

Congress of the United States
Washington, DC 20510

August 4, 2021

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

Dear Secretary Cardona:

We write to urge the U.S. Department of Education (“Department”) to move forward expediently to automatically discharge the loans of more than 517,000 student loan borrowers that have been identified by the Social Security Administration (SSA) as having a total and permanent disability (TPD). Under Section 437(a) of the *Higher Education Act 1965*, individuals who have a 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 exempt from federal income tax. Furthermore, through the *Fostering Undergraduate Talent by Unlocking Resources for Education Act of 2019 (FUTURE Act)*¹, the Department is required to streamline the TPD student loan discharge process. While the Department has made improvements to the TPD process in recent years, more can be done to resolve inequities and burdens in the program. Therefore, we continue to lead a bipartisan, bicameral effort so that Americans will no longer face costly delays or bureaucratic barriers to receiving a benefit that they are entitled to under the law.

The Department currently utilizes data provided through matching agreements with the SSA and the Department of Veterans Affairs (VA) to identify disabled federal student loan borrowers who may be eligible for TPD student loan discharge. Once notified, those borrowers must apply for discharge, and if the borrower was matched through the SSA, must then undergo an income monitoring period of three years to verify that they continue to have no earnings and must submit additional paperwork to complete the process. If the borrower does not satisfy the income requirements or fails to provide the required paperwork, the Department will reinstate the borrower’s obligation to repay the discharged loans. However, the requirements to submit applications and undergo income monitoring are not specified by the statute. As such, the Department has full authority to change the regulations and make student loan discharges automatic for borrowers with a TPD.

On August 21, 2019, President Trump signed a Presidential Memorandum that directed the Secretary of Education and Secretary of Veterans Affairs to change regulations and automatically discharge federal student loan debt for veterans with a TPD. The Department was

¹ The FUTURE Act requires the Department to streamline the income monitoring period so that an individual approved for a TPD discharge may grant approval to the Department and Internal Revenue Service to have their earnings information disclosed. The Department has not issued regulations to comply with this requirement.

able to swiftly issue new rules and “determined that there is good cause for interim final rulemaking and that such action is in the public interest.” However, the memorandum did not apply to the hundreds of thousands of borrowers matched through SSA data, despite facing the same circumstances. It is unnecessary and contrary to the public interest to undergo lengthy negotiated rulemaking to provide student loan discharges to borrowers with severe disabilities, as they are entitled to by law, when information is already on file with the federal government to verify their eligibility.

Therefore, the Department should issue an interim final rule as soon as possible that (1) provides automatic student loan discharges to those who have a TPD designation on file with SSA through eliminating the application process, and (2) eliminates the monitoring period. Eligible borrowers should then receive their loan discharges quickly after their initial disability determination is certified by SSA and not later than 90 days. Eliminating the application and monitoring period will align the process for borrowers with an SSA designation with the process that applies to borrowers with a VA designation.

The Department can eliminate unnecessary paperwork and provide swift relief to borrowers with an interim final rule to automate discharges under the TPD program. We continue to urge the Department to act on our request as soon as possible, and ask for a response to this letter no later than August 30, 2021. For your awareness, we have enclosed the letters from February 15, 2018, October 9, 2019, and December 6, 2019 that we sent to the previous administration.

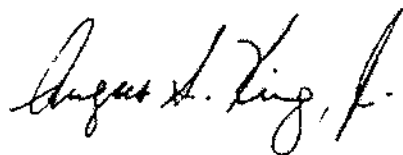
Sincerely,



Christopher A. Coons
United States Senate



Rob Portman
United States Senate



Angus S. King, Jr.
United States Senate



Tammy Duckworth
United States Senate



Ron Kind
House of Representatives



Brian Fitzpatrick
House of Representative

Cc:

The Honorable Kilolo Kijakzi
Acting Commissioner of Social Security
6401 Security Boulevard
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The Honorable Denis McDonough
Secretary of Veterans Affairs
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