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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

THERESA SWEET, *et al.*,

Plaintiffs,

v.

MIGUEL CARDONA, in his official capacity  
as Secretary of Education, and the UNITED  
STATES DEPARTMENT OF EDUCATION

Defendants.

No. 3:19-cv-03674-WHA

**SETTLEMENT AGREEMENT**

1 **I. INTRODUCTION**

2 WHEREAS, in this class action the Plaintiffs assert that the U.S. Department of Education  
3 (“Department”) has (i) unreasonably delayed and unlawfully withheld decisions on pending  
4 “borrower defense” claims, *i.e.*, claims for relief from certain federal student loan obligations  
5 based on institutional misconduct; (ii) issued unlawful notices denying certain borrower defense  
6 claims; and (iii) adopted unlawful policies governing the process of evaluating borrower defense  
7 claims;

8 WHEREAS, Defendants, the Department and its Secretary, Miguel Cardona, in his official  
9 capacity, deny any wrongdoing and deny that Plaintiffs are entitled to the relief they have sought  
10 in this Action;

11 WHEREAS, Defendants and Plaintiffs (referred to herein collectively, where appropriate,  
12 as “the Parties”) now mutually desire to avoid the delay, uncertainty, inconvenience and expense  
13 of protracted litigation, and have determined to settle this Action, including all claims that  
14 Plaintiffs, the certified Class (as defined below), and the members of that Class have brought in  
15 this case;

16 NOW, THEREFORE, in reliance upon the representations, mutual promises, covenants,  
17 releases, and obligations set forth in this Settlement Agreement, and for good and valuable  
18 consideration, the Parties hereby stipulate and agree to compromise, settle, and resolve this case  
19 on the following terms and conditions.

20 **II. DEFINITIONS**

21 Unless otherwise noted, the following definitions apply in this Settlement Agreement, and  
22 for purposes of this Settlement Agreement alone.

- 23 A. **Action** means the litigation styled *Sweet, et al. v. Cardona, et al.*, No. 3:19-cv-  
24 3674-WHA (N.D. Cal.).
- 25 B. **Agreement** means this Settlement Agreement, including any attached exhibits.
- 26 C. **Borrower defense application** means a request by a Direct Loan or Federal Family  
27 Education Loan Program borrower for relief from his or her repayment obligations  
28 with respect to those loans based on the alleged misconduct of the borrower’s

1 school. A borrower’s application can include multiple claims of alleged misconduct  
2 on behalf of his or her school.

3 D. **Borrower defense claim** means an allegation made for relief from a borrower’s  
4 repayment obligations in a borrower defense application.

5 E. **Class** or **Class Members** are the members of the class that has been certified by  
6 this Court and refers to individuals who meet the criteria set forth in Section II  
7 below. When used in this Agreement, the terms Class and Class Members refer,  
8 individually and collectively, to the Plaintiffs, the Class, and each Member of the  
9 Class.

10 F. **Class Counsel** or **Plaintiffs’ Counsel** refers to Plaintiffs’ attorneys of record in this  
11 Action.

12 G. **Class Notice** means the document attached hereto as Exhibit A, which shall be  
13 distributed pursuant to subsection X.B, below.

14 H. **Court** means the U.S. District Court for the Northern District of California.

15 I. **Department** refers to the U.S. Department of Education.

16 J. **Direct Loan** means and refers to a loan made pursuant to the William D. Ford  
17 Federal Direct Loan Program, 20 U.S.C. § 1087a *et seq.*

18 K. **Effective Date** means the date upon which, if this Agreement has not been voided  
19 under Section XIII, the Final Judgment approving this Agreement, entered by the  
20 Court in the form attached hereto as Exhibit B, becomes non-appealable, or, in the  
21 event of an appeal by a Class Member based upon a timely filed objection to this  
22 Agreement, upon the date of final resolution of said appeal. When this Agreement  
23 refers to the date on which the Agreement became “Effective,” such date is the  
24 Effective Date.

25 L. **Execution Date** means the date upon which all Parties to this Agreement, and/or  
26 their counsel of record, have signed the Agreement.

- 1 M. **Fairness Hearing** means a hearing held by the Court at which time the Court will  
2 determine whether this Agreement should be approved under Federal Rule of Civil  
3 Procedure 23(e).
- 4 N. **Final Approval Date** refers to the date on which the Court enters Final Judgment  
5 approving this Agreement in the form attached hereto as Exhibit B.
- 6 O. **Final Decision** refers to a decision by the Department either approving or denying  
7 settlement relief to a borrower under the terms of this Agreement.
- 8 P. **FFEL** means and refers to a loan made pursuant to the Federal Family Education  
9 Loan Program, 20 U.S.C. §§ 1071-1087-4.
- 10 Q. **Form Denial Notice** refers to a notice sent by the Department to a Class Member,  
11 in substantially the form of one of the documents submitted by Defendants to the  
12 Court in this Action at ECF Nos. 116-1, 116-2, 116-3, and 116-4.
- 13 R. **FSA** is the Department's Federal Student Aid office.
- 14 S. **Full Settlement Relief** means (i) discharge of all of a Class Member's Relevant  
15 Loan Debt, (ii) a refund of all amounts the Class Member previously paid to the  
16 Department toward any Relevant Loan Debt (including, but not limited to, Relevant  
17 Loan Debt that was fully paid off at the time that borrower defense relief is granted),  
18 and (iii) deletion of the credit tradeline associated with the Relevant Loan Debt.
- 19 T. **Involuntary Collection Activity** means any attempt by the Department or its  
20 agents to collect payments toward the Relevant Loan Debt (in whole or in part), as  
21 defined below, through involuntary means from a borrower in default, including  
22 but not limited to certifying the borrower's debts for collection through the  
23 Treasury Offset Program and/or administrative wage garnishment. Any activity by  
24 the Department or its agents that reduces the borrower's Relevant Loan Debt  
25 without any action by the borrower or which eliminates a default on the loan  
26 without action by the borrower is not an Involuntary Collection Activity.
- 27 U. **Plaintiffs**, for purposes of Section V, includes Post-Class Applicants as the term is  
28 defined in Section IV.D.

- 1 V. **Preliminary Approval Date** refers to the date on which the Court enters a  
2 preliminary approval order, as set forth in subsection X.A.
- 3 W. **Relevant Loan Debt** refers to Direct Loans or FFEL loans associated with the  
4 school that is the subject of the Class Member’s borrower defense application. That  
5 debt includes the original principal of the affected federal student loan plus any and  
6 all interest and fees that accrued or were incurred on that loan.
- 7 X. **School Group** refers to the name of a multi-institution organization based on  
8 ownership data and/or multi-campus institution as defined in FSA’s Postsecondary  
9 Education Participants System (“PEPS”), to the extent that data is included in the  
10 borrower defense review platform.
- 11 Y. **Written Notice** is provided when the Department sends an email to the relevant  
12 individual’s email address or, where the Department does not have such an email  
13 address available or becomes aware that email is undeliverable to the email address  
14 on file, the Department sends a copy of the relevant communication to the  
15 individual’s last known mailing address.

16 **III. CLASS**

- 17 A. Pursuant to Federal Rule of Civil Procedure 23(b)(2), the Court has certified a  
18 plaintiff class consisting of all people who borrowed a Direct Loan or FFEL loan  
19 to pay for a program of higher education, who have asserted a borrower defense to  
20 repayment to the Department, whose borrower defense has not been granted or  
21 denied on the merits, and who is not a class member in *Calvillo Manriquez v.*  
22 *DeVos*, No. 3:17-cv-7210 (N.D. Cal.). See ECF No. 46 (Oct. 30, 2019). In this  
23 Agreement, individuals who meet this class definition as of the date of class closure  
24 are referred to as “the Class” or “Class Members.”
- 25 B. For the purposes of this Agreement, the Parties agree that the Class includes  
26 individuals who are members of the Plaintiffs’ proposed “§ 555(e) Subclass,”  
27 which the Parties agree includes all members of the class certified in this case on  
28 October 30, 2019 (ECF No. 46) whose borrower defense applications were denied

1 between the date of class certification and the Execution Date. *See* Pls.’ Suppl.  
2 Compl., ECF No. 198 ¶ 430 (May 4, 2021).

