COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6100

November 28, 2016

The Honorable John B. King, Jr.
Secretary
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary King:

We respectfully request that the Department of Education (the Department) take immediate action to protect struggling student loan borrowers from defaulting on their education debt by streamlining access to income-driven repayment plans.

A recent report from the Consumer Financial Protection Bureau's (CFPB) Student Loan Ombudsman found that approximately one-third of borrowers who rehabilitate their loans by making the minimum payment allowed ($5 per month) in rehabilitation will default again within two years. According to the report, many of these borrowers would likely be responsible for monthly payments of $0 under an income-driven repayment plan and, therefore, should be at a low risk of re-default.

The high rate of re-default reveals a breakdown in the transition from rehabilitation to repayment and underscores the need to do more to connect at-risk borrowers with income-driven repayment plans. The failure to match borrowers with repayment options best suited for their financial situation, during both initial repayment and repayment following rehabilitation of defaulted loans, contributes to delinquencies and defaults and can cause long-term financial harm to borrowers.

As Congress works to reauthorize the Higher Education Act, we are committed to advancing policies that protect borrowers. We will seek to enact proposals that simplify access to income-driven repayment plans, including automatically enrolling distressed borrowers in plans with lower payments. We will also aim to streamline the transition to affordable payments after default and gather more detailed data on how borrowers at risk of re-default are performing in repayment.

In the meantime, however, we ask the Department to expedite issuance of updated sub-regulatory guidance for private collection agencies (PCAs) and loan servicers on how to best assist defaulted loan borrowers. Such guidance should:

(1) encourage PCAs to share adequate information with borrowers in default about the option to consolidate their loans as a way to cure their defaulted loans;

(2) establish a timeline and corresponding recommended actions that PCAs should follow to help borrowers rehabilitating their loans submit applications for income-driven repayment plans to their servicers;

(3) describe a uniform process for loan servicers to inform borrowers who recently cured their loans about income-driven repayment options and help them enroll expeditiously; and

(4) provide PCAs with recommendations for informing defaulted loan borrowers, who may be eligible for a closed school or a borrower defense to repayment loan discharge, about the loan discharge application process.

Additionally, before the Department concludes its competition for the Indefinite Delivery/Indefinite Quantity (IDIQ) contracts and Task Orders, we encourage you to reevaluate the incentive structure currently in place for debt collectors. In addition to the $1,710 that debt collectors receive for each rehabilitated loan, debt collectors also receive a commission equal to approximately 20 percent of each monthly payment borrowers make while they are in rehabilitation. This payment structure does not take into account whether borrowers default after they rehabilitate their loans. Moreover, collectors are paid significantly less for defaulted borrowers who choose to consolidate their loans instead of choosing to rehabilitate their debt. Misaligned incentives may explain why many borrowers who cure their defaulted loans are not provided with sufficient support to transition successfully to repayment and why some borrowers are unaware of their option to get out of default through loan consolidation. We are concerned that the current contracts create unintended consequences, and we recommend that the Department reevaluate its contracts to promote the long-term success of borrowers.

We also ask the Department to develop a process for obtaining consent from borrowers in income-driven repayment plans to automatically recertify their income and family size information each year. The Department's October 2015 report on the student loan system noted that a process for automatically determining borrowers' monthly payments while they are enrolled in income-driven repayment plans "can and should be developed." Giving borrowers the option to automatically certify eligibility for income-driven repayment plans would make it much easier for them to continue making affordable payments. For low-income borrowers with rehabilitated loans, an automatic-recertification process would go a long way toward preventing re-default. This solution has bipartisan support in Congress, and we urge the Department to work together with the Internal Revenue Service to develop an automatic recertification process without delay.

We appreciate the Department's ongoing efforts to better support student loan borrowers. We are committed to working with the Department to ensure that at-risk borrowers, including those with rehabilitated loans, understand and have access to statutory protections that will help them avoid the negative consequences of delinquency and default.

Sincerely,

ROBERT C. "BOBBY" SCOTT
Ranking Member

SUZANNE BONAMICI

RUBÉN HINOJOSA

SUSAN A. DAVIS

RAÚL M. GRIJALVA

JOE COURTNEY

MARCIA FUDGE

JARED POLIS

GREGORIO KILILI CAMACHO SABLAN

FREDERICA S. WILSON

MARK TAKANO

ALMA ADAMS

HAKEEM JEFFRIES

MARK DESAULNIER

KATHERINE CLARK

MARK POCAN