



DEPARTMENT OF THE ATTORNEY GENERAL

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GOVERNOR

CLARE E. CONNORS
ATTORNEY GENERAL

For Immediate Release
May 24, 2019

News Release 2019-28

Attorney General Connors Joins Coalition Calling for Automatic Discharge of Student Loans for Totally and Permanently Disabled Veterans

HONOLULU – Attorney General Clare E. Connors today joined a group of 51 Attorneys General in urging the U.S. Department of Education (DOE) to automatically forgive the student loans of veterans who became totally and permanently disabled in connection with their military service. The bipartisan coalition issued its letter as the country prepares to honor fallen troops on Memorial Day.

Last year DOE identified more than 42,000 veterans as eligible for student loan relief due to a service-related total and permanent disability, the Attorneys General note in their letter to Secretary of Education Betsy DeVos. Fewer than 9,000 of those veterans had applied to have their loans discharged by April 2018, however, and more than 25,000 had student loans in default.

The letter, which was led by New Jersey Attorney General Gurbir S. Grewal and Utah Attorney General Sean Reyes, calls on DOE to develop a process to automatically discharge the student loans of veterans determined by the Department of Veterans Affairs to be eligible for such relief. While the automatic discharge process is in development, the letter proposes, DOE should halt debt collection efforts targeting disabled veterans, and clear their credit reports of any negative reporting related to their student loans.

"The automatic discharge of student loan debt is a small act that would have a huge impact in the lives of our veterans," said **Attorney General Connors**. "It is a commendable choice that has widespread support, and I'm hopeful that Secretary DeVos will agree."

Under federal law, DOE is required to discharge the federal student loans of veterans determined by the Department of Veterans Affairs to be unemployable (or totally and permanently disabled) due to a service-connected condition. Although DOE currently requires disabled veterans to take affirmative steps to apply for a loan discharge, those steps are not required by law.

The Attorneys General note that the federal government has taken some steps to make it easier for eligible veterans to secure student loan relief. According to their letter,

however, an automatic discharge process that gives individual veterans an opportunity to opt out for personal reasons “would eliminate unnecessary paperwork burdens and ensure that all eligible disabled veterans can receive a discharge.”

The letter supporting automatic student loan discharges for totally and permanently disabled veterans received support from enough Attorneys General to become formal policy of the National Association of Attorneys General. This designation is reserved for letters and comments supported by at least 36 Attorneys General.

“Proposals for automatic discharges with opt-out rights have bipartisan support in Congress and among leading veterans’ advocacy organizations,” the letter states. The veterans groups supporting such proposals have included: Vietnam Veterans for America, Veterans Education Success, The Retired Enlisted Association, High Ground Advocacy, and Ivy League Veterans Council.

The letter closes by urging DOE to “take action to better protect those who once protected the nation. Our veterans deserve nothing less.”

A copy of the letter is attached.

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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).

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

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

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

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

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

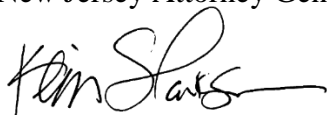
¹ Annie Nova, Many Disabled Veterans Eligible for Student Loan Forgiveness Are Still Paying, CNBC (Nov. 12, 2018), <https://www.cnbc.com/2018/11/12/many-disabled-veterans-are-still-forced-to-repay-their-student-debt.html>.

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

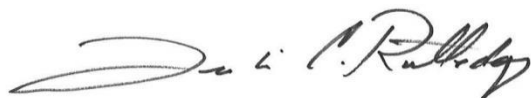
Sincerely,



Gurbir S. Grewal
New Jersey Attorney General



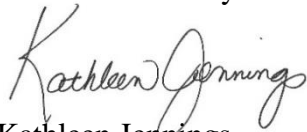
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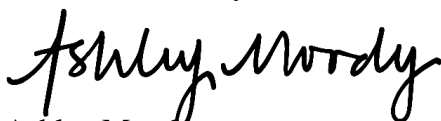
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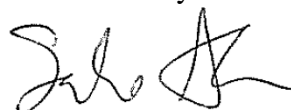
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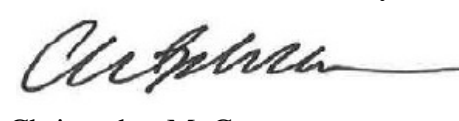
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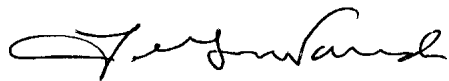
² Letter to Secretary DeVos, Secretary Shulkin, and Acting Commissioner Berryhill from Senators Coons, Portman, King, Collins, Duckworth, and Gardner and Representatives Kind and Roskam, (Feb. 15, 2018), <https://www.king.senate.gov/imo/media/doc/02-28-17%20DOEd%20SSA%20VA%20Letter.pdf>; Letter to Secretary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



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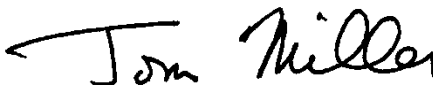
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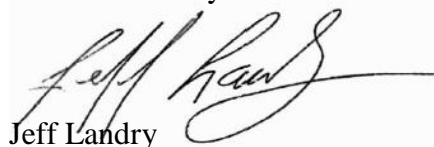
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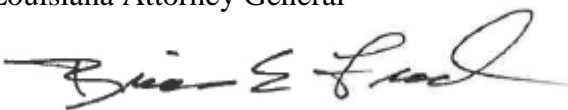
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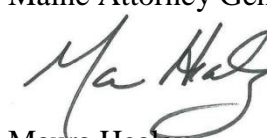
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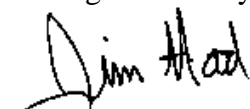
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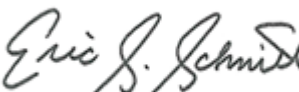
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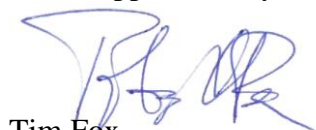
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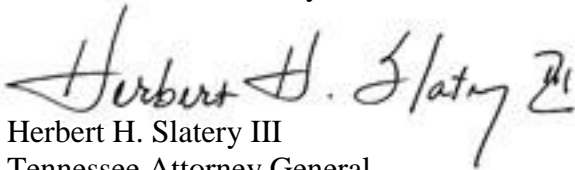
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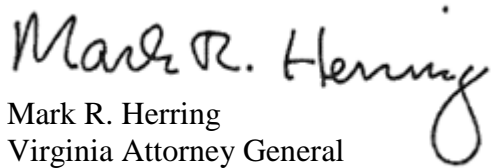
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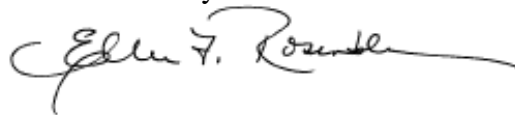
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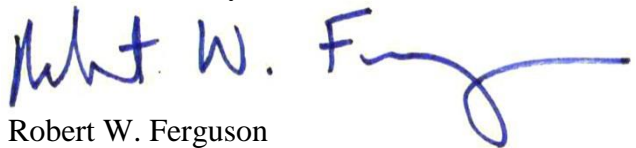
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