1501 K Street, NW, Suite 200, Washington, DC 20005
Phone: 202.293.1217 | Fax: 202.293.2605 | edtrust.org

November 25, 2024

Nasser H. Paydar, Ph.D.
Assistant Secretary for Postsecondary Education
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC, 20202

RE: 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 (Docket ID ED-2023-OPE-0123)

Dear Assistant Secretary Paydar,

On behalf of EdTrust, an organization committed to advancing policies and practices to dismantle the racial and economic barriers embedded in the American education system, thank you for the opportunity to comment on the U.S. Department of Education's ("the Department") request for comment on the proposal to amend the regulations related to the Higher Education Act of 1965 (HEA), to provide for the waiver of certain student loan debts and specify the Secretary's authority to waive all or part of any student loan debts owed to the Department based on the Secretary's determination that a borrower has experienced or is experiencing hardship related to such a loan.

We commend the Department for its continued commitment to providing student debt relief to the millions of borrowers who are harmed by student debt. After the pandemic,[i] record high inflation,[ii] increasingly unaffordable housing,[iii] and wages that have failed to keep pace with rising costs for decades,[iv] student debt is a financial burden that many Americans can no longer afford to bear. Millions of borrowers were denied up to $20,000 in student debt relief after the U.S. Supreme Court struck down the Biden administration's original student debt relief plan.[v] The 43 million Americans with federal student debt are counting on the Department to provide debt relief for those who are struggling to repay their loans.[vi]

We applaud the Department for proposing two pathways for waiving some or all of the outstanding balance of a federal student loan held by the Department:

1. A pathway for "immediate relief" using a predictive assessment based on data already in the Department's possession (that is not acquired by application) to identify borrowers who are at least 80% likely to be in default in the next two years, after the proposed regulations' publication date.

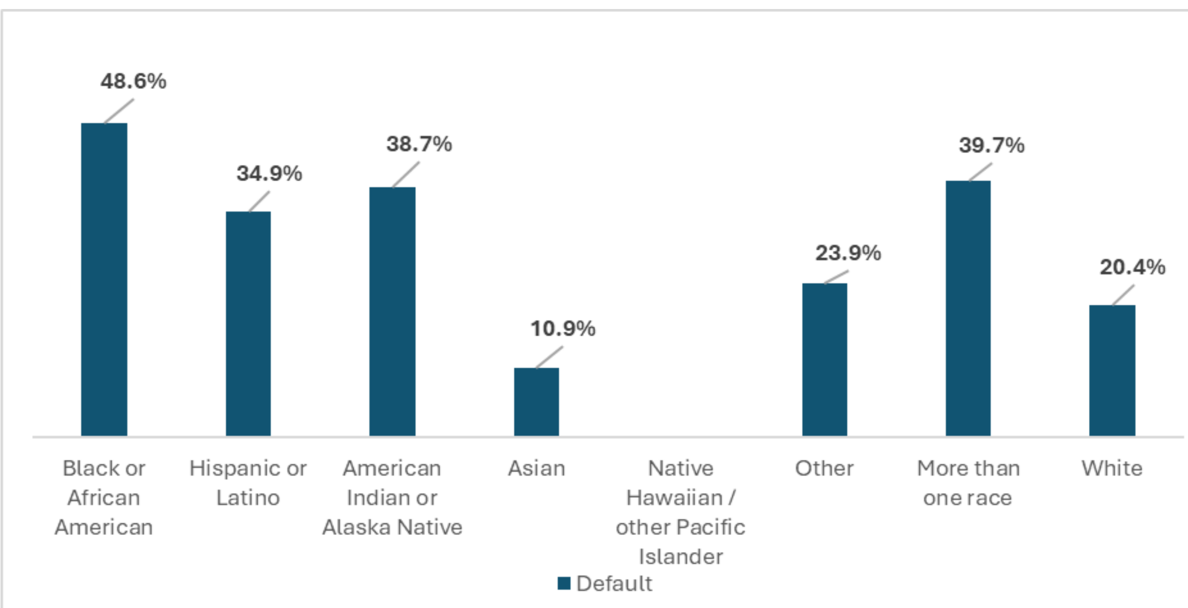
2. A pathway for "additional relief" for a borrower who meets the standard of hardship based on a holistic assessment of a borrower's circumstances and based on an application or data already in the Secretary's possession, or a combination of both.

First Pathway

We commend the Department for creating an automatic pathway for debt relief for borrowers who are at risk of default, the worst student debt outcome. A borrower defaults after missing nine months of payments. Default can ruin a person's credit and make it harder for them to rent an apartment, buy a car or a home, or even get a job. In addition, if a borrower defaults on a federal student loan, the government may garnish their wages and Social Security income or withhold tax refunds and other public benefits.[vii] Proactively discharging the debt of borrowers who are likely to default saves borrowers from the financially ruinous consequences of default and spares the federal government from spending resources trying to collect a likely uncollectable debt.

