



August 9, 2022

U.S. Department of Education  
400 Maryland Avenue SW, Room  
Washington, DC 20202

**RE: Docket ED-2021-OPE-0077-1350**

On behalf of Latinos for Education, thank you for the opportunity to share our organization's comments in response to proposed rulemaking covering student loans and affordability issues.

Latinos for Education (L4E) is a national, nonprofit guided by the mission to develop, place, and connect essential Latino leadership in the education sector, while mobilizing Latinos voices to promote practices and policies that remove barriers to equitable educational opportunity. Through a portfolio of leadership fellowships, a virtual community of practice (known as EdCentro), national and regional advocacy work, Latinos for Education reaches, serves, and engages school and campus leaders, policy makers, parents, families, and students. Given our scope of work and expertise, we are submitting comments on the following priorities: 1) Borrower Defense, and 2) Public Service Loan Forgiveness.

According to a [2020 report](#) by the Student Borrower Protection Center<sup>1</sup>, 72 percent of Latino students take out loans to pay for college, compared to 66 percent of white students. In addition, "twelve years after starting college, the median Latinx borrower still owes 83 percent of their initial student loan balance while the median white borrower owes only 65 percent of their original balance."

#### Borrower Defense to Repayment, Arbitration, and Class Action Waivers

Unfortunately, we know that Latino college students tend to be [overrepresented](#)<sup>2</sup> in the for-profit sector, with Latino students being three times more likely than white students to enroll in a for-profit institution. These same institutions of higher education are most likely to defraud students. Since 2017, nearly 24,000 federal fraud complaints have been filed against for-profit colleges. Ensuring that borrower defense to repayment is fair and quickly processed is paramount for Latino students.

---

<sup>1</sup> <https://protectborrowers.org/wp-content/uploads/2020/06/SBPC-Disparate-Debts.pdf>

<sup>2</sup> <https://www.aspeninstitute.org/blog-posts/worse-off-than-when-they-enrolled-the-consequence-of-for-profit-colleges-for-people-of-color/>



L4E supports the Department's efforts to create a process that is simpler and fairer to borrowers. In particular, L4E supports the Department's proposals to expand the existing definition of misrepresentation, provide an additional basis for a borrower defense claim based on aggressive and deceptive recruitment practices, allow claims based on State law standards, and remove the requirement that that a borrower demonstrate individualized harm.

As the Department moves forward with streamlining, L4E recommends:

- 1) Simplification and streamlining of the application form itself (which as a PDF is 25 pages unfilled).
- 2) The regulations would add a new §668.72(n) that allows as a defense the misrepresentation of the classification of the institution as a nonprofit, public, or proprietary for the purposes as of its participation in the new title IV programs as another borrower defense claim. Given the high propensity of Latino students to be first-generation, low-income, and not be aware of the different types of institutions, the Department should require all IHEs to clearly and prominently identify their type of institution in advance of a student enrolling, including a clear definition of what each type of institution entails.
- 3) Under new §668.72(q) the Department proposes to allow the misrepresentation of those helping to obtain a high school diploma or GED as a borrower defense claim. Given the higher-than-average dropout rate for Latino students, we need to not only ensure that this is a reason for borrower defense relief but that any student who is found to be defrauded has full access to all the federal aid they are eligible for, including the Pell Grant, and that they are eligible again for the full amount they are entitled to receive.
- 4) L4E supports the inclusion of judgments against institutions and department actions as part of borrower defense. Given the inability of individual students to obtain this information, and the work the Department has already done to come to these judgements, it is logical to allow their use for future claims brought by other students.
- 5) L4E strongly supports the proposed regulation that borrowers with outstanding loans would not be subject to limitations period for bringing a borrower defense claim. These largely first-generation, low-income students should be afforded every possibility for remedy to being defrauded.
- 6) Under the exclusions to borrower defense are included the violation of civil rights as the basis for alleging a borrower defense claim. Those violations can be filed with the Office for Civil Rights (OCR). It is the belief that students should be afforded every opportunity for borrower defense claims, including allowing the opportunity for both OCR or the borrower defense process to provide borrower defense relief. The exclusions should be able to be processed by both and/or either.
- 7) L4E supports the Department being allowed to create a group process for borrower defense and placing students who qualify under the claim and stopping repayment or collection of debt. L4E further encourages the Department to do outreach to all students it can identify as borrowers during the enrollment period(s) defined as there

may be reason to believe that there are more potential students who would be eligible for the borrower defense. As first-generation, low-income students, they may not realize there is potential for remedy to being defrauded.