3 C. As of the Effective Date, all Class Members are bound by the terms of this  
4 Agreement.

5 D. The Class is closed as of the Execution Date.

6 **IV. DEFENDANTS’ CONSIDERATION**

7 In consideration for the promises of Plaintiffs set forth in this Agreement, Defendants agree  
8 as follows:

9 A. Relief for applications meeting certain school criteria.

10 1. No later than one year after the Effective Date, Defendants will effectuate  
11 Full Settlement Relief for each and every Class Member whose Relevant  
12 Loan Debt is associated with the schools, programs, and School Groups  
13 listed in Exhibit C hereto. If any such Class Member receiving relief under  
14 this Paragraph IV.A previously received a Form Denial Notice, the  
15 provision of Full Settlement Relief will be deemed to rescind that Form  
16 Denial Notice.

17 2. Class Members shall be eligible for this form of relief regardless of whether  
18 the Class Member is a member of the § 555(e) Subclass.

19 3. Defendants shall provide Written Notice of this relief to each qualifying  
20 Class Member no later than 90 calendar days after the Effective Date. The  
21 notice shall specify that the Class Member will receive Full Settlement  
22 Relief, as defined in this Agreement, and need not take any additional action  
23 to receive this relief. The notice shall also specify that the Class Member’s  
24 Relevant Loan Debt will remain in forbearance or stopped collection status  
25 pending the effectuation of relief. If the notice is sent by email and it  
26 bounces back, Defendants will have an additional 90 calendar days to send  
27 the notice by first class mail to the last known mailing address.  
28

1           4.     The Parties acknowledge that some Class Members may be eligible for  
2           discharges of their loans, outside of this Agreement, based on the  
3           misconduct of schools they attended, and that nothing in this Agreement  
4           shall prevent the Department from effectuating such relief outside this  
5           Agreement. The Department agrees, however, that any such Class Members  
6           who are deemed eligible for such relief outside this Agreement shall receive  
7           Full Settlement Relief pursuant to this Agreement.

8           5.     If the Department's borrower defense or loan data includes conflicting  
9           evidence which raises a substantial question as to whether a Class Member's  
10          Relevant Loan Debt is associated with a program, school, or School Group  
11          listed in Exhibit C, the question will be resolved in favor of the Class  
12          Member (*i.e.*, in favor of granting relief).

13        B.     Rescission of Form Denial Notices.

14          1.     For Class Members who do not receive relief pursuant to Paragraph IV.A,  
15          above, but previously received a Form Denial Notice, Defendants, no later  
16          than 120 calendar days after the Effective Date, will provide Written Notice  
17          to those Class Members that their denials have been rescinded and that their  
18          borrower defense applications are again under consideration.

19          2.     For purposes of Paragraph IV.C.3, the Department will deem the  
20          applications of Class Members who previously received a Form Denial  
21          Notice to have been pending since the original date of submission.

22        C.     Process and timeline for issuing decisions on remaining Class applications.

23          1.     Defendants will apply the following procedures to their review of borrower  
24          defense applications submitted by Class Members who did not receive relief  
25          pursuant to Paragraph IV.A:

26            i.     Defendants will review the borrower defense application and any  
27            attachments included by the Class Member to determine whether the  
28            application states a claim that, if presumed to be true, would assert

1 a valid basis for borrower defense relief under the standards in the  
2 borrower defense regulations published by the Department on  
3 November 1, 2016 (81 *Fed. Reg.* 75,926). If it does, Defendants  
4 will provide that Class Member Full Settlement Relief.

5 ii. If a Class Member’s borrower defense application reviewed under  
6 this Paragraph IV.C alleges a misrepresentation or omission that, if  
7 presumed to be true, would assert a valid basis for borrower defense  
8 relief, Defendants will presume that the Class Member reasonably  
9 relied on that misrepresentation or omission regardless of whether  
10 the Class Member alleges such reliance in his or her application.

11 iii. No borrower defense application reviewed under this Paragraph  
12 IV.C will be denied on the basis of insufficient evidence.

13 iv. Defendants will not apply any statute of limitations to borrower  
14 defense applications reviewed under this Paragraph IV.C.

15 2. Defendants will issue any Class Member whose borrower defense  
16 application is reviewed under this Paragraph IV.C a “settlement relief  
17 decision,” a “revise and resubmit notice,” or a “denial notice,” as defined  
18 below.

19 i. A “settlement relief decision” notifies a Class Member that his or  
20 her borrower defense application has been approved under the terms  
21 of this Settlement Agreement and that the Class Member will  
22 receive Full Settlement Relief.

23 ii. A “revise and resubmit notice” notifies a Class Member that his or  
24 her borrower defense application is deficient, provides instructions  
25 on how to revise and resubmit his or her application, and advises the  
26 Class Member that he or she may do so within 6 months of the date  
27 of the notice. The notice will state that if the Class Member does not  
28 submit a revised application within 6 months, the notice itself will



1 serve as Defendants’ final decision of denial and that the Class  
2 Member has the right to seek review of such decision in federal  
3 district court.

4 iii. A “denial decision” will only be issued to Class Members whose  
5 applications are denied after having resubmitted their application  
6 following receipt of a “revise and resubmit notice,” as defined in the  
7 preceding subparagraph. A denial decision will explain the reasons  
8 the application was denied and apprise the recipient of his or her  
9 right to seek review of the decision in federal district court.

10 3. Defendants will issue decisions to Class Members whose applications are  
11 reviewed under this Paragraph IV.C according to the timelines set forth  
12 below. For purposes of this subparagraph, a “decision” refers to either a  
13 “settlement relief decision” or a “revise and resubmit notice,” as defined in  
14 Paragraph IV.C.2.

15 i. For any application submitted between January 1, 2015 and  
16 December 31, 2017, Defendants will issue a decision no later than 6  
17 months after the Effective Date.

18 ii. For any application submitted between January 1, 2018 and  
19 December 31, 2018, Defendants will issue a decision no later than  
20 12 months after the Effective Date.

21 iii. For any application submitted between January 1, 2019 and  
22 December 31, 2019, Defendants will issue a decision no later than  
23 18 months after the Effective Date.

24 iv. For any application submitted between January 1, 2020 and  
25 December 31, 2020, Defendants will issue a decision no later than  
26 24 months after the Effective Date.

1 v. For any application submitted between January 1, 2021 and the  
2 Execution Date, Defendants will issue a decision no later than 30  
3 months after the Effective Date.

4 vi. If a Class Member has submitted more than one borrower defense  
5 application, the earliest submitted application will control for  
6 purposes of the timelines set forth above.

7 4. Defendants will issue a final decision to any Class Member who resubmits  
8 his or her application after receiving a “revise and resubmit notice” no later  
9 than 6 months after Defendants receive the Class Member’s resubmission.  
10 For purposes of this subparagraph IV.C.4, a “final decision” refers to either  
11 a “settlement relief decision” or a “denial decision” as defined in Paragraph  
12 IV.C.2.

13 5. Class Members shall be eligible for the relief set forth in this Paragraph  
14 IV.C regardless of whether the Class Member is a member of the § 555(e)  
15 Subclass.

16 6. The decisions required by this Paragraph IV.C shall be sent by Written  
17 Notice, as defined in this Agreement.

