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April 19, 2024

Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Secretary Cardona:

The Biden administration has relentlessly pursued shifting the burden of repaying federal student loans onto taxpayers with complete disregard to its legal authority. In this vein, we write to seek clarity and raise questions about the Department of Education's (Department) implementation of several student loan consolidation provisions of law.

Congress established the Office of Federal Student Aid (FSA) as a Performance-Based Organization (PBO).<sup>1</sup> The PBO status of FSA gives the Department more bureaucratic flexibility, but this flexibility comes with more intense scrutiny of its personnel. The purpose of a PBO is, in part, "to increase the accountability of the officials responsible for administering the operational aspects of these programs."<sup>2</sup>

Recent events have demonstrated the Department's serious need for increased oversight and accountability. Among them is the Department's botched rollout of the 2024-25 Free Application for Federal Student Aid (FAFSA).<sup>3</sup> Because of the maladministration of your fundamental obligation to implement the bipartisan *FAFSA Simplification Act*,<sup>4</sup> millions of families have no idea how they will afford postsecondary education. Despite this devastating impact on families, you and Chief Operating Officer Richard Cordray of FSA have failed to hold key employees in your Department or FSA accountable for their failings. This is outrageous and a dereliction of duty, which is just one example of the need for intense Congressional oversight.

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<sup>1</sup> 20 U.S.C. § 1018.

<sup>2</sup> 20 U.S.C. § 1018(a)(2)(C).

<sup>3</sup> [https://edworkforce.house.gov/uploadedfiles/final\\_fafsa\\_letter\\_foxx\\_owens\\_1.30.pdf](https://edworkforce.house.gov/uploadedfiles/final_fafsa_letter_foxx_owens_1.30.pdf).

<sup>4</sup> Division FF, Title VII, Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 3137 (2020).

A further problem area is the consolidation of FFEL Consolidation Loans into the Direct Loan program. We request clarity on the processes and safeguards the Department has in place to ensure it is upholding the statutory and regulatory requirements regarding this consolidation. By way of background, the *Higher Education Act of 1965* (HEA) permits borrowers who consolidated their loans into a single Consolidation Loan to receive a subsequent consolidation loan only in four specific circumstances:

1. For purposes of enrolling in an income-contingent or income-based repayment plan *after* the loan is in default or if the loan is with a guaranty agency for default aversion;
2. For purposes of using the Public Service Loan Forgiveness (PSLF) program;
3. For purposes of using the no accrual of interest benefit available to active-duty service members; or
4. For purposes of separating a joint consolidation loan.<sup>5</sup>

The Department's regulations reiterate that FFEL borrowers who fully consolidated their federal education debt into a FFEL Consolidation Loan may consolidate into the Federal Direct Loan Program for the purposes listed above, or if they take out another eligible loan.<sup>6</sup>

It is not lawful for student loan borrowers in good standing who possess only a FFEL Consolidation Loan to consolidate their debt into the Direct Loan Program for any other reason, including the following: (1) to access the Biden administration's illegal student loan debt transfer scheme; (2) to enroll in the income-driven repayment (IDR) Saving on a Valuable Education Plan; or (3) to move their privately-held FFEL debt into the Direct Loan Program to benefit from the Department's legally dubious IDR payment count initiative.

As you know, the Committee on Education and the Workforce is authorized to conduct oversight over the "organization, administration, and general management of the Department of Education" as well as over education matters, generally, as described in the Rules of the U.S. House of Representatives, 118th Congress.<sup>7</sup>

Given FSA's abominable history of flouting the law and skirting consequences, we have no confidence in the Department's ability to follow the directives of Congress detailed in the HEA. Accordingly, we request answers and documents (instructions attached) related to the Department's administration of federal consolidation loans. Please provide the following answers and documents below no later than May 3, 2024:

1. All communications between the Department and federal student loan servicers on how to address consolidation loans.

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<sup>5</sup> 20 U.S.C. § 1078-3 (enrollment in an income-contingent or income-based repayment plan under certain circumstances, PSLF, and using no accrual of interest benefit available to active-duty service members); 20 U.S.C. § 1087e(g) (separating a joint consolidation loan).

<sup>6</sup> 34 CFR § 682.201(d) and (e).

<sup>7</sup> Rules of the House of Representatives, 118th Cong. at 7, 9-10 (Jan. 10, 2023).

2. The Department's protocols and directives that are transmitted to federal student loan servicers to ensure FFEL Consolidation Loan borrowers are consolidating into the Direct Loan program for a legally permitted purpose.
3. The form or acknowledgment borrowers complete to certify why they are consolidating their FFEL Consolidation Loan into the Direct Loan program for a permissible reason.
4. All communications between Department officials related to FFEL Consolidation Loan consolidations into the Direct Loan Program.
5. All communications between Department officials and Consumer Financial Protection Bureau personnel regarding FFEL consolidations into the Direct Loan Program.
6. All communications between Department officials and state officials—including state Attorneys General and state student loan ombudsman offices—regarding FFEL consolidation into the Direct Loan Program.
7. All communications between Department officials and borrower advocacy organizations regarding FFEL consolidation into the Direct Loan Program.
8. How many FFEL Consolidation Loan borrowers consolidated into the Direct Loan Program between January 20, 2021, and the date of your response to this letter? Please disaggregate the data by:
  - a. How many of these borrowers were in default and consolidated to access an IDR plan;
  - b. How many of these borrowers consolidated to access PSLF;
  - c. How many of these borrowers consolidated to access the no accrual of interest benefit for active-duty service members;
  - d. How many of these borrowers consolidated for purposes of separating a joint consolidation loan; and
  - e. How many of these borrowers consolidated for other purposes and why.

Should you have questions about this request, please contact Gabriella Pistone in my office at [Gabriella.Pistone@mail.house.gov](mailto:Gabriella.Pistone@mail.house.gov) or 202-225-4527. We look forward to your comprehensive and prompt response.

Sincerely,



Virginia Foxx  
Chairwoman  
U.S. House Committee on Education  
and the Workforce



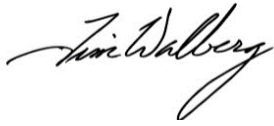
Burgess Owens  
Chairman  
Subcommittee on Higher Education  
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Joe Wilson  
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