



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

November 30, 2016

The Honorable Jackie Speier  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Speier:

Thank you for your September 13, 2016, letter in which you request that the U.S. Department of Education (Department) take a number of actions regarding student loan debt incurred by survivors of sexual assault. I appreciate your continued leadership in seeking to ensure that those students injured by sexual assault are supported by their colleges and universities.

As you know, the Department is very concerned about sexual assault against students, and we have devoted ourselves to satisfying Congress' nondiscrimination commitment for our nation's students in this area. My office, the Office for Civil Rights (OCR), has negotiated robust resolutions with schools and issued detailed policy guidance to help schools better understand their obligations to prevent and respond to sexual violence in accordance with Title IX of the Education Amendments of 1972 (Title IX). And OCR has published our letters of findings and resolution agreements on our website since fiscal year 2014 to increase transparency in our enforcement work and to highlight policies and practices that effectively protect survivors of sexual assault. The Department has also played a leading role in the White House Task Force to Protect Students from Sexual Assault (Task Force), which recently released documents and other resources aimed at protecting students in elementary and secondary schools.<sup>1</sup> We share your concern about the economic harms that survivors face. As your letter notes, OCR has therefore negotiated agreements requiring schools to reimburse survivors for lost tuition and other educational expenses caused by schools' failure to comply with their Title IX obligations. Most recently, OCR's resolution agreement with Frostburg State University requires the university to reimburse expenses related to academic, counseling, and therapy services for the complainants; and to assess whether remedial services, including counseling and/or academic services and adjustments, must be provided to more than three dozen other potential survivors.<sup>2</sup>

Your letter first proposes that the Department allow survivors to access forbearance for their federal student loans under the 'poor health and other acceptable reasons' justifications. The Department's Office of Postsecondary Education has informed me that such forbearance is already allowed: existing regulations provide that where a borrower demonstrates that he or she cannot make scheduled payments because he or she is suffering from poor health—either

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<sup>1</sup> Safe Place to Learn resource package (September 19, 2016), <https://safesupportivelearning.ed.gov/safe-place-to-learn-k-12>, and Considerations for School District Sexual Misconduct Policies (September 2016), [www.notalone.gov/assets/considerations-for-school-district-sexual-misconduct-policies.pdf](http://www.notalone.gov/assets/considerations-for-school-district-sexual-misconduct-policies.pdf).

<sup>2</sup> Frostburg State University Resolution Agreement at 12, 14 (September 6, 2016), [www.ed.gov/ocr/docs/investigations/more/03132328-b.pdf](http://www.ed.gov/ocr/docs/investigations/more/03132328-b.pdf).



physical or emotional—as a consequence of an assault, a borrower can request a forbearance on repayment of the loan from the borrower’s loan servicer. However, it is important to note that while forbearance can often provide a critical reprieve from the responsibility of making on-time student loan payments, interest continues to accrue on any amount not paid by the borrower, and the interest is capitalized when the forbearance ends, so the amount owed by the borrower may increase because of the forbearance. Depending on the borrower’s particular circumstances, there may be options that could better meet the borrower’s needs, such as interest-free deferment or enrolling in an income-driven repayment plan with a zero payment and no (or limited) interest capitalization. Therefore, survivors should be encouraged to contact their loan servicer for assistance in identifying the option that works best for them over the medium- and long-term, and the Department is exploring ways to best share information about such options with students.<sup>3</sup>

Your letter requests that the Department clarify that schools must offer student loan counseling to survivors as an interim remedy. The Department has made clear that institutions must provide exit counseling to all borrowers at the school, even if they drop out or are still enrolled but drop below half-time.<sup>4</sup> OCR has also made clear that Title IX requires a school to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation.<sup>5</sup> The specific interim measures and the process for implementing those measures will vary depending on the facts of each case, but OCR has provided examples of the types of remedies that a school may be required to provide both as interim measures and as remedies after the final outcome of an investigation. These include, but are not limited to, counseling and medical services; academic support services; providing an escort to ensure that the complainant can move safely between classes and activities; arranging for the complainant to re-take or withdraw from a course without a penalty; and tuition adjustments.<sup>6</sup> We will consult with our colleagues in the Department who monitor institutions for completion of required student loan exit counseling to explore the best way to ensure students actually receive the counseling to which they are entitled.

Your letter also encourages OCR to ensure that, where reimbursement for educational expenses is included in OCR’s voluntary resolution agreements, the educational expenses cover costs incurred as a result of student loan debt, including student loan interest, where applicable. Voluntary resolution agreements that OCR has negotiated to resolve investigations have included provisions to reimburse survivors for educational expenses where those remedies were required to eliminate a hostile environment or remedy the effects of sexual violence. OCR’s voluntary resolution agreements are tailored to the specific facts of each case. Thus, OCR’s determination as to whether it is appropriate to secure financial reimbursement for educational expenses, and what types of expenses would be included in those educational expenses, is based on the individual facts of each case.

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<sup>3</sup> For more information on how to repay loans, see <https://studentaid.ed.gov/sa/repay-loans>.

<sup>4</sup> FSA Handbook, <https://ifap.ed.gov/fsahandbook/attachments/1516FSAHbkVol2Ch6.pdf>.

<sup>5</sup> Questions and Answers on Title IX and Sexual Violence (2014 Q&A) (April 29, 2014) at 32, [www.ed.gov/ocr/docs/qa-201404-title-ix.pdf](http://www.ed.gov/ocr/docs/qa-201404-title-ix.pdf).

<sup>6</sup> See, e.g., Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (2001 Guidance) (January 2001) at 16-17, [www.ed.gov/ocr/docs/shguide.pdf](http://www.ed.gov/ocr/docs/shguide.pdf); Dear Colleague Letter on Sexual Violence (2011 DCL) (April 4, 2011) at 15-17, [www.ed.gov/ocr/letters/colleague-201104.html](http://www.ed.gov/ocr/letters/colleague-201104.html); 2014 Q&A at 32-35.

Finally, your letter recommends that OCR create online educational resources specifically tailored to survivors and revise its Case Processing Manual (CPM) to require OCR to include information about student loans and income-driven repayment plans in communications with complainants. As noted earlier in this letter, we will work with our ED colleagues to identify effective ways to share information about loan repayment options given the important issues you raise. OCR and the Task Force have responded to similar such suggestions by making available on our websites many resources for survivors.

Thank you again for your leadership and commitment to survivors of sexual assault and for your thoughtful suggestions for the Department to consider. I appreciate the opportunity to respond to your recommendations.

Sincerely,



Catherine E. Lhamon  
Assistant Secretary for Civil Rights