



May 24, 2019

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The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

RE: Student Loan Discharges for Totally and Permanently Disabled Veterans

Dear Secretary DeVos:

We write, as the Attorneys General of our jurisdictions, to urge the Department of Education to take prompt action to satisfy its statutory mandate to discharge the student loans of veterans who are permanently and totally disabled or otherwise unemployable. As a nation, we have a moral obligation to assist those who have put their lives on the line to defend us.

We welcome the federal government's recent efforts—including the implementation of a data matching program between the Departments of Education and Veterans Affairs—to make it easier for veterans to have their loans discharged due to disability. But the Department of Education continues to require eligible veterans to take affirmative steps to secure the loan forgiveness that is their statutory right. And the requirements imposed by the Department may prove insurmountable obstacles to relief for many eligible veterans due to the severe nature of their disabilities.

Because America's veterans deserve better, we ask the Department to develop an automatic discharge process to ensure that all eligible veterans can have their student loans forgiven. Any concerns that some disabled veterans might not want their student loans discharged can be addressed by providing veterans notice and an opportunity to opt out of loan forgiveness or to seek reinstatement of their loans.

Under the Higher Education Opportunity Act of 2008, which passed Congress with strong bipartisan support before being signed by President Bush, the Department has an obligation to discharge the loans of veterans who are permanently and totally disabled as result of their service. "If a student borrower...dies or becomes permanently and totally disabled...the Secretary *shall* discharge the borrower's liability on the loan by repaying the amount owed on the loan." 20 U.S.C. § 1087(a)(1) (emphasis added). When a veteran "has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition," he or she "shall be considered permanently and totally disabled for the purpose of discharging such borrower's loans" and "shall not be required to present additional documentation" of his or her disability. *Id.* § 1087(a)(2).

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The Department of Education has identified over 42,000 veterans who are eligible for total and permanent disability (TPD) discharges based on information that the Department has received from the Department of Veterans Affairs.¹ Collectively, these veterans carry over \$1 billion in dischargeable student loan debt—nearly \$24,000 each on average. Yet fewer than 9,000 of these eligible veterans had applied for TPD discharges as of April 2018, and over 25,000 were in default. Although we hope that the number of eligible veterans requesting TPD discharges has increased significantly in the interim, these initial numbers tend to confirm that the current approach is inadequate.

As Attorneys General, we understand the difficulties faced by our residents who struggle to manage their student loan debt. Those difficulties are only compounded for veterans and others who are suffering from a total and permanent disability. The cost of education for our disabled veterans today is soaring, and it would be of great benefit to those who are burdened by these crushing debts to obtain relief without arduous compliance requirements.

Our collective experience working to protect veterans and other constituents from consumer abuses related to higher education and student loans informs our request that the Department of Education develop a process for automatically discharging student loans for veterans identified by the Department of Veterans Affairs as 100 percent permanently disabled or individually unemployable. This approach would eliminate unnecessary paperwork burdens and ensure that all eligible disabled veterans can receive a discharge. And while the Department develops this process, it should halt collection efforts against disabled veterans and clear their credit reports of negative reporting related to their student loans.

Although the Department of Education has raised concerns about borrowers' potential tax liability, federal tax law now excludes loan discharges for disabled borrowers from taxable income, and most states' tax codes do likewise. Moreover, we think it likely that most borrowers would prefer to have one hundred percent of their outstanding loans discharged, even if this resulted in an increase to their state tax bill. However, in order to protect those borrowers and respect each borrower's right to make the choice that best fits his or her individual circumstances, the Department could notify borrowers eligible for automatic discharges of the potential state income tax consequences and allow them to opt out of having their loans automatically discharged or request to have their loans reinstated.

There is no statutory or legal requirement that the Department of Education demand that eligible veterans affirmatively apply for TPD discharges before the Department will forgive their loans. *See* 20 U.S.C. § 1087(a)(1)-(2). To the contrary, the Higher Education Act makes clear that the Department's primary obligation is to provide relief to eligible individuals. The Department has the authority to automatically discharge the student loans of disabled veterans, and we urge the Department to implement the plain intent of the Higher Education Act by doing so as expeditiously as possible.

¹ Annie Nova, Many Disabled Veterans Eligible for Student Loan Forgiveness Are Still Paying, CNBC (Nov. 12, 2018), <https://www.cnbc.com/2018/11/12/many-disabled-veterans-are-still-forced-to-repay-their-student-debt.html>.

Proposals for automatic discharges with opt-out rights already have bipartisan support in Congress and among leading veterans' advocacy organizations.² We now urge the Department to take action to better protect those who once protected the nation. Our veterans deserve nothing less.

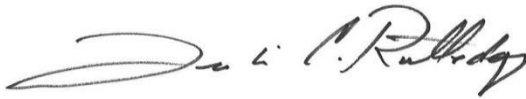
Sincerely,



Gurbir S. Grewal
New Jersey Attorney General



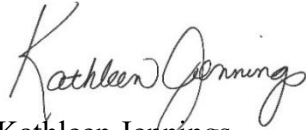
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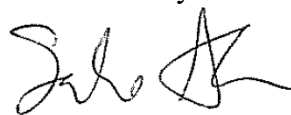
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² Letter to Secretary DeVos, Secretary Shulkin, and Acting Commissioner Berryhill from Senators Coons, Portman, King, Collins, Duckworth, and Gardner and Representatives Kind and Roskam, (Feb. 15, 2018), <https://www.king.senate.gov/imo/media/doc/02-28-17%20DOEd%20SSA%20VA%20Letter.pdf>; Letter to Secretary DeVos from Senators Reed, Murray, Whitehouse, Warren, Klobuchar, Blumenthal, Van Hollen, Markey, Leahy, Gillibrand, Shaheen, Duckworth, Hassan, and Feinstein (Nov. 9, 2018), <https://www.regulations.gov/document?D=ED-2018-FSA-0065-0003>; Letter to Secretary DeVos from Ivy League Veterans Council, Higher Ground Advocacy, The Retired Enlisted Association, Veterans Education Success, and Vietnam Veterans of America (Nov. 9, 2018), <https://www.regulations.gov/document?D=ED-2018-FSA-0065-0005>.

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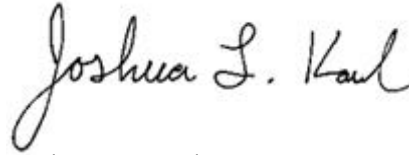
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