

February 15, 2019

Dear Senators Jones, Warren, Harris, and Cortez Masto:

Thank you for your focus on the need for policies to specifically address equity issues for students of color as well as the unique consequences of borrowing and debt for students of color. Overall, the Higher Education Act has served as a powerful vehicle to help level the playing field in higher education. In the span of three decades, the share of enrollment of Black and Latino students made significant gains, from 23 percent and 18 percent to 37 percent and 36 percent respectively.¹

While higher education is a critical vehicle for social and economic mobility in America, persistent and severe equity gaps remain. The average wealth of Black families in 2016 was only one-seventh the wealth of White families, and the average wealth of Latino families was less than one-fifth that of White families.² And, as you note, many student borrowers of color bear disproportionate burdens when it comes to student debt; Black students in particular are more likely to borrow to attend college and have higher debt than their non-Black peers.³ Moreover, they experience disproportionately higher rates of the worst possible outcome: default; almost four in 10 Black students entering college in the 2003-04 academic year defaulted within 12 years.⁴

The Institute for College Access & Success (TICAS) is a trusted source of research, design, and advocacy for student-centered public policies that promote affordability, accountability, and equity in higher education. Since 2005, TICAS has worked to reduce the risks and burdens of student debt.

Below we offer some of our policy priorities that we believe will provide better support to students of color and address some of the unacceptable equity gaps in spending, debt, and default. For your consideration, our recommendations fall into three categories: reducing the need to borrow; streamlining and strengthening repayment of federal student loans based on income; and strengthening college accountability to protect students from colleges that are predatory or leave students with unaffordable debts. Where relevant, we point to existing legislation that would advance these policies.

¹ Percentage of 18- to 24-year-olds enrolled in degree-granting institutions, by level of institution and sex and race/ethnicity of student: 1970 through 2017, National Center for Education Statistics, available at https://nces.ed.gov/programs/digest/d18/tables/dt18_302.60.asp.

² Urban Institute. 2017. *Nine Charts about Wealth Inequality in America (Updated)*. <https://urban.is/1Vj06A3>.

³ Calculations by TICAS on data from the U.S. Department of Education, National Postsecondary Student Aid Study (NPSAS), 2015-16. Calculations include all undergraduates. While 72% of Black students borrowed student loans in 2015-16, with an average amount borrowed of \$20,275, only 52% of non-Black students borrowed student loans, with an average amount borrowed of \$18,297.

⁴ TICAS. 2018. Students at Greatest Risk of Loan Default. https://ticas.org/sites/default/files/pub_files/students_at_the_greatest_risk_of_default.pdf.

Reduce the Need to Borrow

Strengthen the Pell Grant

Grants based on financial need are the most effective way to reduce the amount that students need to borrow to cover the costs of college; they also encourage student to attend and finish college. Federal Pell Grants, which go to students with high financial need, are the federal government's keystone investment in college access and success. Pell Grants are particularly important for supporting students of color: Nearly 60 percent of Black undergraduates and almost half of Latino undergraduates rely on Pell Grants to attend school.⁵ Yet the Pell Grant currently covers the lowest share of the cost of attending college in the program's history.⁶ Because the grant is no longer automatically adjusted for inflation each year, the purchasing power of the grant is at risk of dropping further.

Pell recipients are much more likely to graduate with debt than their non-Pell counterparts, regardless of race/ethnicity. Yet the need to borrow to cover college costs is particularly acute for Black Pell recipients graduating with a BA, who have higher borrowing rates and leave school with more debt than their non-Black Pell peers.⁷

Investing in Pell Grants must be a top priority. Based on existing research, we recommend working toward doubling the maximum Pell Grant to close both economic and racial disparities in college enrollment and graduation. The grant's former automatic annual inflation adjustment should also be permanently restored to ensure its value doesn't significantly erode going forward. We also recommend making Pell Grants a fully mandatory program that is not subject to annual appropriations, in order to avoid deficits and surpluses created by projections that will never perfectly align with actual program participation. Legislation introduced in 2017 (S. 1136 and H.R. 2451) reflects these recommendations.

Hold States Accountable for Investment in Affordable Public Higher Education

Seventy-eight percent of non-white students attend public colleges, which have been subjected to decades of state disinvestment.⁸ The Great Recession accelerated this trend dramatically, driving increased costs for students and families and spending cuts that threatened access and educational

⁵ Calculations by TICAS on data from the U.S. Department of Education, National Postsecondary Student Aid Study (NPSAS), 2015-16. Figures include the share of undergraduates by race who received a Pell Grant in 2015-16.

