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Consumer Law
Center
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for Economic Justice*

Disproportionately Impacted:

Closing the Racial Wealth Gap through Student Loan Cancellation, Payment Reforms, and Investment in College Affordability

By J Geiman & Alpha S. Taylor



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Executive Summary

President Biden ran on an agenda that included student debt relief for the more than 44 million borrowers who collectively owe over \$1.6 trillion. This would be in line with the Biden Administration's racial equity goals, as it would include relief for the millions of Black borrowers who are disproportionately affected by the student loan crisis. While the administration has made progress in providing limited cancellation to a small percentage of borrowers, most are still waiting for relief as the president considers potential models for broader cancellation. Regardless of what the administration decides with respect to cancellation, much remains to be done to reform the college funding and student loan servicing systems to end the student debt crisis.

The student debt crisis is particularly dire for Black borrowers. Black degree-seekers are more likely to take out student loans to pay for higher education than white students, and they carry the largest average student loan debt of all racial demographics in the nation. Additionally, workforce inequities leave college-educated Black workers with higher rates of un- and underemployment and lower earnings than similarly educated white peers, making it even harder for these borrowers to escape from the burden of student loan debt. Black students are also more likely to leave college without a degree, leaving them saddled with student loan debt without the benefits of a degree. As a result, the higher education system has not served as a great equalizer to provide populations with lower wealth and lower incomes a path for socioeconomic mobility. Instead, like all other major U.S. institutions, the higher education system has perpetuated and exacerbated existing inequities, particularly when it comes to race.

The COVID-19 pandemic has created even more barriers to both postsecondary success and workers' economic stability, and Black Americans are still struggling to make a full economic recovery. The pause on student loan payments has temporarily eased the financial stress of student debt for millions of borrowers during the public health emergency. However, this relief is only temporary. Without broad-based cancellation and reforms to the student loan and federal student aid systems, the U.S. higher education system will continue to hinder, rather than support, Black Americans' economic mobility.

In this paper, the Center for Law and Social Policy (CLASP) and the National Consumer Law Center (NCLC) explore the disproportionate impact of student debt on Black borrowers. We also make recommendations to address the dual student loan and college affordability crises through federal policies and executive action. These steps include administrative action to extend the student loan payment pause; ensure a smooth transition of loan accounts to new servicers; provide increased protections for borrowers, particularly those who are victims of predatory lending and for-profit colleges; improve existing repayment options, including Income-Driven Repayment (IDR); and invest in college affordability through federal grants like the Pell Grant, a federal free community college program, and support for student basic needs.

PART ONE - BACKGROUND

The illusory promises of higher education

In the United States, higher education has, for decades, been touted as a pathway to a better life for individuals of all backgrounds. In particular, the four-year college degree has been marketed to populations with low incomes and Black Americans as a way to escape the cycle of poverty and close the racial wealth gap. As the prevailing narrative would have it, completing a college degree all but automatically confers the skills, credentials, and professional and social connections required to build a successful career, provide for oneself and one's family, and achieve the "American dream."

Degree inflation and flat wages have contributed to the student debt crisis

In general, it is true that a college degree is a good predictor of lower unemployment and higher pay. Individuals with a bachelor's degree see median weekly earnings of \$1,305—nearly double the median earnings of those with only a high school diploma, who make just \$781.¹ Unemployment also drops at higher levels of educational attainment. As of 2020, the jobless rate for those with only a high school degree stood at 9 percent, but fell to 3 percent for individuals with a four-year degree or higher.²

However, this difference in economic outcomes may have little to do with any career-specific "hard skills" or other tangible benefits conferred by a postsecondary degree. The number and percentage of college graduates have risen dramatically in recent decades: while in 1960, only 7.7 percent³ of the U.S. population ages 25 and older held a bachelor's degree or higher, as of 2020, that proportion stands at 37.5 percent.⁴ As the supply of job candidates with degrees has increased, growing numbers of employers have begun to require a college degree, including for positions that previously did not require one.

The increase in jobs requiring a degree has been most dramatic in middle-skill positions—those that historically have required more than a high school education, but less than a bachelor's degree. A 2017 study by Harvard Business School found that increasing numbers of job postings for these positions required a bachelor's degree or higher, even when the job description and required skills remained identical to previous postings for the same position that did not require a degree.⁵ This "degree inflation" pushes individuals to pursue higher education simply as a minimum requirement for employment, rather than because it will give them the skills to succeed in their careers.

At the same time, the cost of higher education has skyrocketed across both public and private institutions.⁶ Between 1970 and 2020, average annual tuition and fees at public four-year institutions have increased by more than 380 percent, and by 308 percent at private four-year institutions, after adjusting for inflation.⁷ Coupled with increasing costs of living and flatlining wages,⁸ this means that even students who work part time or full time often must rely on borrowing greater amounts in order to afford tuition and educational expenses as well as basic needs like housing, food, and transportation.

The prevailing narrative argues that this debt will pay for itself in the long run through better jobs and increased earnings. However, at many of the jobs most affected by degree inflation, pay has stagnated. Students have to take on an increasing loan burden to access the same jobs and wages that they once could have secured without this level of debt.⁹

Policies have not sufficiently addressed rising costs and increased harms of student debt

Federal policymakers have made efforts to address college access and affordability over the last several decades, particularly through reauthorizations of the Higher Education Act (HEA). The bill that became the HEA was introduced in 1965 during the height of the civil rights movement and was designed to improve the quality of postsecondary education and support access to higher education for populations with low incomes. In addition to institutional funding, the HEA created several core federal student aid programs under Title IV of the act.¹⁰ This includes grants like the Pell Grant and Federal Supplemental Educational Opportunity Grants (FSEOG); subsidized and unsubsidized federal student loan programs like the Stafford and Parent PLUS loans; and campus-based aid programs like federal work-study (FWS).

