

January 27, 2020

Mr. Robert King  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, DC 20202-2241

Submitted electronically via: <http://regulations.gov>

**Re: Interim Final Regulations on Total and Permanent Disability Discharge of Loans under Title IV of the Higher Education Act, 84 Fed. Reg. 65,000; Docket ID ED-2019-FSA-0115**

Dear Mr. King:

The National Consumer Law Center (on behalf of its low-income clients), National Student Legal Defense Network, and The Institute for College Access & Success (TICAS) jointly submit the following comments regarding the Department of Education's interim final regulations for the automatic discharge of federal student loans for disabled veterans, 84 Fed. Reg. 65,000 (November 26, 2019). We write to wholeheartedly support the Department's efforts on behalf of disabled veterans with student loan debt and to urge the Department to allow the hundreds of thousands of other disabled borrowers, who were identified through a data match with the Social Security Administration (SSA) and who—like the identified veterans—are entitled to debt relief, to benefit from the same automatic discharge process.

Action on this issue is long overdue. We are pleased that at least some disabled borrowers will finally obtain the debt relief provided to them by the Higher Education Act. For nearly two years the Department has been aware of more than 42,000 veterans who are totally and permanently disabled and are eligible for student loan relief. Yet, more than 20,000 of those eligible veterans still remained burdened with student debt as of late last year.<sup>1</sup> The Department's interim final regulations are a common-sense solution to ensuring that veterans get the relief they deserve without jumping through confusing, time-consuming, and unnecessary bureaucratic hurdles.

We know that federal student loan relief application and compliance processes pose difficulties for too many borrowers, even for those working as attorneys.<sup>2</sup> The barriers to accessing statutory benefits are only exacerbated for borrowers with disabilities that prevent them from being

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<sup>1</sup> Michael Stratford, *Trump pledge to forgive disabled veterans' student loans delayed — at Education Department*, POLITICO (Nov. 21, 2019).

<sup>2</sup> Hunter Martin, *Education Department Releases New Data on Public Service Loan Forgiveness Program*, NASFAA (Oct. 9, 2019) (noting that only 1.1% of applicants to Department's Public Service Loan Forgiveness program were approved for loan discharges); Jillian Berman, *How this Attorney Became One of 96 borrowers to Have her Student Loans Forgiven*, Market Watch (Oct. 7, 2018), <https://www.marketwatch.com/story/it-was-like-a-crusade-for-mehow-this-attorney-became-one-of-96-borrowers-to-have-her-student-loans-forgiven-2018-10-02>.

gainfully employed, as those same disabilities and the associated demands on daily life can cause them to face additional barriers to receiving effective notice and successfully navigating the discharge process.

Given the Department's awareness of the challenges posed by the current system for discharging student loan debt of totally and permanently disabled borrowers,<sup>3</sup> we are disappointed that the interim final regulations only extend the automatic discharge system to a small subset of those borrowers. Specifically, the rules only apply to borrowers identified through a data match with the Department of Veteran Affairs (VA), and not to those identified through the SSA data match.

A recent report by National Public Radio (NPR) found that the Department has identified 555,000 disabled borrowers who are eligible for loan discharge since March 2016, but that only 156,000 of those borrowers have had their loans discharged or are on track to have that happen.<sup>4</sup> The Department estimates that approximately 20,000 borrowers will access discharges through the automated VA process proposed in the interim final rule. That leaves more than 375,000 borrowers, a large percentage of whom are already in default, whom the government has identified as totally and permanently disabled, but will nevertheless continue to be burdened with unjustified debt even after this interim final rule is approved. That is unacceptable, especially when we know that the Department has been aware of many of these borrowers for nearly four years.<sup>5</sup>

The same problems with requiring veterans identified as eligible for relief to successfully apply for it apply with equal force to the 375,000 other disabled borrowers likewise identified as eligible. Like veterans, many Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) recipients who qualify for loan cancellation are simply unaware of the discharge program. According to the NPR report, only one-third of matched eligible borrowers had even applied for loan discharge. Many of those who are aware of the program face heightened and unnecessary challenges to completing the application process due to the same disabilities that prevent them from working. Similarly, many of those who have applied have not been able to keep up with the cumbersome and unnecessary post-discharge compliance requirements. Approximately a quarter of borrowers who successfully applied for disability discharges had their loans reinstated because they missed income-reporting deadlines.

Student loan borrowers who receive SSDI and SSI need these payments to survive, and yet the Department is seizing those benefits or continuing to accept loan payments from tens of

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<sup>3</sup> The Department cites “unnecessary bureaucratic burdens [that prevent] eligible veterans from obtaining loan discharges” and an “application process . . . that creates significant and unnecessary hardship for our disabled veterans” as the primary reasons for the interim final regulations. 84 Fed. Reg. 65,002 (Nov. 26, 2019).

<sup>4</sup> Clare Lombardo & Cory Turner, *Student Loan Borrowers With Disabilities Aren't Getting Help They Were Promised*, NPR (Dec. 4, 2019), <https://www.npr.org/2019/12/04/776058798/why-student-loan-borrowers-with-disabilities-arent-getting-the-help-they-deserve>.

<sup>5</sup> Press Office, *U.S. Department of Education Acts to Protect Social Security Benefits for Borrowers with Disabilities*, U.S. Department of Education (April 12, 2016).

thousands of these borrowers despite a statutory right to loan cancellation.<sup>6</sup> The Department can and should act immediately to end this known and entirely unnecessary hardship.

A bipartisan group of U.S. Senators agrees that the automatic discharge program that the Department has proposed for disabled veterans should be available for all disabled borrowers. Indeed, as those Senators rightfully note, the Department's interim final regulations will not even ensure that all disabled veterans would be eligible for automatic discharge because "not all veterans have a service-connected disability that is 100% disabling or an individual unemployability rating."<sup>7</sup> The Department can ensure that many of those veterans as well as hundreds of thousands of other disabled borrowers do not fall through the cracks by also granting automatic discharges to borrowers that the Department has already matched through SSA data.

There are simply no significant or persuasive reasons not to extend the automatic discharge program to all borrowers that the federal government has identified as totally and permanently disabled. All borrowers, whether veterans or civilians, share the same statutory right to relief, the Department already has the data matching program in place with the SSA, and the same systems and protocols for individuals matched through VA data can easily be applied to individuals matched through SSA data.

We urge the Department to ensure that the final rules extend to all disabled borrowers who are statutorily entitled to loan cancellation and who are identified as eligible through existing government data. Thank you for considering these comments. We welcome any opportunities to work with the Department to preserve and strengthen protections for low-income student loan borrowers.

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)  
National Student Legal Defense Network  
The Institute for College Access & Success (TICAS)

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<sup>6</sup> United States Government Accountability Office, *Social Security Offsets: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permitted Relief* 31(2016) (recommending automated-income-verification process through connection to IRS or SSA data) (identifying more than 100,000 borrowers eligible for disability discharge who were in default and had been certified for Treasury offset of social security benefits).

<sup>7</sup> Letter from 10 U.S. Senators to Secretaries of Education and Veterans Affairs and to Commissioner of Social Security on Oct. 9, 2019: <https://www.coons.senate.gov/imo/media/doc/%5bUntitled%5d1.pdf>.