

Congress of the United States
Washington, DC 20510

March 22, 2022

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue SW,
Washington, DC 20202

Dear Secretary Cardona:

We are writing regarding our concerns about the U.S. Department of Education's (ED) prolonged delay in discharging the loans of borrowers defrauded by Corinthian Colleges, Inc. (Corinthian). In June 2015, then-ED Secretary Arne Duncan made a promise to defrauded borrowers that the Department would ensure that they receive "every penny of debt relief [they] are entitled to through a streamlined process."¹ Seven years later, ED has failed to fulfill this promise, as tens of thousands of borrower defense claims remain to be processed.² We request an explanation for this continued delay and an update on ED's expected timeline for discharging these loans.

We appreciate that the Department has taken steps to reverse decisions made under your predecessor, Betsy DeVos, that deprived defrauded borrowers of the full relief to which they are entitled under the law,³ and that you are working to revise regulations related to borrower defense in order to better protect students.⁴ We also applaud your recent actions in February 2022 to cancel \$415 million of federal student loans of nearly 16,000 students defrauded by DeVry University and other predatory for-profit colleges, and seek to recoup costs of the discharges from DeVry – the first time ED has approved borrower defense claims from an institution still in operation.⁵ However, the Department remains woefully behind in processing the estimated 429,000 borrower defense claims – approximately one third from former

¹ Republic Report, "Arne Duncan Transcript: Some For-Profit Colleges have 'the ethics of payday lending'," David Halperin, June 10, 2015, <https://www.republicreport.org/2015/arne-duncan-transcript-some-for-profit-colleges-have-the-ethics-of-payday-lending/>.

² The Washington Post, "Judge critical of Biden administration's progress on student debt relief claims," Danielle Douglas-Gabriel, January 12, 2022, <https://www.washingtonpost.com/education/2022/01/12/student-debt-relief-backlog-biden/>.

³ NPR, "Education Department Begins Rolling Back Trump-Era Policies on Defrauded Students," Cory Turner, March 18, 2021, <https://www.npr.org/2021/03/18/978574707/education-dept-begins-rolling-back-trump-era-policies-on-defrauded-students>; *Id.*

⁴ U.S. Department of Education, "Education Department Approves \$415 Million in Borrower Defense Claims Including for Former DeVry University Students," press release, February 16, 2022, <https://www.ed.gov/news/press-releases/education-department-approves-415-million-borrower-defense-claims-including-former-devry-university-students>.

⁵ *Id.*

Corinthian students - that have been filed as of November 2021,⁶ leading a federal judge to recently express “concer[n] that no progress has been made regarding the backlog of applications.”⁷ To date, ED has only approved 107,000 borrower for defense claims.⁸

For the estimated 350,000 students defrauded by Corinthian, which closed its campuses in 2015,⁹ the wait for debt cancellation has spanned three presidential administrations. This is despite findings by numerous state and federal law enforcement agencies, and ED itself, of Corinthian’s widespread fraud that left students with worthless degrees and mountains of debt.¹⁰ According to the Department’s findings, Corinthian misrepresented job placement rates to students between 2010 and 2014; systematically lied to students that they were guaranteed employment; and falsely assured students that the credits they earned at Corinthian campuses would be transferrable to other institutions.¹¹ In June 2020, a federal judge ordered 7,200 Massachusetts students’ federal loans to be discharged after they were defrauded by Corinthian College.¹² The Trump administration appealed the order for a year and the Biden administration dropped the appeal in July 2021.¹³ Yet ED still has not discharged these loans, leaving outstanding debts hanging over the heads of thousands of defrauded students.¹⁴

⁶ The Washington Post, “Judge critical of Biden administration’s progress on student debt relief claims,” Danielle Douglas-Gabriel, January 12, 2022, <https://www.washingtonpost.com/education/2022/01/12/student-debt-relief-backlog-biden/>; National Consumer Law Center, “Comment Submitted by 30 Legal Aid and Advocacy Organizations to the U.S. Department of Education Re: Agency information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Borrower Defenses Against Student Loan Repayment,” February 9, 2022, https://www.nclc.org/images/pdf/student_loans/BD_Attestation_Form_comment.pdf;

⁷ *Id.*

⁸ U.S. Department of Education, “Education Department Approves \$415 Million in Borrower Defense Claims Including for Former DeVry University Students,” press release, February 16, 2022, <https://www.ed.gov/news/press-releases/education-department-approves-415-million-borrower-defense-claims-including-former-devry-university-students>.

