

**MOHELA'S PERFORMANCE AS A STUDENT LOAN  
SERVICER**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
ECONOMIC POLICY  
OF THE  
COMMITTEE ON  
BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED EIGHTEENTH CONGRESS  
SECOND SESSION  
ON  
EXAMINING THE CORPORATIONS THAT HAVE BENEFITED WHILE  
ADMINISTERING THE STUDENT LOAN PROGRAM

APRIL 10, 2024

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



Available at: <https://www.govinfo.gov/>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2025

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## **MOHELA'S PERFORMANCE AS A STUDENT LOAN SERVICER**

**WEDNESDAY, APRIL 10, 2024**

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
SUBCOMMITTEE ON ECONOMIC POLICY,  
*Washington, DC.*

The Subcommittee met at 2:30 p.m., in room SD-538, Dirksen Senate Office Building, Hon. Elizabeth Warren, Chair of the Subcommittee, presiding.

### **OPENING STATEMENT OF CHAIR ELIZABETH WARREN**

Chair WARREN. This hearing will come to order. Senator Kennedy is trying to cover two hearings at once, so he will join us when he can and maybe have to be a little bit in and out. You have got me the whole time now.

I am holding today's hearing because I am concerned that student loan servicers are, once again, failing millions of borrowers. This is my third hearing on student loan servicer misconduct. My first one was my first hearing as Chair of this Banking Subcommittee. It was in April 2021, and at that hearing Senator Kennedy and I heard deeply troubling testimony about how student loan servicers were intentionally making misrepresentations to borrowers and preventing them from getting the relief that the law said they were entitled to.

Now a lot has happened since then. PHEAA and NAVIENT, two of the student loan servicers that testified at our hearing have left the Federal student loan system as have other servicers. President Biden has moved to cancel student loan debt for 43 million Americans, and the extremist Supreme Court has blocked that relief for borrowers.

But President Biden did not give up. By fixing existing programs he has already canceled student loan debt for nearly 4 million borrowers, more than any President in history, and he has moved forward with Plan B, to expand debt relief to tens of millions more. In total, President Biden's actions, once finalized, will cancel student debt for 30 million Americans. That is 30 million lives that will be changed, and the lives of their families, the lives of their friends. This is important.

So today we focus on servicers, the corporations that have made hundreds of millions of dollars administering the student loan program. Payments were paused during the COVID-19 pandemic, and last year the pause ended and borrowers returned to payment. Now despite receiving numerous warnings and Federal funding through-

out the payment pause to get ready, every single student loan servicer failed to adequately prepare for the transition back to repayment, every single one of them.

A new report that I released today—yes, that as smoothly known as the visual—reveals that servicers badly misled borrowers during the return to repayment. These servicers made millions of billing errors and received thousands and thousands of borrower complaints. Servicers subjected borrowers to long phone waits, with some borrowers literally waiting for hours before getting hold of a live person, and that was true even when the servicer had made a mistake that could only be corrected by reaching a live person. Servicers had years to prepare for this transition to repayment, and they still screwed up.

MOHELA was one of the worst. MOHELA serves over 8 million borrowers and is the only servicer for the Public Service Loan Forgiveness Program. MOHELA has caused problems for millions of people. First MOHELA's performance during borrowers' return to repayment was shockingly bad. After payments resumed in October, MOHELA sent the wrong bills to approximately 300,000 borrowers—300,000 borrowers got the wrong amount in their bills—and they sent late billing statements to 2.5 million borrowers. MOHELA's failures led the Department of Education to withhold about \$7.2 million in payments to MOHELA.

Last year, I wrote to all of the servicers and to the Department of Education requesting information about the servicing problems facing borrower. The data I got back was truly shocking. The numbers showed that MOHELA had the longest average call wait time of any servicer. Now as borrowers once again begin to make payments, MOHELA had a call abandonment rate of 35 percent. Let me say that again. One in three MOHELA borrowers were on hold or shuffled around so long that they just finally gave up on their calls. Evidently, MOHELA figured out that if they made the call system impenetrable, MOHELA would not have to talk with so many people who were experiencing the problems that MOHELA had caused.

Now maybe it is no surprise that MOHELA received the most complaints of any Federal student loan servicer in 2023. MOHELA has failed borrowers of all kinds, but it has been particularly derelict in its duties administering the Public Service Loan Forgiveness Program. PSLF is how we say thank you to teachers and nurses and servicemembers and firefighters and others who borrow money to go to school, then use their educations working in public service.

Under MOHELA's watch, the backlog of PSLF forms hit a peak of 1 million. This meant that many teachers and nurses and firefighters did not get the relief that they were entitled to until much later, so late that some borrowers continued to make payments on debts that should have already been canceled.

MOHELA knew that it had problems, and many of those problems caused borrowers to pick up the phone and call for help. Last month, a blockbuster report by the Student Borrower Protection Center and the American Federation of Teachers documented MOHELA's response to those calls. Instead of just hiring and training more people to help clean up the mess that it had made, MOHELA implemented a call deflection scheme. That meant that

a firefighter or a teacher who called in would be diverted away from live agents to dead-end parts of its website. The borrower had no choice except to place the call again and hope that the second time around, or the third or the fourth or the fifth, they would get a better result.

Finally, MOHELA played a central role in blocking President Biden's boldest attempt to fix this broken student loan system through litigation against the President's first debt cancellation plan. If it were not for MOHELA, 43 million borrowers might have gotten the student debt relief that President Biden laid out for them.

Clearly, there are serious problems at MOHELA, problems that have an impact on millions of borrowers. So I invited MOHELA's CEO, Scott Giles, to testify today at this hearing and to provide Congress and the American people with some answers about what has gone wrong. He refused my invitation, a flat no.

I want everybody to pause to think about what that means. His company gets paid hundreds of millions of taxpayer dollars to administer a Federal program, and his company's administration of that program is a mess. But instead of answering for his failures, Giles just goes into hiding. I do not understand why MOHELA should be let within 10,000 feet of a student loan program, and I think it is long past time that the Department of Education holds MOHELA accountable for its failures.

I can assure you we are not finished here. We will get answers.

At today's hearing we will learn more about MOHELA's failures, our broken student loan system, and the ways that we can fix it. Student loan borrowers deserve better than MOHELA.

And when Ranking Member Kennedy comes in we will listen to his opening statement. In the meantime I am going to go to our witnesses, so let me start here. I am going to introduce all the witnesses and then we will go down the row.

I am first pleased to introduce Kathleen White. Ms. White taught at a community college for 26 years before retiring recently. She is a union member with the American Federation of Teachers. She has firsthand experience with MOHELA's servicing failures. Thank you very much for being here, Ms. White.

Ms. Persis Yu is the Deputy Executive Director and Managing Counsel at the Student Borrower Protection Center. She has dedicated her career to fighting on behalf of borrowers, and is an expert on the student loan servicing system. Thank you, Ms. Yu, for being here.

Next, Mr. Jason Delisle, is a Nonresident Senior Fellow at the Center on Education Data and Policy for the Urban Institute. He previously served as the Director of the Federal Education Budget Project at New America, and was a Research Fellow at the American Enterprise Institute. Thank you for being here. Is it De-LEEL or De-LILE?

Mr. DELISLE. De-LILE.

Chair WARREN. De-LILE. I did get it right the first time.

Scott Buchanan is the Executive Director of the Student Loan Servicing Alliance, which is the trade association for Federal and private student loan servicers. He has also worked as a consultant to financial services companies, and he has served as Vice Presi-

dent for NAVIENT, and held several roles as an officer for Sallie Mae. Thank you for being with us, Mr. Buchanan.

And last the Honorable Quinton Lucas is the 55th Mayor of Kansas City, Missouri, representing over 500,000 residents. Previously he represented Kansas City's Third District at Large on the City Council. Thank you, Mr. Mayor, for being with us.

So now I am going to turn to Ms. White for her opening statement. Ms. White, you are recognized for 5 minutes.

**STATEMENT OF KATHLEEN WHITE, RETIRED, FORMER  
FACULTY MEMBER, CITY COLLEGE OF SAN FRANCISCO**

Ms. WHITE. Good afternoon, Senator Warren, Committee Members and guests. My name is Kathleen White. I was the first in my family to attend college. I started at 16 years old and I paid for my own education. I began in 1973, and completed both a BA and MA degree.

Both my husband I were middle-income public service employees with three sons who all attended college. Our family needed grants, scholarships, and student loans to supplement our tuition payments. Over 40 years I have paid \$305,000 in student loan payments. They were ever-present, one generation to the next, and I was never in default.

Thanks to my education I became a community college teacher. I taught future teachers. I loved my career. I chose to enter it, and I am grateful for my education, which allowed me the best career. I recently retired at age 65 after 26 years of full-time teaching.

In 2017, I learned about Public Service Loan Forgiveness. I applied and was denied. I applied to Federal Loan Servicing. I was told I did not have eligible loan types. I was disappointed, because even at that date I had payments of \$360 a month, due through 2037, by the way. I would have been 81 years old in 2037. I hope I still get there, but 81, still paying.

In 2020, renewed outreach by student loan advocacy groups included assurances that PSLF applicants would be reconsidered with the new Federal administration. At that time I worked with AFT, my union, and with the student loan service, MeetSummer, which assists borrowers like me in navigating the system. I have loans serviced by Sallie Mae, NELNET, and later NAVIENT between 2008 and 2018. During this 10-year period I made 120 on-time payments. In 2020, I still owed \$29,000. I was informed that I needed to submit forms by October 31st, because there was a broader consideration of loan types and a waiver in place, and different types of loans would be considered and counted. I was excited.

I was directed by Navient to MOHELA, the new servicer. I downloaded all the forms from the MOHELA website, and was told that only paper copies could be submitted. I met with MeetSummer and they faxed my forms in to MOHELA. I have proof of the faxes, one that arrived on September 16, and the other on October 5, 2022.

That was the beginning of my saga. MOHELA was unable to answer my questions about my status as they were not able to track down those documents I had submitted. I had many questions about interest rates and my status as a retiree, and if I was eligi-

ble, and the types of loans I might be reconsolidated into. I called or emailed 30 times between November 22 to March 23. I was told by staff to wait 20 to 90 days to call back. I was also told that there was new legislation and pending rulings, and they may not get to my forms until July 2023.

NAVIENT also had no information. I was in a gray area in a lost land. I had no servicer.

Call wait times to MOHELA often exceeded 1 to 2 hours on hold. Decreasing call center hours meant that I had to call at certain times because I was on the West Coast. Staff were in training without ability to accelerate complicated cases or address questions that deviated from standard general topics. All the employees were polite, and they were helpful, but it seemed like they did not have the tools to escalate to a supervisor or to answer questions like mine.

Finally in March 2023, evidence of my PSLF appeared on the MOHELA site. I was then told I had to submit a new form to AidVantage, which I submitted. I was told there were recent changes to legislation and I may be eligible. I filed a complaint with the Consumer Financial Protection Bureau and all told I have to file seven complaints because I never got the answers I needed.

Brevity is not my point here, so I will tell you that after the COVID pandemic pause I received a bill, despite thinking I was eligible for PSLF, \$393 per month. I paid it. It was a hard check to write. I continued to pay in November and December.

I finally received notification that they had received forms and that I was put on forbearance. That scared me because forbearance meant interest was still collecting, and I did not know if that meant I was eligible.

Finally, on February 6, 2024, I received a form letter thanking me for my public service and indicating that my principal and interest totally \$29,765 had been forgiven. I taped the letter to my front door and I cried.

On behalf of every public service employee and every eligible teacher I am here to advocate for change. It should take a year-and-a-half to gain the public service forgiveness that we believe we are entitled to. Thank you.

Chair WARREN. Thank you, very much. Thank you, Ms. White. I appreciate you being here today. So sorry the travails and how long it took, but so happy you got to a good conclusion with it. Thank you.

Ms. Yu, you are recognized for 5 minutes.

**STATEMENT OF PERSIS YU, DEPUTY EXECUTIVE DIRECTOR  
AND MANAGING COUNSEL, STUDENT BORROWER PROTECTION CENTER**

Ms. YU. Thank you. Good afternoon, Chairwoman, Ranking Member, and Members of the Subcommittee. Thank you so much for inviting me here to testify today.

My name is Persis Yu and I am the Deputy Executive Director and Managing Counsel of the Student Borrower Protection Center. Our mission is to alleviate the burden of student debt for millions of borrowers across the Nation.

Addressing the student debt crisis is a critical racial and economic justice issue. Student loans were created to be a tool of social and economic mobility, to allow families, regardless of their race or economic status, to unlock the promise of an education. But for too many student debt has become a life sentence, preventing too many borrowers from starting or growing their families, buying homes, and saving for their future.

This Administration has made unprecedented progress, using every tool available to it, to fix the student loan system and provide much needed relief. Nearly 4 million people are debt-free, and their lives are so much better for it. Earlier this week, the President unveiled further details of his plans to enact debt relief, using authority under the Higher Education Act, which could benefit 30 million borrowers.

But we know that this unprecedented progress and momentum is gravely threatened by the same servicers that get hundreds of millions of dollars to help borrowers manage their payments.

The Student Borrower Protection Center and the AFT put out a report we call the MOHELA Papers, which uncovered evidence from a years-long investigation into MOHELA, the primary servicer responsible for the Public Service Loan Forgiveness Program and the same servicer that was central in the Supreme Court case that robbed 40-plus million borrowers of debt relief.

We found that at a time when tens of millions of borrowers are stretching their budgets and struggling to navigate a complicated and changing student loan system, more than 4 in 10 MOHELA customers experienced a servicing failure. Instead of performing basic servicing functions such as providing borrowers with access to correct and timely information, MOHELA chose a complex call deflection scheme, a byzantine loop of misinformation and false promises.

As the sole servicer administering the PSLF program, MOHELA's servicing failures particular harmed public service workers and prevent them from getting relief. Most recent Federal records show that under MOHELA the backlog of unprocessed forms grew, exceeding, at points, 1.2 million forms, and persisting for several reporting periods at more than 800,000 forms. Public service workers with eligible employment are getting denied. MOHELA sent incorrect bills to more than a quarter-of-a-million borrowers and failed to send bills at all to more than 2 million borrowers, pushing 800,000 borrowers into delinquency.

The call deflection scheme diverts borrowers away from customer service representatives, often to non-operative parts of MOHELA's website. Many of the servicing functions borrowers reach out for can only be performed by a live person. For low-income borrowers, this could be the difference between hundreds, if not thousands of dollars over this next year.

Amidst a time of unprecedent confusion and uncertainty, millions of borrowers reached out only to be led astray. Today, you will hear from industry lobbyists paid to offer spin, point fingers, and attempt to shield MOHELA from public scrutiny. They will claim they do not have sufficient resources. But since the pandemic started, MOHELA tripled the size of its portfolio.

Make no mistake—MOHELA made choices and must be held accountable for them.

But MOHELA is just the latest bad actor. Borrower advocates, Federal and State regulators, law enforcement officials, and the Consumer Financial Protection Bureau have all documented a history of servicing misconduct and widespread failures across the industry. These failures create obstacles to repayment, raise costs, cause distress, and drive borrowers to default.

The Department has taken some actions to hold MOHELA accountable. However, these actions fail to provide full and adequate remedy to those borrowers who have been harmed, and critically, they do not hold the company's executive accountable.

Several States have consumer protection laws that should prevent unfair and deceptive practices, but services, MOHELA included, often attempt to evade accountability by asserting that these laws do not apply to them, claiming consumer protections are preempted by the Higher Education Act and they are shielded from liability through sovereign immunity.

Today's hearing is an opportunity to hold MOHELA accountable. And while MOHELA's CEO could not muster the courage to appear before you today publicly, I point your attention to the borrowers in this room, at this table, and right behind me. These borrowers have taken time out of their busy lives, traveled away from their families to be here in hopes that this body will believe their lived experiences and bring an end to MOHELA's cycle of scandal, deception, and borrower abuse.

It is time to cancel student debt, it is time to make college free, and it is time to fire MOHELA. Thank you.

Chair WARREN. Thank you. Thank you, Ms. Yu. Mr. Delisle.

**STATEMENT OF JASON DELISLE, NONRESIDENT SENIOR FELLOW, CENTER ON EDUCATION DATA AND POLICY, URBAN INSTITUTE**

Mr. DELISLE. Chair Warren, Ranking Member Kennedy, and Members of the Subcommittee, thank you for the opportunity to testify about student loan servicing today. The views expressed in my testimony are my own and should not be attributed to the Urban Institute, its trustees, or its funders.

Nearly all the student debt that is outstanding and that is issued is issued through the Federal student loan program, and as you know, the Government does not actually service these loans itself, even though it holds and makes them. It hires private companies to do that, to do most of, if not all, the interaction with borrowers. And so servicing plays a really important role in the smooth and correct functioning of the program.

What I think is important to point out that there are other actors involved here, as well. Congress and the Department of Education also play a role in how the student loan program operates. And I think there are two ways in which the policy and administrative decisions that they have made have increased the risk and potential that borrowers are confused and frustrated, and that there are servicing problems.

First, the student loan program is very, very complex. It has grown incredibly complicated, particularly in recent years. There

are many different benefits, many different repayment plans. Many of these overlap. Many of them are mutually exclusive. If you use some of them you disqualify yourself from other benefits.

All of this information and complexity require borrowers to understand a lot of information. It requires servicers to process a lot of information. It requires the Department of Ed to create a lot of rules and processes that they then convey to the servicers.

So in addition to this complexity the Biden administration has made a lot of changes to the student loan program in recent years, and I think that, too, has increased the risk that borrowers are confused and frustrated and also the risk of some servicing problems. The Biden administration has issued waivers that have essentially rewritten the rules of existing student loan programs. They have created deadlines, which we have just heard about, that create servicing bottlenecks, as borrowers who were never eligible under the existing statutes, thousands and thousands of them, suddenly overnight become eligible, and they flood their servicer with calls and questions. And I am not surprised that there are significant delays.

The Biden administration has also essentially created new programs in the student loan program, and the servicers have to administer those, the Department of Ed has to issue new guidance to servicers, and all of that creates a lot of risk of borrower confusion and frustration with the loan program, which is certainly what we have.

So with my remaining time I am going to talk about a few ways I think the loan program can be reformed that will make it less prone to borrower confusion, frustration, and servicing problems.

One, I think the program should be simplified—fewer plans, fewer benefits, fewer options. So for example, establish one income-driven repayment plan. There are four now. The Biden administration has added a new one, and it is the most complicated one created to date. And remove the Secretary's authority to create new income-driven repayment plans in the future. I think this will greatly increase the simplicity of the program and reduce risk of servicing problems.

I would eliminate forbearance and deferment benefits in the program, using income-driven repayment to determine and ensure loans are affordable rather than these other benefits, which as we heard earlier, interact with Public Service Loan Forgiveness and interact with income-driven repayment in a way that frustrates and confuses borrowers.

Another simplification, I think the program would work better if we eliminated interest. No interest on student loans, and instead the program charges one origination fee up front, so that borrowers' balances never grow, there is no confusion about how much they owe. What you owe is the balance when you begin your repayment.

I also think that Congress should reclaim control over many of the features of the program. I think what we have seen under the Biden administration is programs very open-ended and the Administration has used the open-ended nature of the program to create a lot of new programs, and change terms retroactively in the pro-

gram, and I think that has created the risk for a lot of servicing problems.

Last, I think a major reform—this is a big one—I think a way of removing services altogether from the student loan program. One way to do that would be to collect student loan payments through the tax system. If you have an income-driven repayment system you can collect loans through the tax system, removing servicers, and I think creating a simpler program for borrowers.

Thank you.

Chair WARREN. Thank you, Mr. Delisle. Mr. Buchanan.

