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SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS'
SUBCOMMITTEE ON ECONOMIC POLICY

Hearing Entitled "The Student Debt Burden and Its Impact on Racial Justice, Borrowers, & the Economy"

APRIL 13, 2021

Chair Warren, Ranking Member Kennedy and members of the Subcommittee, thank you for inviting me to testify today on the student debt crisis and its impact on racial justice, student borrowers and the economy. I am Maura Healey, the Attorney General of Massachusetts. I appreciate the opportunity to share my insights as to why debt cancellation is essential to aid struggling borrowers, boost our economy, and help close the racial wealth gap.

My Office is on the frontlines of this $1.7 trillion crisis, fighting on behalf of student borrowers in Massachusetts. What we have learned from doing this work is that the student loan system is fundamentally broken and taking a devastating toll on countless Americans. It is a system that has enabled for-profit schools to deceive and defraud vulnerable students – particularly targeting students of color – who were seeking a better life. It is a system that has recklessly saddled parent borrowers with loans they cannot possibly repay. It is a system that has failed to deliver on the promise of loan forgiveness to thousands of public servants. And it is a system that has hollowed out the futures of millions of young people and left them with broken dreams and a lifetime of insurmountable debt.

We have seen the catastrophic consequences of default for borrowers who are unable to navigate the unduly complicated and opaque loan repayment and forgiveness programs available to them. Nearly a quarter of borrowers are in default on their federal student loans, putting them at risk of administrative wage garnishment, seizure of Social Security retirement and disability income, loss of earned income tax credits, and long-term credit damage. We have seen borrowers forced to delay starting families, getting homes, buying cars, obtaining health insurance, or starting businesses. And we know the burden of student debt is disproportionately borne by people of color.

Loan servicers, paid with taxpayer money, have failed to do their jobs to help borrowers access repayment and forgiveness programs, rendering these programs inadequate for addressing the current crisis and the damage it has caused. The Department of Education (Department) has the authority to provide necessary debt relief, and should do so swiftly and aggressively.

1. Student debt has serious negative effects on households and the economy, and exacerbates the racial wealth gap.

Most students have no choice but to go into significant debt to afford higher education, and this is especially true for low-income students and students of color. As many as one-in-five federal student loan borrowers are in default.[1] The impact of this debt is not only devastating for individual borrowers, but has a ripple effect on their local communities and collectively on the national economy. Looking at this crisis in context illustrates the broad-reaching consequences of failing to address it.

[1] The Pew Charitable Trusts, *Student Loan Default Has Serious Financial Consequences,* https://www.pewtrusts.org/-/media/assets/2020/04/studentloandefaulthasseriousfinancialconsequences_.pdf (2020)

A. There is $1.71 trillion in student loan debt owed by nearly 45 million Americans.

The amount of federal student debt owed is staggering. Of the total outstanding $1.71 trillion student loan debt, $1.57 trillion constitutes federal loans owned or guaranteed by the Department. It is nearly as much as the annual revenues of the top six Fortune 500 companies, and stacked up in hundred-dollar bills, it would be more than 200 times the height of Mount Everest.

Millions of students and their families are collapsing under the heavy weight of this financial burden. Many owe more than when they began repayment due to capitalized interest. Data suggest that five years into repayment, half of student loan borrowers have not paid even $1 toward their debt's principal.[2] Default rates are steadily increasing. Over one million borrowers entered default in 2019 alone.[3] Trends show that cumulative default rates continue to rise between 12 and 20 years after borrowers enter repayment, suggesting that nearly 40 percent of borrowers may default on their student loans by 2023.[4] Struggling borrowers are unable to obtain meaningful relief in bankruptcy because under current law, federal student loans are not dischargeable except under extremely narrow circumstances. The long-term economic and social consequences of the pandemic will exacerbate defaults as many Americans have experienced job loss or health emergencies and COVID-19 relief will expire later this year.

