

Congress of the United States

Washington, D.C. 20515

June 27, 2023

VIA ELECTRONIC TRANSMISSION

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

Dear Secretary Cardona:

We write today because we are concerned that you are ill prepared to return millions of student loan borrowers to repayment. As a result, we request that you provide us with the documents requested below. Additionally, before July 20, provide us with a briefing explaining the Department's plans.

The original date for the Department of Education (Department) to return to repayment was September 30, 2020.¹ Since then, the repayment pause has been extended eight times. Then, on June 3, 2023, President Biden signed the *Fiscal Responsibility Act of 2023* (FRA) into law, terminating the suspension of interest accrual and payments on federal student loans.² Sixty days after June 30, 2023, the return to repayment for student loans will begin for 43 million borrowers.³ The Department has been on notice for nearly two and a half years that it would need to develop a plan for a smooth transition to repayment. The House Committee on Education and the Workforce (Ed and Workforce) and the Senate Committee on Health, Education, Labor, and Pensions (HELP) remain concerned that the Department is unprepared for the return to payment of federal student loans.

On May 15, 2023, Assistant Secretary for Legislation and Congressional Affairs Gwen Graham responded on your behalf to an April 25, 2023, joint letter from Chairwoman Foxx and Education and Workforce Subcommittee on Higher Education and Workforce Development Chairman Burgess Owens. In her response, Assistant Secretary Graham stated, "the Department is fully committed to supporting student loan borrowers as they return to repayment later this

¹ Coronavirus Aid, Relief, and Economic Security Act, H.R. 748, 116th Cong. § 3513(a) (2020).

² Fiscal Responsibility Act of 2023, Pub. L. No. 118-5.

³ Press Release, U.S. DEPT. OF EDUC., Biden-Harris Administration Continues Fight for Student Debt Relief for Millions of Borrowers, Extends Student Loan Repayment Pause (Nov. 22, 2022), <https://www.ed.gov/news/press-releases/biden-harris-administration-continues-fight-student-debt-relief-millions-borrowers-extends-student-loan-repayment-pause>; see also, Fiscal Responsibility Act of 2023 § 271(a), Pub. L. No. 118-5 (June 3, 2023); see also *Examining the Policies and Priorities of the U.S. Department of Education: Hearing Before the Comm. on Educ. and the Workforce*, 118th Cong. 108 (2023) (statement of Miguel Cardona, Sec'y of Educ., U.S. Dep't of Educ.).

year and will keep doing everything in its power to better serve them.”⁴ We appreciate that the Department is “fully committed” to this very important initiative; however, the vagueness of being “committed” speaks loudly; it is devoid of evidence of any plan of action. The letter continues, “[w]e are working on a multi-pronged strategy to help borrowers successfully navigate back into repayment.”⁵ However, the Department has yet to provide any tangible proof of any plan for the return to repayment.

At the May 16, 2023, Ed and the Workforce hearing on “Examining the Policies and Priorities of the U.S. Department of Education,” you acknowledged that “it’s never been done before, to bring 43 million people back to repayment” and that the “Student Aid office is ready.”⁶

During that same hearing you also stated that “[the Department is] in communication regularly with loan servicers, and we recognize that part of the success of the repayment plan will be based on how our borrowers receive information in a timely way.”⁷ When you were asked if you or Chief Operating Officer of the Office of Federal Student Aid (FSA), Mr. Richard Cordray, had spoken directly with the loan servicers about the restart at any time during the period of January 2023 through the present, you replied, “[a]s I said, the information that you requested will be provided, and it will answer who from the Department has communicated.”⁸ The wording of your response implies that neither you nor Mr. Cordray have spoken directly with loan servicers about the restart. Notwithstanding your public commitment at the hearing, you have failed to provide us any evidence of any communication between the Department and loan servicers as of the date of this letter.