To respond to changing student needs, the HEA was designed as a living document, scheduled to expire and be reauthorized every five years. Early amendments and reauthorizations in the 1970s increased funding for aid programs and expanded eligibility both for the types of institutions and student demographics receiving federal aid.¹¹ However, in the 1980s, funding for higher education was greatly reduced as part of broad cuts to social spending programs during the Reagan Administration.¹² With less funding and eligibility for grant aid, students relied increasingly on federal loans. Policymakers increased the borrower ceiling¹³ for both student and parent loans and, in 1992, uncapped the Parent PLUS loan program, allowing parents to borrow up to the full cost of attendance on behalf of their children.¹⁴

Subsequent reauthorizations of the HEA have not managed to address students' and their families' over-reliance on loans, nor have grant funding and other federal support kept pace with the rising cost of tuition and educational expenses. The Pell Grant, for example, originally covered approximately three-quarters of in-state public tuition when introduced in the 1972 HEA reauthorization; today, it covers less than a third.¹⁵ Furthermore, the HEA has not been reauthorized since 2008. Stop-gap efforts have kept HEA programs going, but they have failed to address the full scope of the college affordability crisis and the needs of changing student demographics.

Today, postsecondary education has never been more necessary for employment, yet the cost of a degree has never been higher. This incentivizes large numbers of students—and families, through Parent PLUS loans—to borrow exorbitant amounts in student loans to finance a degree that oftentimes is simply a minimum requirement for employment rather than an engine of socioeconomic mobility. As we discuss in this paper, Black Americans are disproportionately impacted by the financial burdens of the student debt crisis, despite the fact that higher education does not meaningfully narrow the racial wealth gap and does not bring Black students to parity with white populations in terms of earnings and employment statistics. Thus the student debt and college affordability crisis is, at its core, an issue of racial justice.

The student loan burden on Black borrowers and the racial wealth gap

Numerous studies have described the effects of prolonged systemic racism on the economic conditions of Black communities in the United States. Nevertheless, it bears repeating that implicit and explicit racism in public policy, development and urban planning, private banking and lending, education, and hiring and employment practices have historically prevented Black Americans from accessing the same social, political, and economic benefits as white Americans. These historical factors have contributed to consistently higher rates of poverty¹⁶ and unemployment,¹⁷ lower earnings,¹⁸ and lower family wealth,¹⁹ on average, for Black Americans as compared with white populations. These trends persist across regions and at all levels of educational attainment.²⁰

One of the more widely studied and discussed racist practices is redlining.²¹ An explicit policy implemented by banks, developers, and real estate agents under the Home Owners Loan Corporation (HOLC), redlining divided neighborhoods according to their desirability for investment. Predominantly Black neighborhoods were marked in red ink, and their residents and businesses were barred from receiving loans. In addition to preventing business investment in these communities, this made it difficult for Black Americans to become homeowners, the primary mechanism for building family and generational wealth in the United States.²² Redlining was not banned until 1977 and its legacy continues in the patterns of displacement and gentrification currently seen in formerly redlined areas of major U.S. cities.²³

Practices like redlining have prevented Black Americans from generating the kind of family wealth that would allow them to create college savings funds for their children. A 2013 study found that white college-educated households were twice as likely to have received financial support from their families for their education, and received a greater sum on average.²⁴ White college-educated parents contributed \$73,500 on average to their children's education, as compared with \$16,000 contributed by Black parents. This difference is not due to lack of desire to contribute: in fact, when controlling for household type and socioeconomic status, Black parents are actually *more* supportive of their children's education than are white parents, but are restricted by their financial means.²⁵

Unfortunately, the desire to support their children's education leads disproportionate numbers of Black parents with lower incomes to take out Parent PLUS loans. According to a report from The Century Foundation, 42 percent of Black Parent PLUS borrowers have an expected family contribution (EFC) for college costs of zero, as determined by income reported on the Free Application for Federal Student Aid (FAFSA).²⁶ In contrast, just 9 percent of white Parent PLUS borrowers had an EFC of zero.²⁷ This means that greater portions of Black parents take out loans they have limited ability to repay to support their children in pursuing a degree. Family loans like Parent PLUS also often have higher interest rates and less favorable repayment terms than other federal student loans, including being ineligible for income-driven repayment (IDR) plans—making it particularly challenging for borrowers with lower incomes to pay down their loan balance.²⁸

Black students themselves are also more likely than their white peers to take out large amounts in student loans to pay for their education. A 2019 report from The Institute for College Access and Success

(TICAS) found that 85 percent of Black college graduates held student loan debt, compared with 69 percent of white graduates, and that Black borrowers owed higher amounts on average.²⁹ This trend persists despite the fact that Black students are also more likely than white peers to receive federal grant funding like the Pell Grant. In the 2015-16 school year, 72 percent of Black full-time students received Pell Grants and qualified for close to the maximum award amount at the time, receiving an average of \$4,900 out of a maximum \$5,775.³⁰ Yet despite receiving more federal grant aid, Black students still rely more heavily on student loans than white students. Such data demonstrate that existing need-based aid programs are not closing the gap for students from lower incomes and lower generational wealth.

