

MEMORANDUM

Date: March 16, 2016

To: U.S. Department of Education

From: Eileen Connor and Noah Zinner, Negotiators for Legal Assistance Organizations That Represent Consumers

Re: Issue Paper 11 – Department’s Authority To Compromise Debts

In our memo of February 2, we made a technical proposal to increase the amount of debt the Department may compromise without Department of Justice (DOJ) approval from \$20,000 or less to \$100,000 or less, to conform the regulations to the changes made to the Federal Claims Collection Act in 1990.

We appreciate that the Department accepted this proposal. We propose two minor changes, below, to address the following issues:

- 1) In its proposal regarding section 30.70(e)(1) (currently section 30.70(h)), the Department removes the reference to older loan programs that predate the FFEL Program. Because many legal aid clients continue to owe outstanding debts under older loan programs, we think it important that the Department retain the authority to compromise older loan program debts under this provision.
- 2) In its proposal regarding section 30.70(e)(1), the Department also proposes to insert a requirement that it apply the standards under 31 CFR parts 902 and 903 in evaluating debt compromises. The Department is not bound by these standards under current section 30.70(h). This proposal would impose new limits to the Department’s authority and discretion to compromise debts.

While these standards may be prudent in most circumstances, they may hamstring the Department’s ability to compromise debts in situations that it deems appropriate. We therefore propose that the Department’s proposal be modified to

maintain the Department's authority to compromise debts without applying these standards.

Proposal: Department's proposals are in red, our proposals are in blue.

34 C.F.R. § 30.70 How does the Secretary exercise discretion to compromise a debt or to suspend or terminate collection of a debt?

....

~~(h) Notwithstanding paragraphs (b) through (f)(e)~~ (1) Subject to paragraph (e)(2), ~~under the provisions of this section~~ 31 CFR part 902 or 903, the Secretary may compromise a debt ~~in any amount~~, or suspend or terminate collection of a debt; ~~in any amount~~; if the debt arises under the ~~Guaranteed Student~~ Federal Family Education Loan Program authorized under title IV, part B, of the ~~Higher Education Act~~ HEA, the William D. Ford Federal Direct Loan Program authorized under title IV, part D of 1965, ~~as amended~~ the HEA, ~~or~~ the Perkins Loan Program authorized under title IV, part E, of the ~~Higher Education Act of 1965, as amended.~~ HEA, or any other loan programs authorized under title IV of the HEA. In compromising a debt under this paragraph, the Secretary may apply the standards of 31 CFR part 902 or 903.

~~(2)~~ The Secretary refers a ~~proposed compromise, suspension or termination of collection of a debt to the General Accounting~~ that exceeds \$1,000,000 and that arises under a loan program described in paragraph (e)(1) to the Department of Justice for review. The Secretary does not compromise, suspend, or terminate collection of a debt referred to the Department of Justice for review until the Department of Justice has provided a response to that request.