18 7. The Relevant Loan Debt for each Class Member eligible under this section  
19 will remain in forbearance or stopped collection status either until he or she  
20 receives Full Settlement Relief or until the Department’s decision denying  
21 the Class Member’s claim becomes final pursuant to either Paragraph  
22 IV.C.2.ii or Paragraph IV.C.2.iii, as applicable. For this period of  
23 forbearance or stopped collection status, the Department will remove any  
24 interest that accrues on the Relevant Loan Debt.

25 8. If a Class Member has not received a timely decision required under  
26 Paragraphs IV.C.3 and IV.C.4, as applicable, that Class Member shall  
27 receive Full Settlement Relief. Defendants shall provide the affected Class  
28

1 Member with notice that the Class Member will receive this relief within 60  
2 calendar days following the expiration of the applicable deadline.

- 3 9. Defendants will effectuate relief for any Class Member entitled to  
4 settlement relief pursuant to Paragraphs IV.C.3, IV.C.4, or IV.C.8, as  
5 applicable, no later than one year after the date that Defendants provide that  
6 Class Member Written Notice of the settlement relief decision.

7 D. Relief for Certain Post-Class Applicants.

- 8 1. If an individual submits a borrower defense application after the Execution  
9 Date (*i.e.*, the date the class closes), but before the Final Approval Date,  
10 such individual is a Post-Class Applicant. Defendants will issue a final  
11 decision on the merits of a Post-Class Applicant's application no later than  
12 36 months after the Effective Date. In making these decisions, the  
13 Department will apply the standards in the borrower defense regulations  
14 published by the Department on November 1, 2016 (81 *Fed. Reg.* 75,926).  
15 2. If a Post-Class Applicant has not received a timely decision as required  
16 under Paragraph IV.D.1, that applicant shall receive Full Settlement Relief.  
17 Defendants shall provide the affected Post-Class Applicant with notice that  
18 the applicant will receive this relief within 60 calendar days following the  
19 expiration of the applicable deadline.  
20 3. Defendants will effectuate relief for any Post-Class Applicant entitled to  
21 settlement relief pursuant to Paragraphs IV.D.1 and IV.D.2 no later than one  
22 year after the date that Defendants provide that applicant Written Notice of  
23 the settlement relief decision.

- 24 E. Class Member informational webpage. The Department will establish a webpage  
25 on its studentaid.gov website providing general information about this Agreement  
26 and links to copies of the Agreement and related Court documents. The webpage  
27 will be available to the public within 30 calendar days after the Preliminary  
28 Approval Date and will be updated no later than 30 calendar days after the Effective

1 Date to include information about how Class Members can contact the Department  
2 if the Class Member has questions regarding their borrower defense application.

3 F. Effectuating relief.

4 1. Defendants have effectuated relief for purposes of Paragraphs IV.A, IV.C,  
5 and IV.D when they and their loan servicers have taken all steps necessary  
6 to discharge the Relevant Loan Debt of the Class Member (or Paragraph  
7 IV.D. Post-Class Applicant), including but not limited to (1) discharging  
8 any interest that accrued while the borrower defense application was  
9 pending; (2) determining if the Class Member (or Paragraph IV.D Post-  
10 Class Applicant) is entitled to any refund, and if so, issuing refund check(s)  
11 for payment of that refund; (3) if the Class Member's (or Paragraph IV.D  
12 Post-Class Applicant's) Relevant Loan Debt was previously in default,  
13 removing such debt from default status; and (4) requesting the deletion of  
14 the relevant tradeline.

15 2. Class Members (or Paragraph IV.D Post-Class Applicants) who receive  
16 relief under Paragraphs IV.A, IV.C, or IV.D shall not be required to take  
17 steps to consolidate any Relevant Loan Debt into a Direct Loan to receive  
18 the relief to which they are entitled pursuant to those Paragraphs.  
19 Defendants shall take all necessary steps to ensure that other loan holders  
20 effectuate the required relief.

21 G. Reporting Requirement.

22 1. Within 30 calendar days after the Effective Date, Defendants will provide  
23 Plaintiffs with, as of the Final Approval Date, (i) the total number of Class  
24 Members, (ii) the total number of Class Members the Department has  
25 determined are eligible for Full Settlement Relief pursuant to Paragraph  
26 IV.A; (iii) the total number of Class Members who must receive decisions  
27 pursuant to Paragraph IV.C; and (iv) the total number of Class Members  
28 and Post-Class Applicants who must receive decisions by each deadline set

1                   forth in Paragraph IV.C.3(i) through (v) and Paragraph IV.D, respectively,  
2                   and a schedule of the dates certain by which such decisions must be received  
3                   pursuant to these paragraphs.

4                   2.       Defendants will submit quarterly reports to Plaintiffs documenting their  
5                   progress toward fulfilling their obligations under Paragraphs IV.A, IV.C,  
6                   and IV.D of this Agreement. Defendants will submit these reports to  
7                   Plaintiffs' Counsel via electronic mail and will post those reports publicly  
8                   on their Federal Student Aid website.

9                   3.       The first quarterly report shall be submitted 120 calendar days after the  
10                  Effective Date, unless that day falls on a weekend or Federal holiday, in  
11                  which case the report shall be submitted on the next business day. The  
12                  quarterly reports shall be submitted every 90 calendar days thereafter,  
13                  subject to the same exceptions where the 90th day falls on a weekend or  
14                  Federal holiday.

15               4.       The quarterly reports described herein shall contain the information listed  
16                  below. The first report will reflect progress Defendants have made since the  
17                  Effective Date and later reports will reflect the progress Defendants made  
18                  from the last date reported in the prior report to the end of each reporting  
19                  period. The first reporting period will start on the Effective Date. Each  
20                  subsequent reporting period will start on the last date for which progress  
21                  was reported in any previous report. Each reporting period shall exclude a  
22                  period not exceeding 30 calendar days immediately preceding the  
23                  submission of a report, during which Defendants pull, confirm, and validate  
24                  the data provided in each report.

25               i.       The total number of Class Members with pending borrower defense  
26                  applications (which number shall include members of the § 555(e)  
27                  Subclass);

- 1           ii.     The total number of settlement relief decisions, revise and resubmit  
2                    notices, and denial decisions, as defined in Paragraph IV.C.2, that  
3                    Defendants have issued to Class Members pursuant to Paragraph  
4                    IV.C;
- 5           iii.    The number of Class Members who received settlement relief  
6                    decisions; the number of Class Members who received “revise and  
7                    resubmit notices”; and the number of Class Members who received  
8                    final denial decisions during the reporting period; and
- 9           iv.    The total number of Class Members for whom Defendants have  
10                   effectuated relief pursuant to Paragraph IV.A, including the number  
11                   of Class Members for whom Defendants effectuated relief during  
12                   the reporting period.
- 13           v.    For any quarterly report covering the time period during which a  
14                   deadline established in Paragraphs IV.C.3(i) through (v) and  
15                   Paragraph IV.D falls, the total number of Class Members for whom  
16                   the Department did not provide a decision.

17           5.    All of the data required in this section is subject to privacy restrictions and  
18                   will be suppressed where the total number of Class Members for any data  
19                   point is less than 10.

20           6.    Defendants shall notify Plaintiffs’ Counsel within 30 calendar days of the  
21                   date as of which they have resolved all Class Members’ borrower defense  
22                   applications, notified all Class Members of their final decisions (where  
23                   applicable), and effectuated all appropriate relief to Class Members, at  
24                   which point Defendants’ reporting obligations will cease. Until Defendants  
25                   provide such notice, Defendants shall continue providing quarterly reports  
26                   as required by this Paragraph IV.G.