**STATEMENT OF SCOTT BUCHANAN, EXECUTIVE DIRECTOR,  
STUDENT LOAN SERVICING ALLIANCE**

Mr. BUCHANAN. Chair Warren, Ranking Member Kennedy, and distinguished Members of the Subcommittee, thank you for the opportunity to testify today. I am the Executive Director of the Student Loan Servicing Alliance, and we are a nonprofit trade association focused on helping student loan borrowers with their servicing needs. My members are a mix of companies, State agencies, and nonprofits. They serve over 95 percent of all student loan servicing in the country, including Federal and private loans. The work they do begins and ends with what is best for borrowers.

I will start with some facts on how servicing works. Today the Federal Government originates all Federal student loans and contracts with servicers for several reasons. The Department of Education, or Ed, does not have the internal capacity to assist student borrowers. Therefore, it relies on contractual partnerships. We function as a utility, that does the day-to-day work for these programs. Working together collaboratively is the only path toward enhanced borrower success.

Second, servicers are fee-for-service contractors. Ed servicers do not have any financial ownership in the underlying loans, and we do not set the myriad options available to borrowers, some of these shown here. They work at the direction of the Office of Federal Student Aid, or FSA, an office inside the Department of Education, and according to their contracts. Over the past few years, FSA has in writing cut services while repayment options have gotten more complex, all while the Government invests in servicing this massively complicated program, less than one-fifth of what a mortgage servicer is paid to manage a far simpler loan.

Finally, political special interest groups and Government officials have gotten into the game of spinning false narratives about what servicers do, and then cajoling their Federal and State regulators to conduct oversight or make threats when servicers are simply performing the contractual duties specified by the Department. This kind of game has led seven other servicers to tell the Government they will no longer perform the work.

The tautology here is that the CFPB and others are really saying that FSA itself is knowingly directing servicers to perform “abusive actions,” and then accusing of failing to meet phantom expectations that do not exist in our contracts.

But we are really here likely because of a document produced by a political organization with false and misleading statements and phrases like “dark history,” “company schemes,” and “uncovered

documents.” That kind of imagery is straight out of a John Grisham novel, but it is equally as fictional. Let’s meet that with some facts.

Some suggest that the servicer developed and implemented the strategy called “deflection,” and suggests they did so to harm borrowers. That is false. In fact, FSA mandated all servicers utilize this strategy and included it in their own playbook to servicers. This approach encouraged borrowers who can to self-serve online rather than waiting to speak with a customer service representative. This was Government guidance.

Recent accusations suggesting servicers are responsible for a large backlog of public service loan forgiveness applications and that the backlog is intentional are also false. Today, FSA makes all decisions about whether to approve or deny forgiveness, and so the vast majority of the backlog resides at a resource-constrained FSA, which is now also struggling with the massive FAFSA failures. The assertion that a servicer wants to engage in delays or rejections for its financial benefit is grossly unjust to the thousands of employees who work every day trying to help borrowers.

But a better use of our time today would be an honest assessment of the challenge Federal servicers face and borrowers face and the steps we can work on together.

First, fund quality service. For several years the Government has flat-funded servicing and customer support when borrowers most need it. Congress makes these choices through appropriations. The Government gets what it pays for, and when you do not make that choice then borrowers pay the price.

Second, change the law to fix what is broken. Most of the complaints about the functioning of the loan program are matters of statute. There is this false trope that 99 percent of borrowers have been denied in the past for PLF forgiveness because of some mistake or operational failure. That is false. Congress designed the program to be intentionally drafted to be narrowly focused and harder to obtain the forgiveness. Servicers were tasked with implementing that law, and we did so. Even the Administration recognizes this fact, asserting it needed to use temporary emergency authority to bypass the law to provide this additional and expanded forgiveness. But that will end, and so Congress must act.

Since my time is limited, I will close by saying that I am pleased to be here to have this conversation, but I hope it results in us working together to fix the problems that exist as opposed to just blaming servicers for simply doing what the Department asks and pays them to do, and what the law requires. Servicers care deeply about borrowers’ experiences, just as you do, so let’s focus on the root cause so we can do borrowers justice.

I look forward to your questions.

Chair WARREN. Thank you.

Mayor Lucas.

**STATEMENT OF QUINTON LUCAS, MAYOR, KANSAS CITY,  
MISSOURI**

Mr. LUCAS. Thank you, Madam Chair. Thank you for your report and for having me here today. My name is Quinton Lucas. I am the major of Kansas City, a city of 508,000 people in Middle Amer-

ica, but a city where this challenge is reflected not just here but around the country.

I am also a former MOHELA borrower, and I am the son of a student loan borrower, a single mother who went to community college, created opportunities for my sister and I, and as we struggled, as we persevered, I recognized the challenges that borrowers have faced every day.

America's mayors, including myself, are on the front lines of the \$1.7 trillion student debt crisis, because fundamentally what we try to create each day for our residents are more opportunities, opportunities to start businesses, to build their lives, to raise their families, without having to make choices between paying student loans and covering other debts, between buying the necessities in life that they need and paying those student loan obligations.

The burden is especially strong for Black women in our city, on the east side of Kansas City, for Latinas on the west side of Kansas City. And this student debt crisis has perpetuated racial inequalities in my city and many others.

Student debt relief and accountability fundamentally would alleviate the financial burden on our residents, helping families cover rising costs of living, and encouraging them, importantly, to invest in our local economics and their own futures.

As mayors we are uniquely positioned to engage with local student loan borrowers each day, leveraging the local insights of existing social service programs and channels, and working to provide support direct services like financial coaching and nonprofit legal service partnerships.

But we cannot do this alone. We are very simply asking for accountability, asking for accountability for service providers. While I am incredibly grateful for more than \$138 billion in student loan debt relief for 4 million Americans, I recognize that there are still, in my city alone, 80,000 Kansas Citians with \$575 million of debt, that remains a limit and an impediment on their ability to succeed. By targeting accountability and relief to borrowers with the highest economic need this plan would have meaningful progress are reducing the racial wealth gap, which is an issue we continue to look for a solution for each day in all of our city halls.

I also continue to hear stories from borrowers about student loan servicers. I remember some of my own. And do not get me wrong—I am blessed. I have been able to pay off my loans. I have been able to build a wonderful career. I want to create an opportunity for so many others to do so.

You have already heard in testimony today the sometimes hours of wait times on phone calls, a 39-day average email response timeframe—39 days. When you are trying to decide how to live your life and to make choices, that is a fundamental impediment on your ability to look for more progress.

We have heard more, posting incorrect monthly payments, misplacing records and payments, denying promised relief. Mistakes like these hurt borrowers. And by the way, borrowers are people. They are teachers. They are firefighters. They are nurses. They are moms. They are dads. They are us. They are our residents. And this is harm that causes harm to hundreds of thousands, if not millions, of Americans.

Student loan servicers have one job—to support borrowers as they work to manage their student loan debt. And as all of us spend time thinking about how we can build economic development and activity in all our Americans, many of us recognize that accountability and cancellation of student debt would be the single largest investment in America’s working people that we can today, with real benefits for everyone, and it would be equitable and right for America.

Let me make one final point. Each day as a mayor we deal with all types of issues, ranging from violent crime to housing to everything under the sun. But who do we have working on the front lines to address those issues? Social workers, teachers, nurses, and we need a lot more of them in America.

So we can spend all the time in the world thinking about the end run concerns, or we can address important issues now—very simple accountability, good service, quality service, and cancellation for those most in need. That is what would have helped my family when I was coming up, and that is what would help millions of Americans and thousands of Kansas Citians today.

Thank you so very much.

Chair WARREN. Thank you. Thank you, Mr. Mayor.

I will now yield to myself for the first round of questions—oh, this is going to be fun.

As we have been talking about, MOHELA is one of the country’s largest student loan servicers. Since joining the Federal system loan system in 2011, MOHELA has voluntarily signed contracts worth billions of dollars with the Federal Government. In the past few years, it has tripled in size, and today one out of every five Federal student loan borrowers—that is about 8 million people—has MOHELA as their servicer.

Now the actual job of a student loan servicer is pretty straightforward. MOHELA is responsible for communicating with borrowers about their loans, processing their payments, and advising borrowers on their repayment options. That is it. And for 3 years during COVID, during the payment pause, MOHELA had a lot less to do than normal in many ways. Even so, the Federal Government faithfully paid MOHELA throughout the pause, sending them hundreds of millions of dollars so that when the payments came back online MOHELA would be ready to do its job and process those payments and advise those borrowers accurately.

Ms. Yu, let’s start with the sending out bills. That is how borrowers restart their payments. As we approached the restart last October, did MOHELA send billing statements to its borrower on time?

Ms. YU. No. MOHELA failed to send billing statements to 2.5 million borrowers.

Chair WARREN. OK. So they did not even get them out the door on time for 2.5 million people. Then Ms. Yu, for those who did get their bills, did MOHELA send accurate bills?

Ms. YU. No. MOHELA sent inaccurate bills to approximately 280,000 borrowers.

Chair WARREN. OK. So people were told they owed one amount of money, and in fact they owed a different amount.

So after years of collecting money during the payment pause and plenty of time to get ready, and countless warnings from the Department of Education, from advocates, and from Members of Congress, MOHELA failed to do its most basic job.

Messing up these loans matter. People struggled with budgeting and other financial commitments, and, according to the Department of Education, 800,000 of MOHELA's borrowers became delinquent on their loans because of the company's mistakes.

Now when a loan servicer messes up, the borrower picks up the phone and calls to try to get those problems fixed. These are not problems that can just automatically be fixed online. So how did that work out?

Ms. Yu, your organization, the Student Borrower Protection Center, conducted a years-long investigation alongside the American Federation of Teachers into MOHELA's performance as a student loan servicer. For people who had billing errors or other problems and tried to correct them on MOHELA's website, were they at least able to get it worked out?

Ms. YU. No. Borrowers who needed help with refunds or processing errors had to contact a customer service representative. In fact, MOHELA's own internal documents list 28 different issues where self-servicing on the website is not sufficient. To make matters worse, MOHELA's website was missing key information and was oftentimes inaccessible to borrowers during the return to repayment.

Chair WARREN. OK. So they could not correct it online. In fact, if they tried to correct it online they often found inaccurate information. Is that right?

Ms. YU. That is right.

Chair WARREN. All right. So how about the people who actually then got on the phone? Were they able to straighten out their problems?

Ms. YU. There is a good chance that they would have been directed back to MOHELA's website.

Chair WARREN. So they were sent to the website that has mistaken information on it.

Ms. YU. That is correct. MOHELA set up a call deflection scheme, memorialized in its communications playbook from October 2023, which diverted borrowers away from customer service representative and directed them to the website.

MOHELA even tried to prevent borrowers from contacting MOHELA in the first place by requesting that FSA not include their contact information on key pieces of information.

Chair WARREN. Wait. So they actually asked that no one be able to get the information so that they would be able to call them to correct the errors that MOHELA had made?

Ms. YU. That is correct.

Chair WARREN. This is just stunning. I just want to summarize what we have got here. MOHELA made errors in millions of borrowers' accounts, then actively worked to prevent borrowers from getting the help they needed by trapping them in these endless loops. MOHELA even had a name for it. It was called "call deflection." And an internal email revealed by SBPC and AFT's report—I found this in your report—it shows that even MOHELA's general

counsel worried that the public might find this just a little bit shady. No kidding.

The Federal Government paid MOHELA millions of dollars so it would be ready to help people make payments once the payment pause ended. MOHELA messed that up for millions of borrowers, and then intentionally tried to dodge the calls that it would take to straighten it out. Shame on them. So thank you.

Senator MENENDEZ.

Senator MENENDEZ. Thank you, Madam Chair. For years my office has received outreach from dedicated public service employees, firefighters, police officers, teachers, and many others, who have expressed their frustration over the time taken to contact MOHELA for routine customer service issues. In fact, in a letter I wrote to Secretary Cardona last September, I noted the long wait times that my constituents had experienced when attempting to contact MOHELA representatives for any type of assistance.

Mr. Buchanan, I heard your testimony in my office. I had another meeting going on, but when I saw you speak I wanted to hear what you had to say. You represent student loan servicers. Don't you think that a bare minimum a student loan servicer can do is to be responsive to borrowers' issues?

Mr. BUCHANAN. Absolutely. I mean, this is one of the challenges that we face, and I too wrote a letter to Secretary Cardona about a year before resumption began, indicating that we needed guidance, we needed planning, we needed resources in order to make this work. Otherwise, we would face exactly this challenge. And so we worked with the Department of Education to try to get that guidance. It was not forthcoming in the way it should have been, and I think we need to continue to improve that. And that is where I think communication—

Senator MENENDEZ. So is it your testimony then the Department of Education is responsible for all the ills that we are describing here today.

Mr. BUCHANAN. No, I did not say that. I believe—

Senator MENENDEZ. What are the ills that the servicers are responsible for?

Mr. BUCHANAN. So I think at the end of the day we do make mistakes from time to time. When you are servicing more than 35 million borrowers, in a complicated program that has more than four income-based repayment plans and all these sorts of things, we are going to make errors. In fact, the errors that were just talked about a second ago, I think there is really some mistakes to be said about them. Number one, with the issue of 280,000, those people were not billed incorrectly. They did not get a bill. If they looked online they were seeing that. But that was as a result of the fact that we got incorrect data from the Department of Education which had to be corrected. MOHELA self-identified and reported that to the Department and fixed that problem.

We also sent out billing statements late. That is because we got guidance that was changing ever late. The playbook the Government gave to us was changed ten times in 1 month.

Senator MENENDEZ. I have heard basically. So far you are telling me everything that, again, not that the servicers did wrong but that the Government did wrong, so the Government is responsible

for everything here. Even if a borrower cannot get their problem fixed, MOHELA and other student loan servicers need to be responsive.

A student loan servicer's job is just that, to service. Now from what I have heard from constituents, it is outrageous that—you know, and you cannot have one thing. After 50 years of public life when I hear it once, OK. When I hear it twice, OK. But when I hear it with the frequency and the depth and the stories, then you know something is wrong.

So, you know, I support additional funding for the Office of Student Aid, but I do not believe MOHELA is living up to its customer service commitments under its existing contract. I highlighted this issue 6 months ago. It is time to resolve these service issues once and for all.

Last year, Senator Braun and I introduced the Bipartisan PSLF Fairness Completion Act to help dedicated public service employees get the student debt relief to which they are entitled. The legislation removes a technicality in Federal law that requires applicants be employed in a public service role at the time of the application for forgiveness, even if they already made the 120 qualified payments. That onerous regulation has negatively affected public service employees who completed the 120 payments, decided to retire, move on to other careers, and suddenly become ineligible.

Ms. Yu, how would passing legislation like the PSLF Fairness Completion Act positively impact PSLF borrowers?

Ms. YU. Thank you, Senator. This is a truly heartbreaking issue that you raise. We hear from so many borrowers who have done their 10 years of public service, and now are trapped in a lifetime of debt because of this one requirement. This bill would be critical, and eliminating this provision would be critical to ensuring that so many public service workers who are trapped in debt, who have completed their 10 years of public service, would finally get the forgiveness they deserve.

Senator MENENDEZ. It seems like it is just.

Now, currently 43 million people have outstanding student debt, totaling \$1.6 trillion. Previously canceled student loan debt was considered taxable income by the IRS unless individuals who received debt cancellation would face a huge surprise tax bill. Senator Warren and I worked together on this, and I am proud that our Student Loan Tax Relief Act, included as part of the American Rescue Plan, saved these individuals who got loan forgiveness from being hit with tax consequences and surprise taxes.

But the provision sunsets in 2025, and I am worried that any forgiveness of student debt—and see, the President is very much engaged in trying to maximize it—will result in a burdensome tax bill.

What would be the consequences for borrowers if we let this provision expire?

Ms. YU. Thank you. I am incredibly concerned about letting this provision expire. The consequences would be severe. Borrowers with disabilities, low-income borrowers, will trade an unaffordable student loan bill for an unaffordable tax bill. These provisions absolutely need to be extended.

Senator MENENDEZ. Thank you. Madam Chair, may I ask one more question.

Chair WARREN. Of course.

Senator MENENDEZ. Thank you. In a letter I wrote to Secretary Cardona last year, I noted that many borrowers had reported that they did not receive credit for all the qualifying PSLF payments they had made, and some borrowers who had been approved for forgiveness reported long wait times to actually get the refunds to which they were entitled. Sadly, since I wrote to Secretary Cardona nearly 6 months ago, it seems these issues are still widespread.

Ms. Yu, from your organization's conversations with borrowers, are you still hearing that these issues exist?

Ms. YU. Yes. Yes, Senator, we are absolutely still hearing that these issues exist. In fact, we know of a borrower from your State of New Jersey who has been, for going on 3 years now, trying to get their PSLF issues resolved with MOHELA. They have spent countless hours on hold, speaking to various different folks, have submitted all the required paperwork, and they have been promised over and over again that they would get a response in 15 days, only to be forced to wait for months.

These borrowers report feeling hopeless, and that the promise of PSLF will be forever out of reach for them.

Senator MENENDEZ. Well, 3 years. Three years. I would like to have our office work with you to identify that constituent and see if we can help them. But it should not take the intervention of a United States Senator to deal with that. People who are eligible to have their debt canceled under the program should not be forced into repayment due solely to MOHELA's processing delays. And we look forward to reaching out to you and see if we can help this one constituent. But we need to better across the board.

Thank you, Madam Chair.

Chair WARREN. Thank you, Senator Menendez.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Madam Chair, and I thank all of you for your testimony and your work on this important issue. Senator Warren, thank you and your team for your investigation into these important issues.

Ms. Yu, I would like to ask you a question about Parent PLUS loans, and thank you for working with me and my office on trying to address that very important piece of this loan puzzle.

As you well know, there are almost 4 million borrowers with Parent PLUS loans. Many are low-income borrowers and parents of color, trying to help their children achieve the American dream. Too many of these borrowers are struggling under the weight of unaffordable payments and ever-growing interest, due to the lack of access to the affordable repayment plans.

Some parent borrowers are able to access SAVE, which is, as you know, the Administration's newest repayment plan, through a very cumbersome process called double consolidation. This process is heavily dependent on servicers to ensure that borrowers are correctly informed of the necessary steps and actually placed on the plan. MOHELA is one of those services. There are other services, but in our experience we have challenges across the board when it

comes to informing parents about the options, and expanding the options.

Ms. Yu, have you heard from borrowers who are struggling to navigate this process, and could you detail some of the examples?

Ms. YU. Absolutely. Thank you, Senator, for raising this critical issue. As you said, Parent PLUS borrowers for so long have been ignored and left out of critical relief. For over 10 years I was a legal services attorney and worked on behalf of low-income student loan borrowers, and I heard so many stories of parents having to make the dire choice between their own finances and their children's futures.

It is fundamentally unfair that Parent PLUS borrowers are forced to jump through these hoops, and even worse, when servicers fail to offer the critical information to let them know how to go through every single process, it is a complicated process, as we have heard. But servicers are paid hundreds of millions of dollars to work with these borrowers, and they have failed them, and we hear too many borrowers who have been told that these options are available only to have them denied. And it makes their loans unaffordable and puts them at dire risk of not being able to save for retirement, and for some people they just cannot retire.

Senator VAN HOLLEN. Well, thank you, and it has been good to work with you on this. Can you suggest some other paths for relief that we might propose for these borrowers?

Ms. YU. Absolutely. The lack of affordable options for Parent PLUS borrowers is just devastating, and it leaves to many borrowers to default. It makes them vulnerable for wage garnishment, to lose their Social Security benefit. We need to have options so that Parent PLUS borrowers are able to access the same kinds of affordable repayment plans as all borrowers.

