October 21, 2020

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

Dear Secretary DeVos:

We write to ask that you take immediate steps to support federal student loan borrowers who have been impacted by the COVID-19 pandemic. Although the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* and recent administrative action to extend it are automatically providing forbearance, waiving interest, and halting collections on student loans held directly by the U.S. Department of Education ("Department") until at least December 31, 2020, this relief does not cover all federal student loan borrowers. The Department should take swift action to help borrowers with at least one qualifying loan gain access to full coverage.

According to information provided by the Department, 8.2 million federal student loan borrowers do not have full relief because they fall into a complete or partial "donut hole." Of those, 4.4 million borrowers are not receiving any relief under the CARES Act or administrative extension, and 3.8 million borrowers have a mix of loans that qualify and those that do not, resulting in confusion and unnecessary financial harm for them during a period of widespread economic disruption. All federal student loan borrowers should have access to the same relief.

The Department has numerous tools at its disposal to contact the 3.8 million borrowers in a partial donut hole and help them get all of their loans covered by the CARES Act relief. For example, the Department can direct student loan servicers to proactively contact borrowers who fall into the partial donut hole and help them consolidate loans not held by the Department into Direct Loans, which qualify for relief. The Department can also improve the process of consolidation for borrowers through administrative action.

The alternative relief options that have been provided by loan holders to some borrowers in the donut holes have been woefully inadequate. Temporary forbearance options that must be repeatedly requested by borrowers are far inferior to automatic and extended relief. Many borrowers also continue to accrue interest on these non-covered loans, potentially costing them hundreds or thousands of dollars. Consolidation is a straightforward solution to help some non-covered borrowers get access to the same benefits available to those with non-federally-held loans. A borrower with a commercially-held FFEL, school-held Perkins, or Public Health Service Act loan can generally consolidate such loan into a Direct Loan to obtain the automatic administrative forbearance, interest waiver, and halt to collections and negative credit reporting.

In 2012, the Department successfully spurred widespread take-up of a "special consolidation" option by borrowers holding both commercial FFEL and Direct Loans. This time-limited opportunity offered a 0.5 percent interest rate reduction for borrowers who participated. In contrast, just six months of relief equivalent to the CARES Act offers a greater benefit to a typical borrower over the lifetime of a loan. The Department has an opportunity to follow the same playbook and unlock relief for millions of borrowers.

The holders of non-covered loans have provided insufficient justification for failing to proactively notify borrowers of consolidation. While borrowers normally receive a trivial roundup of their interest rate to the nearest one-eighth of a percent from consolidation, all interest is currently being waived for covered loans and the value of this interest waiver would exceed the cost of the roundup for the vast majority of borrowers. Additionally, while borrowers could lose some credit toward income-driven repayment (IDR) forgiveness if they consolidate a loan they had previously been paying under an IDR plan, they do not have to consolidate loans that are already enrolled in IDR. Further, most borrowers are not enrolled in an IDR plan, meaning they would see no change in their timeline for IDR forgiveness because they do not have one. Finally, while a limited number of borrowers may have already consolidated all of their loans and are ineligible to consolidate again, borrowers have a number of exceptions to the restriction. For example, borrowers wish to become eligible for Public Service Loan Forgiveness can consolidate more than once, as can all 1.2 million borrowers with a commercial FFEL loan currently in default.

Commercial FFEL borrowers who have defaulted are disproportionately harmed by the disparate treatment of non-covered loans; while defaulted borrowers with covered loans have been granted a reprieve from forced collections, these borrowers remain subject to wage garnishment and the offset of public benefits, including Social Security payments.

Most importantly, the Department can easily take administrative action to suspend consolidation restrictions and penalties during the national emergency, such as the limitation on consolidating once, the reset of the forgiveness clock, and interest-rate roundup, using the same authority that was utilized to implement the President's August 8 Executive Order. Under Section 2(a)(1) of the *Higher Education Relief Opportunities for Students (HEROES) Act of 2003*, the Secretary may "waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV." The Department should use this authority to waive all barriers to consolidation.

Additionally, the Department should encourage the commercial FFEL entities, institutions holding Perkins Loans, and the Secretary of Health and Human Services, which collectively hold the 4.4 million loans completely un-covered by current relief, to initiate a similar outreach campaign to their borrowers. As Secretary, you retain significant authority and leadership over these entities, including the ongoing payment of taxpayer subsidies. You should quickly ask loan holders requesting to inform borrowers of their option to consolidate as a means to expediently receive the relief afforded by the CARES Act.

The more than eight million student loan borrowers falling into donut holes of critical relief have missed out on needed benefits and suffered unnecessary complexity and confusion for more than six months. It is essential that the Department immediately begin the targeted outreach and take the actions we are requesting. Thank you for your attention to this critical matter.

Sincerely,

Patty Murray

PATTY MURRAY
Ranking Member, Senate Committee on Health, Education, Labor & Pensions

/s/Tammy Baldwin

TAMMY BALDWIN
United States Senator

/s/Richard Blumenthal

RICHARD BLUMENTHAL
United States Senator

/s/Cory A. Booker

CORY A. BOOKER
United States Senator

/s/Sherrod Brown

SHERROD BROWN
United States Senator

/s/Benjamin L. Cardin

BENJAMIN L. CARDIN
United States Senator

/s/Robert P. Casey, Jr.

ROBERT P. CASEY, JR.
United States Senator

/s/Catherine Cortez Masto

CATHERINE CORTEZ MASTO
United States Senator

/s/Tammy Duckworth

TAMMY DUCKWORTH
United States Senator

/s/Richard J. Durbin

RICHARD J. DURBIN
United States Senator

/s/Dianne Feinstein

DIANNE FEINSTEIN
United States Senator

/s/Kirsten Gillibrand

KIRSTEN GILLIBRAND
United States Senator

/s/Martin Heinrich

MARTIN HEINRICH
United States Senator

/s/Mazie K. Hirono

MAZIE K. HIRONO
United States Senator

/s/Tim Kaine

TIM KAINE
United States Senator

/s/Angus S. King, Jr.

ANGUS S. KING, JR.
United States Senator

/s/Amy Klobuchar

AMY KLOBUCHAR
United States Senator

/s/Patrick Leahy

PATRICK LEAHY
United States Senator

/s/Edward J. Markey

EDWARD J. MARKEY
United States Senator

/s/Jeffrey A. Merkley

JEFFREY A. MERKLEY
United States Senator

/s/Christopher S. Murphy

CHRISTOPHER S. MURPHY
United States Senator

/s/Jack Reed

JACK REED
United States Senator

/s/Jacky Rosen

JACKY ROSEN
United States Senator

/s/Bernard Sanders

BERNARD SANDERS
United States Senator

/s/Brian Schatz

BRIAN SCHATZ
United States Senator

/s/Charles E. Schumer

CHARLES E. SCHUMER
United States Senator

/s/Jeanne Shaheen

JEANNE SHAHEEN
United States Senator

/s/Tina Smith

TINA SMITH
United States Senator

/s/Debbie Stabenow

DEBBIE STABENOW
United States Senator

/s/Tom Udall

TOM UDALL
United States Senator

/s/Chris Van Hollen

CHRIS VAN HOLLEN
United States Senator

/s/Elizabeth Warren

ELIZABETH WARREN
United States Senator

/s/Sheldon Whitehouse

SHELDON WHITEHOUSE
United States Senator

/s/Ron Wyden

RON WYDEN
United States Senator