There are large racial disparities in default rates with Black borrowers being at greatest risk of default. Twelve years after starting college in 2004, nearly half of Black borrowers have defaulted on their loans. Over a third of Latino, Native American, and multiracial borrowers defaulted in 12 years after starting college (Figure 1). The rates of default across all racial and ethnic groups represents millions of borrowers who have been harmed by default.

Figure 1: Percentage of borrowers (by race/ethnicity) who began college in 2004 and defaulted within 12 years



Source: U.S. Department of Education, National Center for Education Statistics, Beginning Postsecondary Students: 2004/2009 (BPS).
Note: Default for Native Hawaiian/other Pacific Islander not included because reporting standards were not met

Borrowers who are incarcerated should be eligible for automatic discharge. Nationally, borrowers who are incarcerated work unpaid or for extremely low, sub-minimum wage hourly rates: on average, workers who are incarcerated earned between 13 cents and 52 cents per hour.[viii] These borrowers are often restricted from computers, internet, and phones, which are essential tools from managing student debt repayment.[ix]

Second Pathway

We applaud the Department's proposal to provide debt relief to borrowers experiencing hardship through an application or based on data the Department already has. We appreciate the Department considering multiple factors to determine hardship, including:

- Household income
- Assets
- Age of borrower
- Age of the borrower's loan based upon first disbursement, or the disbursement of loans repaid by a consolidation loan
- Type of loans and total debt balances owed for loans described in proposed 30.91(a), including those not owed to the Department
- Current repayment status and other repayment history information
- Student loan total debt balances and required payments, relative to household income
- Total debt balances and required payments, relative to household income
- Type and level of institution attended
- Typical student outcomes associated with a program(s) attended
    - Whether the borrower has completed any postsecondary certificate or degree program for which the borrower received Title IV, HEA financial assistance
- Disability
- Receipt of a Pell Grant and other information from the Free Application for Federal Student Aid (FAFSA) form
- Receipt of means-tested public benefits
- High-cost burdens for essential expenses, such as healthcare, caretaking, and housing
- The extent to which hardship is likely to persist
- Any other indicators of hardship identified by the Secretary

Borrowers experiencing financial hardship should have the opportunity to apply for relief. Currently, the student loan system does not capture most of the indicators that would show whether a borrower is experiencing financial hardship. While IDR plans make monthly payments more affordable for enrolled borrowers, they only consider income and family size when determining monthly payments. This leaves out important indicators that show a more accurate financial picture or a borrower's ability to ever repay their loans.

Allowing borrowers to apply for debt relief based on their income, assets, and high-cost burdens of healthcare, caretaking, and housing is important to ensure borrowers are not foregoing basic needs to pay for their student loans. Federal data shows Black borrowers have the worst outcomes with student debt.[x] Black borrowers who participated in the National Black Student Debt Study struggled to pay for necessities whether they were enrolled in IDR or not.[xi]

About a quarter of Black borrowers, regardless of IDR enrollment, said they struggled to afford food, rent, and healthcare (Table 1). An overwhelming majority of Black borrowers struggle to save money.[xii]

Table 1: Percentage of Black Borrowers Who are Unable to Afford Necessities

Necessities	Enrolled in IDR	Not Enrolled in IDR
Food	22%	22%
Rent	25%	24%
Healthcare	24%	25%
Savings	71%	60%
Child care	13%	6%

Source: Jim Crow Debt: How Black Borrowers Experience Student Debt, EdTrust

Considering assets in addition to income is important because racial disparities in wealth are much greater than income because they better reflect the accumulated negative effects of centuries of systemic racism, including but not limited to slavery, Jim Crow laws, redlining, lending discrimination, and labor market and wage discrimination.[xiii] For example, in 2020, Black workers aged 25 to 64 who held a bachelor's degree or higher and worked full time and year-round had median earnings of $65,135, compared to $77,162 for white workers with only a bachelor's degree.[xiv] However, in 2019, the median Black household had just $24,100 in wealth next to $188,200 for the median white household.[xv]

Borrowers Receiving Public Benefits

Borrowers who receive public benefits such as SNAP, TANF, or Medicaid should be provided hardship relief. Borrowers who participate in these programs have already gone through a rigorous process to substantiate their financial hardship and determine their eligibility for benefits. They also must routinely provide proof to maintain eligibility. Participants in these programs have low-incomes and minimal assets.[xvi]

Older Borrowers

Low-income borrowers over 60 should be eligible for hardship relief. The amount of student debt held by borrowers over 60 has grown dramatically in the last 20 years. There are currently 3.5 million Americans over 60 with student debt, and they hold over $125 billion in student loans — that's an increase of 500%, and the amount of debt they hold has increased 19-fold. Of borrowers over 55 with loans for their own education, 30% cannot pay their monthly bills; 33% makes less than $25,000; and 61% do not have emergency savings. Prior to the pandemic, a third of seniors with federal student loans were in default.[xvii]

Student debt relief is important for the millions of Americans with student loans who are struggling to make ends meet and pay their student loans. The two proposed pathways for relief are targeted ways to help borrowers who are experiencing financial distress.
We thank the Department for taking action to provide debt relief to borrowers.