Senator VAN HOLLEN. Well, we are working on that, and thank you for your help. And to Mayor Lucas, thank you for your testimony. I was able to catch some of this remotely. What impact does this intergenerational debt—right, we have talked about the impact on student loan, but when you are talking about Parent PLUS loans you are sometimes talking about intergenerational debt. Both the parents and the students have these heavy, heavy burdens.

What impact does that intergenerational debt have on these borrowers and their families, and how does that contribute to the racial wealth gap?

Mr. LUCAS. When you look at the racial wealth gap, in Kansas City or any American community, it is often generated by the fact that in some families, predominantly White, they have been able to pass down some of the benefits of wealth, of home ownership, of much of the American dream. Here we are building an ongoing opposite effect, where both the younger borrower, the children, are running into long-term concerns and inabilities to be able to launch new businesses, to invest in the necessities of life, to purchase homes. And the parents themselves are seeing an eradication of whatever wealth they may hold, or ultimately finding themselves in another debt situation, creating that sort of situation where not only do we lack the familial support that so many see, but instead we are seeing generational, familial burdens around that same thing, which is the search for the American dream.

And so for us we spend so much time—and I grew up in a family like this, telling folks to get an education, to do right, to buildup their communities. And here what we are doing with these Parent PLUS loan programs and these failures, both in accountability but also to provide debt relief, we are creating burdens that keep them trapped, not just for a short term but generationally, in connection with their ability to try to at least accomplish the American dream.

Senator VAN HOLLEN. Right. And so, Madam Chair, I look forward to working with you on the Parent PLUS loan. And as you, Mr. Mayor, pointed out, it is not only the families. It is bad enough that you have that drag on two generations, but it also has a very negative, spiraling impact on everybody else who is part of that community and part of that economy. So I thank all of you for your testimony today, and again, Senator Warren, thank you for your focus on this very important issue.

Chair WARREN. Well, thank you Senator Van Hollen for how persistently you have attacked this problem and been there in support of people who are struggling with these loans, and particularly focused everyone's attention on Parent PLUS loans, and the kind of squeeze that it puts families under. I appreciate it, and we have got more work to do.

Senator VAN HOLLEN. We do.

Chair WARREN. So thank you. I have some questions I want to ask about PSLF, but I want to make sure, before we move on, I want to pick up on a point that Mr. Buchanan raised in his opening testimony and that Senator Menendez focused on.

Before we move on I just want to explore the argument that the Federal Government's student debt program is just too complicated for servicers to manage properly, that that reason it is such a mess at MOHELA is the fault of the Government.

Ms. Yu, I just thought maybe I would give you a chance to respond to that argument. Do you think that servicers should not be held accountable for their failures because our system is just too hard?

Ms. YU. Absolutely not. These servicers knew what they were signing up for. Their job is to help borrowers navigate the complexities of the student loan system. They get paid hundreds of millions of dollars each to do that job. If they fail to do that job well, they should be held accountable.

Chair WARREN. Thank you. You know, back in 2007, Republicans and Democrats got together to create this Public Service Loan Forgiveness program. It was signed into law by President George W. Bush. And the idea was if you had to borrow money to go to school, and then you took that education and instead of going out into private industry and maximizing the amount of money you made, you actually put it to work in public service, as a teacher, as a nurse, as a firefighter, you work for municipal government. Then America would cancel your debt at the end, if you had not been able to pay it all off, and it was really just a way of saying thank you, thank you for your many, many years of service.

So Ms. White, I understand that you took out student loans so that you could become a teacher, and that then you also took out student loans because you were a parent, and trying to help your children make it through this process. And I understand that you

paid back, your loans and your children's loans, it says here for 40 years. Is that right?

Ms. WHITE. That is correct, \$300,000.

Chair WARREN. \$300,000 that you paid back.

Ms. WHITE. Correct.

Chair WARREN. So back in 2017, Betsy DeVos is head of the Department of Education, Donald Trump is in the White House, you decided to apply for the Public Service Loan Forgiveness program. And at that point how long had you been working in public service?

Ms. WHITE. Well, I worked a total of 26 years full-time, and at that time I was eligible, I would have been eligible, and I had a balance of \$65,000.

Chair WARREN. Right. So you had \$65,000 still remaining, but you had done enough qualifying payments, and they had all been in public service. OK.

So did the Trump administration approve your PSLF loan cancellation application?

Ms. WHITE. No, they did not. I was told I had a variety of loan types, and I was not eligible, but I was not given any information about how to respond or follow up or reapply.

Chair WARREN. So what did you do?

Ms. WHITE. Well, I kept paying.

Chair WARREN. You just kept paying.

Ms. WHITE. I kept paying \$300-and-something every month. And I thought that was pretty striking that I would still be paying until my 81st birthday. I do think it is problematic that seniors who are in public, who I believe had an entitlement to public service relief, based on my job and my on-time payment history, would be in that situation.

Since you did call on me I do want to say that I carry around lots of files, but this only for the last year-and-a-half. These are all the communications and printed emails I received as I tried to achieve public service relief. So it took a year-and-a-half, and I do think that people should not have to be as persistent as I am. I think it should be easier. And a year-and-a-half is just too long.

Chair WARREN. So let me just ask a little bit about that. So in 2017, the Trump administration just turns you down. President Biden then gets sworn in and says we are open for business again. Come on back on your PSLF loan. We want to help people who have been in public service. So you went to MOHELA, right?

Ms. WHITE. I was sent to MOHELA—

Chair WARREN. MOHELA, that was now your servicer.

Ms. WHITE. NAVIENT was my servicer, and they said they did not do that.

Chair WARREN. We are done, so go to MOHELA, which now covers all of the public service loan programs.

Ms. WHITE. Right.

Chair WARREN. They said go to MOHELA, MOHELA will take care of this, and how long did it take you to get it straightened out with MOHELA?

Ms. WHITE. A year-and-a-half from my first submission of my employment certification form and my loan consolidation form. It was a year-and-a-half.

Chair WARREN. So a year-and-a-half after you have been in public service at that point for how long, did you say?

Ms. WHITE. Oh, 26 years.

Chair WARREN. Twenty-six years.

Ms. WHITE. And I filed many complaints. Everywhere I could complain to I complained. I think the only advantage I had was that I was persistent. But many public service employees do not have the ability to be this persistent.

Chair WARREN. Yeah. I believe in persistent women.

Ms. WHITE. It should not be that hard.

Chair WARREN. It should not take that level of persistence in order to get your cancellation. And I am just going to wrap up with this section, to ask you, Mayor Lucas. Can you just say a word about how benefits from this student debt cancellation? Sometimes we hear oh, it is only people who have plenty of money. After all, they are all college graduates. Can you just talk about this a little bit, from what you see right there in Kansas City?

Mr. LUCAS. The beneficiaries are the working people of our communities who provide vital public services each day. I will give two very brief vignettes from just this week. I have a 3-year-old son, very cute, very fun, but can get into danger sometimes, as all parents know. He broke his arm. We were at the Children's Hospital in Kansas City. We were there in the emergency room late at night. Nurses, nurse practitioners, other medical professionals, those are the ones that are doing the work to make sure myself and my community are safe. That was just one set.

The next night, coincidentally, we had an officer in the hospital who had been shot. Once again, I had a chance to talk to the people in the hospital—the officer is doing OK, by the way—who are the ones who have taken on these obligations to particular in an inner-city medical environment.

So much of this program is not about just people having wonderful opportunities and ways to make more money, but it is allowing us to direct public servants and public service to areas that need them vitally. So for me, the mayor of a city that has—and every city has challenges—but major inner-city hospitals and schools, and needs for prosecutors and so many other, and social workers. As I mentioned before, this is how we get the health care we need in major American cities and rural communities. This is how we get educators in States like mine, Missouri, home of the MOHELA organization, this is how we get people to go to rural communities. This is how we get care and services.

So the beneficiaries are, frankly, all of us, and the losers, when you see programs like this, indeed, are all of us when we do not have cancellation, when we do not have accountability. That is why this matter to me, and I think it matters to so many people who are here today.

Chair WARREN. Thank you very much, Mr. Mayor, and thank you for your advocacy on behalf of the people of Kansas City. They are lucky to have you.

Senator Warnock.

Senator WARNOCK. Thank you, Chair Warren, and thank you for your leadership on this issue. You and I have been pushing, along with others, on this very hard, and it was great to see the Presi-

dent's announcement yesterday, with one hand tied behind his back. President Biden and the Biden administration has provided over \$146 billion in student debt relief for over 4 million Americans, and yesterday's announcement will be on top of that. That is a historical accomplishment that not only helps close the racial wealth gap but helps boost our entire economy, because as the mayor has pointed out, we all benefit. We all benefit when more people can afford to buy their first home, when they can save for retirement, or when they can start a small business, which contributes to our overall economy.

But I want to talk about how the Administration's hand got tied behind its back in the first place, and the ongoing threats to debt relief for those who, in my view, are quite short-sighted.

Ms. Yu, you are a student loan lawyer. When the Missouri attorney general worked with other Republican AGs to sue the Biden administration and block its first attempt at broad debt cancellation, why did the Supreme Court allow the case to proceed if student debt relief does not harm anyone?

Ms. YU. Thank you, Senator. The Missouri attorney general argued that the State of Missouri would be harmed because MOHELA could lose loan volume if borrowers received debt relief. So essentially, what the Missouri AG argued was that it and MOHELA benefited financially when 45 million borrowers remain in debt.

Senator WARNOCK. So the folks who were supposed to be providing support servicing these loans, representing their constituents, said that it would be against their best interests. Am I understanding correctly?

Ms. YU. That is correct.

Senator WARNOCK. So what was MOHELA's response when the Missouri AG hid behind them to get in the courtroom door to block that relief for millions of Americans?

Ms. YU. They stayed silent, Senator. They were complicit.

Senator WARNOCK. And when given the chance to stand up in court for the student loan borrowers who they are contractually bound to serve, did they stand up for them? Did they serve them?

Ms. YU. They did not.

Senator WARNOCK. I think it is important for everyone to understand the role of one student loan contractor, and the role that they had in blocking debt relief for millions of Americans. Of course, they are not alone. Others bear complicity in this. Especially since the company currently enjoys a contract right now with the Department of Education worth millions of taxpayer dollars.

But this is not just a history lesson to everyone. I am concerned that the past is prologue. Earlier this year, the Biden-Harris administration announced plans to provide \$1.2 billion in relief for nearly 153,000 borrowers through a new repayment plan with a shorter path to forgiveness, and on Monday, as I pointed out, the Administration announced that it would do debt relief for 30 million more Americans through alternative paths, after the Supreme Court blocked one legal pathway, thanks, in part, to MOHELA.

But just yesterday the Missouri AG already launched another lawsuit. So I think of all the things I think we need attorneys general to be engaged in to protect their constituents. Somehow, Mis-

souri's attorney general wakes up in the morning and thinks this is the great service, that the people of Missouri and the people of this country need, what we need is the attorney general blocking debt relief under the new repayment plan.

Ms. Yu, has MOHELA taken any steps since yesterday's announcement to distance itself from a new effort to block relief under the new repayment plan and harm the student loan borrowers it is charged with serving?

Ms. YU. It has not.

Senator WARNOCK. Do you think, based on this, taxpayers should continue to pay them millions of dollars to serve student loan borrowers?

Ms. YU. No, I do not.

Senator WARNOCK. Thank you so very much.

Ms. YU. Thank you.

Senator FETTERMAN [presiding]. Well, I am the Chair now.

Senator WARNOCK. Chairman Fetterman.

Senator FETTERMAN. Anyway, yeah, so Mayor, congratulations on the Super Bowl, right? Yeah, wow. How many have the Chiefs won?

Mr. LUCAS. So we have won three since I have been mayor. We have won four, total.

Senator FETTERMAN. That is fantastic. And I know, I mean, Pittsburgh we have six, and it is really great.

Mr. LUCAS. We are catching up.

Senator FETTERMAN. There might be a little bitter here, you know, but yeah. Anyway. Well, I want address what seems to be the elephant in the room. Now it seems to me people in the room wearing red shirts, and it seems like they are PG-13 versions of perhaps, I don't know. And those shirts say what, the red shirts?

[Unidentified Voice.] Fire MOHELA.

Senator FETTERMAN. OK. Fire MOHELA. So could any of the experts here on the panel, can we explain why we have people willing to wear shirts, they made them and everything, so I think they probably have an important point. So anyone want to address that?

Ms. YU. I am happy to go first. After we released our report, the MOHELA Papers, we heard from hundreds of borrowers that this report spoke to their lived experiences, that MOHELA has more complaints at the Consumer Financial Protection Bureau than any other servicer. MOHELA has more than—

Senator FETTERMAN. More than any other?

Ms. YU. That is right.

Senator FETTERMAN. More than anyone, OK.

Ms. YU. That is right. Four in 10 of MOHELA's customers have experienced a servicing failure. Borrowers experience need to be listened to, and the borrowers are here to say that MOHELA has done them wrong and must be held accountable.

Senator FETTERMAN. Anyone one else like to weigh in on that? I mean, I think it is remarkable that we have shirts here and everything. It seems pretty compelling. I mean, if it has the most complaints of any other agency.

Mr. BUCHANAN. Well, if I might, Senator, this is one of the challenges of running the student loan program, right, is that the Government requires infrastructure and support. And I think one of

the rhetorical issues here is I, too, having read that report, would find it deeply disturbing if it were true. The challenge is that it sort of misleads dramatically and makes many false statements. In my opening statement I covered a lot of that. My written testimony goes into that.

I think the real question is how do we get to a servicing environment that is meeting the expectations? Number one, the Government has got to partner with servicers, to work together to improve these things. So we have had servicers have leave. Seven of them had said to the Government, "Thanks but no thanks. We do not want to work for you anymore." And continuing that process just means we are churning as opposed to improving, and that is what we need to work on.

So I think working together we can talk about how do we get the Department of Education to partner with servicers to issue guidance in a timely fashion, for the Government to get sufficient resources so we can do that outreach. That call hold time and call center hours that were cut, that was at the Department's direction, because they did not have sufficient resources. That was not a servicer choice. And these are the kinds of things we need to work together on.

So rather than having these sorts of hyperbolic reports that really do not say anything substantive, we need to work together on what the actual true nature and architecture of the program is. And I look forward to being able to talk about that further with you.

Senator FETTERMAN. Yeah, well, I have anecdotes from my constituents that had that same kind of situation, and it is very frustrating and it is very disappointing, as well, too, even if they are looking to pay their loans off. And they make it more difficult and they increase it without any reason. And I just cannot imagine why you would want to make it more difficult, or want to work to make it better, as well.

And now I think my colleague from Georgia made a point that, is it safe to say that every time the President now tries to cancel some debt, and there is an AG from random States to challenge, right? Is that a fair—yes?

Mr. LUCAS. That is correct. Being from that same State, none of us have asked the attorneys general to intervene, and I believe as we have heard today—

Senator FETTERMAN. Yeah. I have never met anyone saying, "No, please don't cancel my—"

Mr. LUCAS. There is nobody in Kansas City, nobody in St. Louis or anywhere in the State who has been asking. And I think what we are seeing, and we are seeing today, is how many people nationally are impacted. But they are looking to get standing to continue to bring these challenges based on the relationship between MOHELA and the State of Missouri, but really the harm extends far beyond it. It is purely political, and I think it is purely "anti" all of the people in red shirts behind me and the millions more who are impacted by it.

Senator FETTERMAN. Yeah. And now since that I am Chairman I am going to give myself more time. At any rate, and it is clear that any time the President makes a move to give some relief to

students, and then there is going to be a lawsuit, and generally some of those kinds of cases may end up being at the Supreme Court. And now it seems to me that the Supreme Court has been really overly political, and it seems to me going to be making it more and more difficult to even deliver that kind of aid, as well.

And we moved much quicker for the Silicon Valley Bank was in collapse. You know, it was like how much can we do? How much can we do. And I do not think any of these borrowers could have crashed the American economy, you know, one of their loans. But I do not know why there seems to be no outrage for that, but they seem to be that if we are going to deliver some aid for students in this. I do not really understand that, but it is troubling and it underscores that, in my opinion, over-politicizing the Supreme Court.

But regardless, I just thank all of you, and those of you that came to make a point, wearing your shirts, and others that are here, as well. And I guess I believe I am the last speaker as well, too, and thank you.

Well, are going to a brief recess, and then we have a couple more, until my colleague from Massachusetts returns. OK then, so I apologize for that.

[Recess.]

Chair WARREN [presiding]. This hearing is back in session—used a law that said in a pandemic the President could, and I am going to quote, “waive or modify student loans.” Now we all know what happened next. An extremist Supreme Court, the same court that overturned *Roe v. Wade*, twisted the plain meaning of the law and ripped away debt cancellation from 43 million Americans.

The less-told story, MOHELA, was at the center of all of it. The Republican States challenging President Biden’s plan basically could not explain how they were harmed by student debt cancellation, and without an explanation of how they were harmed they did not have legal standing to sue. So their answer was MOHELA.

Mayor Lucas, why was MOHELA so critical to the lawsuit that blocked President Biden’s first step cancellation plan?

Mr. LUCAS. Well, Madam Chair, I would never pretend to tell the law to a law professor, but the issue as you have articulated refers to standing. And the argument was because MOHELA, the Missouri Higher Education Loan Authority, was established by the State of Missouri, they would lose business as a servicer if the debt cancellation were to go through. That then would create harm, not just to MOHELA but to the people of Missouri, which is counter-intuitive for any normal person or Missourian, and that was, at least in the eyes of the court, sufficient to establish that standing or allow the lawsuit to proceed.

Chair WARREN. Yeah, exactly. Nice explanation for a really twisted argument here, but it was enough to persuade the Supreme Court.

MOHELA is the only Federal student loan servicer that considers itself to be part of a State. In court filings and in public letters, including as recently as 2 days ago, MOHELA has repeatedly said that it is, quote, “an arm of the State of Missouri.” This is important because in MOHELA’s view its public status affords it special privileges, including the privilege of not having to answer to borrowers who have been harmed by MOHELA’s servicing errors.

Ms. Yu, last December, borrowers brought a class action lawsuit against MOHELA, arguing that MOHELA had failed to process the Public Service Loan Forgiveness applications in a timely way, very much like what happened to Ms. White, and that is cost people money. Can you help unpack MOHELA's argument here? Why would MOHELA respond by saying, "Stay away from me. I'm part of the State of Missouri"?

Ms. YU. Well, under the Constitution, State governments cannot be sued for violating the law unless they consent to sue. So what MOHELA is trying to argue here is that because they were created by the Missouri State legislature it is, therefore, immune from consumer protection laws.

Chair WARREN. So they just say—I just want to make sure I have got this straight. MOHELA agreed to follow all of the Federal, State, and local laws in the contract that it signed—it voluntarily signed this contract, for which it gets paid, this contract with the Department of Education. And it signs a contract—I just want to be clear here—is the contract that MOHELA signed any different from any other student loan servicers?

Ms. YU. It is not.

Chair WARREN. Nope. So they make exactly the same representations and the same commitments. And just like every other student loan servicer, MOHELA got paid millions of dollars on these contracts. But unlike any other student loan servicer, MOHELA now claims it cannot be sued even when it takes the money and fails to do the job.

So let me start it this way. Is there anyone testifying here today who thinks that MOHELA should not be required to comply with the same laws and the same obligations as every other student loan servicer. I see no one. All right.

I just want to say, I am very concerned that MOHELA is trying to hide behind its quasi-public status to evade responsibility for its servicing failures and to try to duck out on the harm that it has inflicted on public servants. I had hoped that the MOHELA CEO would be here in person to explain his side of the story. So I am disappointed that he refused to attend. I will continue to press for answers on this.

The Department of Education has created new performance standards for servicers. I understand there are many servicers who have complained about that. But the Department has said you have got to meet higher standards here. Now what is critical is the Department of Education needs to enforce those standards to the letter.