Borrowers rely on their loan servicers for default prevention and to help them navigate the complex federal programs enacted to enable them manage their payment obligations,

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[2] Nova, Annie. "*Trump Administration Official Resigns, Calls for Massive Student Debt Forgiveness.*" CNBC, https://www.cnbc.com/2019/10/24/student-loan-official-resigns-calling-for-massive-debt-cancellation.html (last visited on April 7, 2021); The Pew Charitable Trusts, *Student Loan System Presents Repayment Challenges,https://www.pewtrusts.org/-/media/assets/2019/11/psbs_report.pdf* (2019)

[3] The Institute For College Access and Success, *Student Debt and the Class of 2019*, https://ticas.org/wp-content/uploads/2020/10/classof2019.pdf (2020)

[4] Scott-Clayton, Judith, *The Looming Student Loan Default Crisis is Worse Than We Thought,* https://www.brookings.edu/wp-content/uploads/2018/01/scott-clayton-report.pdf (2018)

including income-driven repayment (IDR) plans and Public Service Loan Forgiveness (PSLF). But, the existing system is broken, having long been plagued by servicing misconduct that has trapped many borrowers in unaffordable debt by denying them access to these programs.

The explosive growth in student loan debt in the United States, the rising defaults, and the failure of loan servicers to help borrowers access debt management programs bears stark similarities to the 2008 financial crisis. In short, we have seen the long-lasting economic consequences of consumer debt burdens and need to act swiftly and aggressively to alleviate them.

B. The burden of student debt is not borne equally and it exacerbates racial, gender, and wealth disparities.

Although education is supposed to be the great equalizer, the burdens of student loan debt are not shared equally. Black students borrow more frequently, graduate with more debt, pay off their student loan debt at a slower rate, and have much higher rates of default. Four years after graduating with a bachelor's degree, Black college graduates have nearly $25,000 more student loan debt—an average of $52,726 in student debt, compared to $28,006 for the typical white graduate.[5]

For-profit schools, which account for a disproportionate share of student loan defaults, have had a particularly large impact on students of color. While Black and Latinx students together make up 36 percent of all students enrolled in undergraduate study, they represent more than half of undergraduates at for-profit colleges.[6] Predatory for-profit schools routinely target Black and Latinx students in their recruitment efforts.

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[5] White House Initiative on Educational Excellence for African Americans, *Fact Sheet: Black College Graduates and the Student Debt Gap.* https://sites.ed.gov/whieeaa/files/2016/11/Black-College-Graduates-and-the-Student-Debt-Gap.pdf (Last visited on April 7, 2021)

[6] The Institute For College Access and Success, *The Evolution of the For-Profit College Industry*, https://ticas.org/wp-content/uploads/2020/01/the-evolution-of-the-for-profit-college-industry.pdf (2019)

Women are also disproportionally burdened by student loans. They hold nearly two-thirds of the nation's student loan debt and graduate owing almost $22,000, compared to $18,880 owed by men. Black women graduate with even more debt than white women, owing an average of $37,558 upon graduation.[7]

Student loans increasingly burden older Americans, including those who went back to school as adults for retraining and parents who borrow using Parent PLUS loans for their children. The number of Americans aged 60 and older with student loan debt quadrupled between 2005 and 2015, from 700,000 to 2.8 million.[8] The Consumer Financial Protection Bureau (CFPB) identified this group as the "fastest growing age-segment of the student loan market" and estimated that they owed $66.7 billion in student loans in 2015.[9]

C. The student debt crisis harms our wider economy.

The effects of the student loan debt crisis are not just felt by individuals, they are also borne by the wider community. Borrowers with substantial student loan debt cannot afford to become the public servants that our communities rely on to keep us safe, healthy, and educated. They are often unable to participate in full economic activity and may be delayed or hampered in starting new businesses, buying a car, renting an apartment, purchasing a home, or continuing with their education. They delay traditional life milestones, like getting married or starting a family and they lack the financial stability to weather a recession. Such borrowers are often unable to save for retirement and may enter retirement with little or no savings.

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[7] American Association of University Woman, *Fast Facts: Women & Student Debt*, https://www.aauw.org/resources/article/fast-facts-student-debt/ (last visited on April 7, 2021)

[8] Consumer Financial Protection Bureau, *Snapshot of Older Consumer and Student Loan Debt,* https://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf (2017)

[9] *Id.*

2. The Massachusetts Attorney General's Office has been a leader on student debt issues and has firsthand knowledge of the impact of this crisis.

