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November 2, 2017

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, DC 20202

Dear Secretary DeVos:

Following a disaster, it is incumbent upon all of us to help fellow Americans whose lives have been uprooted by the forces of nature. While the people of Puerto Rico, the U.S. Virgin Islands, Florida, Texas, and elsewhere are recovering from the devastation of Hurricanes Maria, Irma, and Harvey, the U.S. Department of Education has the obligation to ensure that impacted residents dealing with their immediate basic needs do not unnecessarily endure prolonged suffering as a result of their student loans. The Department should do everything in its power to ensure that missing a student loan payment due to a situation caused by the hurricanes does not compound the tragedy these borrowers are already facing.

The Department has already taken important steps towards ensuring that borrowers can successfully manage their loan repayment obligations as they continue to recover. We write on behalf of our low-income clients to propose an additional and targeted step that will ensure that borrowers are not punished if they cannot make payments or submit documents while living in a disaster zone. Specifically, we propose that the Department apply an automatic forbearance or cease collection to any borrower who lives in a zip code that has been declared a disaster area if he or she misses a payment on a student loan during the disaster period. Once applied, the forbearance should last for at least six months after the disaster period ends.

Many borrowers, including those in Puerto Rico, the U.S. Virgin Islands, Florida, and Texas, remain in "survival mode," without necessities, infrastructure, or income. We have begun to hear from some who are concerned about disaster-related loan repayment issues. We write to ask

the U.S. Department of Education to use its unique position to prevent foreseeable problems that could cause prolonged financial distress for borrowers dealing with the challenge of meeting their immediate basic needs in the aftermath of these and other disasters.

At present, the Department requires borrowers to contact their loan holders or servicers and request disaster-related forbearance. Unfortunately, many borrowers still lack the very means of communication necessary to make such a request. Others who have access to telephone or Internet service may be overwhelmed by other exigent physical needs.

Although disaster-related forbearance is critical for many borrowers, some may not need it. The subset of affected borrowers who can nonetheless sustain their regularly scheduled payments should be able to do so. Therefore, we stop short of asking the Department to grant forbearance automatically to all affected borrowers. Instead, we ask the Department to grant forbearance upon request or evidence that a borrower is in distress.

In addition to recommending that the Department apply an automatic forbearance or cease collections for any borrowers who miss a payment on their loans, we also recommend applying automatic forbearance or cease collections when a borrower in these zones misses a paperwork deadline (such as an income-driven repayment plan recertification). Missing such a deadline could result in adverse consequences for these borrowers, including capitalization of interest or an increase in monthly payments.

The Department has authority to implement this common sense solution. The Secretary has authority to provide student loan forbearance due to national emergencies without requiring any documents from borrowers.¹ Moreover, under the HEROES Act, the Secretary has broad authority to waive or modify statutes and regulations to ensure that disaster-affected borrowers are not placed in a worse position financially.² In fact, the Department has already implemented a similar policy for borrowers who are in a rehabilitation plan at the time of a disaster.³

Finally, disaster recovery can be a long, difficult process. While affected borrowers reassemble their lives, the Department can enhance its capacity to serve them in two ways.

1. First, the Department should continue to ensure that borrowers know whom to contact about their student loans. We encourage the Department to coordinate with the Federal Trade Commission's "Operation Game of Loans" to conduct special outreach to disaster-affected areas. This will protect borrowers from unscrupulous debt relief scammers who may try to take advantage of them.
2. Second, the Department should assure that, when their forbearances end, Spanish-speaking borrowers (parents and students alike) have access to customer service representatives who can provide information and services in Spanish.

¹ 34 C.F.R. §§ 682.211(i)(2); 685.205(b)(8).

² See 20 U.S.C.A. § 1098bb.

³ U.S. Dep't of Educ., Dear Colleague Letter GEN-10-16, Guidance for Helping Title IV Participants Affected by a Major Disaster (Aug. 23, 2010).

The Department has an important role to play in helping those impacted by Hurricanes Maria, Irma, and Harvey. Immediate implementation of this proposal will best serve affected borrowers and prevent future repayment issues. We are available to meet with you and the Federal Student Aid staff to discuss this proposal and its timely implementation. We look forward to hearing from you and thank you for your consideration.

Sincerely,



Persis Yu
Director, NCLC's Student Loan Borrower Assistance Project

Cc:

A. Wayne Johnson
Matthew Sessa