

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

August 29, 2024

Dear Secretary Cardona:

The undersigned organizations that work on behalf of students, college access and affordability, low-income consumers, and legal aid organizations write to express our appreciation for the Education Department's ongoing defense of the SAVE Plan against legal challenges and to urge the Department to take action to protect all borrowers, not just those currently enrolled in SAVE, from harm caused by the litigation's disruption of the student loan repayment system.

To protect borrowers, the Department should, at minimum, extend the [current 'on-ramp' protections](#) to hold student loan borrowers harmless for missed payments as long as the litigation remains active, and for such time after the litigation is resolved as may be necessary for the Department to implement the challenged regulations and process the backlog of IDR and consolidation applications that has accrued. During this period, no borrower should be placed in delinquent status and no borrower in default status should face collections activity.

The SAVE Plan and other recent reforms to the IDR system were designed to make loan repayment more affordable and manageable to borrowers, to reduce delinquency and default, and to reduce the negative impact of default. But the current litigation has put these critical reforms on hold. As a result of a series of changing [court orders](#), borrowers' loan repayment and relief options have been changing week-to-week, and are currently extremely limited. Online applications are suspended for all income-driven repayment (IDR) plans and for loan consolidation—a critical option for borrowers with FFEL loans to access more affordable IDR plans and for borrowers to get out of default.

While paper and PDF IDR applications are technically open, servicers are not currently processing them, and a growing backlog of applications is pending that the Department warns will create lengthy delays even once processing resumes. This means that borrowers who need to enroll in an IDR plan to be able to afford their student loan bills cannot currently do so, and likely will not be able to do so for quite some time. Further, while servicers are supposed to place borrowers in a forbearance of up to 60 days while they process their IDR applications, legal aid attorneys have found that many borrowers who have applied for IDR since this spring have neither been placed into a forbearance nor had their applications processed. Borrowers must therefore be held harmless for any payments they may miss while they cannot access an affordable payment plan and while servicers are behind on placing borrowers into processing forbearances.

Additionally, borrowers are rightfully confused by the abrupt changes to their student loan options, and have limited access to quality assistance in navigating the changes. Borrowers do not have clear information as to which plans are still available, what their monthly payment amounts are or will be, and whether they will receive promised loan discharges via the Public Service Loan Forgiveness program or the income-driven repayment system. As a result, even if IDR applications were being processed, many

borrowers would not apply so long as they are unable to determine what plans are actually available to them and what their payments would be under those plans.

These hardships are compounded for borrowers in default status, who reasonably question the value of participating in the “Fresh Start” program while they do not know what their payments would be if they participate and if they’ll be able to afford them. Borrowers are likely worried that participating in Fresh Start will be futile if their future access to affordable repayment options is limited.

Therefore, to protect borrowers from falling into delinquency, default, or destabilizing collections as a result of disruptions caused by the SAVE litigation, the Department must extend the current protections holding all borrowers harmless for the duration of the litigation and for a sufficient transitional period after litigation is resolved.

Thank you for your work on behalf of borrowers. Please contact Abby Shafroth and Kyra Taylor with the National Consumer Law Center (ashafroth@nclc.org, ktaylor@nclc.org) or Michele Zampini (mzampini@ticas.org) with The Institute for College Access & Success (TICAS) with any questions.

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)
The Institute for College Access & Success (TICAS)
Indiana Legal Services, Inc.
Public Counsel
Housing and Economics Rights Advocates
Volunteer Lawyers Project of CNY, Inc.
Legal Aid Foundation of Los Angeles
Community Service Society of New York
Northwest Justice Project
New York Legal Assistance Group
Pine Tree Legal Assistance
Community Legal Aid SoCal
Legal Aid Center of Southern Nevada
Community Legal Services of Philadelphia

cc: James Kvaal, Under Secretary of Education