We also remain concerned that the Department’s efforts to prepare for the return to repayment may be compromised by its mismanagement of appropriated funds. On June 7, 2023, HELP Ranking Member Bill Cassidy, along with Senators John Thune and Shelly Moore-Capito, transmitted a letter to the Department urging you to “abandon the agency’s costly student loan forgiveness efforts and instead focus on preparing student borrowers and loan servicers to resume student loan repayments.”⁹ For the last several years, rather than being good stewards of taxpayer funds, FSA has been redirecting resources appropriated by Congress to a wide range of unauthorized and fiscally irresponsible initiatives, including student loan forgiveness, a new Income-Driven Repayment (IDR) proposed rule, the “Fresh Start” initiative, the IDR one-time adjustment waiver, and the Limited Public Service Loan Forgiveness waiver and application.¹⁰

Mr. Secretary, the success or failure of the return to repayment sits squarely on your shoulders. As the committees responsible for oversight of the Department, we need to know if the

⁴ Letter from Gwen Graham to Chairwoman Virginia Foxx, U.S. Dep’t of Educ. (May 15, 2023) (on file with Comm. on Educ. and the Workforce).

⁵ *Id.*

⁶ *Examining the Policies and Priorities of the U.S. Department of Education: Hearing Before the Comm. on Educ. and the Workforce*, 118th Cong. 108 (2023) (statement of Miguel Cardona, Sec’y of Educ., U.S. Dep’t of Educ.).

⁷ Secretary Cardona, *supra* note 5 at 13.

⁸ Secretary Cardona, *supra* note 5 at 13.

⁹ Letter from Senators John Thune, Bill Cassidy, and Shelley Moore Capito to Hon. Miguel Cardona, U.S. Dep’t of Educ. (June 7, 2023), <https://www.thune.senate.gov/public/index.cfm/2023/6/thune-cassidy-capito-see-answers-on-the-true-cost-of-biden-s-loan-forgiveness-actions>.

¹⁰ *Id.*

Department has exercised due diligence and done all it can to prepare the servicers to provide the best customer service to borrowers, and that borrowers have a clear understanding of what is required of them for a smooth transition to repayment.

The Ed and Workforce's April 25 letter, as well as the hearings on May 16 and May 24, provided the Department an opportunity to reassure borrowers, servicers, and Committee members that the Department had put into place the plans needed for a smooth transition to repayment. Unfortunately, Mr. Secretary, the answers to the letter and responses at the hearings have left us with more questions, no substantive answers, no assurances that the return to repayment will be successful, and a complete lack of confidence in the competence of the Department.

Therefore, we request that the Department:

1. Provide any and all internal memos, reports, and information about the strategy and/or plan for the return to repayment, including the most recent version of the student loan servicer playbook, in addition to the information requested in the April 25, 2023, letter referenced above and promised during the May 16 and May 24 House hearings, by no later than two weeks after the receipt of this letter (instructions attached).
2. Provide an in-person briefing to us on the "strategy" and/or plan for the return to repayment no later than July 20, 2023. Providing the materials 10 days prior to the briefing will enable us to ask questions specific to the information provided.

In addition, the committees are concerned about recent reports in the press that students are being encouraged not to make payments on their student loans once the return to repayment has begun.¹¹ Specifically, CarrieLynn D. Reinhard, Professor, Communication Arts and Sciences, for the Rosary College of Arts and Sciences of Dominican University posted the following call to action on Twitter:

People should just refuse en masse to pay their student loans back when payment resumes this summer. What will happen? Tank your credit score so no one can afford a home ever? Oh, gee, how horrible... No repayment without equal financial burden across the country.¹²

As you are aware, all student loans include terms whereby borrowers agree to repay their student loans. We expect you and senior officers of the Department to exercise leadership in countering such efforts wherever and whenever they occur, particularly since nonpayment will lead to negative financial consequences for borrowers and barriers to future financial opportunities. Please provide written assurances to us no later than two weeks after the date of this letter that the Department will do so.

¹¹ James Bickerton, *Students Are Refusing to Pay Back Their Loans When Payment Pause Ends*, NEWSWEEK (June 2, 2023), <https://www.newsweek.com/students-refusing-pay-loans-payment-pause-ends-1804273>.

¹² CarrieLynn D. Reinhard, (@CDReinhard), TWITTER (June 2, 2023, 8:37 AM), <https://twitter.com/CDReinhard/status/1664612268842123269>.

Please contact Gabriella Pistone of Chairwoman Foxx's staff at gabriella.pistone@mail.house.gov and Daniel Parker of Ranking Member Cassidy's staff at Daniel_Parker@help.senate.gov to schedule the briefings.

Sincerely,



Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce



Bill Cassidy
Ranking Member
Senate Committee on Health, Education,
Labor, and Pensions

Attachment