AccessLex INSTITUTE®

September 20, 2021

Richard Cordray
Chief Operating Officer
Office of Federal Student Aid
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Dear Chief Operating Officer Cordray:

As the U.S. Department of Education (ED) prepares for the transition of Direct Loan borrowers back into federal student loan repayment, AccessLex Institute urges ED to develop a comprehensive, well-designed plan that ensures that borrowers have all the information and support necessary to prepare them for the resumption of repayment.

AccessLex Institute, in partnership with its nearly 200 nonprofit and state-affiliated ABA-approved member law schools, has been committed to improving access to legal education and to maximizing the affordability and value of a law degree since 1983. We advocate for policies that make legal education work better for students and society alike; conduct research on the most critical issues facing legal education today; seek to expand access to legal education for underrepresented students through research, grantmaking, data analysis, and the dissemination of information and resources; and aim to increase first-time bar exam passage nationwide. We also have a team of Accredited Financial Counselors (AFC©) who provide free financial education programming to students throughout the country.

On August 6, 2021, ED announced that it would be extending to January 31, 2022 the pause on federal student loan payments, interest accumulation, and collection activities that was set to expire on September 30, 2021. The goal of the extension is to allow borrowers to prepare for payments to resume and avoid unnecessary delinquencies and defaults, and to allow ED to notify and transition borrowers back into repayment. ED also stated that this would be the last extension of the payment pause. As such, ED should work with loan servicers, borrower advocates and other student loan experts to craft a clear, comprehensive and actionable plan to assist borrowers with resuming repayment.

As a former nonprofit student lender and loan servicer whose mission, among other things, impels it to work directly with students and borrowers to offer free financial education and counseling, we have decades of experience helping borrowers navigate the complex student loan landscape. Based on that experience, AccessLex Institute recommends the following actions:

- **Inform borrowers well in advance, multiple times, and in multiple ways about the expiration of the payment pause.** One of the main concerns leading to the extension of the payment pause was the disruption that could occur by sending millions of borrowers into repayment without the necessary advance outreach and support. A letter sent to the Biden-Harris administration by Democratic leaders regarding payment resumption noted that "following past emergency suspensions of student loans during natural disasters, an increased number of borrowers became delinquent or defaulted on their loans." [1] To avoid unnecessary defaults or delinquencies and to allow borrowers to enroll in an income-driven repayment plan if necessary, ED should contact borrowers multiple times and through multiple methods such as postal mail, email, phone calls, and text messages beginning 90 days prior to payment resumption to provide them with the information they need to prepare. ED should also ensure that this information is widely available on any federal website that provides information regarding student loans and the websites of all federal student loan servicers. This will help to ensure that borrowers are aware of and prepared for their upcoming repayment date.

- **Allow borrowers to retain their automated debit status when payment resumes.** For borrowers who were enrolled in auto-debit prior to the payment pause, that status should be retained on their account when payment resumes. Doing so will smooth the transition back to repayment for those borrowers who already have an ACH transfer set up; most of whom will assume that this automatic transfer of funds will continue beginning in February 2022. Requiring borrowers to opt back into auto-debit will cause unnecessary confusion and complexity, take servicers lead time to implement, and result in some borrowers missing monthly payments. Additionally, federal student loan servicers provide borrowers with a 0.25% interest rate deduction when they enroll in auto-debit. Removing borrowers from auto-debit could cause them to lose this benefit and increase their monthly payment.

- **Make borrowers aware if they will be reassigned to a new loan servicer.** Student loan servicers play a vital role in managing federal student loan borrower accounts by helping borrowers manage their student loan payments, answering questions about student loans, and helping to navigate complex student loan repayment options. Unfortunately, as of the writing of this letter, two federal student loan servicers announced that they would not be renewing their contracts with ED beyond 2021. Additionally, in March 2021, ED announced that defaulted Federal Family Education Loan Program (FFELP) loans would be eligible for the pandemic-related benefits provided to Direct Loans, such as a pause on payments and interest accumulation. Some of these defaulted FFELP loans were reassigned from the guaranty agency to ED, which will require that the loans also be reassigned to a new servicer. As a result of these events, millions of federal student loan accounts will need to be transferred to a new loan servicer at around the same time that payments will resume.

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[1] Warren, Elizabeth. Letter to Department of Education to extend payment pause. 23 June 2021. Available at: https://www.warren.senate.gov/imo/media/doc/Letter%20to%20Biden%20re%20extension%20of%20payment%20pause%20final%206.23.21%20final.pdf

To avoid the confusion that will result from uncertainty regarding a borrower's servicer, it is imperative that ED: (1) identify the servicer(s) that will be responsible for managing the orphaned accounts, (2) conduct outreach beginning 90 days prior to resumption of repayment informing borrowers of the change, and (3) provide borrowers with information regarding how to contact the new servicer, how to ensure that payment data has been successfully transferred, and any other pertinent information that the borrower will need for a smooth transition into repayment.

- **Provide borrowers seeking Public Service Loan Forgiveness with information about the departure of FedLoan Servicing and its impact.** In July of 2021, FedLoan Servicing announced that it would not be extending its contract to service federal student loans beyond 2021. FedLoan is currently the only servicer that manages the Public Service Loan Forgiveness (PSLF) program, and this departure has the potential to create a lot of confusion for those seeking PSLF. To mitigate any forthcoming issues that could arise, ED should make sure that all potential and current borrowers seeking PSLF are aware of the departure of FedLoan and who the new servicer will be. Contact information for the new servicer should also be provided to borrowers and all of ED's relevant webpages should be updated to reflect the change.

  In addition, ED should provide borrowers, beginning 90 days prior to payment restart, with updated information about the process for applying for PSLF, some of whom graduated during the pandemic and have not previously been in repayment or submitted any PSLF documents to their servicer. Finally, ED needs to provide PSLF applicants with a way to ensure that their payment and employment data has been transferred to the new servicer accurately and that there is a process for disputing any errors. It is well documented that servicers have provided inaccurate information about PSLF eligibility in the past,[2] so ensuring that borrowers can track and dispute inaccurate data would benefit those seeking forgiveness.

- **Help servicers handle the influx of borrowers seeking information about repayment options.** At the time that student loan payments are set to resume, the pause will have been in place for 23 months. In those 23 months, there are likely many borrowers who experienced a change in their financial circumstances. In addition, there will be borrowers entering repayment for the first time and borrowers who need to be reacquainted with the available repayment options. Therefore, it is almost certain that servicers will experience an influx of borrowers seeking information about repayment options that they may not be prepared to handle.

  To assist in this transition, ED should ensure that servicers have consistent and accurate information about all of the repayment plans currently available to borrowers, including the availability of income-driven repayment plans. This information should also be widely available on any federal website that provides information regarding student loan repayment options and the websites of all federal student loan servicers. ED should also include information about the available repayment options in any communication or outreach to borrowers regarding the resumption of payments.

[2] Consumer Financial Protection Bureau, Supervisory Highlights: Issue 24, Summer 2021. https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-24_2021-06.pdf.

Thank you for considering our recommendations for successfully transitioning borrowers back into repayment. If you have any questions or would like additional information, you can reach me at cchapman@accesslex.org. You can also contact Nancy Conneely, our Managing Director of Policy, at nconneely@accesslex.org.

Sincerely,

Christopher P. Chapman
President and Chief Executive Officer

cc: James Kvaal, Under Secretary of Education
Chairwoman Patty Murray, Senate Committee on Health, Education, Labor and Pensions
Chairman Bobby Scott, House Committee on Education and Labor