Congress of the United States
Washington, DC 20515

November 18, 2014

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

Dear Secretary Duncan:

We write to express our concern regarding the adjustments the Department of Education (ED) has made to the calculation of the official three year cohort default rates (CDRs). Specifically, we are concerned these changes could have long term effects on a vital accountability standard and ultimately will allow poorly performing institutions to put more student loan borrowers at risk of taking on debt they cannot repay.

As you well know, CDR sanctions are one of the few accountability measures the federal government uses to ensure institutions are providing students with a quality education deserving of federal support. Institutions with exceptionally high default rates are not adequately providing credentials meaningful enough for students to be employed and repay their debts. The consequences of defaulting for borrowers are swift and unyielding, including scarred credit histories, wage and tax garnishment, and greater difficulty renting an apartment or finding a job. With few exceptions, any institution or program where students consistently default over the 30% threshold should not continue to be propped up by taxpayer dollars.

ED's recent decision to adjust the calculation of CDRs raises a number of concerns. The primary justification for this change rests on the premise that borrowers with multiple servicers face an increased risk of default. While there may be very legitimate instances where borrowers with multiple servicers have received improper servicing which led to higher default rates, there is no evidence that servicing caused such high default rates. Additionally, to our knowledge, no other data was reviewed to determine whether the high default rates at these schools were caused by poor institutional quality or improper servicing.

We are also concerned that ED has not focused enough on helping struggling borrowers rehabilitate their defaulted loans. If split servicing led more borrowers to default on their loans, then borrowers should also be provided relief from damaged credit, collections and wage garnishment. We would like to better understand the steps ED is taking to help affected borrowers.

With the transition to Direct Lending, all new Stafford loans are originated by ED and serviced through contracts by non-government entities. For the first time, ED has the opportunity to closely monitor servicing records, borrower behaviors, and irregular loan statuses for the entire federal loan portfolio. Doing so should allow ED to identify improperly serviced loans before

the borrower defaults and without waiting for schools to appeal defaults on the basis of improper servicing.

In order to gain a better understanding of ED's decisions in this matter, we request answers to the following questions:

1. How many borrowers currently have federal loans in repayment with two or more servicers? Of those borrowers, how many have at least one loan in default and one loan in active repayment?

2. Given ED's decision, it appears that existing efforts to assist split borrowers have not been sufficient to date. What new steps is ED taking or considering to alleviate the default burden of borrowers affected by split servicing in the future?

3. What steps, actions or protocols has ED taken, or does ED plan to take, to identify improper loan servicing for borrowers in the future?

4. What specific research and data on the damaging effects of split-servicing persuaded ED to reach this decision?

5. Does this research account for the possibility of other causal factors unrelated to split-servicing, such as the type of institution? Is split-servicing more pervasive at some institutions than others, and to what degree do the effects of split-servicing differ among types of institutions?

6. Given that split-servicing has occurred for quite some time, does ED believe its impact on borrower repayment is more widespread and serious than previously thought? How will ED handle CDR change requests from schools that have not received this special CDR treatment?

7. Does ED intend to hold servicers accountable if they are not performing basic default prevention responsibilities for borrowers with multiple servicers?

8. Are there any other servicing issues that ED is actively considering that could potentially alter the CDR measurement?

9. What different measures of institutional quality did you consider when CDR rates for institutions were adjusted below the threshold for triggering sanctions, thereby allowing an underperforming institution that would have otherwise lost eligibility for federal student aid to retain their eligibility?

We request that you provide us with this information and any other relevant information within 30 days of your receipt of this letter. We look forward to your timely response.

Sincerely,

GEORGE MILLER
Senior Democratic Member
U.S. House of Representatives
Committee on Education
and the Workforce

TOM HARKIN
Chairman
U.S. Senate
Committee on Health, Education,
Labor, and Pensions