The disproportionate amount of debt taken on by Black borrowers and their families would be concerning even if Black graduates saw equal earning and employment outcomes. However, even at the same levels of educational attainment, Black Americans face higher rates of unemployment and lower earnings than white populations. Black 4-year college graduates saw average yearly earnings of \$63,776 in 2020, while similarly educated white peers brought home \$80,092. This disparity

persists at all levels of education, including advanced degrees.³¹ Black college graduates are also more likely than white graduates to be working in jobs that do not make full use of their skills: 40 percent of Black workers with a college degree hold jobs that do not require that degree, compared with 31 percent of white college-educated workers.³² Even Black Americans who "do everything right" by investing in their education find themselves without the same employment prospects as their white peers.

The combination of higher initial loan amounts and inequitable employment and earning outcomes places an undue burden on Black borrowers when it comes to loan repayment. This is evidenced by data tracking student loan payments and amount owed years after graduation. A 2018 study found that white borrowers, in general, owe less than their original loan amount a mere four years after graduation.³³ Black borrowers, however, typically owed more than the amount of their original loan even 12 years after entering college.³⁴ While the first study does not include white borrowers who dropped out or failed to complete their degree, these findings still indicate concerning racial disparities in ability to repay student loans.

The burden of student debt is an intergenerational crisis

Carrying large amounts of debt for a prolonged period of time seriously damages Black borrowers' economic stability. Black borrowers are more likely to miss student loan payments and fall into delinquency. They are also more likely to default on their loans, defined as failing to make payments for 270 days.³⁵ This is despite higher rates of enrollment in IDR plans, which are designed to cap payments at a set percentage of monthly earnings.³⁶

Defaulting on student loans can have significant long-term financial implications, including impacting borrowers' credit scores.³⁷ This can make it difficult to secure quality housing, as many landlords and rental companies require a credit check as part of housing applications. Additionally, some jobs perform credit checks, and low credit scores can disqualify applicants from employment opportunities. Borrowers who default on their loans are also at risk for having their wages garnished; having their tax refunds withheld, including portions attributable to the Earned Income Tax Credit and Child Tax Credit; and having money seized from Social Security benefits.

Student debt also directly impacts Black borrowers' ability to generate wealth. High monthly loan payments can prevent borrowers from building personal savings, whether as a financial safety net or to take major life steps like making a down payment on a home. A 2021 poll found that 60 percent of young, non-homeowning college graduates say student loan debt is delaying their ability to buy a home.³⁸ While this data was not disaggregated by race, given the disproportionate student loan burden on Black borrowers, the percentage is likely higher for them. Homeownership is the primary way for populations earning lower and middle incomes

to build family wealth in this country. Under the current system, not only are Black students at a disadvantage when it comes to affording higher education due to a lack of generational wealth, but debt from pursuing higher education can inhibit Black families from building wealth for future generations.

Furthermore, due to Black parents borrowing on behalf of their children through the Parent PLUS program, efforts to send children to college can have a negative financial impact on not only those students and future generations, but on the parents' generation as well. In 2015, \$66.7 billion of total outstanding student loan debt was owed by 2.8 million borrowers age 60 and older.³⁹ Sixty-eight percent of these older borrowers owe balances on loans used to support their children's or grandchildren's education.⁴⁰ For older borrowers, student loan debt and the burden of monthly payments may impact their ability to retire; afford elder care, like assisted living or in-home help; or pay for medical expenses. Additionally, defaulting on student loans can impact senior borrowers' ability to receive their full Social Security benefits.

For families in which older generations have taken out debt to support their children's pursuit of higher education, Black students can feel a double burden. These students may not only feel responsible for obtaining a degree; finding appropriate employment; paying off their own loans; and supporting their own children, but also for providing financial support to their parents and grandparents.

Black college graduates are more likely than white graduates to provide financial support to their parents. They are also more likely to provide support than they are to receive it from

older generations. Forty-five percent of Black college-educated households reported providing financial support to their parents, while only 24 percent received support. Only 16 percent of comparable white households reported providing support to parents, while 33 percent received support. Additionally, the amount received from parents by white households was more than three times greater than the amount received by Black households, while Black households gave 1.5 times the support to their parents as compared with white households.⁴¹ This means Black households are more likely to provide financial support to their parents, and to provide it at greater amounts; while white households are more likely to receive support from parents and more likely to receive higher dollar amounts.

Unfortunately, while higher educational attainment does correlate with higher median household wealth, it does not close the racial wealth gap for Black Americans. College-educated white households have a median net worth of \$268,028—nearly four times greater than the median net worth of comparably educated Black households.⁴² Furthermore, Black households with a college education still had a lower median net worth than white households with less than a high school degree. Ironically, pursuing higher education can actually negatively impact Black families' wealth due to the burden of student loan debt and unequal employment opportunities and outcomes for Black graduates.



Inequities in college completion rates compound the student debt burden for Black borrowers

All this is not to mention the disproportionate number of Black borrowers who are unable to complete their degree. Black students have the lowest six-year college completion rates of any U.S. racial group, attributable to the disproportionate barriers Black students often face.⁴³ Black high school students have the least access to college preparation in terms of math, science, and Advanced Placement (AP) course offerings; to high-quality teachers, including Black teachers who may provide more mentorship to Black students; and to academic counselors, who can support students in choosing the right classes.⁴⁴ This can place Black students at an academic disadvantage when entering college-level classes.

