on relieving millions of borrowers from circumstances that make repayment impossible and, as a result, reduce the likelihood and overall costs of student loan repayment defaults.

IV. Conclusion

The Center for Responsible Lending applauds the Department of Education for this Proposed Rule. We believe this grant of authority under the HEA allows the agency broad discretion to develop a series of policies and programs that could give individual borrowers access to meaningful relief, up to full waiver, because of their financial distress. Without strong regulations that enable broad access to relief, borrowers and taxpayers will continue to pay the high cost of what has increasingly become an overwhelming, and at times, predatory, student loan market. Thank you for the opportunity to provide our thoughts on how the Department may use its authority to ensure that student loan repayment is both fair and affordable.

Sincerely,

The Center for Responsible Lending

²⁵ [A Fresh Start for Federal Student Loan Borrowers in Default | Federal Student Aid](#)

²⁶ [Parent PLUS Borrowers: The Hidden Casualties of the Student Debt Crisis, 2022](#)

²⁷ [Text - S.5108 - 118th Congress \(2023-2024\): Parent Plus Parity Act | Congress.gov | Library of Congress](#)