



August 11, 2022

Jean-Didier Gaina
Analyst, Office of Postsecondary Education
400 Maryland Ave, SW
Room 2C172
Washington, DC 20202

RE: Document ID ED-2021-OPE-0077-1350

Dear Mr. Gaina:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the civil and human rights of all persons in the United States, and the 18 undersigned organizations, we write in response to the Department of Education's (ED) notice of proposed rulemaking published in the Federal Register on July 13, 2022, regarding federal student loan programs, including the William D. Ford Direct Loan (Direct Loan) Program, the Federal Perkins Loan (Perkins) Program, and the Federal Family Education Loan (FFEL) Program. The current debt-financed system of higher education, within a legacy of the historic exclusion of many communities of color from higher education and the compounding effects of structural racism, requires anchoring changes to federal student loan programs in racial justice.¹

College affordability is a racial justice issue.

Students of color are more likely to be born into households with less wealth and fewer resources to aid in pursuing higher education than White students, in large part due to the intergenerational effects of racially exclusive economic and social policies in the United States.² According to 2019 data from the Federal Reserve, Black families held a median net worth of \$24,100, which is less than 15 percent of the median family wealth of White families at \$188,200.³ Latino families had just under 20 percent of that for a median net worth of \$36,100.⁴ Among Asian and Asian American households, which experience the

¹ While outside the scope of this current proposed rule, the civil and human rights community has consistently urged the Biden Administration to exercise its authority to broadly cancel student loan debt consistent with the Civil Rights Principles for Student Loan Debt Cancellation published on April 19, 2021 and available here: <https://civilrights.org/wp-content/uploads/2021/04/Civil-Rights-Principles-for-Student-Loan-Debt-Cancellation.pdf>.

² Davis III, C.H.F., Mustaffa, J.B., King, K., & Jama, A. *Legislation, Policy, and the Black Student Debt Crisis*. 2020. <https://naacp.org/resources/legislation-policy-and-black-student-debt-crisis>.

³ Bhutta, N., Chang, A.C., Dettling, L.J., & Hsu, J.W. "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances." *Board of Governors of the Federal Reserve System*. Sept 28, 2020. <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm>.

⁴ *Ibid*.

Officers

Chair

Judith L. Lichtman
National Partnership for
Women and Families

Vice Chairs

Derrick Johnson
NAACP
Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund

Secretary

Fatima Goss Graves
National Women's Law Center

Treasurer

Lee A. Saunders
American Federation of State,
County and Municipal Employees

Board of Directors

Gloria L. Blackwell
AAUW

Ray Curry
International Union, UAW
Jocelyn Frye

National Partnership for
Women and Families

Jonathan Greenblatt
Anti-Defamation League

Mary Kay Henry
Service Employees International Union

Damon Hewitt
Lawyers' Committee for
Civil Rights Under Law

Janai Nelson
NAACP Legal Defense and
Educational Fund, Inc.

David H. Inoue
Japanese American Citizens League

Benjamin Jealous
People for the American Way

Virginia Kase Solomón
League of Women Voters of the
United States

Samer E. Khalaf
American-Arab
Anti-Discrimination Committee

Joni Madison
Human Rights Campaign

Marc Morial
National Urban League

Janet Murguía
UnidosUS

Christian F. Nunes
National Organization for Women

Rabbi Jonah Pesner
Religious Action Center
of Reform Judaism

Rebecca Pringle
National Education Association

Lisa Rice
National Fair Housing Alliance

Anthony Romero
American Civil Liberties Union

Liz Shuler
AFL-CIO

Fawn Sharp
National Congress of American Indians

Maria Town
American Association of
People with Disabilities

Randi Weingarten
American Federation of Teachers

John C. Yang
Asian Americans Advancing Justice |
AAJC

President and CEO

Maya Wiley

greatest within-group level of income inequality,⁵ the median wealth of households in the bottom half of the income distribution is \$18,270.⁶ While national-level data on the wealth of Native American households are limited, survey data of Native households in Tulsa, OK, showed a median net worth of \$48,000.⁷ For Native Hawai'ian and Pacific Islander (NHPI) students, many are first-generation college students whose families are unable to provide financial support.⁸

Without financial support from their families, students of color often have few options left other than to take on student debt.⁹ In 2016, 90 percent of NHPI and 85 percent of Black bachelor's degree holders took on loan debt.¹⁰ Women hold two-thirds of the country's student debt, but because of wealth *and* wage disparities, women find it harder to repay their loans, with the heaviest burden on Black women as the result of both race- and gender-based discrimination.¹¹ Among Latino students, 36 percent of students took on additional debt due to the Covid-19 pandemic exacerbating their existing financial hardships with food and housing.¹² The federal student loan programs are critical to college affordability, especially for students of color, and any changes to their structure must advance racial equity in higher education.