Additionally, 65 percent of Black students are considered financially independent, the highest of any racial demographic.⁴⁵ This includes student parents, who are disproportionately Black students and are often single Black mothers.⁴⁶ The challenges of balancing school, part- or full-time work, child care, and other personal and family needs can be insurmountable. Faced with unmet financial need, students frequently increase their hours at work, reduce the number of courses they are taking at a time, or both. In turn, this reduces their likelihood of completion.⁴⁷ Independent students are 70 percent less likely than other students to complete their degree in six years, and over half of student parents withdraw from college.⁴⁸ Unfortunately, this leaves many of these students—who are disproportionately Black—doubly harmed: saddled with student loan debt for a credential they never receive and without the access to higher earnings that a degree can confer.

PART TWO - DISPROPORTIONATE HARM + POOR POLICY CHOICES

The impact of COVID-19 on Black borrowers

The COVID-19 pandemic has exacerbated the economic challenges faced by low-income borrowers, especially Black borrowers. As a result of the economic instability caused by the pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020, which paused payments and interest on federal student loans. This payment pause has since been extended seven times by executive action. The payment pause has provided economic relief to millions of struggling student loan borrowers.⁴⁹ However, borrowers earning low incomes, who are disproportionately borrowers of color, are still struggling to rise above the economic hardship and sharp unemployment rates that occurred during the early stages of the pandemic.

Notwithstanding the payment pause, Black families are struggling more than any other racial or ethnic group, with 43 percent experiencing trouble paying bills during the pandemic.⁵⁰ Even though the overall national unemployment rate continues to drop, the unemployment rate for Black workers, especially Black women, remains significantly higher than their white counterparts.⁵¹ This is in line with the Congressional Budget Office projection that the unemployment rate for Black and Latinx workers is expected to improve more slowly than the overall unemployment rate as the economy recovers from the pandemic.⁵²

Historical data from the U.S. Department of Education has shown that borrowers typically struggle with repayment after a payment pause.⁵³ For example, research by the Student Borrower Protection Center shows that, in 2019, over one million borrowers defaulted after exiting the natural disaster-related payment suspension put in place following Hurricanes Harvey, Irma, and Maria and the California wildfires.⁵⁴ Experts have warned that borrowers could default at a higher rate after the COVID-19 payment pause expires.⁵⁵ Additionally, recent analysis by the Federal Reserve Bank of New York indicates that federal student loans borrowers are likely to experience a meaningful rise in delinquencies after the payment pause expires.⁵⁶ The California Policy Lab estimates that 7.8 million borrowers, nearly three in ten, are at a high risk of missing payments once the pause expires.⁵⁷

Turning on repayment will almost certainly create hardship for many Black borrowers. Because Black borrowers are on a slower pace to recover economically from the pandemic, they are less financially prepared to resume student loan repayment. Research has shown that borrowers residing in Black neighborhoods are more likely to miss payments when the pause expires.⁵⁸ A recent survey by the Student Debt Crisis Center (SDCC) and Savi found that 95 percent of Black borrowers said they were not prepared to resume payments in May 2022, when the student loan payment pause was originally set to expire.⁵⁹ It is doubtful that the economic condition of these borrowers will improve substantially before payment resumes in September. If the Biden Administration does not extend the payment pause and implement meaningful policies to help borrowers transition to repayment—including student debt cancellation—the return to repayment will be devastating for Black borrowers, who already represent a disproportionate number of the borrowers currently in default.⁶⁰

The massive student loan servicing transfers present additional challenges for Black borrowers

Student loans servicers are responsible for collecting and processing payments on both defaulted and non-defaulted federal student loans on behalf of the Department of Education. Research has suggested that the disproportionately high default rate among Black borrowers may be related to the quality of loan servicing they receive.⁶¹

The Department's loan servicers are notorious for providing incomplete or inaccurate information to borrowers about their repayment options. These errors have included misleading borrowers about access to administrative cancellation; delaying processing statutory loan discharge applications and recertification for IDR plans; failing to advise borrowers of their eligibility for affordable income-based repayment plans; and wrongful garnishment and Treasury offsets.⁶²

Recently, the student loan servicer Navient settled a lawsuit with attorneys general from 39 states agreeing to pay over \$1.85 billion to private and federal student loan borrowers.⁶³ The lawsuit alleged that Navient wrongfully steered federal student loan borrowers into costly forbearance instead of advising them on income-based repayment options. As a result, many eligible borrowers lost out on valuable \$0 IDR payments, available to borrowers with income below 150 percent of the federal poverty level, which would have counted toward loan forgiveness. Likewise, Pennsylvania Higher Education Assistance Agency (PHEAA) also known as Fedloan Servicing, has a history of well-documented massive servicing failures.⁶⁴ PHEAA is the servicer tasked with exclusively managing Public Service Loan Forgiveness (PSLF) and Teacher Education Assistance for College and Higher Education (TEACH) Grant programs. Under its watch, 99 percent of borrowers who applied for loan forgiveness under the PSLF programs were denied forgiveness.⁶⁵

The risk of harm to student borrowers due to servicers' errors is higher now that these servicers are exiting the market and transferring millions of accounts within a very short time. In September 2021, Navient announced that it was leaving the federal loan servicing business and transferring its 5.5 million borrowers' accounts to Maximus through a contract novation.⁶⁶ Maximus is the student loan servicer responsible for managing all defaulted federal student loans. There are currently two pending lawsuits against Maximus relating to its servicing of these loans.⁶⁷

Before Navient's exit, Granite State, another loan servicer that handled 1.3 million borrowers' accounts, decided not to renew its servicing contract with the Department.⁶⁸ PHEAA, which services 8.5 million borrowers' accounts, announced that it was leaving the federal student loan servicing business at the end of 2021.⁶⁹ However, it changed course and agreed to a one-year contract extension to transfer its entire portfolio by December 2022.⁷⁰