MOHELA has repeatedly failed millions of borrowers, and it is time for real action and real accountability.

So with that I want to thank all of our witnesses for being here today. I very much appreciate you taking your time to come here. Questions for the record from other Senators are due 1 week from today. That is Wednesday, April 17. For our witnesses you will then have 45 days to respond to any questions that have been submitted. And with that this hearing is adjourned.

[Whereupon, at 3:55 p.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

**PREPARED STATEMENT OF KATHLEEN WHITE**  
RETIRED, FORMER FACULTY MEMBER, CITY COLLEGE OF SAN FRANCISCO  
APRIL 10, 2024

Good afternoon, Senator Warren, Committee Members and guests, My name is Kathleen White, and I am here to share my experiences as a student loan borrower. I began college in 1973 at the age of 16 after graduating from high school. I was the first in my family to attend college and I paid for college attendance. As such, I utilized student financial aid in the form of grants, scholarships, and student loans. I attended San Francisco State University and obtained my BA in 1978 and an MA in Education in 1982. At the time my graduation, I was a parent of a toddler and had another child on the way. My husband was also a student at SFSU and utilized his Veterans Benefits, granted after 4 years of service as a U.S. Navy Frogman, as well as student loans. We have been married for 45 years and sent three sons to college. We were both proud public service employees, and a moderate-to-middle-income family, and as such, needed assistance to finance college. Our sons attended college through a combination of our payments, obtaining scholarships, and student loans. In total, over 40 years, I have made \$305,000 in student loan payments. Student loan payments were ever-present from one generation to the next. I remain grateful for the support that I received to finance college and am proud to say that I was never in default, despite financial challenges, and that I have always paid my debts and obligations.

My college education allowed for me to engage in the best career that I could have imagined. I was employed full time as a tenured faculty member at a public community college for 26 years (from 1995 to 2021). I taught future teachers interested in careers with children and youth in education in a range of ECE and K-12 settings. I served as a Department Chair and calculated that I have taught over 25,000 students in my career. I also worked as a part time faculty member and full time at a children's nonprofit for 10 years prior.

In 2017, I was made aware of the Public Service Loan Forgiveness Program. I had been making student loan payments between for well more than a decade. I submitted an Employment Certification Form from my school district in 2017 to loan servicer Federal Loan Servicing. On November 14, 2017, I was sent a form letter from FLS, indicating that my Employment Certification Form was not evaluated, as I did not have eligible student loan types. As I had a mix of loan types, and no process to apply was described for me, I did not pursue PSLF. I was disappointed, as I was a public servant, had current loans held by Navient which totaled \$65,000 on 6/22/2007, and had payments of \$360.64 remaining through 2037 which would be until my 81st birthday!

I additionally knew that the pervasive teacher shortages in my area could be alleviated with a robust PSLF strategy for students. My students often held student debt and were also interested in careers in teaching.

In 2020, I became aware of renewed outreach by student loan advocacy groups about PSLF and assurances that PSLF's would be reconsidered under the new Federal administration. I also turned 65 in 2021 and chose to retire, as I had been instructing my two elementary school-age grandchildren at home due to COVID pandemic school closures.

I needed clarification about my status as a retiree and my PSLF eligibility, my denial of PSLF in 2017, and my eligible loan types. I worked with my union (American Federation of Teachers—AFT) and student loan service, MEETSUMMER, which assists borrowers in obtaining PSLF and otherwise navigating the student loan system (what I had hoped student loan servicers would do).

I had loans serviced by Sallie Mae, NELNET and later NAVIENT from 2008-2018. During this 10-year period I made 120 on-time payments for student loans and was never in default or forbearance. In 2020, I still owed \$29,000 in student loans. I was informed that I needed to resubmit an Employment Certification Form from my employer and consolidate the existing NAVIENT loan into a Direct Student Loan (ICR) before October 31, 2022, as a limited time waiver existed that would have allowed for broader loan-types, as well as prior loan payments to be considered.

I was directed by Navient to MOHELA, the new servicer for PSLF. I downloaded the forms (loan consolidation and PSLF certification) from the MOHELA website and followed the instructions on the MOHELA website which only allowed for paper copies to be submitted by mail or fax. I then met with MEETSUMMER staff to check the forms and they then faxed in my forms to MOHELA. I have proof that both of my forms were faxed in, one on September 16th, 2022, the other on October 5, 2022.

That was just the beginning of my saga. I needed clarification from MOHELA about a host of questions. What would the new interest rate be if PSLF was not granted? Would my loan-types (specifically FFEL) be eligible? Would the loan term be extended past 2037 if I was not eligible? Would my status as a retiree impact my eligibility? Were my forms received and processed? Would I be granted the waiver allowing expanded counting of prior loan payments to private servicers, and the ability to retroactively count on-time payments for 10 years?

MOHELA was unable to answer my questions because they were unable to provide any information about the status of either document I had submitted to them. After calling and emailing 30 times from November 2022 to March 2023, I was unable to receive status updates or information. MOHELA staff were not able to provide information related to my loan consolidation form and I was told to wait 30, then 60, then 90 days for processing. I was also told by MOHELA that due to the Federal loan forgiveness legislation and pending rulings, forms would not be addressed until after July 2023. I also called NAVIENT repeatedly and was told no consolidation had occurred and no further information could be provided. I was in a gray area—a lost land, where I belonged to no servicer and had no recourse. I just wanted to know if my faxes had been received before the October 31, 2022, deadline.

Finally, in March 2023, my PSLF Employer Certification Form, submitted in September 2022, appeared on the MOHELA site as being processed. There was still no sign of the loan consolidation form being processed. I then was advised that I had to resubmit a loan consolidation form through a new organization (AIDVANTAGE), even though paper loan forms had been available to download on the MOHELA website. My new form was processed within 30 days, and Navient informed me that I was no longer a customer.

In July 2023, I called MOHELA again, about the Direct Loan consolidation and the questions I still had about my eligibility for PSLF. I was told that there had been some recent changes to eligibility, but that I had to wait until 2024 to receive PSLF loan forgiveness information since past loan counts serviced by private servicers like NAVIENT had to be “HAND COUNTED” and then total payments tallied, and then sent to MOHELA, from the National Student Loan Data System records. As I had 120 qualifying payments with NAVIENT, this was a key step to PSLF approval. I imagined hundreds of staff working in a large warehouse filled with file boxes, hand counting my payments!

In August 2023, still with no answers, I filed another complaint with the Consumer Financial Protection Bureau as well as with MOHELA. I received a letter from MOHELA within 15 days of filing the complaint, indicating that I had made only 3 qualifying payments to my current DIRECT STUDENT LOAN, and I had presumably 117 remaining. No mention of prior payments to NAVIENT was made, no mention of “hand-counting” prior payments through the National Student Loan Data System and no mention of PSLF approval. I was further told that because I had consolidated my loan after the October 2022 limited waiver period, my past payments could not be counted. I guess my fax had been “lost”.

Call wait-times to MOHELA often exceeded 1–2 hours on hold, with decreasing call center hours and a host of new staff “in training” without the ability to accelerate complicated cases or address questions that deviated from general topics. All employees were polite and tried to be helpful, but it seemed like they did not have the tools to escalate cases or questions. The MOHELA website provided the same general instructions but no real place for problem resolution once a customer is past the general information phase. There was no way to accelerate requests, receive clarification or complain. I filed a total of seven complaints to MOHELA, Consumer Financial Protection Bureau, and the Fed. Student Financial Aid Office out of frustration with the lack of progress of my PSLF. I had sent a consolidation form on-time, and I worked for a qualifying employer!

When payments resumed in October 2023, after the COVID payment pause, I received a bill from MOHELA to pay \$393.69 per month. I made that payment, despite having been in PSLF limbo for 12 months. It was a hard check to write.

On November 26th, 2023, I received a letter from MOHELA indicating that my Direct Loan had been disbursed on 5/25/2023, and that I had 194 PSLF eligible payments and of those, 160 payments were PSLF qualifying. That seemed like good news, but the estimated eligibility date for PSLF was blank. I tried to call MOHELA for clarification, but it was over the Thanksgiving holiday, and I waited.

On November 29th, 2023, I received a letter from MOHELA, indicating that my loan was being placed in administrative forbearance. I was concerned, as interest typically accrued during forbearance, and I had not requested forbearance. Despite being on forbearance, I received bills for loan payments in both November and December. I paid both.

Finally, on February 6, 2024, I received a form letter, thanking me for my public service and indicating that my principal and interest totaling \$29,765.97 had been forgiven and that I had a credit balance for payments received in October, November and December which was returned later in February.

I taped that letter up on my front door and kept it there for weeks. I remain grateful, but it was such a painful ordeal. On behalf of every eligible PSLF employee and especially every eligible teacher, I am here to advocate for change.

**PREPARED STATEMENT OF PERSIS YU**  
DEPUTY EXECUTIVE DIRECTOR AND MANAGING COUNSEL, STUDENT BORROWER  
PROTECTION CENTER  
APRIL 10, 2024



April 10, 2024

U.S. Senate Committee on Banking, Housing, and Urban Affairs  
538 Dirksen Senate Office Building  
Washington, D.C. 20510

**Testimony of Persis SiChing Yu, Student Borrower Protection Center before the U.S. Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on Economic Policy**

**RE: “MOHELA’s Performance as a Student Loan Servicer”**

Chairwoman Warren, Ranking Member Kennedy, and Members of the Committee, thank you for inviting me to testify today regarding MOHELA’s Performance as a Student Loan Servicer. My name is Persis Yu and I am the deputy executive director and managing counsel of the Student Borrower Protection Center (SBPC). SBPC is a national nonprofit organization engaged in advocacy, policymaking, and litigation strategy to protect borrowers’ rights, rein in industry abuses, and advance economic opportunity for the next generation of students.

Prior to joining SBPC, I was the director of the National Consumer Law Center’s Student Loan Borrower Assistance Project where I co-authored the NCLC’s legal treatise on Student Loan Law. I have more than a decade of experience providing direct representation to low-income student loan borrowers. My clients, and millions of others like them, took out student loans believing they are the key to a better future. But for many, that dream will never come to fruition because too many borrowers are unable to navigate the federal student loan system and their loan servicers fail to provide them with accurate information.

Currently in the United States, over 43 million people owe more than \$1.6 trillion on their student loans.<sup>1</sup> Prior to the pandemic, roughly a quarter of federal borrowers were delinquent or in default on their loans.<sup>2</sup> For more than a decade, I have witnessed the financial devastation caused by borrowers falling through the cracks as a result of servicing failures and abuses.

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<sup>1</sup> Fed. Student Aid Data Center, Federal Student Aid Portfolio Summary, <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls>.

<sup>2</sup> Fed. Student Aid Data Center, Portfolio by Loan Status (DL, FFEL, ED-Held FFEL, ED-Owned), <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioByLoanStatus.xls>; Fed. Student Aid Data Center, Portfolio by Delinquency Status (DL, ED-Held FFEL, ED-Owned) <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/DLPortfolioByDelinquencyStatus.xls>.



In February 2024, AFT and Student Borrower Protection Center (SBPC) released The MOHELA Papers—the results of a years-long investigation into the student loan servicing industry, highlighting previously unpublished documents produced by the Higher Education Loan Authority of the State of Missouri—better known as MOHELA—under Missouri open records laws. The report exposed a scheme to deny service to millions of working people with student debt.<sup>3</sup> As the federal student loan repayment system resumed and tens of millions of borrowers struggled to navigate the repayment system for the first time in three and a half years, MOHELA failed to provide adequate service to millions of borrowers.

#### **MOHELA’s Meteoric Rise within the Federal Student Loan System**

MOHELA was created in 1981 by the Missouri legislature “to assure that all eligible postsecondary education students have access to student loans” and to support capital projects and technological innovation at Missouri colleges and universities.<sup>4</sup> Despite its legal independence, MOHELA is arguably most infamous for its central role in *Biden v. Nebraska*, in which the Supreme Court determined that the State of Missouri had standing to challenge President Biden’s debt relief plan because of potential harm to MOHELA, leading to the denial of critical debt relief to 40 million federal student loan borrowers.<sup>5</sup>

But MOHELA’s role in the \$1.6 trillion federal student loan market goes beyond depriving borrowers of one-time debt relief. No longer a small Missouri-based company, MOHELA’s portfolio has more than tripled in the past three years—springboarding it from a small not-for-profit servicer to one of the largest in the federal student loan system.<sup>6</sup> It now services the

<sup>3</sup> Student Borrower Prot. Ctr. & Am. Fed’n of Teachers, *The MOHELA Papers: The Rise and Fall of the Student Loan System* (2024), [https://www.mohelapapers.org/files/ugd/588e1d\\_3a7d1b423b2b4467a9844942002471f5.pdf](https://www.mohelapapers.org/files/ugd/588e1d_3a7d1b423b2b4467a9844942002471f5.pdf) [hereinafter MOHELA Papers]. The analysis and commentary were informed by public records, borrower accounts, and thousands of pages of documents and records produced by the Missouri Higher Education Loan Authority, a state-backed student loan market participant that was awarded an exclusive contract to administer the PSLF program on behalf of the U.S. Department of Education. These documents and records were produced in response to requests made by the SBPC under state open records laws. This report was also informed by court filings, government reports, academic research, government data, and complaints submitted by individual student loan borrowers and published in the Consumer Financial Protection Bureau’s (CFPB) public complaint database. Taken together, these sources of information reveal a deeply dysfunctional system created by the federal government’s historical failure to faithfully execute the law as written and industry’s efforts to maximize profits at the expense of borrowers’ rights.

<sup>4</sup> Mo. Rev. Stat. § 173.360 (1981).

<sup>5</sup> See *Biden v. Nebraska*, 600 U.S. 477 (2023).

<sup>6</sup> See MOHELA Papers at Archive G; Letter from Wm. Anthony Hollin, Chairman & Exec. Officer, EdFinancial, to Sen. Elizabeth Warren, Sen. Chris Van Hollen, Sen. Sherrod Brown, Sen. Richard Blumenthal, Sen. Edward J. Markey, and Sen. Robert Menendez, U.S. Senate 44 (Aug. 1, 2023).



accounts of federal student borrowers in every state and is the sole servicer for borrowers seeking Public Service Loan Forgiveness (PSLF).<sup>7</sup>

MOHELA's original role in the federal student loan system was to service Federal Family Education Loans (FFEL)—loans made by private lenders but guaranteed by the federal government.<sup>8</sup> The FFEL program ceased to originate new loans in July 2010, but MOHELA still services some of the remaining FFELs.<sup>9</sup> Following the end of FFEL origination, the U.S. Department of Education (ED) became the only lender of federal student loans through its Direct Loan program.

As the bulk of the federal student loan system transitioned to ED, ED hired a new crop of servicers to manage its portfolio. The vast majority of loans were serviced by four main servicers, known as the Title IV Additional Servicers (TIVAS). They were: Sallie Mae (now Navient), Nelnet, Great Lakes, and the Pennsylvania Higher Education Assistance Agency (PHEAA), operating under the name FedLoan Servicing.<sup>10</sup> In addition to contracting with the TIVAS, the Department contracted with a number of smaller nonprofit student loan servicers, including MOHELA. These not-for-profit servicers (or NFPs as they were known) serviced a much smaller share of ED's portfolio.<sup>11</sup>

In response to the COVID-19 pandemic, Congress passed the CARES Act, which imposed a zero-interest, administrative forbearance, or "payment pause," for federal student loan borrowers, which following a number of administrative extensions, spanned three and a half years, from

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<https://www.warren.senate.gov/imo/media/doc/Servicers%20Responses.pdf>, Fed. Student Aid Data Center, <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/servicer-portfolio-by-loan-status093023.xls>.

<sup>7</sup> Public Service Loan Forgiveness Program Transitioning from FedLoan Servicing to MOHELA (Updated Dec. 14, 2022), Fed. Student Aid, (June 3, 2022), <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-06-03-public-service-loan-forgiveness-program-transitioning-fedloan-servicing-mohela-updated-dec-14-2022>.

<sup>8</sup> Student loan servicers are private companies hired to administer, manage, bill, and collect on student loans by interfacing with student loan borrowers on behalf of the debt owner. *See* Commonly Asked Questions, U.S. Dep't of Educ., <https://www2.ed.gov/about/offices/list/olca/isa-casework-faqs.html> (last visited Feb. 7, 2023); *see also*, Marketwired, *MOHELA Receives One Million Federal Student Loan Accounts in One Year*, Yahoo! Finance (Oct. 24, 2012), [https://finance.yahoo.com/news/mohela-receives-one-million-federal-182308054.html?guccounter=1&guce\\_referrer=aHR0cHM6Iy93d3cuZ29vZ2xllmNvbS8&guce\\_referrer\\_sig=AQAAAP0m0B9iYulnh7SwDAQV-svqCDUR-TlaPuf1XRfQVr-K331oWi9FrO-AHciZQZzqUgTiRC9sBGVq1ZK-h6df3xOIKnOlgOreg11wpjiti0REo7gmOlc-DhXd3o87hp4CV\\_JedSvs1Yiv7BITGRBDC5OdM82jhAiHx1VnlkNuS](https://finance.yahoo.com/news/mohela-receives-one-million-federal-182308054.html?guccounter=1&guce_referrer=aHR0cHM6Iy93d3cuZ29vZ2xllmNvbS8&guce_referrer_sig=AQAAAP0m0B9iYulnh7SwDAQV-svqCDUR-TlaPuf1XRfQVr-K331oWi9FrO-AHciZQZzqUgTiRC9sBGVq1ZK-h6df3xOIKnOlgOreg11wpjiti0REo7gmOlc-DhXd3o87hp4CV_JedSvs1Yiv7BITGRBDC5OdM82jhAiHx1VnlkNuS).

<sup>9</sup> *See* Nat'l Consumer Law Ctr., Student Loan Law § 5.2.1.1 (7th ed. 2023), [www.nclc.org/library](http://www.nclc.org/library).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

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March 2020 through September 2023.<sup>12</sup> That period was marked by a number of changes in the student loan servicing industry, and ED's unveiling of new programs. Notably, two of the four major TIVAS left federal student loan servicing during that time, Navient<sup>13</sup> and PHEAA,<sup>14</sup> in addition to a number of NFP servicers.<sup>15</sup> This mass departure of servicers led to MOHELA's rapid growth and eventual take-over of the entire Public Service Loan Forgiveness (PSLF) portfolio.<sup>16</sup>

Created by Congress in 2007, PSLF is a program that aims to encourage people to work in public service. In theory, it is supposed to forgive a borrower's remaining balance after they have been making payments on their loans for ten years (120 payments) while working for a qualifying employer (e.g. government or certain non-profit organizations).<sup>17</sup> This was intended to help alleviate the financial burden on public service workers as salaries in these fields were notably less than their private sector counterparts, and teachers and nurses still emerged from higher education with mountains of student debt but no means to pay it off. It was meant to give these borrowers a path to finally escape debts they would otherwise be stuck with for life.

By 2017, ten years into the program, forgiveness should have been flowing to thousands of public service workers. But in 2020, federal data revealed that the denial rate of PSLF applications reached as high as 99 percent.<sup>18</sup> Investigations revealed the then-PSLF servicer, PHEAA, was routinely engaging in practices that resulted in borrowers getting denied the

<sup>12</sup> Bradley D. Custer & Ella Azoulay, *Timeline: Federal Student Loans During the COVID-19 Pandemic*, The Center for American Progress (Aug. 9, 2022), <https://www.americanprogress.org/article/timeline-federal-student-loans-during-the-covid-19-pandemic/>.

<sup>13</sup> Zack Friedman, *Navient Ends Student Loan Contract — Here's What It Means For Your Student Loans*, Forbes (Sept. 28, 2021), <https://www.forbes.com/sites/zackfriedman/2021/09/28/navient-to-end-federal-student-loan-servicing---heres-what-it-means-for-your-student-loans?sh=66a35c2d6cc4>.