Addressing the student debt crisis has been a top priority since I took office in 2015. My Office was one of the first Attorneys General's Offices to establish a Student Loan Assistance Unit to help individuals in real time with their student loan problems, including understanding their repayment options, identifying errors in their accounts, and accessing programs to avoid and get out of default. We have led numerous enforcement actions against student loan servicers to protect borrowers' rights to obtain loan forgiveness under federal programs such as PSLF and IDR plans. Over the last four years, we brought multiple actions against the Department to ensure that borrowers entitled to loan discharges under the Borrower Defense to Repayment regulations would be able to obtain such relief. Through this work, I have observed the devastation faced by families struggling with student loan debt, the broader impact of this crisis on our economy, and the inadequacy of the current system for addressing these problems.

A. Borrower advocacy

Our designated Student Loan Assistance Unit (Unit) advocates for borrowers by helping them communicate with their loan servicers, getting information about their accounts, resolving disputes, assisting with applications for federal programs and helping borrowers understand the requirements for IDR plans, PSLF and other programs. The Unit's staff is on the frontlines of the student loan crisis every day. Over the past four years, the Unit has annually received an average of 2,600 hotline calls and 950 written help requests and generated savings and refunds of $1.5M for student loan borrowers each year. The Unit's staff speaks with borrowers who have found their way to my Office in despair. Many have been struggling with student loan debt for years and in some cases—for decades.

The work of this Unit has afforded our office an inside view into the problems confronted by borrowers and the inordinate complexities of the systems that they are routinely required to navigate, often with grossly inadequate information and assistance from the private companies hired to service their loans. From inside the Student Loan Assistance Unit, it is clear that the system is plagued by servicing errors and abuses that have trapped borrowers in unaffordable debt by denying them access to vital programs like IDR and PSLF.

Although our Student Loan Assistance Unit has achieved significant outcomes for individuals, ultimately, a borrower-by-borrower approach to ensuring that loan servicers are identifying and correcting account errors and helping students access federal debt assistance programs is an inefficient and ineffective way to combat the student debt crisis.

B. Litigation

In August 2017, my Office brought a lawsuit against the Pennsylvania Higher Education Assistance Agency, d/b/a FedLoan Servicing, challenging a variety of student loan servicing practices. PHEAA is one of the largest student loan servicers in the country and manages the federal loan accounts of over 200,000 Massachusetts residents. The lawsuit alleged, in part that PHEAA: (i) prevented borrowers participating in the PSLF program from making progress towards and achieving loan forgiveness by depriving them of the opportunity to make necessary payments to obtain forgiveness and by misrepresenting the eligibility requirements of the program and (ii) prevented borrowers from timely obtaining affordable IDR plans.

The resolution of the PHEAA case, reached two months ago in February, provides significant relief to public servants and borrowers affected by these practices. The settlement requires PHEAA to conduct individual loan account audits for every Massachusetts borrower with a federal student loan upon submission of a claim form. If every eligible borrower requests an audit, PHEAA will conduct over 200,000 reviews for Massachusetts alone. The settlement sets forth the scope of the audit and broadly applies to a wide variety of servicing errors, and provides borrowers with loan account corrections and monetary payments. Obtaining the loan account correction relief required significant advocacy to and negotiation with the Department, which owns the loans had has the exclusive authority to permit account corrections. Notably, the Department does not allow corrections for every type of servicing error, including when a servicer misrepresents certain eligibility requirements of the PSLF program.

The PHEAA litigation and resulting settlement illustrates how barriers erected by loan servicers and the Department have prevented borrowers from managing repayment and obtaining loan forgiveness. It also highlights the inefficiencies of using enforcement actions or a borrower-by-borrower approach to address the student debt crisis. It took over three years of hard-fought litigation preceded by a year-and-a-half long investigation before we were able to obtain this resolution, and the relief is only available to Massachusetts borrowers. In order to identify borrowers harmed by PHEAA's servicing errors, individualized audits of potentially hundreds of thousands of loan accounts are necessary because PHEAA's servicing system is insufficient to identify errors and the borrowers affected by them.

