April 24, 2019

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Dear Secretary DeVos:

We continue to be very concerned with the U.S. Department of Education’s (“Department”) flawed implementation of loan forgiveness programs that are available for our nation’s student loan borrowers working in public service.

Congress created the Public Service Loan Forgiveness (PSLF) program in 2007 to help first responders, teachers, social workers, nurses, and many other dedicated individuals working to support their communities and serve their country. Additionally, more than one year ago, Congress began providing discretionary appropriations that now total $700 million through the Temporary Expanded Public Service Loan Forgiveness Program (TEPSLF) to supplement PSLF for borrowers who met all the requirements of PSLF but were shut out of forgiveness due to inadvertently enrolling into the wrong student loan repayment plan. Congress intended TEPSLF to alleviate significant challenges facing borrowers who have fulfilled their public service requirements but have received bad advice from their student loan servicer or the Department about which repayment plans qualify for forgiveness under PSLF.

Unfortunately, we have recently learned that the Department has denied 96 percent of applicants for TEPSLF.1 Furthermore, the Department is turning away a full 74 percent of those taking the first step to apply for TEPSLF because they have not submitted a separate application that they know the Department will reject. The Department requires a borrower who is looking for relief from the new TEPSLF program to submit a PSLF Application for Forgiveness (which does not mention TEPSLF). This means borrowers must, incorrectly claim that they are eligible for regular PSLF, although they have not made enough qualifying payments, and have that form subsequently denied—all before the Department will even begin to formally review their request for TEPSLF. Those who make it through this initial hurdle and actually have their application reviewed by the Department are still being denied at a 97 percent rate.2 This bureaucratic process is unnecessarily complicated, confusing, and frustrating for borrowers.

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1 Out of 38,640 requests for TEPSLF, 28,640 were declared ineligible for review and another 8,374 were formally denied. 37,014 out of 38,640 represents a 95.8 percent denial rate among all TEPSLF requests. Source: Letter from Principal Deputy Under Secretary Diane Auer Jones, U.S. Department of Education, to Senators Kaine, Whitehouse, and Colleagues regarding TEPSLF. March 25, 2019. https://go.usa.gov/xmY3a
2 Out of 9,820 applications that the Department has determined can proceed to review, 8,636 were formally reviewed and 8,374 were denied, representing a 97.0 percent denial among reviewed TEPSLF applications. Another 1,184 remain under review. Source: Id.
Members of Congress wrote to you nearly a year ago about the needless hurdles that the Department has created for TEPSLF, including the bifurcated application process. While the Department took some steps to correct errors in communications with borrowers as a result of these inquiries, it did not take any significant action to make it easier for borrowers who had ended up in the wrong repayment plans to qualify for the loan forgiveness opportunity that was created for them. The Department did not remove the requirement to submit the PSLF Application for Forgiveness to be reviewed for TEPSLF or significantly alter its outreach to contact borrowers who are the most likely to be eligible for relief and encourage them to apply. This lack of action suggests that the Department has treated TEPSLF, and the applicants to this program, as an unwanted burden. Reflecting this lack of priority, your Fiscal Year 2020 budget proposed to eliminate both the PSLF and TEPSLF programs entirely.

While we clearly disagree about the urgent need to provide student debt relief to federal student loan borrowers who have served their country and communities, the Department must implement the law. The Consolidated Appropriations Act, 2018 requires you to develop and make available “a simple method for borrowers to apply for [TEPSLF].” The Department is not in compliance with this requirement, because it has instead established a highly complex application process.

The Department previously indicated six months ago that 88 percent of the first wave of TEPSLF applicants were denied. In response, Members of Congress relayed significant concerns that the funding was not being utilized as intended and that distressed borrowers were not being properly contacted. Unfortunately, these problems have only gotten worse since that time. Given that the latest data show the denial rates are even higher, the Department must now implement a comprehensive strategy to increase the TEPSLF application and approval rates.

No later than 30 days after receiving this letter, we request that the Department provide the authorizing and appropriations committees with a corrective action plan that includes new outreach initiatives and specific instructions and policies for student loan servicers to assist borrowers working in public service. This plan should contain proactive identification and outreach to borrowers who have submitted an Employment Certification Form (ECF) but remain in an incorrect repayment plan; customized approaches and responses for each applicant who is denied TEPSLF that attempt to resolve the specific reason they were denied; plans to encourage applications to TEPSLF from borrowers who have been denied for regular PSLF; and initiatives to encourage TEPSLF applications on a rolling basis from borrowers who will become eligible for TEPSLF within the next two calendar years.

This corrective action plan should also propose dramatically enhanced outreach from the Department to ensure borrowers are aware of TEPSLF and have the appropriate level of service and information necessary to take advantage of relief. The Department should, at a minimum, make five follow-up contacts (including emails and calls) after an initial rejection or denial for

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any reason, and an additional five contacts if a borrower fails a secondary process (such as denial of an ECF). Such outreach should also include a minimum of one outbound phone call with a live customer service agent, or a recorded message if the borrower does not answer; one letter sent by mail including clear, actionable information about TEPSLF eligibility; and robust response tracking to ensure that harder-to-reach borrowers receive additional contact.

Congress appropriated $4.6 million to the Department specifically for outreach about the PSLF and TEPSLF programs to help borrowers benefit from the assistance we intended them to receive. The Department can and should use this funding for the corrective action plan and must follow Congressional directives for this funding. For example, the Department has failed to conduct outreach to all Direct Loan borrowers about their forgiveness options as required by both the FY 2018 and FY 2019 appropriations bills and it must correct this noncompliance immediately.

These are minimum steps to start to reestablish public trust in the Department’s implementation of PSLF and TEPSLF. When asked about potential improvements to the PSLF and TEPSLF process, the Department has frequently pushed off these questions and referred borrowers to its design of student loan servicing (known as “NextGen”) that is still several years away. Public servants who are being turned away from loan forgiveness cannot afford to wait. We ask for your response to our request to prepare a corrective action plan by no later than May 8, 2019. Thank you for your attention to this urgent matter.

Sincerely,

Tim Kaine
United States Senator

Sheldon Whitehouse
United States Senator

Charles E. Schumer
United States Senator

Patty Murray
United States Senator

Tammy Duckworth
United States Senator

Margaret Wood Hassan
United States Senator
Richard Blumenthal
United States Senator

Bernard Sanders
United States Senator

Jeffrey A. Merkley
United States Senator

Elizabeth Warren
United States Senator

Amy Klobuchar
United States Senator

Jeanne Shaheen
United States Senator

Tammy Baldwin
United States Senator

Cory A. Booker
United States Senator

Chris Van Hollen
United States Senator

Robert P. Casey Jr.
United States Senator

Kamala D. Harris
United States Senator

Jacky Rosen
United States Senator