⁶ In the 1980s, the maximum Pell Grant covered over half the cost of attending a four-year public college. The 2019-20 maximum Pell Grant will cover 28% of the cost of attending a four-year public college. Calculations by TICAS on data from the College Board, 2018, *Trends in College Pricing 2018*, Table 2; U.S. Department of Education data on the maximum Pell Grant; and HR 6157 (FY2019 appropriations). College costs are defined here as average total in-state tuition, fees, and room and board costs at public four-year colleges. Projected college cost for 2019-20 is estimated using the average annual increase in costs over the most recent five years.

⁷ Calculations by TICAS on data from the U.S. Department of Education, National Postsecondary Student Aid Study (NPSAS), 2015-16. Data include BA graduates only. Figures reflect the cumulative debt of Black bachelor's degree recipients who may or may not have received a Pell Grant in 2015-16. While 76% of Black non-Pell recipients borrowed student loans, 93% of Black Pell recipients borrowed. This difference is statistically significant.

⁸ Calculations by TICAS on data from the U.S. Department of Education, IPEDS 12-month enrollment for all students enrolled in 2016-17 in schools in the 50 states and the District of Columbia. Figures include both 2-year and 4-year public institutions. Non-white figure includes Black, Hispanic, Asian, Native Hawaiian or Pacific Islander, and American Indian or Alaskan Native students.

quality. Even as state revenues rebounded following the Great Recession, average state funding per student at public institutions remains 16 percent below its pre-recession level.⁹

As it makes significant new federal investments in public higher education, Congress should take steps to leverage those investments to ensure that states similarly maintain and increase their investment in public colleges, with a particular focus on maintaining or lowering the net price of public college for low- and moderate-income students. By increasing affordability at schools where most students of color attend, a successful federal-state partnership could make a big dent in reducing racial inequities in college access and success, bringing access to public higher education and successful completion of a quality credential within closer reach for all. Legislation introduced in 2015 (S. 2191), 2016 (H.R. 5756), 2017 (S. 806), and in 2018 (S. 2598) all include provisions to ensure that new federal dollars sent to states do not supplant state and other forms of higher education funding and financial aid while seeking to prevent the drastic cuts and concurrent tuition increases that have typically occurred during periods of economic recession.

Streamline and Improve Higher Education Tax Benefits

Education tax benefits are often categorized as regressive spending because benefits are delivered too late to help with up front expenses and because benefits increase as income increases. However, the American Opportunity Tax Credit (AOTC) is the most likely of the current tax benefits to support college access and success because it is partially refundable and therefore provides tangible benefits to low- and middle-income students and families regardless of their tax liability. By providing a significant financial benefit (up to \$2,500 per year for four years of undergraduate education) to families making up to \$160,000 per year, the AOTC can also play a particularly important role for middle-class students of color whose household incomes are too high to qualify for the Pell Grant but who still rely disproportionately on debt to afford college due to the historic wealth gaps fueled by generations of discrimination. Currently, too many students and families do not take advantage of this credit because of confusion arising from the complex interaction of multiple education tax benefits.

We recommend a number of reforms to create a simpler and more progressive AOTC that would more effectively support college affordability. These reforms would particularly help students who incur higher transportation and child care costs, students and families with low or no federal tax liability, and students who may need more than four consecutive years to complete their undergraduate studies. Congress should:

- Relax or eliminate the limitation that prevents low-income Americans that owe no income tax from receiving more than 40 percent of the AOTC;
- Replace the current four-year limit with a lifetime dollar cap to provide the same maximum benefit to all students, including those who work while attending school part-time and take longer to complete a degree;
- Index credit amounts and income limits to inflation to prevent the value and eligibility limits from declining over time;
- Adjust the benefit calculation to cover 100 percent of the first \$2,000 in expenses and 50 percent of the next \$1,000 to lower the total out-of-pocket expenses necessary to receive the

⁹ Center on Budget and Policy Priorities. 2018. *Unkept Promises: State Cuts to Higher Education Threaten Access and Equity*. <https://www.cbpp.org/sites/default/files/atoms/files/10-4-18sfp.pdf>.

maximum credit (helping students who attend low-tuition colleges like community colleges);
and

- Include transportation and child care costs as qualifying expenses to align with the definition of eligible expenses for federal student aid.

Bipartisan legislation (H.R. 3393) introduced in 2013 incorporated many of these recommendations.

