Congress of the United States
Washington, DC 20510

July 13, 2017

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary DeVos:

We are deeply concerned that the breakdown in the U.S. Department of Education's ("Department") contracting process with private collection agencies (PCAs) has left many struggling student loan borrowers in a state of uncertainty, and that the current system of student loan collections is not serving the interests of borrowers or taxpayers.

After a federal court barred the Department from assigning newly defaulted borrowers to PCAs, hundreds of thousands[1] of borrowers have become trapped in limbo without a clear option for curing their default. The injunction affects borrowers who defaulted recently or who will default before the injunction is lifted, and it affects borrowers who were being serviced by PCAs whose contracts lapsed this spring. Many borrowers in the latter group had begun making payments and were on track to get out of default when the rug was pulled out from under them.

As the Department seeks a solution to its current legal dispute with PCAs, many borrowers in default are caught in a challenging and confusing situation while interest may continue to accrue on their loans. We want to know how the Department is assisting these borrowers. In particular, we ask that you provide answers to the following questions:

1. How many borrowers are currently affected by the injunction?
2. What actions has the Department taken to minimize the effects of the injunction on borrowers? Has the Department allowed borrowers affected by the injunction to apply or to continue the process for a loan discharge, rehabilitation, or consolidation?
3. During this injunction, are interest and fees accumulating on borrowers' accounts? If so, are borrowers able to make payments on their accounts while interest and fees accrue? And will the Department waive all interest and fees charged to borrowers during any time period in which borrowers are unable to make payments?
4. How many borrowers affected by the injunction are in the Treasury Offset Program, and how many are having their wages garnished?
5. Has the Department provided borrowers of defaulted loans who are not assigned to PCAs with a clear explanation of their current status and what will happen when they are

[1] Kreighbaum, Andrew. "Feds: 234,000 Borrowers Could be Stuck in Default." *Inside Higher Ed.* May 23, 2017. https://www.insidehighered.com/quicktakes/2017/05/23/feds-234000-borrowers-could-be-stuck-default

assigned to PCAs, including an explanation about transitioning smoothly back to collections for borrowers who had already begun loan rehabilitation?
6. Is the Department able to increase the capacity of its existing entities, such as the Debt Management and Collection System, to help these borrowers?
7. Has the Department considered additional administrative options, including employing services at other agencies, to assist these borrowers?

We are also concerned about systemic failures in the Department's oversight of PCAs that have left borrowers with inadequate support to cure their defaulted debts and return to repayment successfully. PCAs were initially created to remove bad debts from the balance sheets of federally subsidized lenders under the Federal Family Education Loan Program, but they have continued to receive generous taxpayer-funded contracts despite lackluster results. The Department has paid PCAs billions of dollars to help borrowers with defaulted loans reenter repayment. Still, more than four million borrowers of federal Direct Loans are currently in default.[2] In just the first three months of fiscal year 2017, more than 22,000 borrowers defaulted on their Direct Loans for at least the second time.[3] The Consumer Financial Protection Bureau (CFPB) estimates, that in some cases, the Department pays PCAs nearly $40 in compensation for every $1 in cash recovered through certain rehabilitations.[4] These statistics call into question the value provided by PCAs and the financial incentives the Department has set for default collections.

PCAs administer the loan rehabilitation program, which was created to give borrowers a path out of the devastating consequences of default. Unfortunately, borrowers who rehabilitate their loans are significantly more likely to default again than borrowers who consolidate defaulted loans. In fact, approximately one-third of borrowers who cure a default through loan rehabilitation will default again within two years.[5] The payment structure in the Department's contracts with PCAs provides a large financial incentive for PCAs to steer borrowers toward less successful loan rehabilitation, rather than consolidating their loans and enrolling in income-driven repayment. As a result, loan rehabilitations make up nearly three-quarters of initially "cured" defaults, despite the fact that many of these borrowers will see their payments spike and subsequently default again.[6] The Department should incentivize PCAs to help student loan borrowers access repayment options that improve their chances of repaying their loans, not to prioritize a program that has worse outcomes for vulnerable borrowers and taxpayers.

With regard to PCAs that are currently assisting borrowers, we also ask that the Department issue guidance that establishes a uniform process for helping borrowers transition from loan

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[2] U.S. Department of Education. Federal Student Aid Data Center. Accessed July 5, 2017. https://studentaid.ed.gov/sa/about/data-center/student
[3] *Ibid.*
[4] Consumer Financial Protection Bureau. "Annual report of the CFPB Student Loan Ombudsman." Oct. 17, 2016. https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/102016_cfpb_Transmittal_DFA_1035_Student_Loan_Ombudsman_Report.pdf
[5] Consumer Financial Protection Bureau. "Update from the CFPB Student Loan Ombudsman." May 17, 2017. http://files.consumerfinance.gov/f/documents/201705_cfpb_Update-from-Student-Loan-Ombudsman-on-Redefaults.pdf
[6] *Ibid.*

rehabilitation to an income-driven repayment plan. When borrowers choose to cure a default through loan rehabilitation, they must demonstrate an ability to make on-time payments. Despite successfully meeting this requirement during rehabilitation, the overwhelming majority of borrowers who default again after rehabilitating a loan never make a payment once they complete loan rehabilitation. According to the CFPB, many of these borrowers were making reasonable payments based on income while in rehabilitation, but when they entered repayment, they confronted unaffordable payment amounts—even though most of these borrowers qualify for income-driven payments that, in many cases, could be as low as $0.[7] The Department should provide explicit guidance to PCAs to help borrowers who are rehabilitating their loans enroll in income-driven repayment plans.

The Department's contracts with the entities that are supposed to assist defaulted borrowers are in disarray, but the current upheaval provides an opportunity to improve outcomes for defaulted borrowers going forward. The Department should work with Congress to develop a better system for supporting struggling borrowers and remove barriers to entering affordable repayment plans. In the meantime, we ask that the Department clarify the options for borrowers who have not been assigned to PCAs because of the current injunction, revise the incentives it uses to encourage PCAs to support borrowers' long-term success, and issue guidance to PCAs that will help at-risk borrowers access affordable repayment options.

Given the urgency of the situation confronting borrowers who are struggling with student loan debt, we would appreciate your response no later than July 27, 2017. Thank you for your attention to this request.

Sincerely,

Suzanne Bonamici

SUZANNE BONAMICI
Member of Congress

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KAMALA D. HARRIS
U.S. Senator

Susan A. Davis

SUSAN A. DAVIS
Member of Congress

Patty Murray

PATTY MURRAY
U.S. Senator

MARK TAKANO
Member of Congress

Elizabeth Warren

ELIZABETH WARREN
U.S. Senator

[7] *Ibid.*

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