⁹ The New York Times, “Government to Forgive Student Loans at Corinthian Colleges,” Tamar Lewin, June 8, 2015, <https://www.nytimes.com/2015/06/09/education/us-to-forgive-federal-loans-of-corinthian-college-students.html>.

¹⁰ Consumer Financial Protection Bureau, “CFPB Wins Default Judgement Against Corinthian Colleges for Engaging in a Predatory Lending Scheme,” press release, October 28, 2015, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-wins-default-judgment-against-corinthian-colleges-for-engaging-in-a-predatory-lending-scheme/>; U.S. Department of Education, “United States Department of Education First Report of the Special Master for Borrower Defense to the Under Secretary,” September 3, 2015, pp.9 <https://www2.ed.gov/documents/press-releases/report-special-master-borrower-defense-1.pdf>; Office of the Attorney General, California Department of Justice, “Attorney General Kamala D. Harris Obtains \$1.1 Billion Judgement Against Predatory For-Profit School Operator,” press release, March 23, 2016, <https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-obtains-1-1-billion-judgment-against-predatory>.

¹¹ National Consumer Law Center, “The Department of Education has announced more borrower defense findings; which applications are getting granted?,” February 28, 2022, <https://www.studentloanborrowerassistance.org/the-department-of-education-has-announced-more-borrower-defense-findings-which-applications-are-getting-granted/>.

¹² The Project on Predatory Student Lending, “Judge Orders Secretary DeVos to Completely Cancel the Student Loans of All 7,200 Defrauded Corinthian Colleges Student in MA”, press release, June 26, 2020, <https://predatorystudentlending.org/news/press-releases/judge-orders-secretary-devos-to-completely-cancel-student-loans-of-all-7200-defrauded-corinthian-colleges-students-in-ma-press-release/>.

¹³ *Id.*

¹⁴ *Id.*

We have long urged the Department to use its broad authority to provide borrowers cheated by Corinthian and other institutions found to have engaged in widespread unfair, deceptive, and abusive practices with expeditious relief.¹⁵ Unfortunately, the Department has chosen to provide borrowers with relief in a complex and piecemeal fashion, placing the burden on mistreated individuals to apply for the relief they are entitled to under the law and insisting on separate, borrower-by-borrower findings of fraud despite ED's own clear evidence of widespread wrongdoing.¹⁶ The widespread nature of Corinthian's misconduct touched every student, and yet the Department has not used its authority to make closed school discharges widely available without application to former students.¹⁷ This process has delayed relief for thousands of borrowers while seemingly denying thousands of others any relief at all. As of August 2019, the Department had received borrower defense applications from 130,556 Corinthian students, a little more than a third of the 350,000 students who are likely eligible.¹⁸

ED's prolonged delay continues to harm the victims of Corinthian and other predatory for-profit institutions who were placed into default before they filed borrower defense, had their wages garnished even after having their borrower defense claims approved, and continue to have negative reporting on their credit.¹⁹ According to one survey, 96% of students who were defrauded by for-profit colleges say that their lives are worse now than before they went to school and 95% of these students report difficulty planning their financial future.