Students of color are disproportionately burdened by student debt.

Students of color take on loan debt because, as the result of historic inequities, they lack the wealth and financial support to afford the skyrocketing costs of higher education. The harms of student loan debt on students of color are further compounded when the repayment system, which does not have borrowers' best interests in mind, in turn threatens borrowers' economic security. The majority of Black borrowers in the 2020 National Black Student Loan Debt Study reported the negative effects of student debt on quality

⁵ Kochhar, R., & Cilluffo, A. "Income Inequality in the U.S. Is Rising Most Rapidly Among Asians." *Pew Research Center*. July 12, 2018. <https://www.pewresearch.org/social-trends/2018/07/12/income-inequality-in-the-u-s-is-rising-most-rapidly-among-asians/>.

⁶ Weller, C.E., & Thompson, J. "Wealth Inequality Among Asian Americans Greater Than Among Whites." *Center for American Progress*. Dec 20, 2016. <https://www.americanprogress.org/article/wealth-inequality-among-asian-americans-greater-than-among-whites/>.

⁷ Akee, R., Stockly, S.K., Darity Jr, W., Hamilton, D., & Ong, P. "The role of race, ethnicity and tribal enrolment on asset accumulation: an examination of American Indian tribal nations." *Ethnic and Racial Studies*, 40(11). 2016. <https://doi.org/10.1080/01419870.2016.1216141>.

⁸ Soon-Ludes, J., Ajinkya, J., Teranishi, R.T., Le, A. Gutierrez, R.E., Hafoka, 'I., & Gogue, D.T. *Native Hawaiians and Pacific Islanders in Higher Education*. 2020. https://apiascholars.org/wp-content/uploads/2020/12/APIA-Scholars_Rural-Pacific-LearningTour_Report_FINAL.pdf.

⁹ Perry, A.M., & Romer, C. "Student debt cancellation should consider wealth, not income." *The Brookings Institution*. Feb 25, 2021. <https://www.brookings.edu/essay/student-debt-cancellation-should-consider-wealth-not-income/>; Geiman, J., & Taylor, A.S. *Disproportionately Impacted: Closing the Racial Wealth Gap through Student Loan Cancellation, Payment Reforms, and Investment in College Affordability*. June 2022. https://www.clasp.org/wp-content/uploads/2022/06/2022_Disproportionately-Impacted.pdf.

¹⁰ Center for Responsible Lending, The Leadership Conference Education Fund, NAACP, National Urban League, & UnidosUS. *Quicksand: Borrowers of Color & the Student Debt Crisis*. Sept 2019. <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-quicksand-student-debt-crisis-jul2019.pdf>.

¹¹ The Leadership Conference on Civil and Human Rights. *Civil Rights Principles for Student Loan Debt Cancellation*. Apr 2021. <https://civilrights.org/wp-content/uploads/2021/04/Civil-Rights-Principles-for-Student-Loan-Debt-Cancellation.pdf>

¹² UnidosUS. *National Higher Education*. Sept 2020. https://www.unidosus.org/wp-content/uploads/2021/07/unidosus_nationalhighereducation_factsheet.pdf.

of life and reported student debt as a primary source of financial stress. Even among borrowers who were enrolled in income-driven repayment plans, many struggled to afford basic necessities like savings accounts (71 percent), rent (25 percent), health care expenses (24 percent), and food (22 percent).¹³ Similarly, Latino borrowers in California reported that student debt prohibited them from reaching important life goals, including saving for retirement (51 percent), purchasing a home (45 percent), and finishing their degree (30 percent).¹⁴

Higher education should offer students a path to higher incomes and wealth-building opportunities. Additionally, students of color often pursue postsecondary credentials out of necessity as a defense against discrimination in the labor market.¹⁵ But more education has not necessarily resulted in higher earnings,¹⁶ and degrees alone are insufficient guarantees against discrimination. In the National Black Student Loan Debt Study, 95 percent of respondents shared that their credentials had to be better than those of their non-Black counterparts, and 72 percent said they faced discrimination in the labor market due to their race.¹⁷ Furthermore, student loan debts can balloon and become unsustainable quickly because of student loan interest accrual in school and during deferment.

