MEMORANDUM

November 13, 2023

TO: Interested Parties
RE: [Negotiated Rulemaking 2023] Distressed Borrowers

Regulatory Proposal for Hardship on Borrowers:

Secretary shall waive the full debt balances of borrowers who have material hardship.
There should be two approaches to canceling debt:

1) use administrative data to cancel debt based on hardship factors the Department already has the capacity to identify and,

2) utilize a two-question application that *first* allows borrowers to self-report the the hardship they are experiencing from an extensive and exhaustive list, and *second* authorizes the Department to access tax data solely when it expedites the waiving of a borrower's balance.

Rationale:
There is overwhelming empirical evidence, mostly from the Department of Education, that debt causes material hardship due to the following:

1. Student loans inflict deep racial hardship on Black communities across generations, reinforce and expand the racial wealth gap, and extract financial resources from communities of color.

2. The Department and loan servicers do not have the operational capacity to oversee the federal student loan program, resulting in immeasurable harm to borrowers every day and year. There is almost no redress for this harm caused by operational incapacity, and when redress is delivered to a borrower, it is never timely or without burden.

3. A person having student loans is a sign of hardship because it means they could not afford college costs in the first place and had to rely on a form of debt that is difficult to discharge or repay. Any measure to gauge borrowers' success- income, wealth,

homeownership, reliance on social assistance, savings rates, retirement contributions, and mental health- makes evident that student debt often harms borrowers.

4. Student loan debt is a moral hazard that causes higher education agents such as colleges and universities, loan servicers, and the Department of Education to shift the majority of the risks to students, as there is no incentive for these agents to guard against damages to students.

Evidence:

A policy brief providing evidence and best practices on how to cancel student debt.

An analysis that centers on the student borrower rather than the costs of cancellation.

A data hub that highlights the experiences of borrowers.

Regulatory Proposal for Pell Grants:

Secretary shall waive the full debt balances of borrowers who received a Pell Grant.

Secretary shall waive the full debt balances of Parent Plus borrowers whose child/student received a Pell Grant.

Rationale:

Pell grants were provided to families that had low to zero EFCs. The government should have provided them with grants rather than loans. Without alternative sources of aid, these students and parents were forced to borrow undergraduate and graduate loans along with Parent Plus loans. Parents must be included because the Dept certified that the parents were already low-income and could not afford college costs, meaning they cannot afford a student debt payment (college costs + interest).

Evidence:

- Among borrowers who had a Parent PLUS disbursement for Award Year 2000 or after, in 59% of those cases, the dependent student whose education was supported with the PLUS loan also received a Pell Grant.

- There are 2.2 million PPLUS borrowers whose student also received a Pell Grant as of January 2023.

- There are 566,000 PPLUS borrowers who received a Pell Grant for their own schooling, as of January 2023.

- Nearly every Pell Grant recipient came from a family that made less than $60,000 a year, and Pell Grant recipients typically experience more challenges repaying their debt than other borrowers. Link

- Data on Pell borrowers' completion and how cancellation would impact them. Borrowers of color need more than $20,000 of cancellation.

- A recent report estimates that increasing Pell Grants for students from low-income backgrounds would help many families avoid having to take out loans: "An extra $6,000 a year in Pell grants for four years would entirely replace the PLUS loans of about three-quarters of parents who borrowed with incomes below the poverty level (including 85 percent of low-income Black PLUS borrowers)."

- "First, we find that more than half of all student loan debt is held by households that have a zero or negative net worth (see Figure 3). Second, we find that of households with student debt, 52% of Black households and 32% of non-Black households have zero or negative net worth. Of households without student debt, 25% of Black households and 9% of non-Black households have zero or negative net worth. Households with student debt have lower net worth than households without student debt at every percentile."

Regulatory Proposal for Age of a Loan:

Secretary shall waive the full debt balances of borrowers whose loans [applicable to any loan that follows under the Dept's legal authority] have been in full disbursement for 144 months (12 years) if they meet one or more of the criteria as follows:

1. Debt to income ratio is 40%
2. Borrower is over the age of 56
    a. Study from the Federal Reserve concluded that "college attendees who still hold student loan debt around retirement are no better off than their peers who did not go to college. The small share of families in this category appear not to have experienced the typical wage boost associated with a college education that would enable them to repay their debt and save, leaving them relatively ill-prepared for retirement."
    b. New America Report found the following for borrowers over 55 years old: "their cash savings are unusually low: 61 percent say they do not have an emergency fund that could cover expenses for three months, compared to 46 percent of seniors who never attended college. Twenty-eight percent have less than $10,000 saved for their retirement, a higher rate than other college attendees and non-college-educated peers. In addition to having low savings and assets, these borrowers are more likely to have debt other than student loans. About one in three have medical debts, double the rate among seniors who never attended college. Half have unpaid credit card debt, compared to a third of older adults who did not attend college."
3. Pell Grant recipient or parent of a Pell recipient
    a. Department of Education stated: "Nearly every Pell Grant recipient came from a family [aka parents] that made less than $60,000 a year, and Pell Grant recipients typically experience more challenges repaying their debt than other borrowers." Link
4. Borrower self reports they are the beneficiary of a social welfare or assistance program or social entitlement program (e.g., Social Security, SNAP, medicare, receive an earned income tax credit, SSI)
    a. Each program is means-tested on income, family size, and assets and confirms borrowers do not have enough money or wealth for basic needs, meaning they cannot afford a student debt payment.
5. Self-reported completed bankruptcy
    a. A completed bankruptcy means borrowers already had their income and assets declared too low to afford their basic needs, meaning they cannot afford a student debt payment.
6. Ever in default for 12 months
    a. "Defaulters were more likely to have utility or medical collections debt, and nondefaulters were more likely to have credit card, auto, or mortgage debt."
    b. Defaulters face long-term financial consequences, including a lowered credit score, wage garnishment, tax refund withholding, and other offsets, as well as having their professional license suspended for nonpayment.
7. Balance is over 39% of the original balance
8. Some debt, no degree for both undergraduate and graduate loans

    a. Among those who take out loans, about 4-in-10 students overall, including 54% of Black students, do not finish college within six years. DEMOS
    b. At the three-year mark, more than twice as many Parent PLUS-borrower parents of non-completers are in default (9.7 percent) as the Parent PLUS-borrower parents of completers (an estimated 4.8 percent).
9. Income below $250,000; 500,000 for household
    a. The Biden administration has repeatedly declared: "And under my plan, nobody earning less than $400,000 a year will pay an additional penny in new taxes. Nobody." Likewise, this income threshold aligns with the logic that financial relief or income protection should be provided to households under $400,000. The racial wealth gap means that families of color making six-figure incomes do not have high wealth/assets, and student debt payments extract resources that could help close that gap.

Rationale:
Borrowers entered loan agreements under the standard repayment plan of 120 months or 10 years. When student debt balances exist beyond the standard time frame, the likelihood of them being repaid decreases, and the burden of the debt balance on borrowers increases, specifically for the categories of borrowers above. In a recent rulemaking, the Department stated that one justification for offering relief is "...help boost wages, tax receipts, and lower dependency on the broader safety net." Canceling debt for these categories of borrowers will achieve the goals the Department states are reasonable justifications for relief. We know that Black and Latinx borrowers are hit the hardest with balances that typically grow rather than decrease after 12 or more years.

Evidence:
Evidence is linked next to each category above