27           H.    Other Assurances. In accordance with applicable statutory and regulatory  
28                   requirements, and additional governing policies and procedures specific to

1 Defendants' consideration of borrower defense claims, Defendants represent and  
2 confirm that the following policies will apply to all Class Members throughout the  
3 time covered by the Agreement:

- 4 1. Defendants do not take action to collect outstanding student loan debts  
5 through involuntary collection activity against individuals with pending  
6 borrower defense applications, as required by the Department's borrower  
7 defense regulations. However, this Agreement does not preclude a Class  
8 Member from proactively and voluntarily paying his or her student loans.
- 9 2. Defendants provide an interest credit for any interest that accrues on the  
10 relevant federal student loan accounts of borrowers between the time that  
11 the borrower submits his or her borrower defense application and the time  
12 the Department issues a final decision on the application and notifies the  
13 borrower of that decision.

14 **V. ENFORCEMENT**

15 A. Notwithstanding all other provisions outside Section V of this Agreement, the  
16 Court shall retain jurisdiction only to review claims set forth in this Section V, and  
17 only in the manner explicitly provided in Section V. In connection with each such  
18 claim, the Court shall retain jurisdiction only to order the relief explicitly specified  
19 for each particular claim and only where Defendants have not provided that relief  
20 pursuant to the procedures specified in this Section. The Court shall lack  
21 jurisdiction to imply any claims, or authority to issue any other relief, under this  
22 Agreement.

23 B. The only claims permissible to enforce this Agreement are as follows:

- 24 1. Failure to Provide Relief to Class Members Who Did Not Receive a  
25 Decision by the Decision Due Date. Plaintiffs may bring a claim alleging  
26 that Defendants have materially breached the Agreement if Defendants  
27 have (i) failed to issue to a Class Member or Post-Class Applicant by the  
28 due date established in Paragraph IV.C.3, IV.C.4, or IV.D.2, as applicable,

1 a decision, as defined by Paragraph IV.C.2; and (ii) subsequently failed,  
2 within 30 calendar days following the expiration of the applicable deadline,  
3 to provide that Class Member with notice that they will receive Full  
4 Settlement Relief, as required by Paragraph IV.C.8 or IV.D.2, as applicable.

- 5 i. Should Plaintiffs prevail on this claim, the only relief available from  
6 the Court shall be an order requiring Defendants to promptly provide  
7 Full Settlement Relief to each affected Class Member on a timetable  
8 set by the Court. Defendants shall also be liable for Plaintiffs'  
9 reasonable attorneys' fees and costs incurred in bringing the claim.
- 10 ii. In the event of such a Court order, Defendants will report to  
11 Plaintiffs' Counsel and the Court on its progress of issuing relief,  
12 as provided herein, to affected Class Members.

13 2. Failure to Issue Relief by Relief Due Date. Plaintiffs may bring a claim  
14 alleging that Defendants have materially breached Paragraph IV.A.1,  
15 IV.C.9, IV.D.1, and/or IV.D.3 of the Agreement by failing to effectuate  
16 relief within the prescribed time periods for any individual who is entitled  
17 to receive relief pursuant those Paragraphs.

- 18 i. Should Plaintiffs prevail on this claim, the only relief available from  
19 the Court shall be an order requiring Defendants to promptly provide  
20 Full Settlement Relief to each affected individual on a schedule set  
21 by the Court. Defendants shall also be liable for Plaintiffs'  
22 reasonable attorneys' fees and costs incurred in bringing the claim.
- 23 ii. In the event of such a Court order, Defendants will report to  
24 Plaintiffs' Counsel and the Court on its progress of issuing relief, as  
25 provided herein, to affected Class Members.

26 3. Failure to Submit Timely Quarterly Reports. Plaintiffs may bring a claim  
27 alleging that Defendants have materially breached Paragraph IV.G of the  
28 Agreement by failing to submit a timely and complete quarterly report to



1 Plaintiffs' Counsel via electronic mail within 90 calendar days after the  
2 deadline for the report according to the timelines specified therein. Should  
3 Plaintiffs prevail on this claim, the only relief available from the Court shall  
4 be an order requiring Defendants to submit their reports on a monthly basis  
5 from the point of the order forward. Defendants shall also be liable for  
6 Plaintiffs' reasonable attorneys' fees and costs incurred in bringing the  
7 claim.

8 4. Involuntary Collections of Class Members' Student Loan Debt. Plaintiffs  
9 may bring a claim alleging that Defendants have materially breached  
10 Paragraph IV.H.1 of the Agreement by collecting on a Relevant Loan after  
11 the Effective Date through involuntary collection activity against a Class  
12 Member or Post-Class Applicant while his or her application was or is  
13 pending or while the Class Member or Post-Class Applicant was or is  
14 awaiting the effectuation of relief.

15 i. Should Plaintiffs prevail on this claim, the only relief available from  
16 the Court shall be an order requiring the Department to refund the  
17 payment(s) collected. If Defendants do not have a valid address for  
18 the affected borrowers to send the refunds, Defendants will  
19 take reasonable steps to engage in skip tracing to find a valid  
20 address.

21 ii. Defendants shall be liable for a material breach under this Paragraph  
22 V.B.4 if involuntary collection activity occurs because they, their  
23 agents, or their contractors took action to collect a debt through an  
24 involuntary collection activity. Defendants shall not be liable based  
25 on events outside of Defendants' control, including but not limited  
26 to a situation where a third party, such as an employer, undertakes  
27 debt collection activities, such as wage garnishment, inconsistent  
28 with Defendants' instructions that collection activity cease.

1 C. All claims listed above are subject to the complete defense of impracticability or  
2 impossibility of performance, as set forth below in Paragraph V.D.5 and Paragraph  
3 XII, as well as the defense that the breach claimed by Plaintiffs is not material.

4 D. The exclusive procedure for bringing a claim to enforce the terms and conditions  
5 of this Agreement shall be as follows:

6 1. Prior to asserting any claim pursuant to Paragraph V.B, above, Plaintiffs'  
7 Counsel shall submit written notice alleging a material breach of this  
8 Agreement to counsel for Defendants. Such notice shall be submitted by  
9 electronic mail, and shall specify what alleged breach has occurred; describe  
10 the facts and circumstances supporting the claim; and state that Plaintiffs  
11 intend to seek an order from the Court pursuant to Paragraph V.B. Plaintiffs  
12 shall not inform the Court of their allegation(s) at that time.

13 2. Within 2 business days of receipt of the notice from Plaintiffs' Counsel,  
14 Defendants will acknowledge receipt of Plaintiffs' notice.

15 3. Defendants shall have a period of 14 calendar days after receipt of such  
16 notice from Plaintiffs' Counsel to inform Plaintiffs' Counsel in writing of  
17 its determination on whether a material breach has occurred, including  
18 relevant information that informed Defendants' determination.

19 i. If Defendants agree that a material breach has occurred, Defendants  
20 will disclose any action they propose to take to resolve the alleged  
21 material breach in the written notice to Plaintiffs as described by this  
22 Paragraph V.D.3. The Parties will meet and confer to determine  
23 whether those actions are sufficient within 5 business days of  
24 Plaintiffs' receipt of Defendants' notice.

25 a. Upon Defendants' request, Plaintiffs shall provide to  
26 Defendants any information and materials available to  
27 Plaintiffs that support the violation alleged in the notice.  
28

1 b. Defendants will have 21 calendar days following the Parties’  
2 meet and confer to take the action(s) specified in their  
3 written notice and/or any further action(s) agreed upon in  
4 writing by the Parties.

5 c. If the Parties agree about the existence of a material breach,  
6 but cannot reach consensus on the appropriate action to  
7 resolve that breach within 21 calendar days following the  
8 Parties’ meet and confer, either Party may file a motion for  
9 enforcement of the Agreement.