There are two additional common sense changes to the tax code that will help make federal policy more equitable. First, eliminate the taxation of Pell Grants when they are used to cover living expenses, as proposed in bipartisan legislation (H.R. 3581) introduced in 2017. Second, eliminate the taxation of debt forgiven after 20 or 25 years of payments based on income. Treating such forgiven amounts as though they were income taxable is a self-defeating policy that immediately replaces one unaffordable debt (student loan) with another one (tax liability).¹⁰

Streamline and Strengthen Income-Driven Repayment of Federal Student Loans

While not a solution for rising costs or debt, income-driven repayment (IDR) provides a light at the end of the tunnel for students whose education ultimately didn't pay off and whose incomes remain so low relative to their debt that their student loan balances remain even after decades of payments. Monthly payments tied to income (payments that can be as low as \$0 for the lowest-income borrowers) also helps keep payments affordable.

Beyond acting as a safety net against default, lower monthly payments in IDR can also provide a pathway to longer-term financial stability for students who start from low or no wealth and disproportionately rely on debt to finance their education. IDR can smooth the way for students who may be more likely to initially struggle in the labor market, receive lower pay than their peers, or need to free up as much of their earned income as possible to make investments in their futures like forming a new business, purchasing a home or car, or putting more of their earnings toward starting a family, and saving for retirement and their children's educations.¹¹ As such, IDR is a particularly critical option for borrowers of color who are more likely to face labor market discrimination and, on average, have lower access to capital (including through discriminatory lending practices, as well as lower family wealth).

As crucial and progressive as IDR already is, it should be strengthened and improved. There are currently five income-driven repayment options, which create unnecessary complexity and confusion. Many more borrowers might benefit from IDR; in fact, one in four borrowers are over 30 days delinquent or in default.¹²

¹⁰ For more on tax consequences of debt forgiven under IDR, see TICAS. April 12, 2018. Tax penalty hits student loan borrowers in income-driven repayment plans for the first time. <https://bit.ly/2vuOyHL>.

¹¹ Herbst, Daniel. February 12, 2019. "Liquidity and Insurance in Student Loan Contracts: The Effects of Income-Driven Repayment on Borrower Outcomes." *Working Paper*. <https://bit.ly/2Sx2Ro8>.

¹² Calculations by TICAS using data from the U.S. Department of Education, Federal Student Aid Data Center, "Portfolio by Delinquency Status (DL, FFEL, ED-Held FFEL, ED-Owned)," <https://studentaid.ed.gov/sites/default/files/fsawg/datacenter/library/DLPortfoliobyDelinquencyStatus.xls>, "Direct Loan and Federal Family Education Loan Portfolio by Loan Status," <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xls>, and "Federal Student Aid Portfolio Summary" <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls>. Accessed January 31, 2019. Figures represent Direct Loan borrowers whose loans are more than 30 days delinquent, including those whose loans have gone into default.

We recommend replacing the current array of income-driven plans with a single, streamlined plan that lets all borrowers choose the assurance of manageable payments and earn forgiveness after 20 years of payments.¹³ Beyond streamlining the current multiple IDR plans, borrowers should have access to an automated income recertification process to help them stay enrolled in IDR, and severely delinquent borrowers should be automatically enrolled in IDR. We strongly support several key pieces of legislation that address these issues, including a Senate bill introduced in 2018 (S. 3584) that reflects all of these recommendations, and bipartisan bills (S. 3611, introduced in 2018) and (H.R. 3554, introduced in 2017) that would automate IDR's annual income recertification process. The House bill would also enroll severely delinquent borrowers in an income-driven plan to help prevent defaults.

Strengthen College Accountability to Protect Students from Colleges that Overcharge and Underdeliver

Ensuring sound accountability measures are in place to protect students from colleges that overcharge and underdeliver is critical to supporting students of color. Even when better and lower cost options are available, Black and Latino students are disproportionately enrolled in schools where they are both more likely to borrow and less likely to succeed, and there are few incentives for schools to improve poorly performing programs.¹⁴ While Black and Latino students together make up 36 percent of all students enrolled in undergraduate study, they currently represent more than half (51 percent) of undergraduates at for-profit colleges.¹⁵

Black and Latino students enrolling in a for-profit two-year program pay more than twice the cost that they would to attend a comparable program at a public college, and they leave with \$10,000 more debt on average than their peers attending a public two-year program.¹⁶ Black students are three times more likely to complete a bachelor's degree program within six years at a public college compared to Black students attending a for-profit college; Latino students' six year graduation rates at public colleges are twice that of their peers at for-profit colleges.¹⁷ Student debt outcomes for students attending these schools are worse as well: for-profit colleges account for more than one third of all student loan defaults (34 percent), even though students attending these schools make up only nine percent of total postsecondary enrollment.¹⁸

Given that Black and Latino students now account for more than half of the enrollment in for-profit colleges, it is critical to ensure that these schools are offering quality programs that are affordable to the students that they enroll. The high debt and default rates disproportionately impacting students of color

¹³ For full details on our recommendations for streamlining IDR, see TICAS. 2017. *Make it Simple Keep it Fair: A Proposal to Improve Income-Driven Repayment of Federal Student Loans*. <https://bit.ly/2x3jeMW>.

