

United States Senate

September 15, 2023

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Secretary Cardona and Attorney General Garland,

Current college and universities policies for voluntary medical leaves of absence (“voluntary MLOA”) can unduly place obstacles for students, particularly disabled students, who wish to take these leaves. These barriers jeopardize their health and well-being. The Departments of Education and Justice should strengthen non-discrimination protections for these students and issue voluntary MLOA guidance, including policy reforms to Section 504 of the Rehabilitation Act of 1973, to support and empower students in making decisions about what is best for their health and safety.

Voluntary MLOA policies are implicated when a college or university student elects to take medical leave, often to receive treatment or support for a health condition. Sometimes, students take a voluntary MLOA at the height of an illness — to avoid failing grades or academic probation — and return to their coursework when they have improved health and capacity.¹ For many students, voluntary MLOAs for their mental health improve academic performance and psychological well-being.² But students may face barriers to taking and returning from voluntary MLOAs, including navigating difficult leave policies, loss of support systems, economic barriers, and concerns about the academic consequences.

Lack of awareness of school policies, as well as administrative burdens, make it difficult for students to take voluntary MLOAs. Students, faculty, and advisors may not be aware of the

¹ *Voluntary Medical Leave for Students Experiencing Mental Health Difficulties at College Title II Clarifications: Principles for Developing a Leave of Absence Policy*, Suicide Prevention Resource Center (June 13, 2017), <https://sprc.org/system/files/private/event-training/2017%20Title%20II%20Webinar%20Slide%20Deck.pdf>.

² Philip W. Meilman, *Conforming a Voluntary Medical Leave of Absence Policy to Recent Interpretations of Disability Law*, *Journal of College Student Psychotherapy* (2016), 30:1, 54-63, DOI: 10.1080/87568225.2016.1105665.

option to take voluntary MLOAs for mental health disabilities,³ unnecessarily limiting the number of students who could benefit from taking them. For students aware of the option, colleges and universities may have multiple offices students need to visit, including overwhelmed and understaffed counseling departments.⁴ These administrative challenges can quickly become an insurmountable barrier to a student with a health condition that interferes with their ability to remain in school. Moreover, return processes are also often laborious, with requirements that include medical approval or proof of other academic or professional work during the voluntary MLOA.⁵

Additionally, college and university rules surrounding voluntary MLOAs may unnecessarily interfere with student access to key social support systems. Students who take leave are prohibited from enrolling in classes, remaining on campus, or participating in extra-curricular activities at their institution.⁶ Many institutions also ban students from visiting campus during their MLOAs, including for social reasons.⁷ This can force disabled and immunocompromised students to choose between their health and their social support systems, despite the tremendous mental and behavioral benefits the latter provides.⁸

Beyond social support systems, disabled and immunocompromised students, low and middle-income students, and graduate students face financial barriers to taking voluntary MLOAs. Higher education institutions can prevent students on leave from using campus resources such as university health insurance or health providers.⁹ This may make it harder for students on voluntary MLOAs to get the care they need or provider sign-off that they are fit to return to campus.¹⁰ For universities that allow students on voluntary MLOAs to remain on school-

³ *College Student Mental Health Action Toolkit on Mental Health Data and Statistics*, Healthy Minds Network, Active Minds, and the Jed Foundation (Aug. 2020), <https://jedfoundation.org/wp-content/uploads/2021/07/CollegeStudentMentalHealthActionToolkit.pdf>.

⁴ Lindsey Bever, *Five tips from experts on taking a mental health break from college*, Wash. Post (Nov. 11, 2022), <https://www.washingtonpost.com/wellness/2022/11/11/college-mental-health-leave/>.

⁵ Taking a Leave of Absence: What you Need to Know, Mental Health America, (n.d.), <https://mhanational.org/taking-leave-absence-what-you-need-know>; Monica Porter, *Know your Rights: Leave of Absence Policies*, Active Minds (Mar. 27, 2017), <https://www.activeminds.org/blog/know-your-rights-leave-of-absence-policies/>.

⁶ Miriam Heyman, *The Ruderman White Paper on Mental Health in the Ivy League*, Ruderman Foundation, (Dec. 10, 2018), https://rudermanfoundation.org/white_papers/the-ruderman-white-paper-reveals-ivy-league-schools-fail-students-with-mental-illness/.

⁷ *Id.*

⁸ *Taking a Leave of Absence: A Guide for College Students*, The Ruderman Family Foundation (Apr. 2021), https://www.bu.edu/files/2021/04/LG_BU_AbsenceGUIDE_StudentManualV2.pdf.

⁹ William Wan, *Yale changes mental health policies for students in crisis*, Wash. Post (Jan. 19, 2023), <https://www.washingtonpost.com/education/2023/01/18/yale-mental-health-policies-change/>; William Wan, *Yale accused of discriminating against students with mental illnesses*, Wash. Post (Nov. 30, 2022), <https://www.washingtonpost.com/education/2022/11/30/yale-lawsuit-mental-health-suicide/>; *Supporting Students: A Model Policy for Colleges and Universities*, Judge L. Bazelon Center for Mental Health Law (May 15, 2007), <http://www.bazelon.org/wp-content/uploads/2017/04/SupportingStudentsCampusMHPolicy.pdf>.

¹⁰ Attiya Khan, *Khan: For the Love of God, Do Anything*, The Dartmouth (May 24, 2021), <https://www.thedartmouth.com/article/2021/05/khan-for-the-love-of-god-do-anything>.

provided health insurance, premiums can rise significantly,¹¹ making the option financially out of reach for many.¹² Losing health insurance could mean losing access to the care and medical approval they need to return from leave.