10 ii. If Defendants do not agree that a material breach has occurred, the  
11 Parties will meet and confer to determine if a consensus can be  
12 reached within 5 business days after Plaintiffs’ receipt of  
13 Defendants’ notice as described in this Paragraph V.D.3. If a  
14 consensus cannot be reached within 21 business days following the  
15 Parties’ meet and confer, Plaintiffs may file a motion for  
16 enforcement of the Agreement.

17 4. Absent the prior, written agreement of the Parties, any motion for  
18 enforcement of the Agreement must be brought within two (2) years after  
19 the Parties notify the Court that Defendants have resolved all Class  
20 Members’ borrower defense applications, notified all Class Members of  
21 their final decisions (where applicable), and effectuated all appropriate  
22 relief to Class Members, as specified in Paragraph XI, below. Otherwise,  
23 any claim of material breach not brought within two (2) years of such date  
24 shall be forever waived by Plaintiffs.

25 5. If Defendants are reasonably prevented from or delayed in fully performing  
26 any of the obligations set forth in Paragraph IV, above, due to extraordinary  
27 circumstances beyond Defendants’ control, Defendants will notify  
28 Plaintiffs’ Counsel within 14 calendar days of Defendants’ determination

1 that they will not be able to fully perform their obligations. Within that  
2 notification, Defendants will describe the facts providing their basis for  
3 believing extraordinary circumstances beyond Defendants' control prevent  
4 Defendants from fully performing their obligations. Within 14 calendar  
5 days of that notice, the Parties will meet and confer as to whether the  
6 circumstances are beyond the Defendants' control and to what extent they  
7 affect Defendants' ability to issue final decisions or effectuate relief. If the  
8 Parties agree an extension is warranted, the Parties will negotiate the length  
9 of an appropriate extension, and the deadlines set forth for Defendants'  
10 performance in Paragraph IV may be altered accordingly. If the Parties  
11 cannot agree as to whether extraordinary circumstances exist or what the  
12 appropriate length of an extension is, Plaintiffs may raise a claim of material  
13 breach of Paragraph IV with the Court prior to the expiration of the  
14 timelines provided in that Paragraph. Defendants shall be permitted to  
15 oppose the filing of such a claim upon the grounds of extraordinary  
16 circumstances, and the Court will at that point have jurisdiction to determine  
17 whether Defendants are entitled to any extension of the deadlines set forth  
18 in Paragraph IV on the basis of extraordinary circumstances. The extension  
19 set forth in this Paragraph V.D.5 shall be for a minimum of seven (7)  
20 calendar days beyond the deadlines for performance set forth in Paragraph  
21 IV without requiring any action by any Party other than Defendants, and  
22 may be longer than that period pursuant to written agreement among the  
23 Parties.

24 E. The Court relinquishes jurisdiction over all claims, causes of actions, motions,  
25 suits, allegations, and other requests for relief in this Action that are not expressly  
26 stated in this Paragraph V.

1 F. The Court shall have no jurisdiction to supervise, monitor, or issue orders in this  
2 Action, except to the extent that Plaintiffs invoke the Court's jurisdiction pursuant  
3 to the procedures set forth in this Paragraph V.

4 **VI. ATTORNEYS' FEES**

5 A. To resolve Plaintiffs' claim for attorneys' fees, costs, and expenses, Plaintiffs will  
6 submit a petition for fees under the Equal Access to Justice Act, 28 U.S.C. §  
7 2412(d), to the Court.

8 B. Defendants agree that Plaintiffs are the prevailing party in this action for purposes  
9 of a fee petition under the Equal Access to Justice Act.

10 C. Nothing in this Section shall affect the Parties' ability to attempt to reach a  
11 compromise regarding Plaintiffs' claim for attorneys' fees, costs, and expenses.

12 **VII. WAIVER AND RELEASE**

13 Plaintiffs, the Class Members, and their heirs, administrators, representatives, attorneys,  
14 successors, and assigns, and each of them hereby forever waive, release, and forever discharge  
15 Defendants, and all of their officers, employees, and agents, from, and are hereby forever barred  
16 and precluded from prosecuting, any and all claims, causes of action, motions, and requests for  
17 any injunctive, declaratory, and/or monetary relief, including but not limited to damages, tax  
18 payments, debt relief, costs, attorney's fees, expenses, and/or interest, whether presently known or  
19 unknown, contingent or liquidated, alleged in this Action against Defendants through and  
20 including the Effective Date, including but not limited to the right to appeal any and all claims  
21 Plaintiffs asserted in this Action. This Agreement is not intended to release any claim based on an  
22 act or omission or other conduct occurring after the Effective Date, including but not limited to  
23 claims by Class Members based on the substance or content of their borrower defense decisions.  
24 The Parties do not intend to waive or narrow any res judicata defense Defendants could assert  
25 against a future claim brought by any Plaintiff.

26 **VIII. NO ADMISSION OF LIABILITY**

27 A. Nothing in this Settlement Agreement shall constitute or be construed to constitute  
28 an admission of any wrongdoing or liability by Defendants, an admission by

1 Defendants of the truth of any allegation or the validity of any claim asserted in this  
2 Action, a concession or admission by Defendants of any fault or omission of any  
3 act or failure to act, or an admission by Defendants that the consideration provided  
4 to Plaintiffs under Paragraph IV, above, represents relief that could be recovered  
5 by Plaintiffs in this Action.

6 B. Plaintiffs may not offer, proffer, or refer to any of the terms of this Agreement as  
7 evidence in any civil, criminal, or administrative proceedings other than  
8 proceedings that may be necessary to enforce the Agreement as set forth in  
9 Paragraph V, above, or to obtain approval from the Court as set forth in Paragraph  
10 X, below.

11 **IX. PLAINTIFFS' COVENANTS NOT TO SUE**

12 A. Plaintiffs hereby covenant not to commence any action, claim, suit, or  
13 administrative proceeding against Defendants related to the non-performance,  
14 failed performance, or otherwise unsatisfactory performance in fulfilling their  
15 duties and responsibilities under this Agreement; provided, however, that Plaintiffs  
16 may initiate an action against Defendants pursuant to the continuing jurisdiction of  
17 the Court to compel Defendants' performance of their obligations under this  
18 Agreement, but only as expressly articulated in this Agreement in Paragraph V,  
19 above.

20 B. Plaintiffs hereby covenant not to commence against Defendants any action, claim,  
21 suit, or administrative proceeding on account of any claim or cause of action that  
22 has been released or discharged by this Agreement.

23 **X. PROCEDURES GOVERNING APPROVAL OF THIS AGREEMENT**

24 A. Within 14 calendar days of the Execution Date, the Parties shall jointly submit this  
25 Agreement and its exhibits to the Court, and shall apply for entry of an Order in  
26 which the Court:

27 1. Grants preliminary approval to this Agreement as being fair, reasonable,  
28 and adequate to Plaintiffs;

- 1           2. Approves the form of the Class Notice attached hereto as Exhibit A;
- 2           3. Directs the Parties to provide Class Notice as set forth in Paragraph X.B
- 3                 below, and grants approval of such plan as reasonable under Federal Rule
- 4                 of Civil Procedure 23(e)(1);
- 5           4. Schedules a Fairness Hearing to determine whether this Agreement should
- 6                 be approved as fair, reasonable, and adequate, and whether an order
- 7                 approving the settlement should be entered pursuant to Federal Rule of Civil
- 8                 Procedure 23(e);
- 9           5. Provides that any person who wishes to object to the terms of this
- 10                 Agreement, or to the entry of an Order approving this Agreement, must file
- 11                 a written Notice of Objection with the Court specifying the objections and
- 12                 the basis for such objections as provided in the Class Notice, with copies
- 13                 served on all Parties' counsel;
- 14           6. Provides that between the Execution Date and the Fairness Hearing, the
- 15                 Defendants shall direct all inquiries from Class Members and Post-Class
- 16                 Applicants regarding the Agreement to Plaintiffs' Counsel;
- 17           7. Provides that in order to have an objection considered and heard at the
- 18                 Fairness Hearing, such written Notice of Objection must be filed with the
- 19                 Court and served on counsel by the date specified in the Class Notice;
- 20           8. Provides that the Parties shall each be entitled, but not required, to respond,
- 21                 in writing, to any Objections up to 14 calendar days prior to the Fairness
- 22                 Hearing; and
- 23           9. Provides that the Fairness Hearing may, from time to time and without
- 24                 further notice to the Class, be continued or adjourned by order of the Court.
- 25         B. After the Court enters an Order containing all of the items set forth in Paragraph
- 26                 X.A, above, the Parties shall promptly distribute the Class Notice as follows:
- 27                 1. Defendants shall email all Class Members who provided their e-mail
- 28                 addresses to the Department on their borrower defense applications, or,

1 where Defendants do not have such an e-mail address available or become  
2 aware that email is undeliverable to the email address on file, Defendants  
3 shall send a copy of the notice to the Class Member’s last known mailing  
4 address by first class mail.