PHEAA is not the only federal loan servicer to face scrutiny. State Attorneys General and the CFPB have also filed lawsuits against Navient, another of the nation's largest federal loans servicers. These lawsuits allege that Navient routinely misled struggling borrowers about their repayment options. Rather than taking the time to counsel borrowers and help them enroll in more affordable IDR plans, Navient allegedly steered borrowers into costly long-term forbearances that resulted in hundreds of millions of dollars being added to their loan balances. Notably, despite routinely representing to borrowers that Navient would help them find affordable repayment options, in the course of these litigations, Navient has argued that, "there is no expectation that the servicer will act in the interest of the consumer."

The lawsuits filed against Navient by government regulators also allege that the company used faulty methods to notify borrowers of the steps they needed to take to continue making income-driven payments, and that the company misapplied and misallocated borrowers' payments. Finally, some of these lawsuits allege that Navient made millions of dollars in predatory high-risk loans to students attending for-profit colleges that had low graduation rates and provided graduates with scant employment prospects. Navient allegedly knew that the borrowers would be unable to repay these loans, but made them in order to build business relationships with schools and secure other types of loan volume.

I have also devoted significant resources to confronting the widespread abuses and financial devastation wrought by predatory for-profit schools. For-profits schools account for a disproportionate percentage of defaults and often do not lead to gainful employment. To address this, my office has brought enforcement actions against over a dozen such schools in Massachusetts, including several large national chains that lured students with false promises and left them with worthless degrees, few job prospects, and insurmountable debt.

Our enforcement actions against for-profit schools led the Obama administration to grant tens of millions of dollars in Borrower Defense discharges to thousands of Massachusetts students relating to Corinthian Colleges, Inc. and American Career Institute. However, these discharges are just a drop in the bucket, and our efforts to secure Borrower Defense discharges for other defrauded students have been stymied by the previous administration. In the past four years, my office has repeatedly sued the Department to obtain discharges and to uphold sensible Borrower Defense and Gainful Employment rules that are intended to protect not only borrowers, but also taxpayers and the federal fisc.

3. The Department of Education should exercise its authority to forgive $50,000 of federal loan debt for every student borrower.

In light of the harms caused by these systemic failures and the overwhelming burden facing borrowers, President Biden should direct Secretary Cardona to cancel up to $50,000 in federal student loan debt for every student borrower. Such debt forgiveness is within the Secretary's statutory authority and would provide critical relief to borrowers.

The general powers enumerated in the Higher Education Act (HEA) provide the Secretary with the authority to effectuate broad debt relief. The HEA authorizes the Secretary to "enforce, pay, *compromise*, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption." 20 U.S.C. § 1082(a)(6) (emphasis added).[10] By statute, the exercise of the Secretary's authority to compromise debt "shall be final and conclusive upon all accounting and other officers of the Government." 20 U.S.C. § 1082(b). The only statutory restriction placed on this authority is the requirement that the Secretary "not

[10] While this language is included in the portion of the HEA specific to FFELP, the Secretary regularly relies on the general powers conferred to the Secretary under these provisions in administering other Title IV programs, including the Direct Loan program. Additionally, the portion of the HEA governing Federal Perkins loans includes a comparable grant of authority to the Secretary. *See* 20 U.S.C 1087hh.

enter into any settlement of any claim under [Title IV] that exceeds $1,000,000" without requesting "a review of the proposed settlement of such claim by the Attorney General," *Id.* The HEA thus provides the requisite authorization for the Secretary to engage in broad debt reduction.

Discharging up to $50,000 in Federal student debt owed by each student loan borrower would provide immediate relief to millions of struggling borrowers and give a much-needed boost to our economy. Such broad cancellation of federal student loan debt would also help remedy predatory practices that have disproportionately harmed people of color and create a viable future for millions of Americans. Indeed, an expert analysis projected that such a policy could amount to total loan forgiveness for over 75% of households with student debt and result in meaningful gains to net worth for households of color.[11] By permitting borrowers to increase their consumption and investments, such debt forgiveness would have the additional effects of increasing home ownership, allowing borrowers to complete their educations, and empowering borrowers to pursue professional opportunities.

I appreciate the opportunity to share these views with the Subcommittee and thank the Subcommittee for its careful examination of these important issues. Please do not hesitate to contact me for any additional detail or clarity, or with any questions you may have.

[11] Elizabeth Warren Website, https://elizabethwarren.com/wp-content/uploads/2019/04/Experts-Letter-to-Senator-Warren-.pdf (last visited on April 7, 2021)