<sup>14</sup> Danielle Douglas-Gabriel, *One of the nation's largest student loan servicers plans to cut ties with the Education Department*, The Washington Post (July 8, 2021), <https://www.washingtonpost.com/education/2021/07/08/rheaa-ending-federal-student-loan-servicing/>.

<sup>15</sup> Anna Helhoski and Eliza Haverstock, *CornerStone No Longer Servicing Federal Student Loans*, NerdWallet (Feb. 2, 2023), <https://www.nerdwallet.com/article/loans/student-loans/cornerstone-student-loans> (In addition to the departure of the servicers, Great Lakes was acquired by Nelnet).

<sup>16</sup> Katie Lobosco, *About 2 million people are about to get a new student loan servicer. Here's what you need to know*, CNN Politics (June 27, 2022 3:00 PM), <https://www.cnn.com/2022/06/27/politics/fedloan-mohela-new-student-loan-servicer/index.html>.

<sup>17</sup> Public Service Loan Forgiveness, Federal Student Aid, <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service>.

<sup>18</sup> Press Release, Student Borrower Prot. Ctr., *New Report Exposes More Than Five Million Student Loan Servicing Errors Hindering Public Service Loan Forgiveness* (Oct. 13, 2020), [https://protectborrowers.org/acs\\_investigation/](https://protectborrowers.org/acs_investigation/).



benefits of PSLF<sup>19</sup>: it pushed borrowers into PSLF-ineligible payment plans, miscalculated payments, lost records, and improperly rejected borrowers' employment certification.<sup>20</sup> In 2021, following a 60 Minutes investigative report,<sup>21</sup> the administration enacted the PSLF Waiver, which provided that, for just one year, borrowers would receive credit for past periods of repayment that would otherwise not qualify for PSLF, bringing them closer to or across the finish line for relief.<sup>22</sup> PHEAA ended its contract with ED, and in June 2022, MOHELA decided to take on the PSLF portfolio knowing full well the demands of the portfolio.<sup>23</sup>

As a result of loan transfers due to servicer departures, MOHELA's portfolio more than tripled in less than three years—growing from 2.5 million borrowers in February 2020 to 8.4 million when payments resumed in the fall of 2023.<sup>24</sup>

<sup>19</sup> Letter from Mike Pierce, Exec. Dir., Student Borrower Prot. Ctr., to James Steeley, Chief Exec. Officer, Pennsylvania Higher Educ. Assistance Agency (Nov. 2, 2021), <https://protectborrowers.org/letter-to-pheaa-warning-of-potential-consumer-protection-violations-related-to-pslf-implementation/>; Press Release, Student Borrower Prot. Ctr., New Analysis: More Than 9 Million Public Service Workers with Federal Student Loans Eligible to Pursue Debt Cancellation, Fewer Than 2 Percent Have Received Relief, and Only 15 Percent On Track (June 9, 2022), <https://protectborrowers.org/new-analysis-more-than-9-million-public-service-workers-with-federal-student-loans-eligible-for-debt-cancellation-fewer-than-2-percent-have-received-relief-and-only-15-percent-on-track/>; <https://protectborrowers.org/pheaa-ecf-denials/>.

<sup>20</sup> Letter from Mike Pierce, Exec. Dir., Student Borrower Protection Ctr., to James Steeley, Chief Exec. Officer, Pennsylvania Higher Educ. Assistance Agency (Nov. 2, 2021), <https://protectborrowers.org/letter-to-pheaa-warning-of-potential-consumer-protection-violations-related-to-pslf-implementation/>; Press Release, Student Borrower Prot. Ctr. & Am. Fed'n of Teachers, AFT and SBPC Uncover New Evidence of Mismanagement and Abuse in Scandal-Plagued Public Service Loan Forgiveness Program (Aug. 12, 2020), <https://protectborrowers.org/aft-and-sbpc-ecf-pslf/>; Student Borrower Prot. Ctr. & Am. Fed'n of Teachers, Broken Promises: Employer Certification ~~Form~~ Failure (2020).

<sup>21</sup> Lesley Stahl, Military Members Promised Student Debt Relief in Exchange for Ten Years of Public Service Say Promise is Often Broken, 60 Minutes (Oct. 3, 2021), <https://www.cbsnews.com/news/student-loan-debt-forgiveness-public-service-60-minutes-2021-10-03/>.

<sup>22</sup> The Limited PSLF Waiver Opportunity Ended on Oct. 31, 2022, Fed. Student Aid, <https://studentaid.gov/announcements-events/pslf-limited-waiver> (last visited Feb. 7, 2023).

<sup>23</sup> Public Service Loan Forgiveness Program Transitioning from FedLoan Servicing to MOHELA (Updated Dec. 14, 2022), Fed. Student Aid, (June 3, 2022), <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-06-03-public-service-loan-forgiveness-program-transitioning-fedloan-servicing-mohe-la-updated-dec-14-2022>.

<sup>24</sup> See MOHELA Papers at Archive G; Letter from Wm. Anthony Hollin, Chairman & Exec. Officer, EdFinancial, to Sen. Elizabeth Warren, Sen. Chris Van Hollen, Sen. Sherrod Brown, Sen. Richard Blumenthal, Sen. Edward J. Markey, and Sen. Robert Menendez, U.S. Senate 44 (Aug. 1, 2023), <https://www.warren.senate.gov/imo/media/doc/Servicers%20Responses.pdf>; Fed. Student Aid Data Center, <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/servicer-portfolio-by-loan-status093023.xls>.



### MOHELA's Performance During the Return to Repayment

In light of the unprecedented grip that MOHELA now has on the federal student loan system, it is critical to understand the impact all these changes are having on borrowers. In October 2023, during the first month of the return to repayment after the pause on federal student loan payments, ED announced it found widespread servicing failures.<sup>25</sup> In response to these findings, ED withheld a \$7.2 million payment to MOHELA that was meant to cover loan servicing required under its federal contract but that the company never performed.<sup>26</sup> Also in October 2023, the New York Times reported that MOHELA miscalculated the SAVE payments for roughly 280,000 borrowers.<sup>27</sup> ED announced that it would place all affected borrowers in an interest-free forbearance and would count this time toward cancellation under PSLF and income-driven repayment (IDR) until the problem is resolved.<sup>28</sup> This news followed reports from borrowers who had been experiencing these issues and more.<sup>29</sup>

Reports from the CFPB just before the return to repayment also show cause for alarm. From July 1, 2022, through September 30, 2023, the CFPB received nearly 3,000 complaints about MOHELA, the most of any federal student loan servicer.<sup>30</sup> Of those complaints, over 1,400 (53

<sup>25</sup> Press Release, U.S. Dep't of Educ., U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers (Oct. 30, 2023), <https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers>.

<sup>26</sup> In contrast, in January 2024, ED announced it also withheld payments from Aidvantage (\$2 million), EdFinancial (\$161,000), and Nelnet (\$13,000). See Press Release, U.S. Dep't of Educ., Biden-Harris Administration Takes Additional Action to Hold Student Loan Servicers Accountable for Failing to Meet Contractual Obligations (Jan. 5, 2024), <https://www.ed.gov/news/press-releases/biden-harris-administration-takes-additional-action-hold-student-loan-servicers-accountable-failing-meet-contractual-obligations>.

<sup>27</sup> Tara Siegel Bernard, More than 400,000 student loan borrowers had wrong monthly payments, The New York Times (Oct. 16, 2023), <https://www.nytimes.com/2023/10/16/your-money/student-loans-save-mistakes.html>.

<sup>28</sup> Press Release, Student Borrower Prot. Ctr., U.S. Department of Education Finds Widespread Servicing Failures Across the Student Loan System, Advocates Urge Follow-On Action By Law Enforcement (Oct. 30, 2023), <https://protectborrowers.org/ed-finds-widespread-servicing-failures-advocates-urge-follow-on-action/>.

<sup>29</sup> Ella Azoulay, Dropped Calls, Hours on Hold, and Unanswered Questions: Student Loan Borrower Call-In Day Shows Servicers Are Alarmingly Unprepared to Return to Repayment (Sept. 22, 2023), <https://protectborrowers.org/call-in-day-of-action-blog/>; Delivering Distress: How Student Loan Companies Cheat Borrowers Out of Their Rights, Student Borrower Prot. Ctr., <https://protectborrowers.org/delivering-distress-report-series/>.

<sup>30</sup> Consumer Complaint Database, Consumer Fin. Prot. Bureau, [https://www.consumerfinance.gov/dataresearch/consumer-complaints/search/?chartType=line&company=MOHELA&dateInterval=Month&date\\_received\\_max=2023-09-30&date\\_received\\_min=2022-07-01&lens=Product&searchField=all&subLens=issue&tab=Trends](https://www.consumerfinance.gov/dataresearch/consumer-complaints/search/?chartType=line&company=MOHELA&dateInterval=Month&date_received_max=2023-09-30&date_received_min=2022-07-01&lens=Product&searchField=all&subLens=issue&tab=Trends) (last visited Feb. 7, 2024).



percent) fell under the following categories: received bad information about your loan, trouble with how payments are being handled, or incorrect information on your report. In its first year of being the sole PSLF servicer, MOHELA itself received 36,309 complaints.<sup>31</sup>

Beyond the issues identified by ED, the results of this investigation show that MOHELA is causing harm to hundreds of thousands of borrowers. MOHELA voluntarily entered the federal student loan servicing business and knew what it was signing up for when it took over PSLF accounts from PHEAA, essentially tripling its accounts overnight. It knew, well in advance, the Biden Administration's plans surrounding debt cancellation and return to repayment that would result in spiked activity among its customers.<sup>32</sup>

#### The MOHELA Paper Findings

The Biden Administration has made tremendous strides in its efforts to deliver debt relief to teachers, healthcare workers, and hundreds of thousands of other public service workers previously denied relief due to decades of government mismanagement and industry abuse. Where 99 percent of public service workers were once rejected and fewer than 8,000 people had ever received debt relief under PSLF, the government has now cancelled more than \$62.5 billion for more than 872,000 borrowers working in public service.<sup>33</sup> In total, executive actions by the Biden Administration have delivered more than \$146 billion in relief to nearly 4 million people.<sup>34</sup>

Our investigation shows that President Biden's historic progress is in peril.

<sup>31</sup> Letter from MOHELA to Sen. Elizabeth Warren at 45, (Aug. 8, 2023), <https://www.warren.senate.gov/imo/media/doc/Servicers%20Responses.pdf>.

<sup>32</sup> Email from Ben Fenwick, Senior Advisor, Student Experience & Aid Delivery, U.S. Dep't of Educ., Fed. Student Aid, to Contact Ctr. Colleagues, Fed. Student Aid (Nov. 19, 2022), <https://protectborrowers.org/wp-content/uploads/2023/09/FSA-warning-email-to-servicers-2022.pdf>.

<sup>33</sup> Student Borrower Prot. Ctr. & Am. Fed'n of Teachers, Keeping the Promise of Public Service Loan Forgiveness (2018), <https://protectborrowers.org/wp-content/uploads/2020/01/SBPC-AFT-PSLF-Investigation.pdf>; Press Release, the White House, President Joe Biden Outlines New Plans to Deliver Student Debt Relief to Over 30 Million Americans Under the Biden-Harris Administration (Apr. 8, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/08/president-joe-biden-outlines-new-plans-to-deliver-student-debt-relief-to-over-30-million-americans-under-the-biden-harris-administration/>.

<sup>34</sup> Press Release, the White House, President Joe Biden Outlines New Plans to Deliver Student Debt Relief to Over 30 Million Americans Under the Biden-Harris Administration (Apr. 8, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/08/president-joe-biden-outlines-new-plans-to-deliver-student-debt-relief-to-over-30-million-americans-under-the-biden-harris-administration/>.



As the federal student loan payment pause comes to an end and tens of millions of borrowers struggle to navigate a complicated and changing student loan system and stretch their budgets to make payment for the first time in three and a half years, MOHELA's actions are cause for alarm. Instead of performing basic servicing functions such as providing borrowers with access to correct information about their loans and options, and processing basic forms, MOHELA has chosen a complex "call deflection" scheme—a byzantine loop of misinformation and false promises.

The "call deflection" scheme diverts borrowers away from customer service representatives—often to non-operative parts of the MOHELA website<sup>35</sup>—even though many servicing functions can *only* be performed by a customer service representative.<sup>36</sup> To borrowers needing help getting into President Biden's new Saving on a Value Education (SAVE) plan, not being able to reach a customer service representative who can tell them about the program could cost the borrower hundreds, and as much as thousands of dollars over this next year.

As the sole servicer for the PSLF program, MOHELA's servicing failures particularly harm public service workers. The obtained documents uncover that MOHELA's processing of PSLF has prevented hundreds of thousands of borrowers from progressing towards relief. Specifically:

- **MOHELA allowed the PSLF backlog to explode, with most recent federal data showing over 800,000 unprocessed forms.** Federal data show that the backlog has grown under MOHELA. When MOHELA took over as the sole PSLF servicer in July 2022, there were roughly 250,000 unprocessed forms.<sup>37</sup> Since then, the backlog peaked at more than 1.2 million forms in January 2023 and has remained, according to most recent ED data, at roughly 800,000—trapping nearly one-in-three PSLF borrowers in this backlog.<sup>38</sup> For some, now that payments have resumed, each additional month their PSLF forms are not processed represents another unnecessary payment on debt that should have been cancelled.
- **MOHELA provided borrowers with incorrect payment counts.** Evidence shows that MOHELA has been incorrectly calculating the number of qualifying payments borrowers

<sup>35</sup> See MOHELA (Nov. 15, 2023), [www.mohela.com](https://www.mohela.com), [https://web.archive.org/web/20231115105645/https://www.mohela.com/]; MOHELA (Dec. 12, 2023), [www.mohela.com](https://www.mohela.com), [https://web.archive.org/web/20231212111348/https://www.mohela.com/].

<sup>36</sup> See MOHELA Papers at Archive C at 383-384.

<sup>37</sup> Public Service Loan Forgiveness Data, Fed. Student Aid Data Center, <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

<sup>38</sup> Public Service Loan Forgiveness Data, Fed. Student Aid Data Center, <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.



have made towards PSLF. Borrowers pursuing PSLF are encouraged to submit PSLF forms annually and when changing employers.<sup>39</sup> MOHELA reviews these forms to ensure the employment qualifies. Then, MOHELA is supposed to inform the borrower of how many qualifying payments they have made, and of how many are left until they reach 120 payments. In 2022, the CFPB received more than 500 complaints about MOHELA, including many from borrowers who allege MOHELA provided incorrect payment counts.<sup>40</sup>

- **MOHELA is denying PSLF credit to public service workers with eligible employment.** In response to a request for all records related to PSLF denials by employers that MOHELA has produced for ED, the company produced a document on June 17, 2023, that shows that it denied nearly 5,000 borrowers and nearly 11,000 borrowers were in a “hold” status.<sup>41</sup> MOHELA sent denials to borrowers who worked at hundreds of qualifying employers including: California State University, state-operated and non-profit healthcare centers and hospitals, state and local governments, public libraries and schools, the U.S. Department of State, the U.S. Department of the Interior, the Departments of Veterans Affairs, Human Services, Homeland Security, and Defense.

Troublingly, the documents expose MOHELA’s potential financial windfall for making improper denials: MOHELA is paid for each processed application—for the wrongful denial and then again for the approval—a backwards incentive.

MOHELA’s customer service problems—including the “call deflection” scheme—exacerbated problems for both public service workers and vulnerable, often low-income, borrowers alike. Records showed that:

- **MOHELA borrowers were unable to reach customer service representatives to address errors.** During the final days of the waiver, while trying to get through to a MOHELA call center representative, one public service worker recorded that they were

<sup>39</sup> Public Service Loan Forgiveness Form, Fed. Student Aid, <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service/public-service-loan-forgiveness-application> (last visited Feb. 8, 2024).

<sup>40</sup> SBPC Analysis of CFPB Complaints (on file). Readers should also note that hundreds of Individual borrowers, including AFT members attending student debt clinics, have documented improper payment counts, delays in receiving updated payment counts, and other payment counting errors at MOHELA over the past 18 months.

<sup>41</sup> See MOHELA Papers at Archive F. Hold status is not defined nor is any further explanation provided publicly by either MOHELA or FSA. See also What is the status of my Public Service Loan Forgiveness (PSLF) application?, Fed. Student Aid, <https://studentaid.gov/help-center/answers/article/status-of-pslf-application>; Public Service Loan Forgiveness, MOHELA <https://www.mohela.com/DL/secure/borrower/PSLF/PSLFInformation.aspx#FormStatus>.



on hold with the company for a full nine hours.<sup>42</sup> Other borrowers also reported waiting for hours on end at this time, during which MOHELA had an average call wait time of two hours.<sup>43</sup> In October 2023, MOHELA reported a 35 minute call wait time and an approximately 35 percent abandonment rate—number of borrowers placed on hold who hang up before they speak with a company representative.<sup>44</sup>

- **MOHELA miscalculated borrowers' payment amounts.** During the return to repayment, ED announced that it would withhold a \$7.2 million payment to MOHELA after finding evidence of gross servicing errors.<sup>45</sup> In October 2023, it was revealed that more than 400,000 federal student loan borrowers were quoted an incorrect monthly bill amount—affecting just under 1.5 percent of all borrowers entering repayment.<sup>46</sup> Of those, 280,000 borrowers—or roughly 1 percent of all borrowers entering repayment—received incorrect bills because MOHELA calculated borrowers' payments utilizing the poverty guidelines from the wrong year.<sup>47</sup> These miscalculations were related to President Biden's new IDR payment plan, Saving on a Valuable Education (SAVE). The SAVE plan was introduced in 2023 as a new, more affordable option for borrowers; it replaced the existing REPAYE plan.<sup>48</sup> SAVE intended to increase the amount of protected income and lower borrowers' monthly payments.<sup>49</sup>
- **MOHELA lost borrowers' payments, refunds, and records.** MOHELA borrowers have reported making payments, not seeing the payment reflected in their account, and

<sup>42</sup> The Debt Collective (@StrikeDebt), X (formerly Twitter) (Oct. 20, 2022), <https://twitter.com/StrikeDebt/status/1583295853649068032>.

<sup>43</sup> Ayelet Sheffey, *Hours-long hold times with their student-loan company are keeping public servants in a 'limbo period' wondering if they'll get the debt relief they qualify for*, Business Insider (Oct. 22, 2022), <https://www.businessinsider.com/student-loan-borrowers-cant-reach-company-mohela-pslf-debt-relief-2022-10>.

<sup>44</sup> See MOHELA Papers at Archive H.

<sup>45</sup> Press Release, U.S. Dep't of Educ., U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers (Oct. 30, 2023), <https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers>; Press Release, Student Borrower Prot. Ctr., U.S. Department of Education Finds Widespread Servicing Failures Across the Student Loan System, Advocates Urge Follow-On Action By Law Enforcement (Oct. 30, 2023), <https://protectborrowers.org/ed-finds-widespread-servicing-failures-advocates-urge-follow-on-action/>.

<sup>46</sup> Tara Siegel Bernard, *More than 400,000 student loan borrowers had wrong monthly payments*, The New York Times (Oct. 16, 2023), <https://www.nytimes.com/2023/10/16/your-money/student-loans-save-mistakes.html>; Danielle Douglas-Gabriel, *Rollout of Biden's new student loan repayment plan hits early snags*, The Washington Post, (Oct. 7, 2023), <https://www.washingtonpost.com/education/2023/10/07/save-student-loan-payment-errors/>.

<sup>47</sup> Siegel Bernard, *supra* note 85.