¹⁴ Gainful Employment: A Civil Rights Perspective. <http://civilrightsdocs.info/pdf/reports/Gainful-Employment-WhitePaper.pdf>.

¹⁵ Calculations by TICAS on data from the U.S. Department of Education, National Postsecondary Student Aid Study (NPSAS) 2016. Figures include undergraduates enrolled during the 2015-16 year. All differences are statistically significant.

¹⁶ Calculations by TICAS on data from the U.S. Department of Education, National Postsecondary Student Aid Study (NPSAS) 2016. Cost calculations represent the full cost of attendance (including tuition and fees, living expenses, books and supplies, and transportation) minus grant aid for full-time, full-year undergraduates who attended one institution in 2015-16, regardless of whether they received grants or not. Debt calculations are for all undergraduates who graduated with an Associate's degree from a two- or four-year college.

¹⁷ Thirteen percent of Black students complete a BA at for-profit colleges, compared to 41% of Black students attending public colleges. Twenty-six percent of Latino students complete a BA at for-profit colleges, compared to 54% of Latino students attending public colleges. Calculations by TICAS on data from the Integrated Postsecondary Education Data System (IPEDS), Graduates Rates survey. These figures are for first-time, full-time Bachelor's-degree-seeking undergraduates in 2016-17. These figures cover four-year colleges in the 50 states and DC.

¹⁸ Statement of Debbie Cochrane on Official Three-Year (FY15) CDRs. TICAS. September 26, 2018. <https://bit.ly/2DEkylc>.

attending for-profit colleges can be better addressed through protecting and strengthening key federal policy priorities like the gainful employment rule, borrower defense to repayment, prohibitions on incentive compensation, and the 90/10 rule.

Together, the below accountability recommendations would: ensure that low-quality career education programs consistently leaving students with high debt and low earnings either improve or lose eligibility for federal funds; ensure that students who have been misled or deceived, or whose school precipitously closed have a path to loan forgiveness; ensure that abusive recruiting practices are deterred by strong enforcement of the incentive compensation ban; and ensure that for-profit colleges receive at least 15 percent of revenues from sources other federal taxpayer funds (including the GI Bill and other sources of support for servicemembers and veterans).

Enforce the Gainful Employment Rule

In 2014, the Obama Administration adopted the Gainful Employment (GE) rule to ensure that programs receiving federal student aid to train students for careers do not instead leave students with high debt and few skills. The rule compares each program graduates' typical earnings with their typical debts to identify programs that provide affordable training and lead to well-paying jobs and those that do not.

The first evaluation of career programs using the debt-to-earnings measure set out in the GE Rule was released in January 2017. The data showed that fewer than nine percent of programs failed, with none of the failing programs among the 61 percent of career programs offered at public colleges or programs offered at Historically Black Colleges and Universities.¹⁹ Almost 98 percent of failing programs were offered by for-profit colleges. Overall, programs that failed or were near failing have left 350,000 students holding nearly \$7.5 billion in student debt they are unlikely to be able to repay.²⁰

The GE rule also requires that institutions provide key consumer information to prospective students, including how much the typical graduate earns, how much debt they have, and what share of students graduate and find employment in the specified field. The rule has tremendous support from organizations that advocate for students and college access, including civil rights organizations, veterans, and consumers and is estimated to save \$5.3 billion over 10 years.²¹

Unfortunately, the Trump Administration is seeking to eliminate the gainful employment rule through negotiated rulemaking, has drastically scaled back the required consumer information disclosed to prospective students, and is failing to carry out its responsibility to enforce the rule. In the face of such attempts to undermine a needed minimum quality bar for career education programs, Congress should consider a statutory definition of gainful employment based upon the 2014 regulation.

Protect Students through a Borrower Defense to Repayment

In 2016, the Department of Education adopted new regulations that created a process for the Education Department to consider claims by student borrowers in order to ensure that defrauded students are not

¹⁹ Calculation by TICAS on 2015 Debt-to-Earnings (D/E) Gainful Employment data from the U.S. Department of Education. <https://studentaid.ed.gov/sa/sites/default/files/GE-DMYR-2015-Final-Rates.xls>.

²⁰ TICAS. August 22, 2018. "How Much Did Students Borrow to Attend the Worst-Performing Career Education Programs? The Need for a Strong Gainful Employment Rule." <https://bit.ly/2CRcczP>.

