



PRESIDENT
Jeff Landry
Louisiana Attorney General

PRESIDENT-ELECT
Tim Fox
Montana Attorney General

VICE PRESIDENT
Karl A. Racine
*District of Columbia
Attorney General*

IMMEDIATE PAST PRESIDENT
Derek Schmidt
Kansas Attorney General

EXECUTIVE DIRECTOR
Chris Toth

May 24, 2019

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).

1850 M Street, NW
Twelfth Floor
Washington, DC 20036
Phone: (202) 326-6000
<http://www.naag.org/>

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.

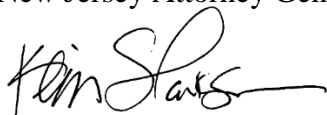
¹ Annie Nova, Many Disabled Veterans Eligible for Student Loan Forgiveness Are Still Paying, CNBC (Nov. 12, 2018), <https://www.cnbc.com/2018/11/12/many-disabled-veterans-are-still-forced-to-repay-their-student-debt.html>.

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.

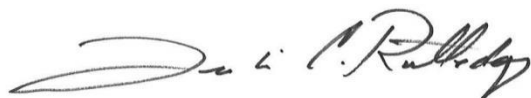
Sincerely,



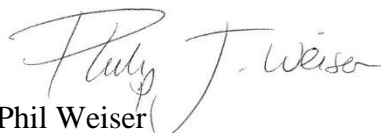
Gurbir S. Grewal
New Jersey Attorney General



Kevin G. Clarkson
Alaska Attorney General



Leslie Rutledge
Arkansas Attorney General



Phil Weiser
Colorado Attorney General



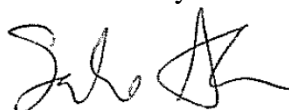
Kathleen Jennings
Delaware Attorney General



Ashley Moody
Florida Attorney General



Sean Reyes
Utah Attorney General



Talauega Eleasalo V. Ale
American Samoa Attorney General



Xavier Becerra
California Attorney General



William Tong
Connecticut Attorney General



Karl A. Racine
District of Columbia Attorney General



Christopher M. Carr
Georgia Attorney General

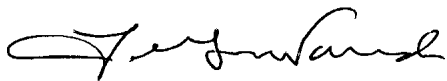
² Letter to Secretary DeVos, Secretary Shulkin, and Acting Commissioner Berryhill from Senators Coons, Portman, King, Collins, Duckworth, and Gardner and Representatives Kind and Roskam, (Feb. 15, 2018), <https://www.king.senate.gov/imo/media/doc/02-28-17%20DOEd%20SSA%20VA%20Letter.pdf>; Letter to Secretary 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>.



Leevin Taitano Camacho
Guam Attorney General



Clare E. Connors
Hawaii Attorney General



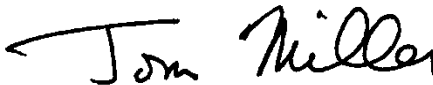
Lawrence Wasden
Idaho Attorney General



Kwame Raoul
Illinois Attorney General



Curtis T. Hill, Jr.
Indiana Attorney General



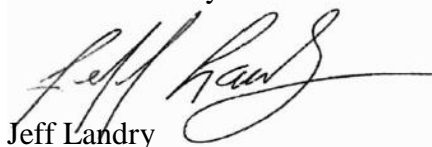
Tom Miller
Iowa Attorney General



Derek Schmidt
Kansas Attorney General



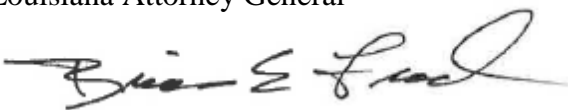
Andy Beshear
Kentucky Attorney General



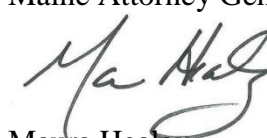
Jeff Landry
Louisiana Attorney General



Aaron M. Frey
Maine Attorney General



Brian Frosh
Maryland Attorney General



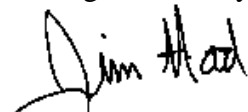
Maura Healey
Massachusetts Attorney General



Dana Nessel
Michigan Attorney General



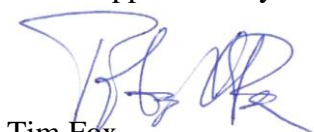
Keith Ellison
Minnesota Attorney General



Jim Hood
Mississippi Attorney General



Eric S. Schmitt
Missouri Attorney General



Tim Fox
Montana Attorney General



Douglas Peterson
Nebraska Attorney General



Aaron D. Ford
Nevada Attorney General



Hector Balderas
New Mexico Attorney General



Josh Stein
North Carolina Attorney General



Edward Manibusan
Northern Mariana Islands Attorney General



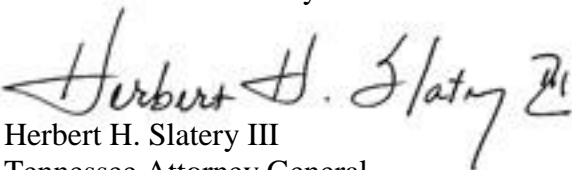
Mike Hunter
Oklahoma Attorney General



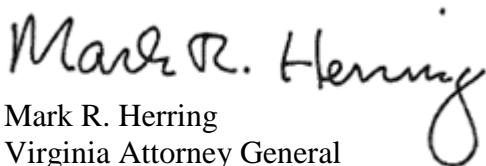
Josh Shapiro
Pennsylvania Attorney General



Alan Wilson
South Carolina Attorney General



Herbert H. Slatery III
Tennessee Attorney General



Mark R. Herring
Virginia Attorney General



Gordon MacDonald
New Hampshire Attorney General



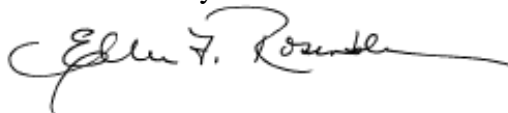
Letitia James
New York Attorney General



Wayne Stenehjem
North Dakota Attorney General



Dave Yost
Ohio Attorney General



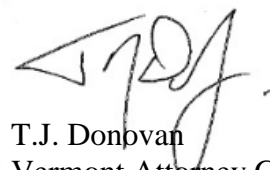
Ellen F. Rosenblum
Oregon Attorney General



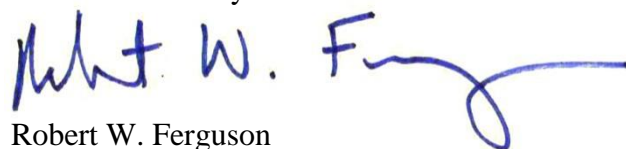
Peter F. Neronha
Rhode Island Attorney General



Jason R. Ravensborg
South Dakota Attorney General



T.J. Donovan
Vermont Attorney General



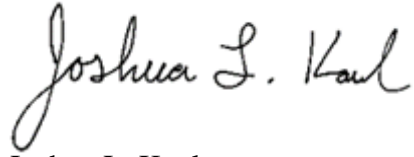
Robert W. Ferguson
Washington Attorney General



Patrick Morrissey
West Virginia Attorney General



Bridgett Hill
Wyoming Attorney General



Joshua L. Kaul
Wisconsin Attorney General