In May 2020, we recognized defrauded borrowers' urgent need to have their loans discharged and introduced the *Coronavirus Emergency Borrower Defense Act*.²⁰ This bill would have granted full student loan discharges to three emergency categories of defrauded borrowers:

¹⁵ The Office of Senator Elizabeth Warren, "Letter to ED Corinthian Debt Relief," November 9th, 2015, https://www.warren.senate.gov/files/documents/2015-11-9_letter_to_ed_corinthian_debt_relief.pdf; The Office of Senator Elizabeth Warren, "Letter to ED re Corinthian Data," September 29, 2016, https://www.warren.senate.gov/files/documents/2016-9-29_Letter_to_ED_re_Corinthian_data.pdf; The Office of Senator Elizabeth Warren, "Senate Borrower Defense Letter," May 17th, 2017, https://www.insidehighered.com/sites/default/server_files/files/Senate%20BD%20letter%205_17_17.pdf.

¹⁶ The Office of Senator Elizabeth Warren, "Letter to ED re Corinthian Data," September 29, 2016, https://www.warren.senate.gov/files/documents/2016-9-29_Letter_to_ED_re_Corinthian_data.pdf.

¹⁷ By comparison, the Department determined that systemic fraud at ITT warranted extension of the closed school discharge period from 120 days to over seven years. U. S. Department of Education, "Extended Closed School Discharge Will Provide 115K Borrowers from ITT Technical Institute More Than \$1.1B in Loan Forgiveness," press release, August 26, 2021, <https://www.ed.gov/news/press-releases/extended-closed-school-discharge-will-provide-115k-borrowers-itt-technical-institute-more-11b-loan-forgiveness>.

¹⁸ National Consumer Law Center, "Comment Submitted by 30 Legal Aid and Advocacy Organizations to the U.S. Department of Education Re: Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Borrower Defenses Against Student Loan Repayment," February 9, 2022, https://www.nclc.org/images/pdf/student_loans/BD_Attestation_Form_comment.pdf.

¹⁹ Letter from Rep. Wilson to Secretary DeVos on behalf of Jessica Madison [on file]; The Project on Predatory Student Lending, "The New Data: 96% of Students Defrauded by For-profit Colleges Report Their Lives Are Worse Now Than Before They Went to School," press release, July 3, 2019, <https://predatorystudentlending.org/news/press-releases/new-data-96-of-students-defrauded-by-abusive-for-profit-colleges-waiting-for-betsy-devos-to-process-their-claims-report-their-lives-are-worse-off-now-than-before-they-went-to-school/>.

²⁰ The Office of Senator Elizabeth Warren, "Warren, Durbin, Takano, Brown, Jayapal Unveil Plan to Grant Full Student Loan Discharges to Defrauded Student Borrowers in Next Covid-19 Relief Package," press release, May 4, 2020, , <https://www.warren.senate.gov/newsroom/press-releases/warren-durbin-takano-brown-jayapal-unveil-plan-to-grant-full-student-loan-discharges-to-defrauded-student-borrowers-in-next-covid-19-relief-package>.

those covered by ED’s findings against Corinthian College, ITT Tech, and state attorney generals’ group discharge applications. Seeking to further protect students and taxpayers, in October 2020 we asked then-Secretary DeVos to use ED’s clear legal authority to hold owners and executives of for-profit colleges that defrauded students personally and financially accountable.²¹

ED has failed to make good on its promise to defrauded borrowers, and it is time for swift and broad action to right this wrong. We, therefore, request responses to the following questions by no later than April 5, 2022.

1. How many Corinthian students have applied for Borrower Defense discharge of their loans?
 - a. How many of these loans have been fully discharged?
 - b. How many applications for discharge have been denied?
 - c. How many applications are under review? For these loans, what is the average time that they have been under review?
2. What is causing ED’s ongoing delay in discharging the loans of students defrauded by Corinthian College?
3. Please describe ED’s plan to fully review and discharge the loans of all students defrauded by Corinthian College.
 - a. What is the timeline of this plan?
 - b. What is the Department’s understanding of whether “exceptional circumstances” warrant extending the eligibility window for closed school discharge for Corinthian students?
4. Since dropping the Trump administration's appeal of the Massachusetts Corinthian College case (*Vara v. Cardona*) in July 2021²², what actions had ED taken to discharge the loans of students defrauded by Corinthian College?
 - a. How many borrowers are covered by this ruling?
 - b. How many borrowers have FFEL loans?
 - c. What is the total amount of debt owed by members of the class as of July 2021?
 - d. How many borrowers have received complete cancellations?
 - e. Of those who have not received a discharge, how many are FFEL loans not currently held by ED?
 - f. What are the Department’s plans for discharging these loans?
5. ED reports approving \$16 billion of loan discharges for more than 680,000 borrowers to date:²³