We appreciate that negotiators reached consensus on ending interest capitalization because of the disproportionate burden that borrowers of color experience in repayment. Additionally, the Public Service Loan Forgiveness (PSLF) program is another important tool to ensure that students of color — in this case those who choose to give back to their communities and enter public service — will not be saddled by unsustainable debt for the rest of their lives. Historically, Black workers have pursued public service, in part because public sector jobs offered economic security when the discriminatory private sector would not, and nearly one in five Black workers are employed in a public sector job today.¹⁸ We support ED’s proposal to count pre-consolidation payments made on Direct PLUS loans, including Parent PLUS loans. If implemented, we believe this proposal will fast-track the path to loan forgiveness for eligible Black and Latino parents who disproportionately rely on Parent Plus loans to support their children’s education.¹⁹ We urge ED to further consider how changes to PSLF would help students of color in a higher education landscape that is systemically inequitable, as well as whether the proposed changes will simply replicate

¹³ Mustaffa, J.B., & Davis, J.C.W. *Jim Crow Debt: How Black Borrowers Experience Student Loans*. Oct 2021. <https://edtrust.org/wp-content/uploads/2014/09/Jim-Crow-Debt-How-Black-Borrowers-Experience-Student-Loans-October-2021.pdf>.

¹⁴ UnidosUS & Latino Decisions. *Student Loan Debt in California: Survey of Current and Former Student Borrowers*. Sept 2020. http://publications.unidosus.org/bitstream/handle/123456789/2083/unidosus_castudentdebtsurvey.pdf?sequence=5&isAllowed=y.

¹⁵ Mustaffa & Davis, 12.

¹⁶ Morgan, J.M., & Steinbaum, M. *The Student Debt Crisis, Labor Market Credentialization, and Racial Inequality*. Oct 2018. <https://marshallsteinbaum.org/assets/morgan-and-steinbaum-2018-student-debt-labor-market-credentialization-and-racial-inequality.pdf>.

¹⁷ Mustaffa & Davis, 12.

¹⁸ Madowitz, M., Weller, C.E., & Price, A. “Public Work Provides Economic Security for Black Families and Communities.” *Center for American Progress*. Oct 23, 2020. <https://www.americanprogress.org/article/public-work-provides-economic-security-black-families-communities/>

¹⁹ Granville, P. *Parent PLUS Borrowers: The Hidden Casualties of the Student Debt Crisis*. May 2022. <https://tcf.org/content/report/parent-plus-borrowers-the-hidden-casualties-of-the-student-debt-crisis/?session=1&agreed=1&agreed=1>

disparities experienced by students of color. ED should develop final regulations that move toward ensuring that students of color can fully participate in higher education and the workforce.

Students of color are disproportionately targeted by low-quality, high-cost institutions.

Low-income students and students of color are over-represented at for-profit institutions which have historically preyed on students and families, particularly in communities of color, leaving them saddled with high debt loads and low-quality degrees, if they manage to get a degree at all.²⁰ These borrowers, with poor employment prospects and astronomical debt, face the toughest futures. For-profit colleges have large percentages of students who do not graduate and large numbers of students who default on their loans. Borrower defense to repayment and prohibiting forced arbitration and class action waivers are critical elements for protecting student borrowers from being defrauded and making higher education more racially equitable by ensuring that the students of color who are exploited by predatory institutions have a course of action. We support ED’s proposal to implement a more generous relief standard for borrower defense, closed school discharge, and false certification discharges. The increase in relief eligibility under these programs will disproportionately benefit Black and Latino borrowers. We also urge ED to include legal aid organizations as third-party requestors so that they can initiate the group borrower defense discharge process. Legal aid organizations have been central in protecting the rights of their communities’ most vulnerable people, including borrowers of color defrauded by predatory schools. Further, given the uncertainty and delays that borrowers faced during the last seven years due to the actions of political officials uninterested in providing borrowers harmed by their school with the relief they deserve, we urge you to close loopholes so that these protections cannot be easily manipulated by future administrations. We are encouraged to see that ED has taken bold steps to expand eligibility and streamline relief in the proposed rules, and we urge ED to keep and strengthen those measures in the final rule.

Expanding eligibility of qualifying employment for PSLF to include all licensed or regulated childcare providers will help families of color.