As of December 2021, the three departing servicers, Navient, Granite State, and PHEAA held approximately 12.2 million borrowers' accounts.⁷¹ The Department expects to transfer all of these borrowers to new servicers before the payment pause expires.⁷² The last servicing transfers of this magnitude occurred between 2012 and 2013 after the Department terminated the Affiliated Computer Services (ACS) contract.⁷³ The ACS transfer ended up being a disaster for borrowers, with over 5 million servicing errors affecting the accounts of more than 1.3 million borrowers.⁷⁴ The transfer left borrowers



confused, leading to a substantial increase in call volume to receiving servicers.⁷⁵ One servicer reported a 252 percent increase in call volume to its call center after the transfer.⁷⁶

The stakes are even higher now than with the prior ACS servicing transfer. Millions of borrowers' accounts are being transferred within a very short amount of time after borrowers have not made payments in almost two years.⁷⁷ When payment resumes, these servicers will be responsible for over 42.3 million borrowers' accounts, including the 9 million borrowers recently removed from default. The Department itself acknowledged that the return to repayment would be a challenge, considering most borrowers have not had any payment activity in the last two years.⁷⁸

The remaining loan servicers are very likely unprepared to handle the anticipated influx of borrowers' inquiries that will come if payment resumes in September. A January 2022 GAO report notes that servicers are expecting higher than normal call volumes when the payment pause expires.⁷⁹ At least two servicers indicated that borrowers would require extended and more frequent phone calls when payment resumes.⁸⁰ In response, the existing servicers increased the number of new hires, but as of January 2022, they still needed to hire over 4,500 employees to meet their hiring target for the return to repayment.⁸¹ The substantial increase in new hires means more inexperienced customer representatives will be responding to borrowers' inquiries, resulting in more negative customer experiences.⁸² The transition to repayment, coupled with the massive servicing transfers, will lead to a substantial increase in servicers' errors and abuses that will harm borrowers—including Black borrowers struggling to understand their repayment and relief options.

PART THREE - POLICY SOLUTIONS

The Biden Administration and Congress are at a critical moment to enact reforms to the student loan and federal student aid systems. The student loan payment pause has helped millions of borrowers avoid financial precarity during the pandemic and exposed the dire need for debt relief. However, the pause is a temporary fix to a problem that has been decades in the making. Borrowers need immediate relief to be paired with long-term structural solutions so that student debt will never reach crisis levels again.

This will require action on the part of President Biden and the Department of Education to provide debt relief, improve pathways to repayment, enforce student loan servicing standards, and protect borrowers from predatory schools and loan servicers. Additionally, ending the student debt crisis will require Congressional action to address college affordability. This can include increases to need-based federal student aid programs; increased institutional funding for Minority Serving Institutions (MSIs), which educate greater percentages of Black students and other students of color; and a federal free community college program. These actions would help reduce the overall cost of postsecondary education and reduce students' reliance on loans.

1. President Biden should cancel student debt before the return to repayment.

Broad-based student debt cancellation should be a priority for the Biden-Harris Administration. Black women, who are most likely to carry the largest debt burdens of the student debt crisis, would disproportionately benefit from cancellation.⁸³ This would advance the racial equity goals named as a priority by the administration.⁸⁴

In April 2021, President Biden instructed the Department of Education to draft a memo exploring his authority to cancel student debt through executive action.⁸⁵ Based on information released through FOIA requests, it appears that a draft of the memo was completed sometime in April 2021.⁸⁶ Independent legal analysis by national experts indicates that the president has the authority to provide widespread cancellation of up to \$50,000 through executive action.⁸⁷ In fact, President Biden has already used other statutory authorities to implement loan cancellation for several segments of borrowers who are entitled to cancellation under existing law, including \$7.3 billion for students defrauded by for-profit colleges; \$7.8 billion for borrowers with Total and Permanent Disabilities (TPD); and an estimated \$6.8 billion for borrowers through changes to the Public Service Loan Forgiveness (PSLF) program.⁸⁸

Recently, the administration has indicated that President Biden is considering options to cancel at least \$10,000 in student loan debt for most or all borrowers. While no plan has been finalized, it has been reported that the Administration is considering limiting the relief to borrowers under a certain income threshold, such as \$125,000 per year.⁸⁹

Canceling \$10,000 in loan debt would provide some relief for many borrowers, but falls far short of the \$50,000 in cancellation that advocates have sought and may not fully accomplish the racial justice goals

that President Biden intended. Although \$10,000 will cancel the debts of approximately 32 percent of borrowers overall, it will still leave 74 percent of Black borrowers with an outstanding balance.⁹⁰ Further, \$10,000 will only cancel the debts of half of the individuals who were in default or delinquent before the payment pause began in 2020⁹¹—borrowers who are more likely to be people of color.⁹² In contrast, \$50,000 in loan relief would provide full cancellation for 76 percent of student loan borrowers—including 95 percent of those who were delinquent or in default before the pandemic began. Canceling \$50,000 would also reduce the share of all Black adults with student loan debt from 24 percent to 6 percent,⁹³ and would be a substantial step to close the gap in the share of Black people with student loan debt versus white people with student loan debt. In addition, \$50,000 of cancellation would increase the wealth of Black Americans by 40 percent.⁹⁴ More cancellation will go further to address the disproportionate impacts student loans have had on communities of color and especially Black women.