²¹ The Office of Senator Elizabeth Warren, “Warren, Hassan, Murphy, Colleagues to Betsy DeVos: For-Profit College Executives and Shareholders Who Cheat Students Should Be Held Personally Accountable,” October 27, 2020, press release, <https://www.warren.senate.gov/newsroom/press-releases/warren-hassan-murphy-colleagues-to-betsy-devos-for-profit-college-executives-and-shareholders-who-cheat-students-should-be-held-personally-accountable>.

²²The Washington Post, “Biden administration drops appeal of legal decision granting former Corinthian Colleges student debt relief,” Danielle Douglas-Gabriel, July 15, 2021, <https://www.washingtonpost.com/education/2021/07/15/corinthian-colleges-students-loan-cancellation/>.


²³ U.S. Department of Education, “Education Department Approves \$415 Million in Borrower Defense Claims Including for Former DeVry University Students,” press release, February 16, 2022,

- a. How many of the targeted groups whose debt ED has canceled have actually had their accounts zeroed out?
 - b. Of those who have not had their account zeroed out, how many individuals have FFEL loans not currently held by ED?
 - c. What direction has ED provided to loan servicers and/or guaranty agencies about the process for borrower defense discharge?
6. What percent of students defrauded by Corinthian College was covered in ED's February 2022 discharge?
 7. Does ED plan to make a sweeping discharge of the loans of students defrauded by Corinthian College or will it pursue this discharge on a case-by-case basis?
 - a. Please explain ED's rationale for this decision.
 8. Please describe ED's progress in writing its new borrower defense rules.
 - a. Will ED continue to issue denials to borrower defense claims despite this ongoing rulemaking? If so, please explain the department's rationale for doing so.
 9. Does ED plan to hold the owners and executives of for-profit colleges that defrauded students personally and financially accountable for their actions? If so, how does the Department intend to do so?


Sincerely,



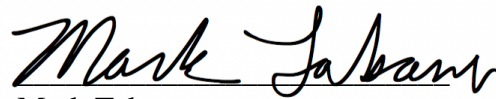
Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress




Dick Durbin
United States Senator



Mark Takano
Member of Congress



Sherrod Brown
United States Senator



Nikema Williams
Member of Congress



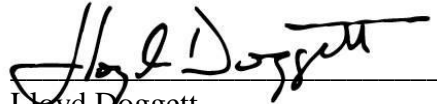
Mazie Hirono
United States Senator



Joe Courtney
Member of Congress



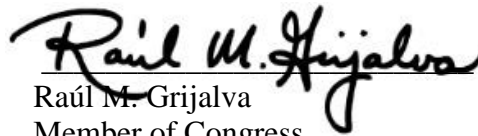
Tammy Duckworth
United States Senator



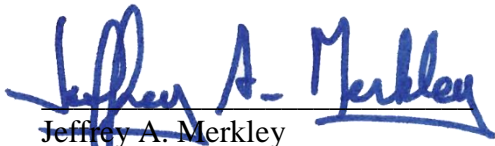
Lloyd Doggett
Member of Congress



Tina Smith
United States Senator



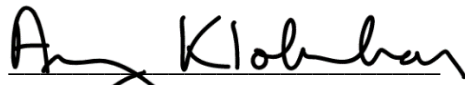
Raúl M. Grijalva
Member of Congress



Jeffrey A. Merkley
United States Senator



Ayanna Pressley
Member of Congress



Amy Klobuchar
United States Senator



Katie Porter
Member of Congress