

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: June 14, 2021

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso  Chief Legislative Analyst Council File No: 21-0002-S99
Assignment No: 21-05-0398

SUBJECT: Revised resolution regarding student debt cancellation.

CLA RECOMMENDATION: Adopt revised Resolution to include in the City's 2021-2022 Federal Legislative Program SUPPORT for any legislation and/or administrative action which recognizes the Secretary of Education's legal authority through the Higher Education Act of 1965 (20 U.S.C. 1082(a)) to broadly cancel student debt, and which otherwise would administratively cancel all student debt before payments resume on September 30, 2021.

SUMMARY

Resolution (Bonin – Martinez), introduced on April 14, 2021, notes nearly 43 million Americans hold more than \$1.56 trillion of federal student loan debt at an average balance of \$36,406. The Resolution further notes that Congress granted the Secretary of Education the legal authority to broadly cancel student debt under section 432(a) of the Higher Education Act of 1965 (20 U.S.C. 1082(a)) which grants the authority to "... compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption." This authority was utilized on March 18, 2021 and March 29, 2021, when \$1 billion of student loans for 72,000 defrauded student loan borrowers, and \$1.3 billion of student loans for another 41,000 borrowers with permanent disabilities were canceled.

A revised Resolution is attached for consideration that reframes the moving clause of the original Resolution (Bonin – Martinez) in a manner that is consistent with the City's other legislative position resolutions. The revised Resolution recommends support for legislation and/or administrative action that would cancel all student debt before repayments resume.

BACKGROUND

On January 20, 2021, the COVID-19 emergency relief measures, which suspended loan payments, stopped collection on defaulted loans, and set interest rates to zero percent of Department of Education-owned loans, were extended through September 30, 2021. These measures were first instituted as part of the Coronavirus Aid, Relief, and Economic Security Act, signed on March 27, 2020. Student loan borrowers have saved nearly \$4.8 billion a month as a result of paused interest accumulation on student loans during the COVID-19 pandemic.

Studies show that student debt disproportionately impacts people of color and women, and significantly contributes to racial wealth gaps. Cancellation of student debt would, on average,

increase the wealth of Black households by \$15,700 and Latino households by over \$27,000. It is estimated that the disparity in student loan debt between Black and white borrowers more than triples four years after graduation. On average, Black student loan borrowers owe 95 percent of their cumulative borrowing total 20 years after starting college.

The Legal Services Center of Harvard Law School states that existing law authorizes the Secretary of Education to broadly cancel student debt. The Higher Education Act of 1965 allows the Secretary of Education to modify existing loans to zero, thus effectively canceling a loan. Specifically, 20 U.S.C. 1082(a) authorizes the Secretary of Education to “enforce, pay, compromise, waive, or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption.”

There are numerous instances of the Secretary of Education exercising this authority, even in the absence of implementing regulations. This includes instances of debt cancellation for loan obligations under the Federal Family Education Loan Program and Direct Loan Program. Under the Federal Family Education Loan Program, Congress authorized the Department of Education to guarantee and pay a portion of interest on loans issued to students in eligible institutions defined by the program. Under the Direct Loan Program, Congress made available to the Department of Education “such sums as may be necessary” to lend to eligible students and parents of those students under the program.



Tristan Noack
Analyst

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Attachment: Revised Resolution

RESOLUTION

WHEREAS, any official position of the City of Los Angeles, with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, nearly 43 million Americans hold more than \$1.56 trillion of federal student loan debt at an average balance of \$36,406; and

WHEREAS, women hold two-thirds of all student debt, African American borrowers have higher than average levels of student debt, most borrowers have more than half of their student debt after 12 years of repayment, 40% of student loan borrowers did not finish college or obtain a degree, more than eight million student loan borrowers are over the age of 50; and

WHEREAS, cancelling student debt would increase African American wealth by one third, increase GDP by billions of dollars, add up to 1.5 million new jobs, and make it more likely for people to start or invest in a small business, obtain more advanced degrees, start a family, and buy a house; and

WHEREAS, on January 20, 2021, the COVID-19 emergency relief measures, which suspended loan payments, stopped collection on defaulted loans, and set interest rates to zero percent of Department of Education-owned loans, were extended through September 30, 2021; and

WHEREAS, Congress granted the Secretary of Education the legal authority to broadly cancel student debt under section 432(a) of the Higher Education Act of 1965 (20 U.S.C. 1082(a)) which grants the authority to "... compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption"; and

WHEREAS, President Biden and Secretary of Education Cardona used their legal authority derived from the Higher Education Act of 1965 on March 18, 2021 and March 29, 2021 when they cancelled \$1 billion of student loans for 72,000 defrauded student loan borrowers, and \$1.3 billion of student loans for another 41,000 borrowers with permanent disabilities;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 Federal Legislative Program SUPPORT for any legislation and/or administrative action which recognizes the Secretary of Education's legal authority through the Higher Education Act of 1965 (20 U.S.C. 1082(a)) to broadly cancel student debt, and which otherwise would administratively cancel all student debt before payments resume on September 30, 2021.