- 8) L4E supports the continuation of the preponderance of evidence standard being used for borrower defense.
- 9) L4E supports proposed regulations §685.402(d)(2) and §685.403(c)(3) which would provide that during adjudication of a borrower's defense claim all of the borrower's title IV non-defaulted loans would be placed in forbearance and all Title IV loans in default would be placed in stop collection status, regardless of whether they were associated with the borrower defense claim. This would alleviate the financial burden on students during this relatively long process.
- 10) Under §685.403, L4E would amend the Department proposal to reduce the time interest accrues while a claim is being processed from the proposed 180 days to 90 days. While 180 days is significantly better than the current year, the capitalization of interest for half a year would be a significant financial burden for individuals who may be struggling financially.
- 11) Under the proposed regulations that the Department proposes applying a rebuttable presumption that the borrower or group of borrowers with an approved claim should receive a full discharge, unless one of three criteria are met, we recommend changing the third criteria so that the presumption is not rebuttable if the institution **intentionally** submitted false data about the GPAs or test scores of incoming data. While this may not impact the outcome of the education itself, students may make decisions on where to attend based on this information and they may have chosen a different institution if accurate data were presented to them – if it is publicly determined that the data was widely false, it may also impact the value of the degree in the job market. We otherwise support the rebuttable assumption for full discharge.
- 12) L4E strongly supports the elimination of interest capitalization (§§685.202, 685.209) which can significantly increase the amount borrowers owe and the time it takes to pay off loans. L4E encourages the Department to support any legislation or regulations needed to eliminate interest capitalization for as many loan types as possible.
- 13) While a search for “List of Schools Subject to Borrower Defense” resulted in this government [website](#)<sup>3</sup>, L4E encourages the Department to make a very easily accessible, and widely publicized list of those campuses subject to Borrower Defense claims so that students have all information needed to determine if an IHE is the best place for them to matriculate.

---

<sup>3</sup> <https://studentaid.gov/announcements-events/borrower-defense-update>

## Public Service Loan Forgiveness (PSLF)

L4E appreciates the Department's proposed regulations to improve and expand access to loan forgiveness under PSLF. These proposed changes would have a significant impact on Latino student loan borrowers who pursue careers in public service. In particular, L4E supports the proposals:

- To expand what counts as an eligible monthly payment, including the Department's proposal to count payments made outside the 15-day payment window, lump sum payments, payments made in multiple installments, and payments made on a Direct Loan prior to consolidation.
- To simplify the application process and allow borrowers to request reconsideration of a denial of forgiveness.
- To clarify the definition of "full-time employment." Utilizing the conversion calculation of 3.35 hours per credit or contact hour is particularly important for adjunct faculty teaching at institutions of higher education, including Hispanic Serving Institutions (HSIs).
- To make all changes under TEPSLF permanent. This would include counting other repayment plans and deferment or forbearances used while working for a qualifying employer towards forgiveness. The TEPSLF resulted in additional borrowers receiving loan forgiveness and we should be supporting as many borrowers as possible, who are in public service, receiving loan forgiveness after 120 payments.

In addition, L4E makes the following recommendations:

1. L4E supports the new proposed definitions in §685.219(b) which would make it clearer that our early childhood educators, teachers, faculty in higher education, and those in other education settings are qualified for PSLF.
2. L4E supports the proposal under §685.219(c)(2)(v) to allow the months a student is in certain categories of forbearance or deferment to count towards payment PSLF. L4E encourages forbearance caused by obtaining additional higher education to count towards the PSLF count – this would encourage Latino students to obtain additional degrees in an affordable way.



### Interest Capitalization

1. L4E supports the elimination of interest capitalization only where it is not required by statute as it creates additional burdens for low-income, struggling individuals who are repaying their debt and increases time to completion. L4E encourages the Department to work with Congress to eliminate all instances of interest capitalization.

Thank you for the opportunity to comment on the proposed rulemaking covering student loans and affordability issues. Our team is happy to answer any questions you may have regarding our recommendations.

Sincerely,

*Erica M. Romero*

Erica Romero, MPP  
Vice President of Education Policy and Advocacy