Furthermore, while the proposed income cap aims to ensure that only the borrowers with the greatest need receive loan relief, in practice it would create administrative barriers to accessing cancellation that would likely disproportionately prevent those who need relief most from accessing it. Federal student debt relief must be administered through the Department of Education, which cannot legally access borrowers' tax information. This means that borrowers would need to submit their own income information to verify their eligibility for loan forgiveness. This creates bureaucratic hurdles for borrowers to navigate, which have historically resulted in large numbers of eligible individuals missing out on student debt relief.⁹⁵

President Biden should follow through on his commitment to cancel student debt. However, to meaningfully advance racial equity, the administration should cancel more than \$10,000; and for cancellation to reach those who need it most, the administration should not create undue barriers to access.

Student debt cancellation will help close the racial wealth gap

As detailed above, student debt disproportionately burdens Black Americans and exacerbates the racial wealth gap. Canceling student debt would in turn benefit all borrowers, but would particularly alleviate the disproportionate burden of student debt on Black households and make inroads in beginning to address the racial wealth gap.⁹⁶ Black borrowers need cancellation that will reduce their debt-to-income ratio so that it is easier for them to qualify for and build wealth through homeownership.⁹⁷ They need cancellation to boost their credit scores so that they can obtain loans to start small businesses and engage in other forms of entrepreneurship.⁹⁸ In addition, Black borrowers in default and subject to forced collection action, such as wage garnishment and Treasury offsets, need cancellation that will remove them from default and allow them to take more money home to their families.

Depending on how it is implemented, student debt cancellation could help narrow the racial wealth gap and bring Black people a step closer to economic justice. In order to be most effective, this cancellation must be automatic, and it must be significant enough to be truly transformative. While canceling \$10,000 will help, \$50,000 in widespread cancellation would do much more to lift Black borrowers from decades of student loan policies that have trapped them in a cycle of debt and limited their economic mobility. Canceling up to \$50,000 of student loan debt per borrower would immediately increase the wealth of Black borrowers by nearly 40 percent.⁹⁹ Additionally, as described earlier in this

report, student loan debt is an intergenerational crisis for Black borrowers in particular, with many Black parents taking on loans they will struggle to repay to support their children's education. Any plan for cancellation must include relief for family members who have borrowed through the Parent PLUS program. Additionally, cancellation must include older types of student loans, particularly Federal Family Education Loans (FFELs), to ensure those who have been burdened by student debt the longest are included in relief.

Student debt cancellation will help fix the broken student loan system

Cancellation is part of the key to fixing the broken and bulging-at-the-seams federal student loan system. The student loan system is plagued with operational challenges that will make returning to repayment harder for borrowers, especially Black and Latinx borrowers. Cancellation at any amount will zero out the balances of some borrowers and mean that fewer borrowers remain that must be tracked, serviced, and managed within the student loan system. If President Biden orders widespread cancellation, servicers would not need to worry about auditing those borrowers' accounts for other underlying administrative problems, like inaccurate payment history tracking for Income Driven Repayment or Public Service Loan Forgiveness. Further, with fewer accounts to maintain, servicers would have more resources to dedicate to improving customer service for borrowers navigating the transition to repayment.

2. The Biden Administration must implement substantial reforms to fix the broken student loan system before returning borrowers to repayment.

A. The Department of Education has taken a much-needed step forward toward ensuring that borrowers are able to obtain Income Driven Repayment Cancellation, but more remains to be done to repair the harm that was caused by decades of administrative failures.

The IDR program is in desperate need of reform to ensure that it fulfills its promise of affordable student loan payments and a pathway to full cancellation after 20 to 25 years. For many borrowers, including borrowers of color, the promise of loan forgiveness under IDR has been illusory. The most recent data from the Department reveals that only 157 IDR borrowers have ever successfully obtained loan cancellation, even though 4.4 million borrowers have been in repayment for 20 years or longer.¹⁰⁰ Numerous problems have contributed to this failure, including program complexity; difficult-to-navigate rules and paperwork requirements; and servicers' abusive steering of distressed borrowers into forbearances and failure to help them access and stay enrolled in IDR. Servicer failures to adequately track and give borrowers credit for qualifying months toward forgiveness¹⁰¹ and program design that leads to negative amortization and ballooning balances for many borrowers cause further distress and undermine trust in the program.

These problems are particularly acute for Black borrowers, who disproportionately rely on IDR to afford their student loan payments. Black borrowers are also much more likely than white borrowers to still owe significant student loan debt after 20 years.¹⁰² During a nationwide survey of Black borrowers published by Ed Trust, many described their growing balances under the IDR plans as "shackles on their ankle" or "like Jim Crow," where the debt ensures that they will never have full freedom.¹⁰³ The Ed Trust

report found that IDR plans are not easing the student debt burden for Black borrowers. Even default rates remain high, despite the availability of these plans.¹⁰⁴

On April 19, 2022, the Department of Education announced that it was taking steps to fix some longstanding failures within the IDR programs. The Department announced that for eligible loans, it would engage in a one-time recount of borrowers' payment histories so that any month in which a borrower was in repayment, regardless of repayment plan, would count toward forgiveness, as would some time in deferment and lengthy periods of forbearances tied to improper servicing and forbearance steering.¹⁰⁵

These changes will help thousands more borrowers obtain IDR cancellation and finally provide an administrative remedy for servicers' abusive forbearance steering and failures to properly track and give borrowers credit for time earned toward IDR cancellation. However, this waiver is itself incredibly complex and difficult for borrowers to understand, and borrowers with older loans not held by the Department of Education will need to jump through additional administrative hoops to obtain the benefits of this waiver. It also leaves out relief for borrowers who have suffered the most from program mismanagement—those who experienced default without ever accessing IDR, despite their eligibility for the program. The Department should address these oversights by expanding and simplifying the waiver so that all time since entering repayment is counted in this one-time adjustment of qualifying time.

