



March 4, 2021

The Honorable Dr. Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Dear Secretary Cardona:

Congratulations on your confirmation as Secretary of Education. We look forward to your demonstrated dedication to students and families translating into future policy decisions that will enhance and enrich the lives of students across the country.

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.

Expanding access for all students, no matter their background, is the foundation of the federal investment in higher education and is facilitated primarily through the federal financial aid programs. Without this investment, we would live in a country where only the privileged few would have access to the full range of educational opportunities available. America is best served when everyone is given the chance to contribute to its advancement. That is why AccessLex Institute has for many years been generating policies and research that seek to ensure the greatest access, affordability and value for students pursuing post-baccalaureate education, particularly for students from underrepresented backgrounds. And while our area of focus is on legal education, we advocate for policies that will benefit all graduate and professional students.

Federal funding of graduate education allows students, many of whom would otherwise be unable to do so, to access advanced education, which more middle-class jobs now require. However, very few federal programs are targeted specifically at graduate students, and those that exist are almost always less beneficial to students than undergraduate offerings. For example, the federal loan exclusively for graduate students, Grad PLUS, has less favorable terms than federal undergraduate loans. Specifically, graduate borrowers pay a higher interest rate and origination fee on their loans, often accounting for thousands of more dollars paid over the life of the loan than a borrower with only undergraduate debt.

But this disparity does not affect all graduate students to the same degree. Compared to peers of other races, black graduate students are more likely to borrow and rely on federal student loans: in 2016, 80 percent of black graduates borrowed federal loans to fund their graduate education. Additionally, black graduate students' average cumulative federal debt was 17 percent higher than their white peers (\$70,207 versus \$59,997). Thus, changes to federal graduate loan programs must not come at the expense of students, especially those that rely most heavily on these programs. The Department of Education and Congress must ensure that policy proposals are always grounded in the fundamental purpose of the Higher Education Act: expanding access.

This is a sentiment we know you share, and we look forward to working with you and the Department to increase the accessibility and affordability of higher education, thereby making the promise of graduate and professional education available to all who wish to pursue it. To achieve our shared goals, we have attached below for your consideration our higher education priorities.

For any additional information, please contact me at via email at cchapman@accesslex.org. You can also reach our Director of Policy, Nancy Conneely, at nconneely@accesslex.org. Supplemental information regarding the work of AccessLex Institute can be found at www.accesslex.org.

Sincerely,



Christopher P. Chapman
President and Chief Executive Officer

cc: Michelle Asha Cooper, Acting Assistant Secretary for Postsecondary Education
Jordan Matsudaira, Deputy Under Secretary
Nick Lee, Deputy Assistant Secretary for Planning, Evaluation, and Policy Development



POLICY RECOMMENDATIONS:

Higher Education Act Reauthorization

The reauthorization of the Higher Education Act presents a strong opportunity to strengthen graduate and professional education and to help students better manage its expense and succeed in their chosen careers. We also believe that reforming the federal student loan program to create a broader federal financing policy for graduate and professional education that properly balances access, accountability, and quality will further the academic and economic goals and objectives of both students and the public.

In this document, we present policy recommendations, including decreased loan costs, flexible grant funding, and greater consumer information and counseling, to serve as the cornerstones for the type of reform that we believe is required in a reauthorized Higher Education Act. Through these recommendations, AccessLex hopes to simplify the overly complex student loan system, while promoting greater access to graduate and professional education.

Increase Affordability

Provide student borrowers with a low interest rate on all federal student loans. The federal Direct Loan program is designed to generate a substantial profit to the federal government. This profit exists partly because the interest rates charged to students far exceed the rate at which the federal government can borrow money. To illustrate, the interest rates for the 2020-21 academic year were set at 4.30 percent and 5.30 percent for graduate students, at a time federal government could borrow for 30 years at a rate under 1.50 percent. These high interest rates contribute to ballooning student loan debts that borrowers are increasingly unable to pay. By lowering the interest rates, the federal government could help reduce costs for students while still generating sufficient revenues for the government to cover its programmatic costs, including the cost of capital, loan servicing, collection costs for defaulted loans and any losses due to defaults or other discharge of the debt.