²¹ Program Integrity: Gainful Employment, 83 FR 40180 (August 14, 2018). *Federal Register: The Daily Journal of the United States*. <https://www.federalregister.gov/documents/2018/08/14/2018-17531/program-integrity-gainful-employment>.

required to repay thousands of dollars for student loans. It also gives the Secretary authority to approve loan relief for groups of students where appropriate. While the rule is currently in effect, the Department of Education is not processing any student borrower claims relating to misconduct by schools and has announced that it intends to rewrite the rule, after withdrawing a previous attempt earlier this year. As of September 2018 (the most recent date for which data are available), 139,023 student claims of misconduct awaited action by the Department, some of which had been pending for close to five years.²²

For these reasons, we also recommend that Congress consider including in the HEA statutory language that establishes a fair process for students to have loans forgiven when a school has engaged in misconduct or has closed suddenly, as we have seen recently with Vatterott Colleges, and Education Corporation of America, which owned schools including Virginia College.

Enforce Restrictions on Incentive Compensation

The explosive growth of for-profit colleges in the early 2000s was largely accomplished through aggressive marketing and recruitment efforts of unscrupulous colleges. Such efforts attempted to maximize enrollment without sufficient concern for whether prospective students were good candidates for the programs they were being recruited for or whether those programs would pay off for students in the labor market. A 2010 report by the Government Accountability Office found deceptive or misleading recruiting practices at each of 15 for-profit colleges that were visited.²³

In 2011, the Department of Education strengthened the language around incentive compensation in recognition that allowing college recruiters to be paid based on how many students they enrolled was likely to lead to the over-enrollment of underprepared students.²⁴ However, a 2015 Office of Inspector General (OIG) report highlighted failures in the enforcement of the incentive compensation ban.²⁵ Moreover, it is unclear that either the Department of Education or accreditors are enforcing the incentive compensation ban. It is critical that the statutory language of the ban is not weakened, and that statutory language ensure that the ban is properly enforced.

Strengthen the 90/10 Rule

The 90-10 Rule is a federal law barring for-profit colleges from receiving more than 90 percent of their revenue from Department of Education Title IV federal student aid, which includes student loans and grants. The rule, which was weakened from a 85-15 standard in the 1998 reauthorization of the HEA, is premised on the notion that quality institutions will be able to garner some minimal amount of private tuition revenue, and is modeled on the Department of Veterans Affairs' (VA) long-standing 85-15 Rule, which prohibits more than 85 percent of a program's students from receiving VA funding.

²² "Borrower Defense to Repayment Loan Forgiveness Data." *Federal Student Aid*. See September 2018 Borrower Defense to Repayment Report, <https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/borrower-defense-data>.

²³ Lewin, Tamar. "For-Profit Colleges Mislead Students, Report Finds." *New York Times*, August 3, 2010. <https://www.nytimes.com/2010/08/04/education/04education.html>.

²⁴ Smith, Peter and Leslie Parrish. 2014. "Do Students of Color Profit from For-Profit College? Poor Outcomes and High Debt Hamper Attendees' Futures." *Center for Responsible Lending*. <https://bit.ly/2USPueS>.

²⁵ United States Department of Education Office of the Inspector General Audit ED-OIG/A05N0012. <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2015/a05n0012.pdf>.

Through a loophole, GI Bill funds and Department of Defense (DoD) Tuition Assistance are counted as private dollars on the 10 percent side rather than as federal revenue. This has put a dollar sign on the backs of veterans, service members and their families, leading unscrupulous for-profit colleges to aggressively and deceptively recruit this population to enroll in high-priced, low-quality programs. We recommend strengthening the rule by returning to 85-15 as the standard and by eliminating the GI Bill and DoD loophole. This would compel schools that rely almost solely on taxpayer funding to improve their quality and/or affordability to attract students or employers willing to pay for their programs.

Thank you again for your attention to the critical disparities in higher education attainment, borrowing, and debt burdens faced by students of color. We have a long way to go to ensure that a quality, affordable higher education is within reach for all students, regardless of their race, ethnicity, or background. Specifically, gaps in college enrollment and completion by race, as well as gaps in student loan debt, repayment outcomes, and post-education employment outcomes by race require the most urgent attention of the federal government, states, colleges, and advocates.

We hope that the recommendations we have provided are helpful to your consideration of these issues. Please feel free to reach out to Lindsay Ahlman (lahlman@ticas.org or 202-854-0232) or me at any time to discuss these issues further. We are eager to help as you consider policy options to close disparities in college opportunity.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Kval". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Kval".

James Kval
President