<sup>48</sup> The Saving on a Valuable Education (SAVE) Plan Offers Lower Monthly Loan Payments, Fed. Student Aid, <https://studentaid.gov/announcements-events/save-plan>.

<sup>49</sup> *Id.*



contacting the company, to be told there is no record of the payment.<sup>50</sup> This also happened with refunds: borrowers would request a refund of a payment or overpayment made during the payment pause, and the amount would be added back to the balance but the borrower would wait months for a check that never arrived.<sup>51</sup> Others reported submitting their annual IDR recertification or PSLF forms, and MOHELA subsequently claiming to have never received them.<sup>52</sup> MOHELA has also claimed to not have full loan histories due to servicer transfers or, as noted by at least one borrower, it responds to complaints by blaming FSA.<sup>53</sup>

- MOHELA misinformed borrowers about their options.** MOHELA's own website illustrates the bad information that many borrowers are receiving.<sup>54</sup> In the screenshot on page 24 of the Report, the borrower had inquired about consolidating her Parent PLUS loans and maintaining her credit towards PSLF. MOHELA inaccurately informed her that if she consolidated her loans, she would "lose all PSLF qualifying payments" that she had at the time. Had she heeded this false warning and not sought confirmation from other sources, this borrower would have missed her opportunity to consolidate and apply her PSLF credit to all of her loans through the Biden Administration's IDR Account Adjustment program.

<sup>50</sup> The details of these experiences were shared by borrowers who reached out to SBPC via our website. Contact Us, Student Borrower Protection Ctr., <https://protectborrowers.org/who-we-are/contact-us/>.

<sup>51</sup> Ayelet Sheffey, *A student-loan borrower was promised a \$5,000 refund on payments after Biden's broad debt relief. Months later, she's still waiting — and no one is picking up the phone to help*, Business Insider (May 19, 2023), <https://www.businessinsider.com/student-loan-borrower-still-waiting-for-refund-mohela-debt-relief-2023-3>; Kaitlyn Koterbski, *Student loan borrowers who requested refunds after forgiveness announcement are still waiting*, Fortune (Sept. 30, 2022), <https://fortune.com/2022/09/30/student-loan-borrowers-who-requested-refunds-after-forgiveness-announcement-are-still-waiting/>.

<sup>52</sup> The details of these experiences were shared by borrowers who reached out to SBPC via our website. Contact Us, Student Borrower Protection Ctr., <https://protectborrowers.org/who-we-are/contact-us/>.

<sup>53</sup> Dawn Allcot, *New Student Loan Problems: Prepare for Lost Payments, Surprise Late Fees as Contracts Change Hands*, Yahoo! Finance (June 27, 2023), <https://finance.yahoo.com/news/student-loan-problems-prepare-lost-113053325.html>; Mohela Missing 3.5 years of payments. What do I do?, Reddit, [https://www.reddit.com/r/PSLF/comments/xg1ruy/mohela\\_missing\\_35\\_years\\_of\\_payments\\_what\\_do\\_i\\_do/](https://www.reddit.com/r/PSLF/comments/xg1ruy/mohela_missing_35_years_of_payments_what_do_i_do/).

<sup>54</sup> See MOHELA (Nov. 15, 2023), www.mohela.com, [https://web.archive.org/web/20231115105645/https://www.mohela.com/]; MOHELA (Dec. 12, 2023), www.mohela.com, [https://web.archive.org/web/20231212111348/https://www.mohela.com/].



### MOHELA's Call Deflection Scheme Ensures Servicing Failures Go Unresolved

MOHELA's Return to Repayment "Playbook" spells out its plan to manage high call volume through a "call deflection" scheme, intentionally giving borrowers the run-around instead of proper customer service.<sup>55</sup> In the Playbook, call deflection is the prime strategy used in each of the ten phases of the return to repayment. According to responsive documents from a November 1, 2023, sunshine law request, MOHELA instructs its call center representatives to use "call deflection strategies," such as directing borrowers to MOHELA's website, to FSA's website, or other self-service options, rather than providing live customer service from a call center representative.<sup>56</sup>

In response to an FSA query on deflection and what messages the agency should communicate, MOHELA responded that ED should "[e]xclude any phone numbers to call into on all communications" and "Avoid phrases such as call or chat with your servicer."<sup>57</sup> In internal correspondence, MOHELA's General Counsel expressed concern over the potential public backlash should evidence of MOHELA's "call deflection" strategy become public.<sup>58</sup>

However, MOHELA is "deflecting" borrowers to incomplete resources. For example, a borrower cannot get all the information they need about their loans on FSA's website alone, such as detailed payment history. And MOHELA's website is missing huge swaths of information about programs and options available to borrowers, including President Biden's on-ramp to repayment and Fresh Start. Even as MOHELA instructs its representatives to "deflect" borrowers to its website, the aforementioned documents acknowledge that the website was incomplete, with a number of "enhancements in progress."<sup>59</sup> In fact, from November 15 to December 12, 2023, MOHELA warned borrowers visiting its website, stating, "you may be experiencing issues while logging in."<sup>60</sup>

<sup>55</sup> See MOHELA Papers at Archive H.

<sup>56</sup> See *id.* at Archive C at 43.

<sup>57</sup> See *id.* at Archive C at 379.

<sup>58</sup> See *id.* at Archive C at 520.

<sup>59</sup> *Id.*

<sup>60</sup> See MOHELA (Nov. 15, 2023), [www.mohela.com](http://www.mohela.com), [https://web.archive.org/web/20231115105645/https://www.mohela.com/]; MOHELA (Dec. 12, 2023), [www.mohela.com](http://www.mohela.com), [https://web.archive.org/web/20231212111348/https://www.mohela.com/].



Further, MOHELA's own documents show that many borrower questions simply cannot be deflected.<sup>61</sup> For example, questions about the IDR Account Adjustment are specific to individual borrower circumstances, yet MOHELA's Return to Repayment Communications Playbook created specific messaging to deflect borrowers with questions about the adjustment.<sup>62</sup>

Internal MOHELA documents identified 28 topics for which there are no self-service options for borrowers, such as refunds, credit concerns including disputes, administrative forbearance, TEACH grant servicing, and PSLF reconsideration, and so borrowers calling about these topics could not be served through deflection.<sup>63</sup> Moreover, the "deflection strategies" does nothing for the borrower who wants someone to explain the different repayment plans to them. Because of MOHELA's call deflection scheme, borrowers who experience any of the issues or obstacles identified in this report may never see a resolution.

#### **MOHELA's Abuses in the Context of Historical Servicing Abuses**

The abuses by MOHELA during the return to repayment have proliferated because of the lax oversight of an ecosystem where servicers have historically prioritized profits at the expense of borrowers' rights. Prior to the pandemic, the student debt system was in crisis—marked by widespread economic distress, government inaction, endemic corruption, and a shocking range of abuses by some of the largest financial companies in the world.

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<sup>61</sup> See MOHELA Papers at Archive C at 383-384.

<sup>62</sup> See *id.* at Archive H at 8.

<sup>63</sup> See *id.* at Archive C at 383-384.



Rising levels of student debt have kept borrowers from owning homes,<sup>64</sup> depressed wages<sup>65</sup> and savings,<sup>66</sup> while increasing credit card debt.<sup>67</sup> Borrowers are less able to save for retirement,<sup>68</sup> exacerbating the growing threat of intergenerational student borrowing.<sup>69</sup>

<sup>64</sup> See, e.g., Meta Brown & Sydnee Caldwell, *Young Student Loan Borrowers Retreat from Housing and Auto Markets*, Fed. Res. Bank of N.Y. (Apr. 17, 2013), <http://libertystreeteconomics.newyorkfed.org/2013/04/young-student-loan-borrowers-retreat-from-housing-and-auto-markets.html> (finding that homeownership rates of 30-year-old student loan borrowers decreased by more than 5 percent compared with homeownership rates of 30-year-old non-borrowers); Fed. Res. Bank of N.Y., *Press Briefing On Household Debt, With Focus On Student Debt* 36-47 (Apr. 3, 2017), <https://www.newyorkfed.org/medialibrary/media/press/PressBriefing-Household-Student-Debt-April32017.pdf#page=39> (finding that college attendees with student debt have lower homeownership rates than college attendees without student debt and that higher debt balances are associated with lower home ownership rates).

<sup>65</sup> See, e.g., Justin Weidner, *Does Student Debt Reduce Earnings?*, Princeton U. (Nov. 2016), [https://scholar.princeton.edu/sites/default/files/jweidner/files/Weidner\\_JMP.pdf](https://scholar.princeton.edu/sites/default/files/jweidner/files/Weidner_JMP.pdf) (finding that “student debt is permanently scarring, as graduates with debt experience no faster income growth than their unburdened peers. Debt induces graduates to enter employment faster and select jobs in unrelated fields, leading to lower income levels and growth rates.”).

<sup>66</sup> See, e.g., Daniel Cooper & J. Christina Wang, *Student Loan Debt and Economic Outcomes*, Fed. Res. Bank of Bos., *Current Pol’y Persp.* No. 14-7 (Oct. 2014), <https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/economic/cpp1407.pdf> (“In addition, the distribution of total wealth excluding student debt liabilities is lower for homeowners with student debt than for homeowners without student loan debt (again conditional on at least some college attendance). This wealth disparity remains even after controlling for a wide range of demographic and other factors.”).

<sup>67</sup> See, e.g., Consumer Fin. Prot. Bureau, *New research report on student loan repayment and broader household borrowing* (June 29, 2018), <https://www.consumerfinance.gov/about-us/blog/new-research-report-student-loan-repayment-and-broader-household-borrowing/>.

<sup>68</sup> See, e.g., Consumer Fin. Prot. Bureau, *Snapshot of older consumers and student loan debt* 14 (Jan. 2017), [http://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_OA-Student-Loan-Snapshot.pdf](http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf) (finding that borrowers nearing retirement “had a lower median amount in their employer-based retirement account or an Individual Retirement Account (IRA) than consumers without student loan debt”); Joe Valenti, *A Look at College Costs Across Generations*, AARP (May 2019), <https://www.aarp.org/content/dam/aarp/ppi/2019/05/a-lock-at-college-costs-across-generations.doi.10.26419-2Fppi.00063.001.pdf> (finding that student loan borrowers may need to work two to seven years longer than non-borrowers to achieve the same retirement savings); Joseph Egoian, *73 Will Be the Retirement Norm for Millennials*, NerdWallet (Oct. 23, 2013), <https://www.nerdwallet.com/blog/investing/73-retirement-norm-millennials/> (finding that a 4 year college graduate with median student loan debt of \$23,000 has about \$115,000 less in retirement savings than a 4 year college graduate with no student loans by the time they reach age 73); Mikhail Zinshteyn, *Saddled With Debt, Recent Grads Can’t Save*, AARP (May 29, 2019), <https://www.aarp.org/money/credit-loans-debt/info-2019/recent-grads-delay-saving.html>.

<sup>69</sup> See, e.g., William Elliot & Melinda Lewis, *Student Debt Effects on Financial Well-Being: Research and Policy Implications*, 29 J. Econ. Surveys 614 (2015), <http://onlinelibrary.wiley.com/doi/10.1111/joes.12124/full> (finding that student loan debt can delay asset accumulation for years and can decrease a family’s net worth by 63 percent); Daniela Kraiem, *The Cost of Opportunity: Student Debt and Social Mobility*, 48 Suffolk U. L. Rev. 689, 699 (2015) (“Students with unmanageable debt are more likely to be low-income, female, black, and have dependent members such as children or elderly parents.”); William Elliot & Melinda Lewis, *Student Loans Are Widening The Wealth Gap: Time To Focus On Equity, Assets & Educ.* Initiative, U. Of Kan. 7 (2013), <https://aedi.ssw.umich.edu/sites/default/files/publications/publication-cd-reports-r1.pdf> (“However, despite our



Ending the student debt crisis is a matter of equity and a matter of justice. Borrowers of color take on more debt, struggle to repay these debts at higher rates, disproportionately default on federal student loans, and—as a consequence of both government mismanagement and abusive industry practices—are disproportionately crushed by the government’s predatory debt collection machine.<sup>70</sup>

The consequences for borrowers of color have been catastrophic and have exacerbated economic inequities. A conclusive and growing body of evidence confirms that rising levels of student debt and distress disproportionately affect borrowers of color,<sup>71</sup> in particular Black women.<sup>72</sup> A 2019 study by researchers at Brandeis found that “twenty years after starting college, the median debt of [white borrowers] has been reduced by 94 percent—with almost half holding no student debt—whereas Black borrowers at the median still owe 95 percent of their cumulative borrowing total.”<sup>73</sup> And, according to a study by researchers at the Jain Family Institute, over three quarters of student loans in majority-minority zip codes have a higher balance than what was originally borrowed.<sup>74</sup>

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collective belief in an American dream of equitable opportunities for all, higher education today increasingly reinforces patterns of relative privilege, particularly as students rely more and more on student loans to finance college access.”)

<sup>70</sup> Judith Scott-Clayton, *Shrinking Racial Gaps in Student Debt and Default: Recommendations to Congress* (Mar. 6, 2019), <https://ccrc.tc.columbia.edu/easyblog/shrinking-racial-gaps-student-debt-default-congress.html>.

<sup>71</sup> See, e.g., The Educ. Trust, *Jim Crow Debt: How Black Borrowers Experience Student Loans* (Oct. 2021); <https://edtrust.org/wp-content/uploads/2014/09/Jim-Crow-Debt-How-Black-Borrowers-Experience-Student-Loans-October-2021.pdf>; see also Dalié Jiménez & Jonathan Glater, *Student Debt Is a Civil Rights Issue: The Case for Debt Relief and Higher Education Reform*, 55 Harv. C.R.-C.L.L. Rev. 131, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3475224&dgcid=ejournal\\_html\\_email\\_education:law:ejournal\\_abstractlink](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3475224&dgcid=ejournal_html_email_education:law:ejournal_abstractlink); Ashley Harrington & Mark Huelsman, *Introduction to Delivering on Debt Relief* (Dec. 2020), <https://protectborrowers.org/wp-content/uploads/2021/02/Delivering-on-Debt-Relief-Final.pdf>.

<sup>72</sup> See, e.g., The Education Trust, *How Black Women Experience Student Debt* (2022), <https://edtrust.org/resource/how-black-women-experience-student-debt/>.

<sup>73</sup> Laura Sullivan, et. al., *Stalling Dreams: How Student Debt is Disrupting Life Chances and Widening the Racial Wealth Gap* (2019), <https://heller.brandeis.edu/iasp/pdfs/racial-wealth-equity/racial-wealth-gap/stallingdreams-how-student-debt-is-disrupting-lifechances.pdf>.

<sup>74</sup> Jain Family Inst., *Student Debt and Young America* (February 2021), <https://www.jainfamilyinstitute.org/assets/student-debt-and-young-america-jfi-feb-2021.pdf#page=23>.



Administrations of both parties have ignored the stark reality that the student debt crisis is principally a failure of public policy—one made far worse by widespread lawlessness across the student loan industry.<sup>75</sup>

The Higher Education Act makes bold promises to Americans with student debt, including that:

- Monthly student loan payments will never be “unaffordable;”<sup>76</sup>
- Public service workers who serve for a decade will receive loan forgiveness;<sup>77</sup>
- Those whose disabilities prevent them from working will get debt cancellation;<sup>78</sup>
- Student loan payments will never be a life-long burden for low-income people;<sup>79</sup> and
- The government will discharge debts for those who have been defrauded by a predatory school and those who have faced a school closure.<sup>80</sup>

Yet despite these promises, before the pandemic more than one million student loan borrowers defaulted each year—the equivalent of a new default every 26 seconds.<sup>81</sup> Officials of both parties routinely call the state of the student loan system “broken,”<sup>82</sup> a “mess,”<sup>83</sup> and “corrupt.”<sup>84</sup>

<sup>75</sup> See, e.g., *Consumer Fin. Prot. Bureau v. Navient Corp.*, 2017 WL 3380530 (M.D. Pa. Aug. 4, 2017); *Lawson-Ross v. Great Lakes Higher Education Corp.*, No. 18-14490 (11th Cir. 2020); *Grewal v. Navient Corp.*, No. ESX-C-172-2020 (N.J. Super. Ct. Ch. Div. Oct. 20, 2020); *Consent Order, Vullo v. Conduent Educ. Services* (Jan. 4, 2019); *Nelson v. Great Lakes Higher Education Corp.*, No. 18-1531 (7th Cir. 2019); *First Amended Complaint, People v. Navient Corp.*, No. CGC-18-567732 (Cal. Super. Ct. Nov. 1, 2018); *Mississippi v. Navient Corp.*, No. 25CH1:18-CV-00982 (Miss. Ch. Ct. Hinds Cty. July 17, 2018); *Commonwealth v. Navient Corp.*, No. 19-2116 (M.D. Pa. Oct. 5, 2017); *Marek v. Navient Corp.*, 2017 WL 2881606 (N.D. Ohio July 6, 2017); *Complaint, People v. Navient Corp.*, No. 17CH761 (Ill. Cir. Ct. Cook Cty. Jan. 18, 2017).

<sup>76</sup> See, e.g., 20 U.S.C. § 1098e.

<sup>77</sup> 20 U.S.C. § 1087e(m).

<sup>78</sup> 20 U.S.C. § 1087.

<sup>79</sup> See, e.g., 20 U.S.C. § 1087e(d)(D).

<sup>80</sup> 20 U.S.C. § 1087e.

<sup>81</sup> Student Borrower Prot. Ctr., *New Data Show Student Loan Defaults Spiked in 2019 – A Warning to Industry and DeVos Amid Economic Fallout* (2019), <https://protectborrowers.org/every-26-seconds>.

<sup>82</sup> CBS News, *Secretary of Education Miguel Cardona on why “fixing a broken” student loan system is a priority for Biden administration* (2021), <https://www.cbsnews.com/news/secretary-of-education-miguel-cardona-student-loan-system/>.

<sup>83</sup> Nat’l Pub. Radio, *Exclusive: How the most affordable student loan program failed low-income borrowers* (2022), <https://www.npr.org/2022/04/01/1089750113/student-loan-debt-investigation>.

<sup>84</sup> Office of Sen. Elizabeth Warren, *Warren Statement on Department of Education’s Decision to Collect \$22.3 Million from Student Loan Giant Navient After Years of Predatory Behavior* (2021), <https://www.warren.senate.gov/newsroom/press-releases/warren-statement-on-department-of-educations-decision-to-collect-223-million-from-student-loan-giant-navient-after-years-of-predatory-behavior>.



When President Biden took office, he inherited a student loan system that was failing each of these student loan borrowers.

- In 2021, the Government Accountability Office (GAO) found that the Public Service Loan Forgiveness (PSLF) program, which was established 14 years prior, had only canceled the loans of 124 members of the military, even as hundreds of thousands of borrowers have served.<sup>85</sup> Because of President Biden's PSLF Waiver, more than 872,000 borrowers have benefited from PSLF.<sup>86</sup>
- The National Consumer Law Center published data under the Freedom of Information Act showing that, as of January 2021, only 32 borrowers had successfully navigated the income-driven repayment (IDR) plans and received cancellation.<sup>87</sup> Eighteen months later, the Government Accountability Office found that just 132 people have had debts canceled, out of more than 4 million with decades-old debts.<sup>88</sup> This prompted the IDR Account Adjustment which has now increased that number to nearly a million borrowers.<sup>89</sup>
- The government identified more than 500,000 people with disabilities who are eligible to have their debts immediately canceled based on data provided by the Social Security Administration to the Department.<sup>90</sup> Here, the Biden Administration has cancelled \$14.1

<sup>85</sup> See Gov. Accountability Off., *Public Service Loan Forgiveness* (2021), [https://www.gao.gov/products/gao-21-65?utm\\_medium=social](https://www.gao.gov/products/gao-21-65?utm_medium=social); see also Consumer Fin. Prot. Bureau, *Remarks of CFPB Student Loan Ombudsman Seth Froman before the Judge Advocate General School* (2017), [https://files.consumerfinance.gov/f/documents/201710\\_cfpb\\_Froman-Remarks-JAG-School.pdf](https://files.consumerfinance.gov/f/documents/201710_cfpb_Froman-Remarks-JAG-School.pdf). ("...more than 200,000 servicemembers collectively owe more than \$2.9 billion in student debt.")