Congress should eliminate origination fees on all federal student loans. Federal student loans assess an origination fee—a percentage of the loan amount charged for the processing of the loan—leading to a disbursement amount that is lower than the student borrowed. Origination fees on federal student loans are currently set between 1 and 4 percent. Origination fees serve to generate revenue for the federal government and increase costs for students. The taking of up to 4 percent of the proceeds of a federal student loan adds an additional expense on students who have already demonstrated a need for financial aid and the practice should be ended.

The costs associated with preparing for the test required for professional licensure should be included as a component of the cost of attendance and therefore eligible to be funded by federal student loans. Current law permits “the one-time cost of obtaining the first professional credentials” to be included in the cost of attendance calculation for eligibility for federal loans, however, this does not include costs associated with preparing for the test required for professional licensure. For law students, this means that only the relatively small fee for the bar exam itself can be included in the cost of attendance, not the cost of bar review courses or living expenses associated during the two-month study period immediately prior to the bar exam. Without access to federal loan funding, many graduating law students may be forced to rely upon credit cards or other higher-cost alternatives to cover bar exam expenses. Others may forego a bar preparation course and/or work full-time during the study period, which could negatively impact bar passage rates and graduates’ ability to secure a legal job which would enable them to repay their loans. This could, in turn, negatively impact the federal fiscal interests by increasing the rate of deferments, forbearances, and defaults on the federal student loans which financed the professional degree for which licensure is sought.

Institutional and other emergency grants should be exempt from the “estimated financial assistance” calculation. To ensure that emergency grants from schools, charities and other private donors flow quickly and seamlessly (and in many cases, at all) to students who have urgent needs, Congress should remove unnecessary restrictions related to financial aid awards. Categorizing institutional and other emergency grant funds as “estimated financial assistance” can result in students who have already received the maximum aid award not being able to access these much-needed emergency grants. By changing how these funds are classified, Congress can ensure that students receive these emergency grants when they need them and without undue difficulty.

Support Diversity and Access

Any changes to the federal graduate loan programs should not limit access to graduate and professional education for students from traditionally underrepresented backgrounds. The availability of federal financing has made it possible for students who would otherwise be unable to pay for school to pursue and attain a graduate or professional degree. For example, 36 percent of law students received Pell Grants as undergraduates in 2015-16. Without access to federal graduate loans, many low-income students would likely have to forgo pursuing an advanced degree. Additionally, with 79 percent of Black students relying on federal student loans in 2015-16 for graduate school, efforts to severely limit or eliminate federal graduate loans would likely result in severe negative unintended consequences for the neediest students and would disproportionately harm Black borrowers and Historically Black Colleges and Universities.

Graduate and professional students whose undergraduate degree was obtained no greater than five years prior and who have not used their maximum Pell Grant amount as undergraduates should be allowed to use the remainder of their Pell funds for graduate or professional school. The federal Pell Grant program provides need-based grants to low-income undergraduate students. The amount of aid offered is calculated based on a student’s financial need, the cost of attendance at the student’s school, and other factors. The amount of Pell Grant funds a student is eligible to receive over their lifetime is limited to the equivalent of six years of Pell Grant funding, however some undergraduate students may use less than their maximum eligibility amount. Needy students who have remaining Pell eligibility should be allowed to use those grant funds to finance their graduate or professional degrees.

Eligibility for subsidized Stafford Loans should be reinstated for graduate and professional students from the neediest backgrounds. Prior to July 1, 2012, graduate students, like undergraduates, could borrow both subsidized and unsubsidized Stafford Loans. However, the Budget Control Act of 2011 eliminated subsidized Stafford Loans for graduate students. Graduate students can still borrow the same amounts, but only as unsubsidized Stafford Loans. This change means that graduate students accrue interest on their loans while enrolled in school, potentially adding thousands of dollars in capitalized interest to their loan balances. Subsidized Stafford Loan eligibility should be reinstated for any graduate and professional student who received a Pell Grant as an undergraduate student within five years prior to the origination date of any new loan.