5 2. Class Counsel will update the Class Member website’s “Frequently Asked  
6 Questions” page regarding the lawsuit. A link to the Class Members’  
7 website will be included in the Class Notice and will be included on the  
8 Department’s website.

9 3. Plaintiffs will also circulate the Class Notice to legal aid and advocacy  
10 organizations across the country providing borrower defense assistance.

11 C. No later than 3 business days before the Fairness Hearing, the Parties shall each file  
12 with the Court a declaration confirming compliance with the Notice procedures  
13 approved by the Court.

14 D. At the Fairness Hearing, the Parties shall jointly request the Court’s final approval  
15 of this Agreement, pursuant to Federal Rule of Civil Procedure 23(e). The Parties  
16 agree to take all actions necessary to obtain approval of this Agreement.

17 E. If, after the Fairness Hearing, the Court approves this Agreement as fair, adequate,  
18 and reasonable, the Parties consent to entry of Final Judgment in a form  
19 substantively identical to the Final Judgment attached hereto as Exhibit B.

20 F. Within 120 days after the Effective Date, Defendants shall send Written Notice to  
21 all Post-Class Applicants informing them of their status as Post-Class Applicants  
22 and the provisions of the Agreement that apply to them.

23 **XI. DISMISSAL AND JURISDICTION OF THE COURT TO ENFORCE THIS AGREEMENT**

24 The Parties hereby stipulate and agree to entry of Final Judgment in a form substantively  
25 identical to the Final Judgment attached hereto as Exhibit B. As provided in that exhibit, Plaintiffs’  
26 claims in this Action are dismissed with prejudice, except that the Court shall retain limited  
27 jurisdiction for the sole purpose of enforcing the terms of this Agreement as expressly set forth in  
28 Paragraph V of this Agreement. Once Defendants have resolved all Class Members’ and Post-



1 Class Applicants' borrower defense applications, notified all Class Members and Post-Class  
2 Applicants of their final decisions (where applicable), and effectuated all appropriate relief to Class  
3 Members and Post-Class Applicants, the Parties will file a notice with the Court. Upon the date of  
4 that notice, the Court's jurisdiction over this Action shall completely terminate.

5 The Parties agree that any order of the Court granting approval of this Agreement does not  
6 render the terms and conditions of this Agreement subject to the contempt powers of the Court.

7 **XII. IMPOSSIBILITY OF PERFORMANCE**

8 In addition to the excuses to performance listed in Paragraph V.D.5, above, if Congress  
9 renders Defendants' performance under this Agreement impossible, in whole or in part, then  
10 Defendants shall forever be relieved of all obligations that would, as a result of such Congressional  
11 action, be impossible to perform. Defendants shall not be required to take any action, or attempt  
12 to take any action, which would circumvent or violate, or have the effect of circumventing or  
13 violating, the law.

14 **XIII. CONDITIONS THAT RENDER THIS AGREEMENT VOID OR VOIDABLE**

15 A. This Agreement shall be void if it is not approved as written by a final Court order  
16 not subject to any further review.

17 B. This Agreement shall be voidable by Plaintiffs and/or Defendants if the Court does  
18 not enter a Final Judgment, or other Final Approval Order, that is substantively  
19 identical to the one attached hereto as Exhibit B. Any Party's decision to void the  
20 Agreement under this provision is effective only if that Party provides notice of its  
21 decision, in writing, to the counsel of record for all other Parties within 30 calendar  
22 days of the date on which the Court entered Final Judgment.

23 C. This Agreement shall be voidable by Plaintiffs if a condition of impossibility  
24 occurs, as described in Paragraph XII. Plaintiffs' decision to void the Agreement  
25 under this provision is effective only if Plaintiffs' Counsel provides notice of their  
26 decision, in writing, to the counsel of record for Defendants.

1 **XIV. EFFECT OF AGREEMENT IF VOIDED**

- 2 A. Should this Agreement become void as set forth in Section XIII above, none of the  
3 Parties will object to reinstatement of this Action in the same posture and form as  
4 it was pending immediately before the Execution Date.
- 5 B. All negotiations in connection herewith, and all statements made by the Parties at  
6 or submitted to the Court as part of the Fairness Hearing process, shall be without  
7 prejudice to the Parties to this Agreement and shall not be deemed or construed to  
8 be an admission by a Party of any fact, matter, or proposition, nor admissible for  
9 any purpose in the Action other than with respect to the settlement of same.
- 10 C. The Parties shall retain all defenses, arguments, and motions as to all claims that  
11 have been or might later be asserted in this Action, and nothing in this Agreement  
12 shall be raised or construed by any Party to defeat or limit any claims, defenses,  
13 arguments, or motions asserted by either Party.

14 **XV. MODIFICATION OF THIS AGREEMENT**

- 15 A. Before the Preliminary Approval Date, this Agreement, including the attached  
16 exhibits, may be modified only upon the written agreement of the Parties.
- 17 B. After the Preliminary Approval Date—including the time after which Final  
18 Judgment has been entered—this Agreement, including the attached exhibits, may  
19 be modified only with the written agreement of all the Parties and with the approval  
20 of the Court, upon such notice to the Class, if any, as the Court may require.

21 **XVI. RULES OF CONSTRUCTION**

- 22 A. The Parties acknowledge that this Agreement constitutes a negotiated compromise.  
23 The Parties agree that any rule of construction under which any terms or latent  
24 ambiguities are construed against the drafter of a legal document shall not apply to  
25 this Agreement.
- 26 B. This Agreement shall be construed in a manner to ensure its consistency with  
27 federal law. Nothing contained in this Agreement shall impose upon Defendants  
28 any duty, obligation, or requirement, the performance of which would be



1 inconsistent with federal statutes, rules, or regulations in effect at the time of such  
2 performance.

3 C. The headings in this Agreement are for the convenience of the Parties only and  
4 shall not limit, expand, modify, or aid in the interpretation or construction of this  
5 Agreement.

6 **XVII. INTEGRATION**

7 This Agreement and its exhibits constitute the entire agreement of the Parties, and no prior  
8 statement, representation, agreement, or understanding, oral or written, that is not contained herein,  
9 will have any force or effect.

