

## MEMORANDUM

**Date:** November 10, 2021

**To:** U.S. Department of Education

**From:** Persis Yu and Joshua Rovenger, Negotiators for Legal Assistance Organizations that Represent Students and/or Borrowers

**Re:** Borrower Defense Individual Process Proposals

As discussed at Session 2, we propose the following two changes to the individual process provision in § 685.403:

- In § 685.403(b): Eliminate (b)(ii). Alternatively, if the Department wants to maintain some version of (b)(ii), it should modify the provision to say: “Any statements made in the application shall be considered testimonial evidence. The Borrower may, but is not required to, provide additional evidence that supports the application.”
- Add a new sub-section (f) saying: “If the Secretary collects on a loan placed in forbearance or stopped collections in violation of sections (d) and (e) above, the Secretary shall reimburse the borrower the amount collected and then settle and compromise an amount of the borrower’s loans in an amount equal to the money collected.”