

Congress of the United States
Washington, DC 20515

August 1, 2016

The Honorable John B. King, Jr.
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary King:

We applaud and support efforts by the Department of Education (the Department) to protect students and taxpayers from fraudulent institutions of higher education. We are encouraged that the Department's proposed regulations provide a process for automatic group-wide debt relief without an application, require warnings for students when concerns about their schools arise, increase access to and information about student loan discharge options, and address pre-dispute arbitration clauses and class action waivers as conditions of enrollment. Below, we have shared our thoughts on making the regulations even stronger, and ask that you include these recommendations in the final rule.

First, we urge the Department to revise the process for determining the amount of relief a borrower should receive. As it stands in the proposed regulations, this process is highly subjective and, if implemented, would likely lead to significant inconsistencies in the treatment of borrowers. We also ask the Department to ensure the independence of those officials making such decisions. Furthermore, we hope to see no time limits on borrower relief.

In addition, the final regulations should include the process – proposed by the Department earlier this year – through which state attorneys general and nonprofit legal aid organizations that represent students may publicly petition the Department to provide automatic loan discharges for groups of students. And while the proposed regulations do offer the Department the authority to automatically discharge loans for groups of defrauded borrowers, the final rule should ensure that the Department exercises this authority.

Finally, we encourage the Department to go a step further in the final regulations and include a complete ban on the use of pre-dispute arbitration clauses and class action waivers so that no students risk falling into these traps. Likewise, the final regulations should offer clear and thorough guidance on the display and disclosure requirements for institutions of higher education of warnings issued by government agencies or accreditors.

Again, we thank you for your hard work and attention to this issue, and we urge your consideration of our comments.

Sincerely,


ELIJAH E. CUMMINGS
Member of Congress


MARK TAKANO
Member of Congress