In addition, the waiver does not address the large volume of interest and capitalized interest that borrowers generally, and Black borrowers in particular, have accrued after years of program mismanagement, including due to forbearance steering and recertification problems. To further redress past policy and implementation failures, the Department should provide interest relief for borrowers who are burdened by hefty outstanding and capitalized interest.

B. Forward-looking IDR reforms are needed to strengthen the student loan safety net

Fortunately, the Department of Education began a rulemaking process on loan affordability in 2021 that is considering the creation of a new, more affordable IDR plan. This would include measures to make accessing the plan and earning qualifying months easier, as well as to reduce interest capitalization events that contribute to ballooning balances.

As a member of the Department of Education affordability rulemaking committee, NCLC submitted a proposal that would further ensure that all borrowers in IDR would experience progress in reducing their loan balances each year. The proposal would provide incremental forgiveness as needed to put borrowers on track to pay down their full balance during the repayment period, rather than forcing borrowers to wait anxiously on the promise of future forgiveness while their balance increases due to negative amortization in the program that occurs when income-based payments are insufficient to cover accruing interest.¹⁰⁶ NCLC also proposed reducing the time to full loan cancellation in IDR, particularly for borrowers with low incomes who are unlikely to ever be able to fully repay. The Department should adopt these proposals in its final rules. It should also take up proposals to make monthly payment amounts more affordable; ensure that borrowers who fall behind on payments are automatically enrolled in IDR; and ensure that periods of financial distress count toward the forgiveness clock. Additionally, to simplify the process of enrolling and remaining in IDR, it should promptly

implement the FUTURE Act, which directs the Department of Education and IRS to securely share borrower information for borrowers who opt-in to, among other things, simplify the process of enrolling and remaining in IDR.¹⁰⁷ Taken together, these approaches can substantially strengthen the student loan safety net for all borrowers, and particularly for Black borrowers.

Finally, the Department should not only issue, but also implement, these new IDR rules before ending the payment pause. This would enable borrowers resuming repayment after two or more years, or entering repayment for the first time, to do so through the new, improved IDR plan. It would make little sense to require borrowers to start paying again only to dramatically change the payment options available to them months later.

C. The Department of Education should ensure that robust enforcement structures are in place to protect Black students from predatory schools.

i. The Biden Administration should stop allowing predatory schools to continue to receive Title IV aid.

For decades, predatory for-profit schools have targeted communities of color, first-generation students, and low-income students. These unscrupulous schools profit by exploiting students' hopes of using an education as a ladder to improve their job prospects and earning potential to obtain the American dream.¹⁰⁸ These schools proliferate among all sectors of the higher education market. In addition to bachelor's, master's, and PhD programs, these schools make millions of dollars from federal student loans received from students enrolled in certificate programs, such as those to become a truck driver or cosmetologist.

Black students are overrepresented at virtually all types of for-profit schools. One-fifth of students enrolled in for-profit college undergraduate programs are Black;¹⁰⁹ one-quarter of Black graduate-school enrollees attend a for-profit institution (as opposed to 9 percent of white graduate students); and nearly half of all Black students pursuing doctoral study enroll in for-profit colleges.¹¹⁰

For-profit colleges often charge thousands of dollars more than comparable programs at state schools, yet they deliver worse results for students. Unsurprisingly, their completion rates are often low; 65 percent of Black borrowers in four-year for-profit programs withdraw.¹¹¹ Graduates of for-profit colleges often struggle to find employment in their field; nearly half of the students who attend for-profit colleges default on their federal student loans.¹¹²

The Higher Education Act contains protections to stop poorly performing schools from continuing to receive federal aid and to discharge debt that is the byproduct of school misconduct. However, the Department of Education has largely failed to use those authorities to exclude bad schools or provide harmed students with loan relief. As a result, hundreds of thousands of borrowers owe debt from attending schools that should not have been allowed to receive those funds in the first place, and predatory schools are still receiving federal student aid.

ii. To weed out predatory programs, the Biden Administration should increase the Department's investigative and enforcement capacity and restore the Gainful Employment rule

To stop predatory schools from continuing to harm Black communities, the Biden Administration must stop poorly performing schools from continuing to receive aid. The administration can do this in two ways: first, by building a robust enforcement unit; and second, by reestablishing the Gainful Employment rule.

For decades, the Department of Education has allowed predatory schools into the federal aid program and provided lax oversight. To date, the Department has failed to closely regulate how schools advertise or recruit prospective students. Numerous enforcement actions by the Consumer Financial Protection Bureau, Federal Trade Commission, and state enforcement agencies have documented widespread misrepresentations, predatory arrangements with private lenders, and deceptive conduct.¹¹³ Yet, the Department of Education is in the best position to closely guard which schools can enter the federal student loan system and to intervene when schools go astray. To do so, the Department must bulk up its investigative and enforcement capacities.

Similarly, the Department must tighten regulations intended to protect students from taking on unaffordable debt. The Gainful Employment rule conditioned a program's continued eligibility for Federal Student Aid dollars on meeting a minimum debt-to-earnings ratio, in order to avoid funding programs where students are unable to repay their loans.¹¹⁴ In 2019, the Trump Administration repealed the regulation, leaving scores of future generations vulnerable to programs costing more than graduates can afford to repay. The Department must restore this rule and protect borrowers and their families from unmanageable debt.

iii. The Biden Administration should follow through with bolstering the Department's authority to ensure that harmed students access debt relief

In addition, the Department must take bold action to ensure that all harmed students can access the relief to which they are entitled. In its Fall 2021 negotiated rulemaking process, the Department proposed amending its borrower defense, closed school discharge, and false certification authorities so that it could use them to provide automatic relief to harmed students and make it easier for students to apply for relief. The Department should implement those provisions early—before the end of the pause. It should aggressively use its group discharge authorities to provide relief to as many harmed students as possible, who are likely to be disproportionately Black women.