Authorize full funding of Title III programs supporting Historically Black Colleges and Universities and other minority-serving institutions. In 2008, Congress authorized specific funding levels for programs under Title III of HEA, which support institutions that serve a high percentage of minority students from low-income backgrounds, but they have never been fully funded. One such program, the Historically Black Graduate Institutions (HBGI) program, provides grants to eligible graduate and professional institutions to support increasing the number of Black individuals in certain professional fields. Funds can be used for things like academic development, student services, scholarships, fellowships, and other financial assistance for needy graduate and professional students. Research shows that Black bachelor's degree-holders make 20 percent less than their white counterparts, thus necessitating that Black students earn a graduate degree in order to receive similar pay. Increasing funding for the HBGI program could help close this gap.

Strengthen Repayment

Federal Direct Loan borrowers entering repayment should be eligible for a single income-driven repayment plan with the most favorable repayment options. Five discrete federal income-driven repayment plans, which tie a borrower's monthly loan payment amount to their income and forgive any remaining balance after a set number of years, currently exist to help federal student loan borrowers better manage their loan repayment obligations. For example, a borrower in the Pay As You Earn plan would pay 10 percent of their discretionary income per month, and have their balance forgiven upon making 20 years of payments. While AccessLex Institute supports the intent of these plans -- to ease the financial burden of borrowers -- the number and details of the plans create unnecessary complexity and often lead to undue confusion for borrowers.

The Public Service Loan Forgiveness (PSLF) program should be preserved and strengthened. Under this program, federal student loan borrowers may qualify for forgiveness of the remaining balance of their Direct Loans after making 120 qualifying payments on eligible loans while employed full-time by qualified public service employers. The PSLF program encourages individuals to enter public service fields, incentivizes a longer-term commitment to public service, and increases vital services to individuals, states, and the nation as a whole. PSLF has been a vital recruitment tool, however, issues with implementation have led to a mere 1.1 percent approval rate in the first 3 years of the program. This indicates that there is tremendous room for improvement through creating efficiencies in the program and reducing administrative and procedural burdens that make it difficult for public servants to properly navigate the program.

Improve Consumer Information

Congress should overturn the 2008 student-level data ban and expand access to comprehensive higher education data. More and better higher education data are needed to assist a variety of stakeholders in making crucial decisions related to accountability, policymaking, and consumer choice. However, in 2008 Congress banned the creation of a federal student unit record data system. Some of the stated reasons for opposing a federal student unit record data system are centered on student privacy and data security. A well-designed, federal student unit record data system could, however, generate valuable information to assist students, schools, and policymakers in decision-making in a manner that maintains necessary levels of privacy and security. Such a system could provide accurate post-graduation data, including more precise earnings data from the IRS on all graduates. It could also reveal more information on the types of jobs graduates obtain. Analyzing these data points together – earnings and job type – could reveal more about the value of higher education.

Financial aid administrators at graduate and professional schools should be able to use their professional judgment to require additional loan counseling for students. The levels of borrowing incurred by many graduate and professional school students creates an imperative that they have sufficient information to make the best financial decisions. Under current law, entrance counseling is required for all first-time Direct Loan borrowers, and exit counseling is required for Direct Loan borrowers who are graduating, leaving school, or dropping below half-time enrollment. However, the information provided to students regarding their loan terms often falls short, with most of the counseling taking place in a 30-minute online questionnaire. Additionally, current law prohibits schools from requiring students to complete additional loan counseling to supplement the minimum requirements. Graduate and professional students as a group hold the largest loan balances upon graduation, and as such more loan counseling would provide a strong benefit for both students and the federal government.

Congress should require loan counseling and financial education specifically tailored to graduate and professional students. The needs of undergraduate and graduate students may require different types of information and different levels of support. In order to best serve the needs of graduate and professional student borrowers, loan counseling must strike the balance between providing relevant information with providing the right amount of information. Additionally, financial education should be provided to graduate and professional student borrowers that is high quality and includes personalized information to enable individuals to make informed decisions.