Students are also responsible for housing, tuition, and fees for the semester during which they take a voluntary MLOA.¹³ For leaves that last more than six months, they also face student loan repayments — more likely at universities with lengthier admissions processes or with minimum length requirements for MLOAs.¹⁴ These costs are only compounded by the loss of on-campus jobs, including research or teaching assistantships.¹⁵ Students can be forced either to find a part- or full time job in their local community while recovering from chronic or acute illness or face a total loss of income.¹⁶ For international students on F-1 visas who take a voluntary MLOA, finding work can be especially difficult. Students with F-1 visas can work only on campus their first year and face work restrictions thereafter.¹⁷ These limitations alone can make voluntary MLOAs financially unattainable for international students.

Finally, graduate students may feel especially hesitant to take voluntary MLOAs. Graduate students — who experience mental health disabilities at far higher rates than the general public — fear disclosing mental health issues because of stigma, judgment, and loss of tenure opportunity.¹⁸ The graduate student-advisor role is unique; graduate advisors are almost entirely responsible for their students' academic growth and professional development.¹⁹ Forgoing these

¹¹ *FAQ: Medical Leave from MIT*, MIT Medical, <https://medical.mit.edu/faqs/medical-withdrawals>

¹² Emily Tian, *For some students, taking a leave of absence also takes away healthcare*, Yale Daily News (Feb. 3, 2021), <https://yaledailynews.com/blog/2021/02/03/for-some-students-taking-a-leave-of-absence-also-takes-away-healthcare/>.

¹³ Sarah Craig and Roman Peregrino, *Where have all the students gone? How leave of absence policies hinder student wellness*, Georgetown Voice (Sept. 11, 2021), <https://georgetownvoice.com/2021/09/11/leaves-of-absence-mental-health/>.

¹⁴ *See Student Loan Repayment*, Federal Student Aid: An Office of the U.S. Department of Education, <https://studentaid.gov/manage-loans/repayment>.

¹⁵ *I am a graduate student; can I take a leave of absence or withdraw?*, MIT Student Financial Services, <https://sfs.mit.edu/help/faq/i-am-a-graduate-student-can-i-take-a-leave-of-absence-or-withdraw/>.

¹⁶ Brian Gilligan, *Challenges of graduate student medical leave*, The Tech (Feb. 13, 2020), <https://thetech.com/2020/02/13/graduate-medical-leave>.

¹⁷ *Reduced Course Load*, Department of Homeland Security (June 17, 2020), <https://studyinthestates.dhs.gov/sevis-help-hub/student-records/manage-program-dates-registration-and-course-load/reduced-course>; Questions from Designated School Officials: How do F-1 Students take medical leave? Department of Homeland Security (Apr. 7, 2014), <https://studyinthestates.dhs.gov/2014/04/questions-designated-school-officials-how-do-f-1-students-take-medical-leave>.

¹⁸ Colleen Flaherty, *Mental Health Crisis for Grad Students*, Inside Higher Ed, (Mar. 5, 2018), <https://www.insidehighered.com/news/2018/03/06/new-study-says-graduate-students-mental-health-crisis>

¹⁹ Angela Roberts, *At UMD, doctoral students depend on their advisers. What can happen when things go wrong?*, The Diamondback (Jan. 30, 2020), <https://dbknews.com/2020/01/30/umd-graduate-students-advisers-collective-bargaining-part-1/>; James M. Van Wyck, *Managing Your Advisor*, Inside Higher Ed. (May 2, 2016), <https://www.insidehighered.com/advice/2016/05/02/career-preparation-and-graduate-adviser-advice-relationship-essay>; Katie Shives, *Managing Your Advisor*, Inside Higher Ed. (Sept. 4, 2014), <https://www.insidehighered.com/blogs/gradhacker/managing-your-advisor>.

opportunities because of mental or physical health issue can be difficult for students who fear their professors will retaliate.

To help us better understand how the Departments of Education and Justice can address the issues raised in this letter, please respond in writing to the following questions and provide a staff-level briefing by October 27, 2023.

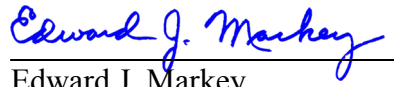
1. What steps, if any, have the Departments of Education and Justice taken to reform accommodation and voluntary MLOA policies to support disabled or immunocompromised students?
2. What consideration has the Department of Education given to voluntary MLOAs as part of Section 504 reform efforts?
3. What data has the Department of Education compiled regarding voluntary MLOAs?
 - a. What voluntary MLOA disparities exist, including, but not limited to, disparities based on race, ethnicity, immigration status, sex, gender, or income?
 - b. What steps have been taken to address or review involuntary MLOA policies for international students?
4. What efforts have the Departments of Education or Justice made to meet with stakeholders, including leaders of student bodies, student government associations, student councils, graduate student unions, students with disabilities, members of the disability community, and leaders of colleges and universities, on the issue of voluntary MLOAs?


Lack of awareness of voluntary MLOA policies, administrative barriers, social isolation, financial and immigration hurdles, and fear of retaliation create real and significant barriers for students who need support. They should not have to choose between their health and education. The Departments of Education and Justice can and should play a role in supporting college and university voluntary MLOA policies that are available and accessible to all students, including those who are disabled and immunocompromised.

We appreciate the Department of Education's response to the November letter²⁰ on related *in*voluntary MLOAs, including the listening session it held. We look forward to similar engagement and an ongoing partnership on this issue.

Sincerely,

²⁰ Press Release, Office of Senator Ed Markey, Senator Markey Calls for Biden Admin. to Strengthen Protections for College and University Students with Disabilities (Nov. 30, 2022), <https://www.markey.senate.gov/news/press-releases/senator-markey-calls-for-biden-admin-to-strengthen-protections-for-college-and-university-students-with-disabilities>.


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