We are happy to respond to any questions you may have about this letter's contents. For more information, please contact Victoria Jackson (vjackson@edtrust.org), assistant director of Higher Education Policy, or Reid Setzer (Rsetzer@edtrust.org), director of Government Affairs. Thank you for your consideration.

Sincerely,
EdTrust

---

[i] World Health Organization, "Coronavirus Disease (COVID-19) Pandemic," https://www.who.int/europe/emergencies/situations/covid-19.

[ii] Alicia Wallace, "High Inflation Is Finally Letting up, but It's Weighed Heavily on Many Americans | CNN Business," CNN, December 27, 2023, https://www.cnn.com/2023/12/27/economy/inflation-2023-impacts-americans/index.html.

[iii] Jennifer Ludden, "Housing Is Now Unaffordable for a Record Half of All U.S. Renters, Study Finds," NPR, January 25, 2024, sec. National, https://www.npr.org/2024/01/25/1225957874/housing-unaffordable-for-record-half-all-u-s-renters-study-finds.

[iv] Juhohn Lee, "Why American Wages Haven't Grown despite Increases in Productivity," CNBC, July 19, 2022, https://www.cnbc.com/2022/07/19/heres-how-labor-dynamism-affects-wage-growth-in-america.html.

[v] Nina Totenberg and Meghanlata Gupta, "Supreme Court Kills Biden's Student Debt Plan in a Setback for Millions of Borrowers," *NPR*, June 30, 2023, sec. Law, https://www.npr.org/2023/06/30/1182216970/supreme-court-student-loan-forgiveness-decision-biden.

[vi] "The Biden-Harris Administration's Student Debt Relief Plan Explained," https://studentaid.gov/debt-relief-announcement.

[vii] Federal Student Aid, "Student Loan Delinquency and Default | Federal Student Aid," https://studentaid.gov/manage-loans/default.

[viii] ACLU, "Captive Labor: Exploitation of Incarcerated Workers," *American Civil Liberties Union* (blog), June 15, 2022, https://www.aclu.org/news/human-rights/captive-labor-exploitation-of-incarcerated-workers.

[ix]"Bridging the Digital Divide: Navigating the Challenges of Digital Access for Incarcerated (and Formerly Incarcerated) Individuals," *Community Tech Network* (blog), March 18, 2024, https://communitytechnetwork.org/blog/bridging-the-digital-divide-navigating-the-challenges-of-digital-access-for-incarcerated-and-formerly-incarcerated-individuals/.

[x] "National Postsecondary Student Aid Study - Overview" (National Center for Education Statistics), accessed November 25, 2024, https://nces.ed.gov/surveys/npsas/..

[xi] Jalil Bishop and Jonathan Davis, "Jim Crow Debt" (EdTrust, October 2021), https://edtrust.org/resource/jim-crow-debt/.

[xii] Jalil Bishop and Jonathan Davis, "Jim Crow Debt" (EdTrust, October 2021), https://edtrust.org/resource/jim-crow-debt/.

[xiii] Darity et al., *What We Get Wrong About Closing the Racial Wealth Gap.*

[xiv] U.S. Census Bureau, Current Population Survey, 2021 Annual Social and Economic Supplement (CPS ASEC), https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pinc/pinc-03.2020.html#par_textimage_54.

[xv] Neil Bhutta, Andrew C. Chang, Lisa J. Dettling, and Joanne W. Hsu, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," FEDS Notes (Washington, DC: Board of Governors of the Federal Reserve System, September 28, 2020), https://doi.org/10.17016/2380-7172.2797.

[xvi] "A Quick Guide to SNAP Eligibility and Benefits | Center on Budget and Policy Priorities" (Center on Budget and Policy Priorities, October 1, 2015), https://www.cbpp.org/research/food-assistance/a-quick-guide-to-snap-eligibility-and-benefits.
"Policy Basics: Temporary Assistance for Needy Families | Center on Budget and Policy Priorities" (Center on Budget and Policy Priorities, January 22, 2002), https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf.
Medicaid.gov, "Eligibility Policy," accessed November 25, 2024, https://www.medicaid.gov/medicaid/eligibility-policy/index.html.

[xvii] "The Growing Impact of Student Debt on Older Adults" (National Consumer Law Center and New America,), https://www.nclc.org/wp-content/uploads/2024/09/Impact-of-Student-Debt-on-Older-Adults.pdf.