10 **XVIII. EXECUTION**

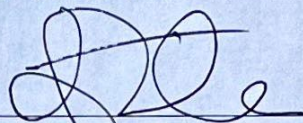
11 This Agreement may be executed in counterparts. Facsimiles and Adobe PDF versions of  
12 signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

13  
14 For the Defendants:

15  
16 *R. Charlie Merritt*

17 BRIAN D. NETTER  
18 Deputy Assistant Attorney General  
19 STEPHANIE HINDS  
20 United States Attorney  
21 MARCIA BERMAN  
22 Assistant Branch Director  
23 R. CHARLIE MERRITT  
24 Trial Attorney  
25 U.S. Department of Justice  
26 Civil Division, Federal Programs Branch  
27 1100 L Street, N.W.  
28 Washington, DC 20005  
Telephone: (202) 616-8098  
E-mail: robert.c.merritt@usdoj.gov

For the Plaintiffs:



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Oakland, California 94611  
Tel.: (510) 271-8443  
Fax: (510) 868-4521

# **Exhibit A**



**DRAFT**

**Internal Name:** BD Sweet v. Cardona – General Notification

**Internal Number:** 01

**Subject if sent electronically:** Notice of Proposed Class Action Settlement - Important borrower defense information for you

[DATE]

Borrower Defense Application #: [Case Number]

Dear [Primary Contact Name]:

**Your rights may be affected, please read carefully.**

You filed a borrower defense application asking the U.S. Department of Education (“Department”) to cancel some or all of your federal student loan debt because you allege the school you (or your child) attended engaged in unlawful conduct. We write to inform you that there is a proposed settlement in a class action lawsuit that could affect your claim and to explain how your legal rights may be affected by that lawsuit.

As a borrower defense applicant, you may have been previously informed of a class action lawsuit called *Sweet v. DeVos*, which challenged the Department’s delay in issuing final decisions on borrower defense applications, including yours. You may also have been informed in 2020 that the parties had proposed a settlement of the lawsuit, subject to the court’s approval. The court did not approve that proposed settlement, so the lawsuit continued. You can find more information about that here: <https://predatorystudentlending.org/news/press-releases/in-new-ruling-judge-denies-borrower-defense-settlement-over-department-of-educations-perfunctory-alarmingly-curt-denials-press-release/>. The lawsuit now also challenges the Department’s denial of certain borrower defense applications.

We now write to inform you that there is a new proposed settlement of the lawsuit. The settlement will not become final until it is approved by the court as fair, adequate, and reasonable. This Notice describes how your legal rights may be affected by this settlement.

**What is the case about?**

A lawsuit was filed in a federal court in California by seven borrower defense applicants who represent, with certain exceptions, all borrowers with pending borrower defense applications. The lawsuit challenges the way the Department has been dealing with borrower defense applications over the past few years, including the Department’s delays in issuing final decisions and the Department’s denial of certain applications starting in December 2019. The case is now called *Sweet v. Cardona*, No. 3:19-cv-3674 (N.D. Cal.).

Now, both parties are proposing to settle this lawsuit. This proposed settlement is a compromise of disputed claims, and Defendants continue to deny that they have acted unlawfully.

**What are the terms of the proposed settlement for borrowers who applied for borrower defense relief on or before June 22, 2022?**

In the proposed settlement, the Department agrees to resolve the borrower defense applications of people who have borrower defense applications pending as of June 22, 2022 on the following terms:

- If your borrower defense application related to federal student loans borrowed to pay for attendance at a school on the list attached to this letter, you will receive a discharge of federal loans associated with that school and a refund of any amounts paid to the Department on those federal loans, and the credit tradeline for those loans will be deleted from your credit report. Within 90 days of the date that the court's approval of the settlement agreement becomes final, the Department will notify you that you will receive this relief. You will receive the relief within one year of the final effective date of the settlement agreement. Until this relief is provided, the Department will not take action to collect your debt.
- If your loans are not associated with a school on the list attached to this letter, you will receive a decision on your application according to the following schedule:
  - o If you submitted your application between January 1, 2015 and December 31, 2017, the Department will issue a decision no later than 6 months after the court's approval of the settlement agreement becomes final.
  - o If you submitted your application between January 1, 2018 and December 31, 2018, the Department will issue a decision no later than 12 months after the court's approval of the settlement agreement becomes final.
  - o If you submitted your application between January 1, 2019 and December 31, 2019, the Department will issue a decision no later than 18 months after the court's approval of the settlement agreement becomes final.
  - o If you submitted your application between January 1, 2020 and December 31, 2020, the Department will issue a decision no later than 24 months after the court's approval of the settlement agreement becomes final.
  - o If you submitted your application between January 1, 2021 and June 22, 2022, the Department will issue a decision no later than 30 months after the court's approval of the settlement agreement becomes final.
- If you do not receive a decision within the timeline outlined above, you will receive a discharge of federal loans associated with your borrower defense applications and a refund of any amounts paid to the Department on those federal loans, and the credit tradeline for those loans will be deleted from your credit report.
- The Department will decide your application in a streamlined review process that will determine whether the application states a claim that, if presumed to be true, would assert a valid basis for

borrower defense; will not require further supporting evidence; will not require proof of reliance; and will not apply any statute of limitations to your application.

- If your application is approved under the procedures above, you will receive a discharge of federal loans associated with your borrower defense application and a refund of any amounts paid to the Department on those federal loans, and the credit tradeline for those loans will be deleted from your credit report.
- The Department will not deny your application without first providing instructions on what is required for a successful application and giving you the opportunity to resubmit your application.
  - o If you choose to resubmit your application, you must do so within 6 months after receiving those instructions. The instructions will explain that if you do not resubmit within the 6-month period, your application will be considered denied.
  - o If you choose to resubmit your application within the 6-month time period after receiving the instructions, the Department will issue you a final decision no later than 6 months after receiving your resubmitted application.
- If you received a notice from the Department in December 2019 or later informing you that your borrower defense application was denied, that denial has been voided and the Department is reviewing your application pursuant to the terms described above.

**What are the terms of the proposed settlement for borrowers who applied for borrower defense relief after June 22, 2022 but before final approval of the settlement?**

- If you submitted your application after June 22, 2022, but before the court approves the settlement agreement, the Department will issue a decision on your application no later than 36 months after the court's approval of the settlement agreement becomes final. If the Department does not issue a decision within that time period, you will receive a discharge of federal loans associated with your borrower defense application and a refund of any amounts paid to the Department on those federal loans, and the credit tradeline for those loans will be deleted from your credit report.

**Does the Department have any reporting obligations?**

- The Department will provide your lawyers with information about its progress making borrower defense decisions every three months, including how many decisions the Department has made and how many borrowers have received a loan discharge.

**What if my loan is in default?**

- If you are in default, the Department will not take action to collect your debt, such as by garnishing your wages (that is, taking part of your paycheck) or taking portions of your tax refund, while your application is pending or while you are waiting to receive any relief you are owed under the settlement.

### **What happens next?**

The court will need to approve the proposed settlement before it becomes final. The court will hold a public hearing, called a fairness hearing, to decide if the proposed settlement is fair. The hearing will be held on \_\_\_\_\_, 2022, beginning at \_\_\_\_\_, at the following address:

United States District Court  
Northern District of California  
450 Golden Gate Avenue, Courtroom 12, 19th Floor  
San Francisco, California 94102

Information about the hearing, including the process for participation and virtual attendance (if any), will be posted at <https://predatorystudentlending.org/cases/sweet-v-devos/>.

### **What should I do in response to this Notice?**

IF YOU AGREE with the proposed settlement, you do not have to do anything. You have the right to attend the fairness hearing, at the time and place above, but **you are not required to do so**.

IF YOU DISAGREE WITH OR HAVE COMMENTS on the proposed settlement, you can write to the court or ask to speak at the hearing. You must do this by writing to the Clerk of the Court, at the following mailing address:

Clerk of the Court  
United States District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, California 94102

You can also submit comments by email to the Clerk of Court at [email address]. Your written comments or request to speak at the fairness hearing must be postmarked or date-stamped by \_\_\_\_\_, 2022. The Clerk will provide copies of the written comments to the lawyers who brought the lawsuit.

### **Where can I get more information?**

There is more information about the *Sweet* lawsuit on Class Counsel's website at <https://predatorystudentlending.org/cases/sweet-v-devos/>. Check this site periodically for updated information about the lawsuit.

