

# Congress of the United States

Washington, DC 20510

October 9, 2019

The Honorable Betsy DeVos  
Secretary of Education  
400 Maryland Ave, SW  
Washington, D.C., 20202

The Honorable Robert Wilkie  
Secretary of Veteran Affairs  
810 Vermont Ave., NW  
Washington, D.C. 20571

Mr. Andrew M. Saul  
Commissioner of Social Security  
6401 Security Boulevard  
Baltimore, MD 21235

Dear Secretary DeVos, Secretary Wilkie, and Commissioner Saul:

We write to follow up on our letter sent to your agencies on February 15, 2018, urging the U.S. Department of Education (ED) to automatically discharge outstanding federal student loans for borrowers who are totally and permanently disabled, including veterans.<sup>1</sup> On August 21, 2019 President Trump signed a Presidential Memorandum that directs the Secretary of Education and Secretary of Veterans Affairs to discharge federal student loan debt for totally and permanently disabled veterans. We are pleased that the Administration has decided to carry out our request for veteran-matched borrowers. However, the memorandum does not apply to the tens of thousands of totally and permanently disabled individuals matched through Social Security Administration (SSA) data, many of whom will continue to carry student loan debt which they are legally entitled to have forgiven. Therefore, we again urge ED to automatically provide federal student loan borrowers the relief they are entitled to receive.

Under the *Higher Education Act of 1965*, individuals who are totally and permanently disabled (TPD) are eligible to have their outstanding federal student loans forgiven. Under the *Tax Cuts and Jobs Act of 2017*, federal student loans that are discharged due to death or TPD are tax exempt. Despite the existing legal benefit, many borrowers, in applying for relief, face significant challenges that are both administratively burdensome and unnecessary. ED currently utilizes data provided through matching agreements with the Department of Veterans Affairs (VA) and the SSA to identify TPD borrowers. Once notified, those borrowers must apply for

---

<sup>1</sup> Letter from U.S. Senators Chris Coons, Rob Portman, Angus King, Susan Collins, Tammy Duckworth, Cory Gardner, and U.S. Representatives Ron Kind and Peter Roskam to U.S. Secretary of Education, Betsy DeVos, U.S. Secretary of Veterans Affairs, David Shulkin, and Acting Commissioner of Social Security, Nancy Berryhill. <https://www.king.senate.gov/imo/media/doc/02-28-17%20DOEd%20SSA%20VA%20Letter.pdf>

discharge. As the President noted in his announcement, the process “has been overly complicated and difficult” and “has inflicted significant hardship and serious harm on these veterans.”<sup>2</sup>

Considering ED’s authority to automatically discharge the loans of VA-matched borrowers, we urge ED also to collaborate with the SSA to grant automatic discharges—which should not be contingent upon any borrower administrative work at the point of discharge or any point thereafter—and to streamline the process for borrowers receiving Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits. According to data provided to our staff by ED, as of March 2019, only 40% of borrowers identified by the SSA match have had their loans discharged. If ED were to limit the scope of automatic discharges to only those identified in the VA match, many veterans would still be excluded from automatic forgiveness. This is because not all veterans have a service-connected disability that is 100% disabling or an individual un-employability rating.

ED has previously cited concerns about state or local taxes as a barrier to relief associated with an automatic federal discharge. However, 41 states, including D.C., conform to the new federal treatment of discharged loans based on death and disability.<sup>3</sup> Also, in carrying out the new automatic discharge for eligible veterans, ED stated it is going to provide the option for veterans to decline loan discharge within 60 days of notification of their eligibility. This makes clear that potential state tax liabilities can be eased with an opt-out and indicates that such an approach could be used for SSA-matched borrowers.

Additionally, by not extending the automatic discharge to borrowers matched through SSA data, the process will still inflict hardship on eligible borrowers who have missed out on a positive identification because of minor discrepancies in information in federal databases.

Finally, we ask that you reply to staff requests for comprehensive data made on February 5, 2019 on the number of borrowers who have been matched through agreements with the SSA and VA. Access to this information is critical for us to find solutions for our constituents.

On this issue, the bottom line is simple: Now that Congress has removed the tax consequence associated with loan forgiveness, ED should automatically discharge outstanding federal student loans for all totally and permanently disabled Americans. These Americans should no longer face costly delays or bureaucratic barriers to receiving a benefit that they are entitled to receive under the law. We appreciate your attention to this important matter and request a response by October 30, 2019.

---

<sup>2</sup> Presidential Memorandum on Discharging the Federal Student Loan Debt of Totally and Permanently Disabled Veterans. <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-discharging-federal-student-loan-debt-totally-permanently-disabled-veterans/>

<sup>3</sup> Bloomberg Law State Tax - IRC Conformity. <https://www.reed.senate.gov/download/bloomberglawstateconformity>

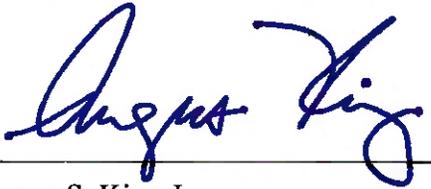
Sincerely,



Christopher A. Coons  
United States Senator



Rob Portman  
United States Senator



Angus S. King Jr  
United States Senator



Susan M. Collins  
United States Senator



Tammy Duckworth  
United States Senator



Cory Gardner  
United States Senator



Ron Kind  
Member of Congress



Brian Fitzpatrick  
Member of Congress



Jim Langevin  
Member of Congress



Don Young  
Member of Congress