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September 18, 2017

SUBMITTED ELECTRONICALLY

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U.S. Department of Education
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Washington, DC 20202

RE: Docket ID ED-2017-OS-0074

On June 19, 2017, the Office of Department of Education (“ED”) issued a notice pursuant to Executive Orders 13771, “Reducing Regulation and Controlling Regulatory Costs,” and 13777, “Enforcing the Regulatory Reform Agenda,” requesting public comments to assist ED’s Regulatory Reform Taskforce (the “Task Force”) with identifying existing regulations for repeal, replacement, or modification that may be “outdated, unnecessary, or ineffective” or “impose costs that exceed benefits.” On behalf of the National Law Center on Homelessness & Poverty (“NLCHP”) and the undersigned organizations, we write to urge ED to preserve regulations that benefit low-income and homeless children, youth and families, particularly regulations related to the Family Educational Rights and Privacy Act (FERPA; 34 C.F.R. Part 99); Title I - Improving The Academic Achievement Of The Disadvantaged (34 C.F.R. Part 200); Upward Bound Program (34 C.F.R. Part 645); Special Educational Programs For Students Whose Families Are Engaged In Migrant And Other Seasonal Farmwork—High School Equivalency Program And College Assistance Migrant Program (34 C.F.R. Part 206); and regulations and policy-oriented guidance documents related to several federal civil rights laws including Title VI of the Civil Rights Act of 1964 (34 C.F.R. Parts 100, 101), Title IX of the Education Amendments Act of 1972 (34 C.F.R. Part 106), Title II of the Americans with Disabilities Act (28 C.F.R. Part 35), and Section 504 of the Rehabilitation Act of 1973 (34 C.F.R. Parts 104, 105).

These regulations further crucial policy and legislative goals of providing equal access to free appropriate public education and removing barriers to the education of homeless children and youth. Repealing, replacing, or modifying these regulations would not result in any tangible cost savings for the federal government, may create additional barriers to the education of homeless children and youth, and may conflict with state and local educational agencies’ ongoing obligation to review and revise laws, policies, and practices “that may act as a barrier to the identification of, or the enrollment, attendance, or success in school of, homeless children and youths” required under the Education for Homeless Children and Youth Program of the McKinney-Vento Homeless Assistance Act (“McKinney-Vento”). 42 U.S.C. § 11431 et seq.

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In reviewing regulations to repeal, replace, or modify pursuant to Executive Orders 13771 and 13777, the Task Force must keep in mind ED's core mission to promote student achievement and ensure equal access to education. These regulations complement McKinney-Vento and are critical to providing much needed supports and services to ensure educational continuity and stability for homeless children and youth.

If implemented indiscriminately, Executive Orders 13771 and 13777 threaten ED's ability to fulfill its purpose and advance its congressional directives. ED has already engaged in a full and reasoned determination of the need for these rules and their effective design. This determination was based on an abundant body of knowledge about the need for strong, modernized measures and the need to improve consistency and performance by states and local educational agencies and other ED funding recipients. We therefore urge ED to implement the Executive Orders with great caution and with a strong focus on the agency's central mission. Thank you for considering our comments. If you have any questions or concerns, please contact Michael Santos, staff attorney at the National Law Center on Homelessness & Poverty at msantos@nlchp.org or 202-638-2535.

Respectfully submitted,

National Law Center on Homelessness & Poverty
Bassuk Center on Homeless and Vulnerable Children & Youth
Center for Children's Advocacy (CT)
Center for Social Innovation
Coalition for Juvenile Justice
Colorado Juvenile Defender Center
Columbia Legal Services (WA)
Covenant House, New Jersey
Education Law Center (NJ)
Family Promise (NJ)
Friends of Youth (WA)
The Florence Immigrant and Refugee Rights Project (AZ)
Homeless Youth Law Clinic (OR)
Lawyers for Children, Inc. (NY)
LUK, Inc. (MA)
MANY (NJ)
National Center for Lesbian Rights
The National Crittenton Foundation
National Juvenile Defender Center
Peter Cicchino Youth Project at the Urban Justice Center (NY)
Puget Sound Educational Service District (WA)
Sargent Shriver National Center on Poverty Law
StandUp For Kids (GA)
Texas Homeless Network
Western Regional Advocacy Project (CA)