A copy of the proposed settlement is available online at <https://predatorystudentlending.org/cases/sweet-v-devos/documents/>.

If you have questions about this lawsuit or about the proposed settlement, please visit this Frequently Asked Questions page, <https://predatorystudentlending.org/sweet-v-devos-class-members/>, which also has contact information for the lawyers who brought the lawsuit.

Sincerely,

U.S. Department of Education

Federal Student Aid



## **Exhibit B**

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

THERESA SWEET, *et al.*,  
Plaintiffs,

v.

MIGUEL CARDONA, in his official capacity  
as Secretary of Education, and the UNITED  
STATES DEPARTMENT OF EDUCATION

Defendants.

No. 3:19-cv-03674-WHA

**ORDER APPROVING SETTLEMENT  
AGREEMENT AND ENTERING FINAL  
JUDGMENT**

Hon. William Alsup

Following this Court’s Order preliminarily approving the proposed Settlement Agreement (“Agreement”), Plaintiffs and Defendants (“the Parties”) disseminated a Notice of Proposed Settlement and Fairness Hearing to the Plaintiff Class. After consideration of the written submissions of the Parties, the Agreement between the Parties, any objections to the Agreement, all filings in support of the Agreement, and the presentations at the hearing held by the Court to consider the fairness of the Agreement, the Court hereby Orders, Finds, Adjudges, and Decrees that:

1. The Agreement between the Parties is finally approved as fair, reasonable, and adequate. The Court hereby incorporates the terms of the Agreement, executed by the Parties on June 22, 2022, into this Judgment Order.

2. Except as provided in paragraph 3 of this Order, this action is hereby dismissed with prejudice.

3. The Court shall retain jurisdiction over this action solely to enforce the terms of the Agreement, but only such jurisdiction as expressly set forth in Section V of the Agreement.

4. Once Defendants have decided all Class Members’ borrower defense claims, notified all Class Members of their final decisions (where applicable), and effectuated all

1 appropriate relief to Class Members, the Parties will file a notice with the Court. Upon the date of  
2 that notice, the Court's jurisdiction over this action shall completely terminate.

3  
4 **IT IS SO ORDERED.**

5  
6 Dated:

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10 \_\_\_\_\_  
11 The Honorable William Alsup  
12 United States District Judge  
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# **Exhibit C**

School Owner(s)	School/Brand Name
Alta Colleges, Inc. (Westwood)	Westwood College
American Commercial Colleges, Inc.	American Commercial College
American National University	American National University
Ana Maria Piña Houde and Marc Houde	Anamarc College
Anthem Education Group; International Education Corporation	Anthem College
	Anthem Institute
Apollo Group	University of Phoenix
	Western International University
ATI Enterprises	ATI Career Training Center
	ATI College
	ATI College of Health
	ATI Technical Training Center
B&H Education, Inc.	Marinello School of Beauty
Berkeley College (NY)	Berkeley College
Bridgepoint Education	Ashford University
	University of the Rockies
Capella Education Company; Strategic Education, Inc.	Capella University
Career Education Corporation	American InterContinental University
	Briarcliffe College
	Brooks College
	Brooks Institute
	Collins College
	Colorado Technical University
	Gibbs College
	Harrington College of Design
	International Academy of Design and Technology
	Katharine Gibbs School
	Le Cordon Bleu
	Le Cordon Bleu College of Culinary Arts
	Le Cordon Bleu Institute of Culinary Arts
	Lehigh Valley College
	McIntosh College
	Missouri College of Cosmetology North
	Pittsburgh Career Institute
	Sanford-Brown College
	Sanford-Brown Institute
	Brown College
	Brown Institute
	Washington Business School
	Allentown Business School
Western School of Health and Business Careers	
Ultrasound Diagnostic Schools	
School of Computer Technology	

School Owner(s)	School/Brand Name
	Al Collins Graphic Design School
	Orlando Culinary Academy
	Southern California School of Culinary Arts
	California Culinary Academy
	California School of Culinary Arts
	Pennsylvania Culinary Institute
	Cooking and Hospitality Institute of Chicago
	Scottsdale Culinary Institute
	Texas Culinary Academy
	Kitchen Academy
	Western Culinary Institute
Center for Employment Training	Center for Employment Training
Center for Excellence in Higher Education (CEHE)	California College San Diego
	CollegeAmerica
	Independence University
	Stevens-Henager
Computer Systems Institute	
Court Reporting Institute, Inc.	Court Reporting Institute
Cynthia Becher	La' James College of Hairstyling
	La' James International College
David Pyle	American Career College
	American Career Institute
Delta Career Education Corporation	McCann School of Business & Technology
	Miami-Jacobs Career College
	Miller Motte Business College
	Miller-Motte College
	Miller-Motte Technical College
DeVry	Tucson College
	American University of the Caribbean
	Carrington College
	Chamberlain University
	DeVry College of Technology
	Devry Institute of Technology
	DeVry University
	Keller Graduate School of Management
	Ross University School of Veterinary Medicine
	Ross University School of Medicine
EDMC/Dream Center	Argosy University
	The Art Institute
	Brown Mackie College
	Illinois Institute of Art (The)
	Miami International University of Art & Design
	New England Institute of Art (The)
	South University
	Western State University College of Law
	All-State Career School

School Owner(s)	School/Brand Name
Education Affiliates (JLL Partners)	Fortis College
	Fortis Institute
Edudyne Systems Inc.	Career Point College
Empire Education Group	Empire Beauty School
Everglades College, Inc.	Everglades University
	Keiser University
FastTrain	FastTrain
Globe Education Network	Globe University
	Minnesota School of Business
Graham Holdings Company (Kaplan)	Bauder College
	Kaplan Career Institute
	Kaplan College
	Mount Washington College
	Purdue University Global
Grand Canyon Education, Inc.	Grand Canyon University
Infilaw Holding, LLC	Arizona Summit Law School
	Charlotte School of Law
	Florida Coastal School of Law
International Education Corporation	Florida Career College
	United Education Institute
ITT Educational Services Inc.	ITT Technical Institute
JTC Education, Inc.	Gwinnett College
	Medtech College
	Radians College
Laureate Education, Inc.	Walden University
Leeds Equity Partners V, L.P.	Florida Technical College
	National University College
	NUC University
Liberty Partners	Concorde Career College
	Concorde Career Institute
Lincoln Educational Services Corporation	International Technical Institute
	Lincoln College of Technology
	Lincoln Technical Institute
Mark A. Gabis Trust	Daymar College
Mission Group Kansas, Inc.	Wright Business School
	Wright Career College
Premier Education Group L.P.	American College for Medical Careers
	Branford Hall Career Institute
	Hallmark Institute of Photography
	Hallmark University
	Harris School of Business
	Institute for Health Education (The)
	Micropower Career Institute
	Suburban Technical School
	Salter College
Beckfield College	

School Owner(s)	School/Brand Name
Quad Partners LLC	Blue Cliff College
	Dorsey College
Remington University, Inc.; Remington College BCL, Inc.	Remington College
Southern Technical Holdings, LLC	Southern Technical College
Star Career Academy	Star Career Academy
Sullivan and Cogliano Training Center, Inc.	Sullivan and Cogliano Training Centers
TCS Education System	Chicago School of Professional Psychology
Vatterott Educational Centers, Inc.	Court Reporting Institute of St Louis
	Vatterott College
Wilfred American Education Corp.	Robert Fiance Beauty Schools
	Robert Fiance Hair Design Institute
	Robert Fiance Institute of Florida
	Wilfred Academy
	Wilfred Academy of Beauty Culture
	Wilfred Academy of Hair & Beauty Culture
Willis Stein & Partners (ECA)	Brightwood Career Institute
	Brightwood College
	New England College of Business and Finance
	Virginia College