<sup>86</sup> See U.S. Dep't of Educ., *Press Release: Biden-Harris Administration Announces New Plan to Deliver Debt Relief to Tens of Millions of Americans* (Apr. 8, 2024), <https://www.ed.gov/news/press-releases/biden-harris-administration-announces-new-plans-deliver-debt-relief-tens-millions-americans>.

<sup>87</sup> Nat'l Consumer L. Ctr. & Student Borrower Prot. Ctr., *Education Department's Decades-Old Debt Trap: How the Mismanagement of Income-Driven Repayment Locked Millions in Debt* (Mar. 2021), <https://www.nclc.org/uncategorized/new-government-data-exposes-complete-failure-of-education-departments-income-driven-repayment-program.html>.

<sup>88</sup> Gov. Accountability Off., *Education Needs to Take Steps to Ensure Eligible Loans Receive Income Driven Repayment Forgiveness* (Apr. 2022), <https://www.gao.gov/assets/gao-22-103720.pdf>; Office of Sen. Elizabeth Warren, *Education Department Responses to Data Request by Senator Warren* (2021), <https://www.warren.senate.gov/imo/media/doc/Education%20Department%20Response%20to%20Sen%20Warren%20-%204-8-21.pdf>.

<sup>89</sup> See U.S. Dep't of Educ., *Press Release: Biden-Harris Administration Announces New Plan to Deliver Debt Relief to Tens of Millions of Americans* (Apr. 8, 2024), <https://www.ed.gov/news/press-releases/biden-harris-administration-announces-new-plans-deliver-debt-relief-tens-millions-americans>.

<sup>90</sup> Nat'l Consumer L. Ctr., Student Defense, et. al, *Letter to Secretary Cardona on Total and Permanent Disability Discharge* (2021), [https://www.nclc.org/images/pdf/student\\_loans/TPD\\_Regs\\_Ltr.pdf](https://www.nclc.org/images/pdf/student_loans/TPD_Regs_Ltr.pdf); see also Social Security Admin. Off. of the Inspector Gen., *Social Security Administration Beneficiaries Eligible for Total and Permanent*



billion for more than 548,000 borrowers, and issued new regulations that will automatically discharge loans owed by borrowers identified as eligible through a data match with the Social Security Administration.<sup>91</sup>

The Biden Administration's steps are important and have been life changing for those individuals who benefit. For example, one public service worker who benefited from debt cancellation since the Biden Administration temporarily loosened program rules in 2021 described debt relief as life-changing: "No more student debt. I only have a car payment, that's all I owe in the whole world. That is incredible."<sup>92</sup> Another said, "everything is close to the bone and so often the savings account is empty... [for public school educators, debt cancellation is] like a validation: I am important, and you do want us to stick around!"<sup>93</sup>

Yet many of these changes are limited and temporary, and as The MOHELA Papers shows, the student loan system is still unable to function properly. There is evidence that borrowers continue to receive unreliable or incorrect information regarding how to access relief,<sup>94</sup> and when payments resumed last fall after over three years, borrowers whose applications for cancellation were pending were thrown back into repayment.<sup>95</sup> Further, the Department of Education's most recent public reports acknowledged a backlog of more than 464,000 applications for Borrower Defense discharges—the number of unprocessed claims for debt relief due to fraud by a school climbed by more than 438,000 during the Biden Administration's first two years.<sup>96</sup> Although the Administration has issued rules that make Borrower Defense more

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*Disability Federal Student Loan Discharge* (Nov. 2020), <https://oig.ssa.gov/sites/default/files/audit/summary/pdf/A-06-17-50281Summary.pdf>.

<sup>91</sup> See U.S. Dep't of Educ., Press Release: Biden-Harris Administration Announces New Plan to Deliver Debt Relief to Tens of Millions of Americans (Apr. 8, 2024), <https://www.ed.gov/news/press-releases/biden-harris-administration-announces-new-plans-deliver-debt-relief-tens-millions-americans>.

<sup>92</sup> Am. Fed'n of Teachers, *Student debt: One happy ending* (Dec. 22, 2022), <https://aftvoices.org/student-debt-one-happy-ending-a7b931526f6b>.

<sup>93</sup> *Meet The Educators Whose Student Debt Has Been Forgiven*, National Education Ass'n (Jan. 20, 2022), <https://www.nea.org/advocating-for-change/new-from-nea/meet-educators-whose-student-debt-has-been-forgiven>.

<sup>94</sup> See Student Borrower Prot. Ctr., Consumer Protection Agencies Must Ensure Student Loan Companies Inform Borrowers About Once-In-A-Lifetime Opportunity to Become Debt-Free (Nov. 15, 2023), <https://protectborrowers.org/consumer-protection-agencies-must-ensure-student-loan-companies-inform-borrowers-about-idr-aa/>.

<sup>95</sup> U.S. Department of Education Office of Federal Student Aid, Electronic Announcement on Public Service Loan Forgiveness Waiver (2021), <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-06-14/federal-student-aid-posts-two-new-quarterly-portfolio-reports-fsa-data-center-and-highlights-recent-changes-public-service-loan-forgiveness-ea-id-general-21-40>.

<sup>96</sup> Compare U.S. Dep't of Educ. Off. of Fed. Student Aid, *Borrower Defense Data* (Jan. 31, 2023), <https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data>, with U.S. Dep't of Educ. Off. of



accessible to students who have been defrauded, those rules have been challenged and are currently enjoined.<sup>97</sup>

In important ways, the national conversation surrounding the cancellation of student debt has only recently caught up with a reality that millions of people with student loan debt experience each day.

### **Student Loan Servicers Turned a Policy Failure into a Generational Crisis**

Over the past decade, federal and state regulators and law enforcement officials have meticulously documented a shocking range of abuses by student loan companies. As Consumer Financial Protection Bureau Director Rohit Chopra explained to this committee in 2022, misrepresentations by student loan servicers have “long been a concern” given the “incentive mismatch” between servicers, whose costs are reduced if they can limit interaction with borrowers, even where borrowers are entitled under the law to be fully informed about their rights.<sup>98</sup> According to Director Chopra, this incentive mismatch is reflected in reports from servicer employees that “their job was to get the borrower off the phone as quick as possible,” even if that meant directing borrowers into costly [repayment arrangements] when that was not necessarily their best option.<sup>99</sup>

These illegal acts and practices have affected every type of borrower, with every type of loan, at every stage of repayment.<sup>100</sup> For example, over the past decade, student loan servicers have been caught by regulators:

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Fed. Student Aid, *Borrower Defense Data* (Jan. 31, 2021), <https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data>.

<sup>97</sup> Katherine Knott, *Borrower Defense Rules Blocked Again*, Inside Higher Ed (Apr. 8, 2024), <https://www.insidehighered.com/news/quick-takes/2024/04/08/borrower-defense-rules-blocked-again>.

<sup>98</sup> Youtube, *Menendez Questions CFPB Director Chopra At Banking Committee Hearing* (Apr. 2022), <https://www.youtube.com/watch?v=MTJh8IidV6k>.

<sup>99</sup> *Id.*

<sup>100</sup> See, e.g., Consumer Fin. Prot. Bureau v. Navient Corp., 2017 WL 3380530 (M.D. Pa. Aug. 4, 2017); Lawson-Ross v. Great Lakes Higher Education Corp., No. 18-14490 (11th Cir. 2020); Grewal v. Navient Corp., No. ESX-C-172-2020 (N.J. Super. Ct. Ch. Div. Oct. 20, 2020); People v. Pennsylvania Higher Educ. Assistance Agency, No. 1:2019cv09155 (S.D.N.Y. Oct. 3, 2019); Vullo v. Conduent Educ. Services (Jan. 4, 2019) (consent order); Nelson v. Great Lakes Higher Education Corp., No. 18-1531 (7th Cir. 2019); People v. Navient Corp., No. CGC-18-567732 (Cal. Super. Ct. Nov. 1, 2018) (first amended complaint); Mississippi v. Navient Corp., No. 25CH1:18-CV-00982 (Miss. Ch. Ct. Hinds Cty. July 17, 2018); Commonwealth v. Navient Corp., No. 19-2116 (M.D. Pa. Oct. 5, 2017); Marek v. Navient Corp., 2017 WL 2881606 (N.D. Ohio July 6, 2017); People v. Navient Corp., No. 17CH761 (Ill. Cir. Ct. Cook Cty. Jan. 18, 2017) (complaint).



- Illegally denying or failing to approve applications for affordable loan payments under IDR, forcing borrowers to pay more than they owe and increasing interest charges.<sup>101</sup>
- Harvesting late fees from borrowers by engaging in a scheme to maximize the number of payments counted as late payments.<sup>102</sup>
- Deceiving borrowers who have made extra payments on their loans about how interest would be charged.<sup>103</sup>
- Covering up improper loan deferments and illegally failing to address the increased interest charges these errors imposed on people with student debt.<sup>104</sup>
- Engineering a scheme to deceive borrowers and maximize interest charges when borrowers used multiple deferments or forbearances over extended periods of time.<sup>105</sup>
- Lying to borrowers about whether late fees may be charged on loans held by ED.<sup>106</sup>
- Failing to inform borrowers with private student loans that pausing loan payments will forfeit other consumer protections, including the right to release a co-signer.<sup>107</sup>
- Illegally increasing borrowers' interest rates when one creditor sold student loans to a different investor, resulting in a botched servicing transfer.<sup>108</sup>
- Illegally "auto-defaulting" student loan borrowers when a loan's cosigner filed for bankruptcy, regardless of whether the borrower was current on all payments.<sup>109</sup>

In addition, federal and state law enforcement officials have taken enforcement actions and filed lawsuits against servicers, including, for example:

- In 2014, the Federal Deposit Insurance Corporation and the U.S. Department of Justice each took an enforcement action against Sallie Mae and Navient for a range of abuses,

<sup>101</sup> See Consumer Fin. Prot. Bureau, *Supervisory Highlights* (Fall 2016), [https://www.consumerfinance.gov/documents/1389/Supervisory\\_Highlights\\_Issue\\_13\\_Final\\_10.31.16.pdf](https://www.consumerfinance.gov/documents/1389/Supervisory_Highlights_Issue_13_Final_10.31.16.pdf).

<sup>102</sup> See *id.*

<sup>103</sup> See *id.*

<sup>104</sup> See Consumer Fin. Prot. Bureau, *Supervisory Highlights* (April 2017), [https://www.consumerfinance.gov/documents/4608/201704\\_cfpb\\_Supervisory-Highlights\\_Issue-15.pdf](https://www.consumerfinance.gov/documents/4608/201704_cfpb_Supervisory-Highlights_Issue-15.pdf).

<sup>105</sup> See *id.*

<sup>106</sup> See Consumer Fin. Prot. Bureau, *Supervisory Highlights* (Fall 2015), [http://files.consumerfinance.gov/f/201510\\_cfpb\\_supervisory-highlights.pdf](http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf).

<sup>107</sup> See Consumer Fin. Prot. Bureau, *Supervisory Highlights* (Winter 2016), [http://files.consumerfinance.gov/f/201603\\_cfpb\\_supervisory-highlights.pdf](http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf).

<sup>108</sup> See *id.*

<sup>109</sup> See *id.*



including violations of the Servicemember Civil Relief Act that resulted in \$60 million being returned to nearly 78,000 military borrowers.<sup>110</sup>

- In 2015, the CFPB took action against Discover Bank for deceiving borrowers about how much they owed each month and making illegal debt collection calls to borrowers early in the morning and late at night.<sup>111</sup>
- In 2016, the CFPB found that Wells Fargo was illegally harvesting late fees from student loan borrowers who paid less than the amount due each month.<sup>112</sup>
- In 2017, the CFPB took action against Navient, along with state attorneys general in Washington, Pennsylvania, and Illinois for illegally steering borrowers into forbearance—a repayment option designed to assist borrowers experiencing short-term financial hardship—when borrowers have a right under federal law to enroll in repayment plans that allow for lower monthly payments over the long-term and that entitle them to eventual loan forgiveness.<sup>113</sup>
- Enforcement officials’ investigation into Navient also found that:
  - Navient failed to properly inform borrowers of the need to renew their income-driven repayment plans and failed to properly process those renewals, resulting in interest capitalization on borrowers’ loans.<sup>114</sup>
  - Navient was misreporting to credit bureaus that loans were in default when they were in fact discharged under total and permanent disability discharge, including loans owed by servicemembers with service-connected disabilities.<sup>115</sup>

<sup>110</sup> See, e.g., Press Release, U.S. Dep’t of Justice, *Nearly 78,000 Service Members to Begin Receiving \$60 Million Under Department of Justice Settlement with Navient for Overcharging on Student Loans* (May 28, 2015), <https://www.justice.gov/opa/pr/nearly-78000-service-members-begin-receiving-60-million-under-department-justice-settlement>. Further, state attorneys general have increased the volume of enforcement actions in this market, bringing high profile cases against a range of actors.

<sup>111</sup> *In Re Discover Bank, The Student Loan Corporation, and Discover Products, Inc.*, Administrative Proceeding File No. 2015-CFPB-0016, Dkt. 1, (July 22, 2015), [https://files.consumerfinance.gov/f/201507\\_cfpb\\_consent-order-in-the-matter-of-discover-bank-student-loan-corporation.pdf](https://files.consumerfinance.gov/f/201507_cfpb_consent-order-in-the-matter-of-discover-bank-student-loan-corporation.pdf).

<sup>112</sup> *In Re Wells Fargo Bank, N.A.*, Administrative Proceeding File No. 2016-CFPB-0013, Dkt. 1, (Aug. 22, 2016), [https://files.consumerfinance.gov/f/documents/2016-CFPB-0013Wells\\_Fargo\\_Bank\\_N.A.\\_-\\_Consent\\_Order.pdf](https://files.consumerfinance.gov/f/documents/2016-CFPB-0013Wells_Fargo_Bank_N.A._-_Consent_Order.pdf).

<sup>113</sup> *Consumer Fin. Protect. Bureau v. Navient Corp. et. al.*, Case No. 3:17-cv-00101-RDM, Dkt. 1 at ¶1-6, (M.D. PA. Jan. 18, 2017), [https://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_Navient-Pioneer-Credit-Recovery-complaint.pdf](https://files.consumerfinance.gov/f/documents/201701_cfpb_Navient-Pioneer-Credit-Recovery-complaint.pdf); *AG Ferguson Files Suit Against Sallie Mae Offshoot Navient Corp., Announces Student Loan Bill of Rights Legislation*, Wash. State Off. of the Att’y Gen. (Jan. 18, 2017), <https://www.atg.wa.gov/news/news-releases/ag-ferguson-files-suit-against-sallie-mae-offshoot-navient-corp-announces-student>.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*



- Navient falsely represented to borrowers with cosigned loans the criteria for cosigner release and denied borrowers with the stated criteria.<sup>116</sup>
- In late 2017, the Bureau took action against Citibank for deceiving borrowers about tax-deduction benefits, incorrectly charging late fees, and, like in the Discover case, overstating the minimum amount owed.<sup>117</sup>
- In 2017, the Commonwealth of Massachusetts brought an enforcement action against the Pennsylvania Higher Education Assistance Agency, finding that the company cheated teachers and other public service workers out of their rights to have debts canceled under the Public Service Loan Forgiveness program.<sup>118</sup> The action was settled in 2021.
- In 2019, New York law enforcement officials announced a settlement with the student loan servicer Conduent, formerly known as ACS, for steering borrowers into forbearance and other illegal servicing practices.<sup>119</sup>
- In 2020, the Bureau, then under the leadership of a Republican agency head, took another action against Discover Bank for violating the terms of its prior settlement with the agency and continuing to cheat borrowers out of their rights.<sup>120</sup>
- In 2022, following nearly three years of litigation, the Pennsylvania Higher Education Assistance Agency settled charges brought by the New York Attorney General that it cheated public service workers out of their rights to loan forgiveness and affordable loan payments.<sup>121</sup>
- In 2022, Navient settled with 39 State Attorneys General to resolve claims related to forbearance steering and predatory subprime lending to students attending for-profit

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<sup>116</sup> *Id.*

<sup>117</sup> *CFPB Takes Action Against Citibank For Student Loan Servicing Failures That Harmed Borrowers*, Consumer Fin. Protect. Bureau (Nov. 21, 2017), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-citibank-student-loan-servicing-failures-harmed-borrowers/>.

<sup>118</sup> *Commonwealth v. Pennsylvania Higher Educ. Assistance Agency*, No. 1784CV02682-BLS2, 2018 WL 1137520, Dkt. 1. (Mass. Super. Mar. 1, 2018).

<sup>119</sup> *Attorney General James And Superintendent Vullo Announce \$9 Million Settlement Of Federal Student Loan Servicing Claims With Acs Education Services*, N.Y. Att'y Gen. (Jan. 4, 2019), <https://ag.ny.gov/press-release/attorney-general-james-and-superintendent-vullo-announce-9-million-settlement-federal>.

<sup>120</sup> *Consumer Financial Protection Bureau Settles with Student Loan Servicers Discover Bank, The Student Loan Corporation, and Discover Products, Inc. for Violating a Bureau Consent Order and Other Unlawful Practices*, Consumer Fin. Protect. Bureau (Dec. 22, 2020), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-with-student-loan-servicers-discover-bank-the-student-loan-corporation-and-discover-products-inc-for-violating-a-bureau-consent-order-and-other-unlawful-practices/>.

<sup>121</sup> *Attorney General James Secures Student Debt Relief for Thousands of New Yorkers*, N.Y. Att'y Gen., (Apr. 28, 2022), <https://ag.ny.gov/press-release/2022/attorney-general-james-secures-student-debt-relief-thousands-new-yorkers>.



schools.<sup>122</sup> The company agreed to pay \$1.85 billion to resolve the allegations.

Consider the story of one borrower who reached out to SBPC for help after decades of struggle. “Marie” consolidated her loans in 1995 with a loan balance of less than \$9,000. More than 25 years later, her loan balance is now over \$105,000. Her servicer, American Education Services (AES) never informed her of income-driven repayment options and steered her into costly forbearances and deferments, which exacerbated the exponential growth of her loan balance.

During this time, Marie was earning an average of \$20,000 gross for a household of two and would have qualified for \$0 or very low payments under IDR. But for her servicer’s abusive practices, Marie could have been debt free long ago. Thanks to the assistance of a legal services attorney who helped her consolidate her loan into the Direct loan program, Marie’s loans have been cancelled through the IDR Account Adjustment.

The impact of abuses like those encountered by Marie have caused millions of student loan borrowers to needlessly spend additional years, and in some cases, decades trapped in unaffordable student loan debt.

#### **Accountability and Remedies are Necessary to Break the Cycle of Deception and Abuse**

For the millions of federal student loan borrowers whose loans are serviced by MOHELA, attempting to navigate the return to repayment has proven to be perilous. Though the Biden Administration has provided many tools to help ease borrowers’ experience into repayment, too many MOHELA borrowers still find those programs to be illusive.

As with prior servicing abuses, borrowers are the ones paying the ultimate price for deliberate choices made by MOHELA executives with regards to staffing decisions and ensuring quality control over its communications and accounts.

