

March 12, 2024
The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

VIA ELECTRONIC SUBMISSION

RE: “Solicitation for Public Comments on Joint Consolidation Loan Separation Application” (Docket No.: ED-2024-SCC-0005)

Dear Secretary Cardona:

We, the 33 organizations undersigned representing civil rights, consumer, disability, labor, legal aid, student loan borrowers, and advocacy organizations, write to urge you to swiftly finalize the Combined Application to Separate a Joint Consolidation Loan and Direct Consolidation Loan Promissory Note and begin to implement this vital benefit for tens of thousands of spousal consolidation borrowers.

Congress eliminated the Joint Consolidation Loan program in 2006, though it did not provide borrowers with any means of severing existing loans.¹ For some, this meant that borrowers remained financially intertwined with, and financially responsible for, former spouses, even in the event of domestic violence, economic abuse, or an unresponsive partner. To make matters worse, these borrowers lack full access to certain debt relief programs. For example, a borrower with a Direct Joint Consolidation Loan cannot access relief through the Public Service Loan Forgiveness (PSLF) program unless their co-borrower is also eligible for PSLF relief and cooperates in the application process. Moreover, as things currently stand, Federal Family Education Loan (FFEL) Joint Consolidation Loans are not eligible for consolidation into the Direct Loan program, so borrowers holding these loans did not receive relief through the payment pause, are not eligible for PSLF, and cannot access more generous Income-Driven Repayment (IDR) plans in periods of financial hardship.

Implement without further delay. Thankfully, Congress finally righted this wrong in October 2022 when it passed the Joint Consolidation Loan Separation Act (JCLSA).² Through this bipartisan measure, Congress directed the Department to allow these borrowers the opportunity to separate their loans and receive the benefits they have been unjustly denied. But today, nearly a year and a half later, the Department has failed to implement the JCLSA, blocking borrowers from much-needed relief. It is imperative that the Department finalize this application and begin to implement this law with urgency. While the Department has promised to deliver benefits to these borrowers, including access to PSLF Waiver and the IDR Account Adjustment, many of these borrowers are suffering in the meantime.

The proposed form is too long and complicated. The Department must make the form simpler and automate additional relief whenever possible. Borrowers with these types of loans report that the proposed form is confusing and burdensome to complete. The Department should

¹ <https://protectborrowers.org/wp-content/uploads/2023/10/Delivering-Distress-Report.pdf>

² <https://www.congress.gov/bill/117th-congress/senate-bill/1098/text>

ensure that all borrowers who need to submit separate applications can easily do so.³ In particular, until the fifth page, the form fails to provide clear instructions on whether both borrowers need to complete separate applications. Who must complete the form should be made clear at the outset.

In order to further reduce the administrative burden placed on borrowers entitled to student debt relief, the Department must streamline these benefits wherever possible based on information collected in the Separation Application. The Department should add an additional question inquiring if a borrower separating their loans intends to seek additional benefits, such as an IDR plan, PSLF, or Total and Permanent Disability, and fast-track these applications for additional relief as the new Direct Consolidation Loan is being originated.

FSA Response: The proposed form serves as both an application to separate a joint consolidation loan and a promissory note for the new Direct Consolidation Loan that the applicant will receive. As such, the form must explain the application options as well as all the terms, conditions, and benefits that will apply to the new consolidation loan. We have tried to make the form as concise as possible, while also ensuring that it provides borrowers with all information needed to understand how the joint debt will be separated and their rights and responsibilities with regard to the new consolidation loan they will receive. To minimize burden on applicants, the proposed form allows applicants to self-certify information wherever possible (for example, a joint consolidation loan co-borrower who wishes to apply separately, without regard to whether or when the other co-borrower applies to separate the joint debt, may certify that they meet the eligibility criteria to do so without having to provide any supporting documentation).

With regard to the comment noting that the proposed form does not clearly explain at the beginning whether the two joint consolidation loan co-borrowers must submit separate applications, we will place revised and expanded instructions at the beginning of the form in an effort to more clearly explain the application options and requirements.

We do not see a need to add an additional question asking if applicants intend to seek additional benefits. As explained in Section 5 of the proposed form, applicants will be asked to choose a repayment plan for their new Direct Consolidation Loan as part of the application process and may select an IDR plan at that time. Asking applicants if they intend to apply for PSLF or Total and Permanent Disability Discharge would offer no clear benefit. We also note that a joint consolidation loan borrower may apply for Total and Permanent Disability discharge on the joint consolidation loan; it is not necessary to first separate the joint debt.

Borrowers must be held harmless during the implementation of this law. Since payments have resumed, student loan companies contracted by the Department have consistently shown that they are struggling to deliver on the most basic tasks in a timely, accurate way,⁴ and have

³ Section 4 of the application permits borrowers to have separate applications, but only if one of the borrowers has experienced economic abuse or an act of domestic violence as defined by the Violence Against Women Act (VAWA) of 1994, or if the borrower who's applying cannot reach or access their co-borrower's loan information. VAWA defines economic abuse as behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which the person is entitled. There are foreseeable circumstances within the statute's limitations when a borrower would need to apply separately, and for which ED should explicitly allow. For example, former spouses may purposely hold up the application process. ED should consider this to be a form of economic abuse as defined in VAWA.

⁴ <https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers>

failed at an even grander scale when it comes to implementing new benefits.⁵ The Department must give these companies clear instructions on how to process this form and separate these loans, provide clear timelines for processing forms, and impose penalties on companies that fail to meet these expectations or cause financial harm to these borrowers. In addition, borrowers should not be required to continue making payments on their loans while the servicer is processing their application unless the borrower requests to do so. This will help limit further harm to borrowers who are currently required to make unaffordable payments while they await a decision yet will otherwise qualify for a low- or zero-dollar payment under IDR plans or for complete cancellation.

As the Department finalizes the application, it should keep in mind that these borrowers—including survivors of domestic abuse—are harmed each day they are tethered to their co-borrower's loans. Borrowers with Joint Consolidation Loans, especially those held by FFEL program lenders, have been ineligible for much of the historic debt relief actions taken by the Biden Administration. Separating these loans will finally allow these borrowers to access critical student loan relief programs and begin to restore faith in our student loan system. Again, we urge you to implement this law without any further delay and continue to deliver on President Biden's promise to fix the broken loan system under which these borrowers continue to suffer.

FSA Response: [These comments do not relate to the information collection.](#)

Sincerely,

National Education Association

SpousalConsolidation.DoUsPart!

Student Borrower Protection Center

American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers (AFT)

Autistic Women & Nonbinary Network

Center for Law & Social Policy

Community Service Society of New York

Consumer Reports

Economic Action Maryland

Formerly Incarcerated College Graduates Network

Housing and Economic Rights Advocates

Latife Neu, Attorney at Law PLLC

Latinos for Education

Los Angeles Center for Law and Justice

National Association of Bankruptcy Attorneys

National Association of Social Workers

National Association of Student Loan Lawyers

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

National Disability Institute

National Legal Aid & Defender Association

Navigate Student Loans

Public Counsel

Public Justice Center

⁵ <https://www.nytimes.com/2023/10/16/your-money/student-loans-save-mistakes.html>

Service Employees International Union (SEIU)
SEIU Local 500
Student Debt Crisis Center
The Autistic People of Color Fund
The Century Foundation Higher Education Team
The Education Trust
The Institute for College Access & Success (TICAS)
Washington Student Loan Advocate
Young Invincibles