

To: The Student Loan Debt Relief Negotiation Committee
From: Kyra Taylor, Primary Negotiator on Behalf of Legal Assistance Organizations That Represent Students or Borrowers; Yael Shavit, Primary Negotiator on Behalf of State Attorneys General; Jessica Ranucci, Primary Negotiator on Behalf of Consumer Advocates; John Whitelaw, Primary Negotiator on Behalf of Individuals with Disabilities or Groups Representing Them
Date: November 14, 2023
Re: Revising 34 C.F.R. § 30.70

The Department has focused on adding a new regulation, § 30.80, to define how the Department will use its waiver authority to cancel student loans. We are broadly supportive of this effort, but ask that the Department also consider more substantial revisions to 34 C.F.R. § 30.70, its regulation governing compromise, to complement how it plans to use its waiver authority. Specifically, we recommend that the Department consider promulgating more detailed regulations governing how it will compromise, terminate, or suspend federal student loan debts on an ongoing basis, and separate that regulation from provisions governing compromise of other forms of debt owed to the Department.

The existing compromise regulations in § 30.70 authorize the Department to discharge the debts of many distressed borrowers who fulfill the compromise criteria listed in the Federal Claims Collection Standards.¹ As we raised during the first and second negotiation sessions, the Department already has sufficient evidence to compromise these borrowers' debts on the basis that it will not be able to collect those debts in full within a reasonable amount of time.² For example, many borrowers in default prior to the payment pause were subject to the Department's collection powers, but the amounts the Department was able to collect were insufficient to touch borrowers' principal, and were only applied towards interest and fees, not the borrowers' principal. Similarly, there are many low-income borrowers who are eligible or have been enrolled in low or \$0 payments in income-driven repayment plans for years, where the Department will also not collect their debt in full.

If, however, the Department disagrees that it has the authority under the current compromise regulations to cancel these distressed borrowers' debts and feels it must amend its regulations to provide these types of distressed borrowers with relief, then we encourage it to take this opportunity to do so. We are therefore submitting additional revisions to 34 C.F.R. § 30.70 that incorporate and apply the Federal Claims Collection Standards' principles for

¹ See Abby Shafroth & Kyra Taylor, [Delivering Distress to Borrowers in Default](#), National Consumer Law Center (October 2023).

² The Legal Assistance Organizations', Consumer Advocates', and Individuals With Disabilities' Negotiators are submitting a second proposal that identifies groups of borrowers for whom the Department could provide retroactive relief using this authority now or using its waiver authority.

compromise in the context of the Higher Education Act for federal student loan debts.³ The proposal provides a nonexclusive list of the kinds of evidence or circumstances the Department may consider when assessing whether compromise is warranted.

³ We have only provided text for the section that applies to student loans as we anticipate that the section pertaining to other, non-loan debts will likely be substantially the same as the Department's proposed § 30.70.