Childcare programs are struggling with funding and staffing shortages that ultimately harm families of color and low-income families the most. Childcare professionals are underpaid and overworked; in May 2020, they earned an average of \$12.24 per hour, or \$25,460 annually, while serving in multiple roles to care for children — from educator to social worker to custodian to nutritionist and more.²¹ In a 2021 survey, 80 percent of childcare centers and 83 percent of childcare programs owned by people of color shared that they were experiencing staffing shortages.²² With fewer staff, childcare programs serve fewer families. And with increasing costs, high-quality and affordable childcare moves further out of reach for many families, especially families of color. Between 2000 and 2016, the workforce participation of

²⁰ Center for Responsible Lending. “The State of For-Profit Colleges.” *Center for Responsible Lending*. Dec 2, 2021. <https://www.responsiblelending.org/research-publication/state-profit-colleges>.

²¹ Child Care Aware of America. *Demanding Change: Repairing our Child Care System*. Mar 2022. [https://info.childcareaware.org/hubfs/2022-03-FallReport-FINAL%20\(1\).pdf?utm_campaign=Budget%20Reconciliation%20Fall%202021&utm_source=website&utm_content=22_demandingchange_pdf_update332022](https://info.childcareaware.org/hubfs/2022-03-FallReport-FINAL%20(1).pdf?utm_campaign=Budget%20Reconciliation%20Fall%202021&utm_source=website&utm_content=22_demandingchange_pdf_update332022)

²² National Association for the Education of Young Children. *Progress and Peril: Child Care at a Crossroads*. July 2021. https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDFs/resources/blog/naeyc_july_2021_survey_progressperil_final.pdf

women declined, in part because of the lack of access to affordable childcare.²³ Furthermore, according to 2018 American Community Survey data, the majority of working Black women (54 percent) and Latina women (64 percent) worked in low-wage jobs,²⁴ stuck in an impossible position of needing to work to support their families but lacking access to childcare options to enable that. Expanding eligibility of qualifying employment for PSLF to include all licensed or regulated childcare providers will help enable more childcare professionals to enter or remain in the industry — a critical step toward expanding childcare access for families of color.

Negotiated rulemaking tables must include representatives from civil rights organizations as well as student representation.

We are disappointed that ED did not place greater priority on balancing institutional interests with the interests of students, borrowers, and their advocates in the fall 2021 negotiated rulemaking process. To ensure that the outcomes from the negotiated rulemaking process are equitable and just, and to ensure that the expertise and experiences of marginalized communities inform decisionmaking, ED must include representatives from civil rights organizations in all rulemaking processes. Given the significant consequences of various policy choices in the lives of students, it is vital that a diverse representation of students are also included. However, the affordability and student loan negotiated rulemaking committee included just two current students. And while the committee did include organizations that represented student borrowers, student veterans, and students with disabilities, they were outnumbered by higher education and lending industry representatives by more than two to one, and there were zero seats assigned to civil rights organizations.

While the proposed regulations include improvements to protect student borrowers and make higher education more affordable despite the makeup of the negotiated rulemaking committee, we urge ED to further center the interests of marginalized communities and students at the rulemaking table — especially students of color, who may also be individuals with disabilities, veterans, parents, or experience marginalization at the intersections or other identities — by increasing the presence of civil rights organizations and student representatives.²⁵

Federal student loan programs are crucial to the postsecondary access and success of students of color, and we call on ED — fundamentally a civil rights agency — to commit to the promise of higher education. We appreciate this opportunity to comment on the proposed regulations as civil rights organizations dedicated to realizing the full participation of marginalized students in higher education. If you have any questions or need additional information, please contact Anna Byon, senior higher education program manager at The Leadership Conference on Civil and Human Rights, at byon@civilrights.org.

²³ Ibid.

²⁴ Bateman, N., & Ross, M. “Why has COVID-19 been especially harmful for working women?” *Brookings*. Oct 2020. <https://www.brookings.edu/essay/why-has-covid-19-been-especially-harmful-for-working-women/>

²⁵ To learn more about the civil rights community’s perspective on higher education policy, please see Civil Rights Principles for Higher Education, released on April 26, 2018 and available here: <http://civilrightsdocs.info/pdf/education/HEA-Civil-Rights-Principles.pdf>.

Sincerely,

The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund
American Association of University Women
American Federation of Teachers
American Humanist Association
Asian Americans Advancing Justice | AAJC
Center for Responsible Lending
Clearinghouse on Women's Issues
Feminist Majority Foundation
Hispanic Federation
League of United Latin American Citizens (LULAC)
National Action Network
National Alliance for Partnerships in Equity
National Consumer Law Center
National Urban League
National Women's Law Center
The Institute for College Access & Success
UnidosUS