Finally, to the maximum extent possible, borrowers who are eligible for loan cancellation under the existing or expanded new rules should not have those invalid loans put back into repayment. That is, in addition to implementing the rules prior to turning payments back on, the Department should work to identify borrowers eligible for cancellation and cancel their loans before requiring them to make payments.

3. The Biden Administration and Congress should commit to transformative investments in college affordability to address the over-reliance on student loans

Student loan cancellation is not a complete solution to address the student debt crisis or college affordability. The rising cost of attending college and policymakers' failure to invest in higher education, particularly at the state level, has created an over-reliance on student loans among students with lower and middle incomes.¹¹⁵ The Biden Administration has lifted up college affordability as a priority, but work remains to secure and implement real policy.

A. Expand access to Pell Grants

Policymakers have made some recent steps to support college affordability for students with the lowest incomes. In March 2021, Congress increased the maximum Pell Grant by \$400. Additionally, the president's budget for fiscal year 2023 includes a request to double the Pell Grant by 2029, with an immediate increase of \$2,175 in the 2023-24 school year.¹¹⁶ These represent the largest Pell increases in the program's history and would help bring the award in line with its original purchasing power.

In addition to increases in the Pell maximum, recent legislation, including the FAFSA Simplification Act and the Consolidated Appropriations Act of 2021, expanded eligibility for Pell Grants to new individuals, including currently incarcerated students enrolled in qualifying prison education programs. Pell eligibility should be further expanded to undocumented immigrants—including those who are beneficiaries of the Deferred Action for Childhood Arrivals (DACA) program—who face unique barriers to postsecondary education including difficulty accessing in-state tuition rates and eligibility for other federal aid programs like work-study.¹¹⁷ This includes Black immigrants, who are subject to the same institutional racism that affects Black Americans in this country. These are important steps to making higher education more affordable for students with lower incomes and those with barriers to postsecondary access and success. Separate from Pell expansion, but related to improving affordability for Black students, the House-passed Build Back Better Act (BBB) included significant increases in funding for Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions (MSIs). These institutions educate comparatively larger percentages of Black students and students with lower incomes and rely more heavily on federal funding than others. However, the legislation stalled in the Senate and remains under negotiation.

Congress should commit to implementing the investments included in the president's budget, while pushing for additional support for college affordability and students' basic needs through other avenues, including through the budget reconciliation process. This includes increased funding for community colleges and HBCUs to support research, capacity-building, and student aid and services.

B. Advance access to a free community college education

In line with this recommendation, a federal-state partnership to provide free community college should remain a long-term priority, despite being cut from the Build Back Better Act.¹¹⁸ Several states already provide free community college to qualifying residents through "promise" scholarships.¹¹⁹ However, a

federal program, like the proposed America's College Promise, would expand this option to millions more students. Such a program would also simultaneously hold states accountable for investing in higher education through matching funding requirements.¹²⁰

In implementing a federal free college program, Congress should ensure that it operates on a "first-dollar" format, meaning that funds are used to cover tuition and education costs before other forms of institutional and federal aid are factored in.¹²¹ This provides greater benefit to students with lower incomes, who can then use other programs like the Pell Grant to cover basic needs and living expenses while attending school. In order to prevent an undue tax burden on these students, Congress should also pass the Tax-Free Pell Act to prevent the Pell Grant from being counted as taxable income.¹²²

C. Reauthorize the Higher Education Act and address other student needs

The administration should call on Congress to resume work on a comprehensive reauthorization of the HEA to address the changing demographics and needs of America's postsecondary student populations, including student parents. Work on a proposed reauthorization bill was put on hold in March 2020 during the onset of the COVID-19 pandemic. However, the pandemic has only emphasized the need for reauthorization of existing and new programs to support student success and help meet their basic needs.

Outside of Department of Education programs, Congress should remove the restrictions on college students' eligibility for food assistance under the Supplemental Nutrition Assistance Program (SNAP), as proposed in the EATS Act.¹²³ At a minimum, Congress should make permanent the expanded eligibility for SNAP implemented during the public health emergency.¹²⁴ Affording basic needs such as food and housing presents a significant barrier to postsecondary success for students with lower incomes, and ensuring students remain eligible for SNAP benefits can help address this need.

CONCLUSION

All too often, the narrative around college education tells Black Americans that if they work hard and get their degree, they will be able to individually lift themselves and their families out of financial insecurity. However, the generations-old racial wealth gap, high cost of college attendance, and inequitable employment opportunities for Black workers only compound the barriers to their economic stability. With these hurdles in place, pursuing higher education often places a disproportionate burden on Black students and their families in the form of student loan debt.

The Biden Administration has promised widespread relief and student loan reform. Yet, as of now, the White House has not implemented broad-based cancellation and is unlikely to complete needed reforms by the time the student loan payment pause is set to end in August 2022. As Black Americans still struggle to recover from the economic impacts of the COVID-19 pandemic, it is critical that President Biden and Congress extend the payment pause, lift borrowers out of default, implement needed loan reforms, and commit to investing in college affordability. By adopting these solutions, policymakers can ensure Black Americans can access the full benefits of a postsecondary degree without the intergenerational burden of student loan debt.

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