February 9, 2009

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Geithner:

Congratulations on your appointment as the 75th Secretary of the U.S. Department of Treasury. Knowing of your commitment to reforming the Troubled Assets Relief Program (TARP), we wanted to make you aware of a TARP issue of great concern to students, consumers, and many in the higher education and civil rights communities.

Last November we wrote to former Secretary Paulson to express our concerns about his plan to allocate funds from the $700 billion economic rescue package to private student loan providers via the Term Asset-Backed Securities Loan Facility (TALF). As we outlined in that letter, private student loans are more risky and expensive than federal loans because of high variable interest rates and few consumer protections, and private loan lenders already enjoy special bankruptcy treatment under federal law. As with subprime mortgages, the lowest income borrowers are typically saddled with the highest interest rates and the worst terms. For these reasons, financial aid experts agree that private loans should only be a last resort for students. Additionally, we estimate that just eight percent of undergraduates use private student loans, many of whom have not exhausted their federal loan options.

To ensure that taxpayer dollars in the TALF program serve students and consumers as well as lenders, we urge you to make the receipt of TALF funds for private student loan financing conditional upon adequate consumer protections and better data reporting. Specific conditions that we believe are important to implement include:

- Loan modification and/or work-out requirements, such as reductions in principal and economic hardship deferrals, for current and future private student loans;
- Discharges in cases of borrower death or severe disability, for current and future private student loans;
- Limits on interest rates, origination and other fees for future loans;
- Mandatory loan certification and inclusion of the FTC holder notice for future loans; and
- Detailed data reporting on individual future loans replicating the reporting required for Family Federal Education Loans (FFEL) pursuant to section 1092b(a) of 20 U.S.C.

A bailout for the providers of usurious private student loans will not solve the college affordability crisis caused by the failing economy, and will actually be detrimental to many students and consumers. However, if a form of rescue is provided for private student loans, it would be unconscionable to do so without also providing better consumer protections. Implementing these protections will help ensure that private student loan lenders do not unfairly benefit from the bailout at the expense of past, present, and future students and their families.

Many members of Congress with jurisdiction over these issues are aware of our concerns and have expressed support for these types of consumer protections. We realize that there are many pressing issues requiring your attention during these difficult economic times, but respectfully request that you consider this issue a priority given the fast-approaching commencement of TALF fund disbursement.

Sincerely,

American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Association of University Women (AAUW)
Americans for Fairness in Lending
Campus Progress
Consumers Union
Dēmos: A Network for Ideas & Action
The Greenlining Institute
National Association for the Advancement of Colored People (NAACP)
National Association of Student Financial Aid Administrators
National Center for Public Policy and Higher Education
National Consumer Law Center (on behalf of our low-income clients)
National Consumers League
The Project on Student Debt (an initiative of the Institute for College Access & Success)
National Association for College Admission Counseling
The Sargent Shriver National Center on Poverty Law
U.S. Public Interest Research Groups
United States Students Association

Attachment: November 19, 2008 letter to Secretary Paulson

November 19, 2008

The Honorable Henry M. Paulson, Jr.
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC, 20220

Dear Secretary Paulson,

As representatives of students, consumers, colleges, administrators, and counselors, we write to urge you to reconsider the plan you announced last week to allocate funds from the $700 billion economic rescue package to private student loan providers.

Most students and families do not use private student loans to pay for college, nor should they. Private loans are risky and expensive, and lack the protections, oversight, and regulations of safer federal loans. Furthermore, providers of private student loans already receive special treatment in bankruptcy at borrowers' expense. Billions of taxpayer dollars should not be spent enabling lenders to continue making these high-risk loans.

Most students do not use private loans to pay for college.

- The Project on Student Debt estimates that only about eight percent of undergraduates who graduated last year took out private loans.
- Financial aid experts and lenders agree that private loans should only be used after all federal financial aid options have been exhausted. These include Parent PLUS loans that are available up to the full cost of attendance.
- Federal student loans are as available as ever, despite the credit crunch. In fact, Congress increased the maximum federal student loan limits and has taken other steps to ensure the continued availability of federal student loans. If a parent doesn't qualify for a PLUS loan due to an adverse credit history, his or her child is eligible for additional federal loans.

Private loans are risky and expensive.

- Private loans have high variable interest rates that are dependent on the credit scores of borrowers and co-signers. There is no limit to how high interest rates can rise – they are often two or three times as high as the fixed rate on federal Stafford loans. As with subprime mortgages, the lowest income borrowers are typically saddled with the highest interest rates and the worst terms.
- Unlike federal loans, private loans have no real protections for borrowers who fall on hard times. In cases of unemployment, disability, periods of very low income, and even death, private loan borrowers and their families have few or no options for relief. This is not true of federal loans, which can be deferred or repayed in amounts based on the borrower's income.
- The only relief for struggling private loan borrowers actually plunges them deeper into debt. Lenders often charge fees to grant a forbearance – a temporary postponement of

payments – on a private loan. Forbearances are only available for a limited amount of time, during which interest accrues and is added to the principle when payments resume.

Private loan providers already enjoy powerful government protection.

- Private loans are nearly impossible to discharge in bankruptcy, unlike other similar forms of consumer debt. Someone who racks up thousands of dollars buying jet skis on a credit card can get relief through bankruptcy, but a teacher with private loans who can't work because of a disability has no way out.
- The special treatment of private loans in bankruptcy protects lenders' investments at the expense of students and consumers. Lenders that are protected against losses in this way will continue to make risky loans to borrowers without strong prospects for repayment – that is bad for students and the economy.

There is a real, but limited, demand for private student loans. Undocumented students, international students, and those who attend schools that don't participate in the federal loan programs are not eligible for federal loans. Those students, and the small percentage of others who really do need to borrow more than is available federally – and for whom doing so is a sound investment – need safe and reliable options, not more of the same risky private loans.

We would welcome an opportunity to work with you on solutions that use tax dollars appropriately and serve the best interests of students and consumers. If you continue with some form of the current plan, we strongly urge you to make receipt of taxpayer dollars contingent on lenders' acceptance of provisions that increase protections for private student loan borrowers. Private lenders that receive federal rescue funds should be required to offer more affordable fixed interest rates, income-contingent repayment options, and discharges in cases of a borrower's death or disability. There should be ways for current private loan borrowers – not only future borrowers – to renegotiate more reasonable terms for their loan repayment. Congress must also reconsider the treatment of these loans in bankruptcy.

A bailout for the providers of usurious private student loans will not solve the college affordability crisis caused by the failing economy, and would actually be detrimental to many students and consumers. However, if you continue to pursue any form of rescue for private student loans, it would be unconscionable to do so without also providing better consumer protections.

Ultimately, the best way to make college affordable and strengthen our nation's economy is to increase federal, state, and institutional grant aid and reduce the need for students to borrow in the first place.

Sincerely,

American Association of Collegiate Registrars and Admissions Officers
American Association of State Colleges and Universities
Campus Progress
Consumers Union
National Consumer Law Center
The Project on Student Debt
National Association for College Admission Counseling
U.S. Public Interest Research Groups
United States Students Association