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April 24, 2017

The Honorable Betsy DeVos
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Revocation of Student Loan Borrower Protections

Dear Secretary DeVos,

We, the undersigned Attorneys General of Massachusetts, Illinois, California, Connecticut, Hawaii, Iowa, Kentucky, Maine, Maryland, Minnesota, Mississippi, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and the District of Columbia, as well as the Executive Director of the Office of Consumer Protection of Hawaii, write to express our profound concern regarding the Department of Education's revocation of critical student loan servicing reforms. The memoranda withdrawn by the Department on April 11, 2017 provided guidance designed to reform the student loan servicing industry in order to protect student loan borrowers and help these borrowers find affordable ways to repay their debts and avoid default.[1] At a time when the need for common-sense federal student loan servicing reforms is undeniable, the Department's decision to roll back essential protections imperils millions of student loan borrowers and families.

Investigations and enforcement actions undertaken by the state attorneys general have repeatedly revealed the havoc that student loan servicers' poor practices and servicing failures wreak on the lives of borrowers. In 2016, the Massachusetts Attorney General entered an assurance of discontinuance with ACS Education Services, a national student loan servicer, over allegations that it failed to properly process struggling borrowers' applications for income-driven repayment plans, among other violations of state and federal law.[2] In January of 2017, the Illinois and Washington Attorneys General, along with the Consumer Financial Protection Bureau ("CFPB")

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[1] Consideration of Past Performance in Student Loan Servicing Recompete, Dep't of Ed. (June 30, 2016), available at https://sites.ed.gov/ous/files/2016/06/John-King-servicer-past-performance-memo.pdf; Policy Direction on Federal Student Loan Servicing, Dep't of Ed. (July 20, 2016), available at https://www2.ed.gov/documents/press-releases/loan-servicing-policy-memo.pdf; Addendum to July 20, 2016 Memorandum on Policy Direction on Federal Student Loan Servicing, Dep't of Ed. (Oct. 17, 2016), available at https://www2.ed.gov/documents/press-releases/loan-servicing-policy-memo.pdf.

[2] AG Healey Secures $2.4 Million, Significant Policy Reforms in Major Settlement with Student Loan Servicer, Nov. 22, 2016, available at http://www.mass.gov/ago/news-and-updates/press-releases/2016/ag-healey-secures-2-4-million-student-loan-servicer.html.

filed suit against Navient, one of the largest servicers of federal student loans, for widespread abuses of student borrowers across all aspects of its business, including student loan origination, loan servicing, and debt collection.[3]

These lawsuits alleged that struggling borrowers nationwide complained that Navient consistently failed to assist them. When borrowers struggling to pay their federal student loans called Navient for help, the company steered them into excessive forbearances that increased the overall cost of their loans instead of telling borrowers about federal income-based repayment plans.

Our offices regularly hear from borrowers who did not receive the necessary guidance from their loan servicers to make sound decisions about repayment and consequently face ballooning loan balances, escalating monthly payments, credit score ruin, defaults, and large collection fees.

The guidance revoked by the Department was designed to improve the accuracy of information provided to borrowers by servicers, ensure that borrowers are treated consistently, and increase servicer accountability in order to correct persistent failures. Especially concerning is the withdrawal of guidance intended to ensure that servicers' past performance will be the most important noncost factor considered by the Department in awarding future servicing contracts. Critically, the rescinded reforms aim to improve access to income-driven repayment plans designed to help borrowers in distress avoid default. This effort could not be more important. Facing a mounting student debt crisis, borrowers struggle under the weight of their student loan debt and federal student loan default rates continue to rise. In 2015, the CFPB estimated that more than 25 percent of student loan borrowers were delinquent or in default on a student loan.[4] Many such borrowers would benefit greatly from entering income-driven repayment plans but are prevented from doing so by student loan servicer misconduct and misinformation. In its 2015 report, the CFPB identified troubling student loan servicer practices—including paperwork processing errors and failure to provide accurate information—that discourage the use of income-driven repayment plans.[5] By reforming servicer incentives and strengthening consumer protections, the rescinded guidance sought to eliminate the loan servicing failures that keep borrowers from entering affordable repayment plans.

The stated rationale provided by the Department for its withdrawal of these servicing reforms is to "negate any impediment, ambiguity or inconsistency" in the approach to the student loan servicing procurement process.[6] But the effect of the Department's action is to leave student loan borrowers mired in ambiguity and inconsistency that the servicing reforms were intended to prevent. Among the many reforms the Department has seen fit to revoke are the common-sense requirements (i) that servicers apply borrower overpayments to loans bearing the highest interest rates unless the borrower instructs otherwise, and (ii) that servicers inform borrowers of income-

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[3] Attorney General Madigan Sues Navient and Sallie Mae for Rampant Student Loan Abuses, Jan. 18, 2017, available at http://www.illinoisattorneygeneral.gov/pressroom/2017_01/20170118.html.

[4] Consumer Financial Protection Bureau, *Student Loan Servicing, Analysis of Public Input and Recommendations for Reform*, Sept. 2015, available at http://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf.

[5] *Id.*

[6] Student Loan Servicer Recompete, Dep't of Ed. (April 11, 2017), available at https://www2.ed.gov/documents/press-releases/student-loan-servicer-recompete.pdf.

driven repayment options before placing borrowers in forbearance or deferment. These servicing standards would help borrowers manage their loans, save money, and make informed decisions about their repayment options. The Department's stated rationale does not justify summarily denying student borrowers such basic protections.[7]

Through its choice of student loan servicers and its creation of servicing standards, the Department plays a central role in determining whether or not borrowers will be able to successfully repay their federal student loan debt. The guidance revoked by the Department was expressly designed to protect borrowers and correct pervasive student loan servicing failures that harm student loan borrowers and their families. By revoking these critical protections, the Department has abdicated its responsibility to student loan borrowers.

We urge you to reconsider immediately.

Sincerely,

Maura Healey
Massachusetts Attorney General

Lisa Madigan
Illinois Attorney General

Eric T. Schneiderman
New York Attorney General

Brian E. Frosh
Maryland Attorney General

Lori Swanson
Minnesota Attorney General

Bob Ferguson
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Andy Beshear
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Tom Miller
Iowa Attorney General

[7] Servicers' failure to comply with such standards may be independent violations of state law.

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District of Columbia Attorney General

Xavier Becerra
California Attorney General

Stephen H. Levins
Executive Director,
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