December 2, 2024

Submitted via Regulations.gov

U.S. Department of Education
Office of Postsecondary Education
400 Maryland Ave., SW
Washington, DC 20202

Re: Legal Aid Comments in Response to Proposed Rules on Student Debt Relief Based on Hardship—Docket ID ED-2023-OPE-0123; RIN 1840-AD95

To whom it may concern:

These comments, submitted on behalf of organizations across the country that provide free legal assistance to low-income people, address the Department's proposed rules to clarify the use of the Secretary's longstanding authority to grant a waiver of some or all of the outstanding balance on a Federal student loan based on financial hardship.[1] As explained below, our experience working with low-income people leads us to strongly support the Department's proposed hardship relief rules. The proposed rules would provide debt relief to approximately 8 million people and would, at long last, provide a road to relief for people who experience sustained financial hardship that makes them unable to fully repay federal student loan debt.

1. **Pursuing an education should not put low-income students at risk of long-term poverty, but existing student loan policies do just that**

At legal aid organizations, our clients are often from low-income families and are often the first in their family to pursue higher education. Working towards a better future, they rely on student loans to access education and career training. For some borrowers, student loans pay off as hoped, with increased earnings and economic security. But for too many of our clients, the student loans meant to fuel upward economic mobility do the reverse, burdening them and their families with unaffordable debt that snowballs with interest that they cannot get out from under. Their student loans trap them in long-term financial distress and often mean that they and their children cannot get out of poverty.

There are many reasons student loans result in financial crisis for our clients. Some borrowers cannot repay their debt because they did not complete their program after withdrawing from school for financial reasons,[2] family commitments,[3] or as a result of domestic or partner

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[1] Student Debt Relief Based on Hardship for the Direct Loan Program, FFEL Program, Perkins Program, and HEAL Program, 89 Fed. Reg. 87130 (Oct. 31, 2024) (requesting comments on proposed student debt relief regulations).
[2] *See* New Research Answers Question Every College Wants to Know: Why Do Students Leave and How Do We Get Them Back?, UPCEA (Dec. 1, 2021).
[3] *Id.*

violence,[4] leaving them with debt without a degree. Some completed a job training certificate or program, but found that despite recruiters' messages, the jobs available with that training paid no more than they could already earn with only a high school diploma.[5] Still others cannot repay because they suffered misfortune, such as an accident or illness that led to job loss or high medical expenses, or because they had to leave their job or reduce their hours to care for a family member with high medical needs. Some have chronic illnesses or disabilities that do not qualify them for total and permanent disability discharges, but nonetheless prevent them from accessing sufficient financial stability to repay educational debt on top of their medical expenses.

When they reach us, many low-income borrowers explain that they cannot afford both to make student loan payments and pay for basic necessities—including food, housing, transportation to work, and medical care—for themselves and their children. Indeed, in some of our offices, many of our student loan clients are homeless.

Existing student debt relief programs are important, but have failed to offer sufficient relief to many of the low-income borrowers we represent, and have been insufficiently accessible to millions of borrowers like them across the country who lack legal assistance. For example, while most of our clients would qualify for a $0 payment in current income-driven repayment (IDR) plans, few know about these options. Of those who are aware that IDR plans exist, few have been able to navigate the often confusing processes to enroll and stay enrolled until they are eligible to have their loans discharged. Further, IDR plans and their promise to make borrowers debt-free after a specified number of payments are currently under threat as a result of legal challenges and proposed legislative changes.

We also serve clients who cannot afford to pay even reduced amounts under an IDR plan and are not eligible for other relief programs. Existing student debt cancellation programs for distressed borrowers are narrowly tailored to only a few specific circumstances: when a school closes before a borrower can complete, falsely certifies a borrower's eligibility for federal aid, or defrauds the borrower, or when a borrower dies or has a permanent disability that prevents them from working. While those programs capture some borrowers whose loans cause them financial hardship, there are millions more who have no options for relief.

Many clients come to us with their loans already in default, and they and their families are pushed deeper into poverty by the many ways the government collects defaulted student loans: garnishment of wages, seizures of tax refunds (including refundable credits meant to lift children out of poverty, such as the Earned Income Tax Credit and Child Tax Credit), and seizures of Social Security benefits. This is no small problem: prior to the payment pause, 1 million borrowers defaulted every year on federal student loans, with default concentrated among those

[4] See U.S. Gov't Accountability Off., GAO-24-106282, Options That May Help Survivors of Sexual Violence Continue Their Education and Manage Federal Student Loans (Oct. 2023).

[5] Monique O. Ositelu, Clare McCann, Amy Laitinen, The Short Term Credentials Landscape: Labor Market Outcomes, Returns to Certificate Programs Are Mixed and Do Not Last, New America (May 5, 2021).

from low-income backgrounds,[6] and Department data reflects that over 2 million borrowers have spent seven or more years trapped in default.[7]

2. **The proposed rules would make relief available to the most financially distressed people with student loan debt**

In light of the hardship that we have seen among our low-income clients and the lack of options currently available to address it, we applaud the Department's proposal to provide student debt relief to borrowers on the basis of financial distress. The Department proposes to provide federal student loan discharges to borrowers whose financial distress is likely to prevent them from fully repaying student loans or whose financial distress renders the costs of enforcing the full amount of the debt unjustified by the benefits. More specifically, the Department proposes to both:

(1) Provide immediate, automatic, one-time relief to borrowers that it is able to identify using its existing records are likely to be in default in the next two years, and
(2) Create a new, continuing application-based relief program through which borrowers can apply for discharge of their federal student loans on the basis of long-term financial hardship that impairs their ability to repay their loans in full or that makes the costs of collecting on them outweigh the benefits.

These proposed rules represent a consensus compromise among stakeholders in the student loan system. The proposed relief provisions would offer common-sense relief to borrowers who are unlikely to be able to repay their loans. And the provisions would mean that legal aid organizations could finally help provide meaningful, complete student debt relief to the most financially distressed borrowers, whose debt is unlikely to be successfully repaid but serves only to make their families' life worse and their poverty more acute.

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Thank you for considering these comments. If you have any questions, please contact Abby Shafroth, ashafroth@nclc.org or Kyra Taylor, ktaylor@nclc.org.

Submitted by:

National Consumer Law Center (on behalf of its low-income clients)

Pine Tree Legal Assistance

Housing and Economic Rights Advocates

Public Counsel

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[6] Abby Shafroth & Kyra Taylor, Delivering Distress to Borrowers in Default, 72 (2023).
[7] Tia Caldwell & Sarah Sattelmeyer, Millions of Student Loan Borrowers Are Trapped in Long-Term Defaults, New America (Jan. 17, 2024).

Community Service Society of New York

Northwest Justice Project

Consumer Bankruptcy Assistance Project

Legal Aid Society of San Diego

Community Economic Defense Project

Indiana Legal Services, Inc.

Legal Aid Foundation of Los Angeles

Western New York Law Center

Legal Aid Center of Southern Nevada

Community Legal Aid SoCal

New York Legal Assistance Group

Montana Legal Services Association

Legal Aid of Nebraska

Community Legal Services, Inc. of Philadelphia