While ED has taken some actions to hold MOHELA accountable—withholding \$7.2 million in payment for failing to perform on its contract and providing some borrowers with zero percent interest forbearances—these actions fail to provide a full and adequate remedy to borrowers who have been harmed, may be subject to their own implementation errors by MOHELA, and do not hold the company’s executives accountable.

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<sup>122</sup> See generally Navient AG Multi-State Settlement, <https://www.navientagsettlement.com/Home/portalid/0> (last accessed Apr. 9, 2024).



By their contracts, servicers are required to “comply with all Federal, State, and local laws, rules, and regulations applicable to its performance.”<sup>123</sup> But the contractually provided incentives fail to set standard and transparent borrower protections and for too long, ED has failed to adequately enforce these requirements. Further, few student loan borrowers have the ability to seek redress when servicers violate their rights. The few who are able to find a lawyer to assist them still face an uphill battle because the HEA provides no explicit private right of action to student loan borrowers who seek to enforce disclosure requirements or challenge a servicer’s failure to comply with other obligations set out in federal law.<sup>124</sup> Borrowers can raise state law claims, including those based on fraud and misrepresentation, but servicers—including MOHELA—often assert both that these claims are preempted by the HEA and that they are shielded from liability through sovereign immunity.<sup>125</sup>

Now is the time to break the cycle of deception and abuse. Borrowers deserve better than an endless cycle of scandal and yet no accountability.

For the record, MOHELA should be fired. Borrowers deserve more.

To fix the student loan system, the Biden Administration should implement:

**A circuit breaker for the student loan system.** When the COVID-19 pandemic struck, policymakers recognized that the student loan system could not be relied upon to protect vulnerable people and respect borrowers’ rights. Congress shut the whole system down. The Biden Administration has done something similar as servicing errors mounted in recent months, suspending bills and waiving interest charges for classes of borrowers harmed by servicing failures. This should be routine and noncontroversial. The student loan system should shut off whenever a circuit is tripped, whether that is due to lawbreaking by a student loan company, a change in economic conditions, or the loss of a key federal contractor. Borrowers should never bear the cost when the system fails them.

**A strategy to remove discretion from the student loan industry.** Rather than continuing to rely on the same awful student loan companies and allow them to rebrand as creatures of the

<sup>123</sup> Amendment of Solicitation/Modification of Contract Issued by U.S. Department of Education at 3, [https://www.sec.gov/Archives/edgar/data/1258602/000125860221000070/exhibit10109d0013\\_mod001.htm](https://www.sec.gov/Archives/edgar/data/1258602/000125860221000070/exhibit10109d0013_mod001.htm).

<sup>124</sup> See 20 U.S.C. § 1001 *et seq.*

<sup>125</sup> See Defendant Higher Education Loan Authority of the State of Missouri’s Reply Memorandum in Support of its Motion to Dismiss Plaintiffs’ Complaint, Joy et al. v. MOHELA, No. 23-cv-01590-SEP (E.D. Mo. Apr. 8, 2024), ECF No. 23.



federal government, we should pursue a strategy that acknowledges the limits of the existing system and seeks to move beyond the current era of privatization and abuse.

**In the end, we need to cancel the debt and make college free.**

Thank you for the close attention you are paying to MOHELA and the harm they are inflicting on millions of student loan borrowers, and for the opportunity to provide this testimony. I look forward to your questions.

**PREPARED STATEMENT OF JASON DELISLE**

NONRESIDENT SENIOR FELLOW, CENTER ON EDUCATION DATA AND POLICY, URBAN INSTITUTE

APRIL 10, 2024

**Introduction**

Chair Warren, Ranking Member Kennedy, and Members of the Subcommittee, thank you for the opportunity to testify about servicing in the Federal student loan program. The views expressed are my own and should not be attributed to the Urban Institute, its trustees, or its funders.

I am a nonresident senior fellow at the Urban Institute's Center on Education Data and Policy, where I conduct research and analysis on higher education policy. Much of my work at the Urban Institute and throughout my career has focused on improving the design and operation of the Federal student loan program. I have published numerous analyses that examine the Income-Driven Repayment program and the Public Service Loan program to help policymakers understand the strengths and weaknesses of these benefits and how they can be improved. My testimony focuses on these two programs as they are at the center of many complaints about loan servicing. I also draw on research I conducted in 2019 at the American Enterprise Institute that examined the loan servicing system in relation to borrowers' complaints filed with the Consumer Financial Protection Bureau.<sup>1</sup>

As you are aware, nearly all student debt is issued through the Federal Government's student loan program. However, the Government does not service the loans itself. Instead, it contracts with private companies (servicers) to handle most interactions with borrowers.<sup>2</sup> Borrowers with Federal student loans are unlikely to interact much with the U.S. Department of Education (the Department) when repaying their loans. Loan servicing companies collect payments, staff call centers, maintain websites, send account statements, and inform borrowers of repayment options.

Despite loan servicing companies' important role play in administering the program, the Department and Congress are also responsible for how the Federal student loan program operates. The Department plays a key role the program's administration by maintaining loan records, designing forms, and establishing contracts and guidelines for servicers, among many other functions. Congress also plays a role in how the program operates by defining terms and benefits for borrowers in statute.

Although today's hearing is primarily focused on loan servicing, the role of Congress and the Department are also integral to a well-functioning student loan program. The policy and administrative decisions they make contribute to the program's success. Still, they both can also work at cross purposes with that success. Moreover, it is often difficult to disentangle the interaction of all three entities when identifying the source of administrative problems in the loan program. To automatically blame loan servicing companies for concerns of borrowers not being treated fairly may obscure other factors contributing to the program's challenges.

In my testimony, I will discuss some of the other factors I believe contribute to borrowers' frustration and dissatisfaction with how the loan program operates and the quality of customer service they receive. I will put forth some principles for reform and related policy solutions that could improve how the loan program operates.

**Program Complexity Creates Servicing and Administrative Challenges**

The Federal loan program has become extremely complex in its required terms and the benefits it provides borrowers. The more complicated the student loan program becomes, the more challenges loan servicers and the Department will have in administering it, and there will be more confusion and frustration for borrowers. To be sure, complexity often stems from providing benefits and options to borrowers. This is an inherent tradeoff that should be carefully balanced.

The most complicated part of the loan program is, by far, the Income-Driven Repayment (IDR) system. This program started as a single repayment option in the 1990s and now includes several options. Note that the IDR options are in addition to other repayment options such as consolidation, extended repayment, and graduated repayment.

<sup>1</sup>Jason Delisle and Lexi West, "Student Loan Servicers: Scammers or Scapegoats? An Analysis of the Consumer Financial Protection Bureau Complaint Database", (Washington, DC: American Enterprise Institute, October 2019), <https://www.aei.org/research-products/report/student-loan-servicers-scammers-or-scapegoats-an-analysis-of-the-consumer-financial-protection-bureau-complaint-database/>.

<sup>2</sup>"Who's My Student Loan Servicer". Office of Federal Student Aid, U.S. Department of Education, <https://studentaid.gov/manage-loans/repayment/servicers>.

The latest IDR option, Saving on a Valuable Education or SAVE, was added by the Biden administration in 2023.<sup>3</sup> Each of the IDR plans has different terms that are optimal for different groups of borrowers depending on their loan balances, interest rates, career paths, future income trajectories, and whether they borrowed for an undergraduate education or a graduate education. Although the creation of the SAVE plan simplifies this somewhat by generally providing the largest benefits, this is only true for undergraduate borrowers.<sup>4</sup>

For example, a graduate borrower might benefit most from enrolling in the Pay As You Earn (PAYE) plan, because it provides loan forgiveness after 20 years of payments. But they must consider that the SAVE plan offers lower monthly payments than PAYE and forgives unpaid interest each month. The tradeoff is that loan forgiveness occurs after 25 years of payments, which might negate SAVE's other benefits relative to PAYE. Further complicating matters, graduate borrowers who expect to use Public Service Loan Forgiveness program will always be better off in SAVE because of the lower monthly payments. Borrowers are likely to be frustrated and need support to understand these differences and choose a plan that is best for them. Loan servicers will be challenged to help them understand these differences as well. As a matter of policy, servicers do not counsel borrowers on which plan is best for their individual circumstances.

The IDR system provides important benefits to borrowers, but it is always going to add complexity to the loan program. The SAVE plan goes even further in that direction. It is arguably the most complicated of the IDR options and will likely be prone to more confusion and servicing challenges. In other words, the system is set to become more complicated with the creation of SAVE.

For example, unlike other IDR plans, borrowers' payments in SAVE are calculated based on a prorated share of their debts for graduate versus undergraduate studies. Debts from undergraduate studies will be repaid at 5 percent of income (over an exemption) and debts for graduate school will be repaid at 10 percent of income. A borrower with an even split in their loan balances will, therefore, repay 7.5 percent of their income. Even though this policy serves a worthwhile purpose (it targets lower payments to undergraduate borrowers), it is complicated and requires the Department and servicers to process more information about borrowers' loans and make more calculations to arrive at a monthly payment, which increases the risk for errors and confusion.

Loan forgiveness benefits in SAVE are also more complicated than past plans. Prior IDR plans provided one or two loan forgiveness terms: 20 years of payments or, in some cases, 25 years for graduate borrowers. The SAVE plan sets loan forgiveness durations by the amount borrowed, but only for undergraduate borrowers. Under this approach, borrowers qualify for forgiveness after 10 years if they borrowed \$12,000 or less, and the term increases by 1 year for each additional \$1,000 borrowed, up to 20 years for undergraduates. Here again, the policy has a strong rationale—it links the loan forgiveness duration to amount borrowed—but it requires the Department and servicers to process more information about borrowers' loans and make more calculations to arrive at a forgiveness term, which increases the risk for errors and confusion among borrowers.

The Public Service Loan Forgiveness (PSLF) program is another major source of frustration and confusion among borrowers and a significant source of accusations of loan servicing failures. I do not want to excuse poor student loan servicing or management by the Department, but it is important to acknowledge that the PSLF program poses an enormous administrative challenge for both entities because of its design.<sup>5</sup> Some loans are ineligible (but can be converted to become eligible), and only payments made in specific plans and statuses count toward the 120 cumulative qualifying payments. Borrowers must make those payments while they are employed full-time in a qualifying job. They must submit paperwork certified by each employer they had during the repayment term, complete with accurate starting and ending dates that collectively span a decade or longer. Servicers and the Department must ensure borrowers have met all eligibility terms (loan type, repayment plan, repayment status, payment count, employment terms), and that they were met during the periods of qualifying employment before forgiving any loans. Given the

<sup>3</sup>“Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program: Final Regulations”, 88 FR 43820 (Jul. 10, 2023).

<sup>4</sup>Jason Delisle and Jason Cohn, “The SAVE Plan for Student Loan Repayment: Which Fields and Colleges Benefit Most?” (Washington, DC: Urban Institute, 2023), <https://www.urban.org/research/publication/save-plan-student-loan-repayment>.

<sup>5</sup>“Public Service Loan Forgiveness”, U.S. Department of Education, Office of Federal Student Aid, accessed April 3, 2024, <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service#qualify>.

extreme number of eligibility requirements and their complexity, it is not a coincidence that the program is the source of so many complaints. Note that both Congress and the Biden administration have taken steps to temporarily waive the original rules of PSLF to allow borrowers qualify more easily and address what some say were servicing and administrative failures.

Evidence shows that borrower frustration over programs such as IDR and PSLF is related to the terms of the programs, not simply loan servicing failures. In a 2019 study for the American Enterprise Institute, my coauthor Lexi West and I analyzed a random sample of 1,200 out of 12,113 complaints borrowers had submitted to the Consumer Financial Protection Bureau's database and classified as complaints against Federal student loan servicers.<sup>6</sup> We found that over a third of the complaints were about the terms and rules of the Federal loan program, which servicers do not set.

### **Loan Program Instability and Uncertainty Create Administrative Challenges**

In addition to complexity, the Federal student loan program has been subject to enormous uncertainty and instability in recent years, largely owing to the Biden administration's changes to its rules and regulations. Some of these changes were direct responses to pausing loan payments in the early days of the COVID-19 pandemic. Still others reflect a large-scale reform agenda the Biden administration has sought to execute outside the legislative process. These changes, which I will discuss below, will likely to contribute to servicing and administrative challenges along with borrower frustration. All will require servicers and the Department to develop new processes, rules, guidance, forms, and communications on short timelines, creating instability and uncertainty in the loan program and setting the stage for errors and delays.

The most prominent of these efforts include the Administration's student loan forgiveness program developed under the HEROES Act of 2003, which was struck down by the Supreme Court in 2023.<sup>7</sup> Even though the plan was immediately put on hold by court challenges in 2022 and ultimately invalidated, the Department and servicers had to plan and prepare for the possibility that this new program would take effect. The Administration also sought to tie the end of the pandemic-era payment pause to the launch of the new loan forgiveness program, potentially creating a complicated administrative bottleneck in the program. Servicers and the Department would have to simultaneously manage two major new events (return to repayment and loan forgiveness). Congress ultimately intervened and mandated a restart to repayment in August of 2023.<sup>8</sup>

The Administration is now developing a follow-on loan forgiveness program using a different statute that will again fall on the Department and servicers to implement.<sup>9</sup> The details of that plan have yet to be made available, but are expected any month now. The rulemaking process has suggested so far that the plan will be more complicated than the initial plan struck down by the Supreme Court, increasing servicing and administrative challenges.<sup>10</sup> The new plan may also be subject to court challenges that will create further uncertainty and instability in the loan program.

The SAVE plan is also a significant new policy the Biden administration has implemented through the regulatory process. As discussed earlier, this new program entails new work for servicers and the Department due in part to the complicated benefits it will provide. In addition, the SAVE plan will allow many borrowers to become immediately eligible for loan forgiveness because it will grandfather in bor-

<sup>6</sup> Jason Delisle and Lexi West, "Student Loan Servicers: Scammers or Scapegoats?" (2019); At the time we downloaded complaints for analysis, there were 12,113 complaints with narratives, which is the universe of complaints from which we drew our sample, and roughly 9,000 more complaints without narratives. In complaints without narratives, the borrower selected complaint topics from the CFPB's menus, but did not further explain the issue with a written description. Because we rely on the narratives for our analysis, we sampled only from the complaints with narratives.

<sup>7</sup> Biden, President of the United States, et al., v. Nebraska, et al., 22-506 (2023), <https://www.supremecourt.gov/opinions/22pdf/22-506-nmip.pdf>.

<sup>8</sup> The Fiscal Responsibility Act of 2023, FRA; P.L. 118-5 (2023).

<sup>9</sup> "Negotiated Rulemaking for Higher Education 2023-2024", U.S. Department of Education, accessed March 12, 2024, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html>.

<sup>10</sup> U.S. Department of Education, "Issue Paper: Student Loan Debt Relief, Session 1: October 10 and 11, 2023", <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/session-1--issue-paper-student-loan-reliefom-committee.pdf>.

rowers' past loan payment histories.<sup>11</sup> Servicers and the Department must have the necessary administrative structure to execute those benefits.

In addition to the SAVE plan, the Biden administration has also made significant changes to the terms of the IDR and PSLF programs from 2021 through 2023, which it says are to assist borrowers in response to the pandemic. These policies retroactively made past payments in any loan repayment plan and specific time spent in deferment and forbearance eligible toward the loan forgiveness payment count required under IDR and PSLF.<sup>12</sup> These policies effectively rewrote the rules for IDR and PSLF retroactively, as the statute States that only income-based payments and those under a 10-year plan count toward loan forgiveness (and payments made in the Direct Loan program for PSLF).

These retroactive changes required a significant administrative undertaking for both servicers and the Department as they had to update and restate payment counts for borrowers and identify and notify borrowers newly eligible for loan forgiveness in IDR. In the case of PSLF, borrowers had to apply for the benefits by October 31, 2022, which created the conditions for a surge of applications that the Department and servicers both had to process.

Amidst all of these changes, the Department and loan servicers must also manage the return to normal repayment for Federal student loan borrowers that began in late 2023. That process requires massive new outreach efforts to borrowers and other servicing tasks. Although the resumption of normal payments following the pandemic payment pause was always going to be challenging, the Department and servicers are having to conduct it while simultaneously implementing the Biden administration's many changes to the loan program.

#### **Policies To Improve Servicing and Program Administration**

Based on the issues outlined above, I highlight three areas where lawmakers could help promote a Federal loan program that is less prone to borrower confusion, frustration, and administrative challenges.

##### *Streamline and Simplify Loans, Terms, and Benefits*

A more streamlined loan program would likely be less prone to servicing and administrative challenges. The program can be simplified in many ways, but I list those I believe are directed most at improving loan servicing.

- Establish one income-driven repayment plan in statute and sunset all other income-driven repayment plans, as well as authority for the Secretary of Education to create new plans.
- Establish one default fixed-payment plan with a 20-year repayment term to replace all other nonincome-driven repayment plans, such as the standard, consolidation, extended, and graduated plans.
- Tie loan forgiveness benefits to total repayment time, not the number of payments or loan status during repayment; this will eliminate the need for complicated payment counts that have been a source of servicing problems and administrative complexity.<sup>13</sup>
- Eliminate forbearance and deferment benefits and use income-based repayment to allow borrowers to postpone payments.
- Eliminate interest and charge one large origination fee added to the initial loan balance; borrowers will know how much they owe immediately and their balance cannot grow, and there is no need to track and tally interest accrual.
- Use grants, direct payments, or tax benefits to subsidize public service employment instead of loan forgiveness benefits like Public Service Loan Forgiveness; income-driven repayment will allow these borrowers to make affordable loan payments.

<sup>11</sup>U.S. Department of Education, "Biden-Harris Administration To Shorten Path to Debt Cancellation for Some SAVE Borrowers", January 11, 2024, <https://www.ed.gov/news/press-releases/biden-harris-administration-shorten-path-debt-cancellation-some-save-borrowers>.

<sup>12</sup>U.S. Department of Education, "Announces Actions To Fix Longstanding Failures in the Student Loan Programs", April 19, 2022, <https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs>; U.S. Department of Education, "Fact Sheet: Public Service Loan Forgiveness (PSLF) Program Overhaul", October 6, 2021, <https://www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul>.

<sup>13</sup>"Education Needs To Take Steps To Ensure Eligible Loans Receive Income-Driven Repayment Forgiveness", GAO-22-103720 (Washington, DC: GAO, 2022), <https://www.gao.gov/assets/d22103720.pdf>.

- Reclaim congressional control over the major design, terms, and benefits in the loan program.

As outlined above, much of the recent uncertainty and instability in the loan program stems from the Department of Education seeking to establish new programs and policies within the Federal loan program through its interpretation of the underlying statutes. Lawmakers could limit such activities and create a more stable loan program less prone to administrative friction by writing more specific language in the statute and not granting broad discretion to the Secretary of Education to set important program features. For example, the statute that the Administration used to create the SAVE plan leaves all major decisions about the plan's terms, such as the income-based repayment formula and the loan forgiveness term, up to the Secretary.<sup>14</sup> The statute could instead specify the terms that Congress believes are appropriate, thereby avoiding successive Administrations inventing new plans with new terms whenever and however they see fit.

Of course, it may be necessary in some cases to defer to the Secretary to refine broad terms of a statute and incorporate the agency's administrative expertise. To prevent the Department from taking extreme liberty with this authority, Congress could consider including provisions like one in the College Cost Reduction Act, H.R. 2669 (118th Congress) that restricts the Secretary from promulgating regulations that will increase the subsidy cost of the Federal student loan program or that is "economically significant."<sup>15</sup> To ensure this language has its intended effect, it should also be more specific about what constitutes an "economically significant" rule and what baseline will be used to judge whether it would increase the subsidy cost of the loan program.

*Consider Tax Withholding as an Alternative to Loan Collection and Servicing*

This reform would require major changes to the terms and benefits of the loan program, but collecting loan payments through the Federal income tax system has major advantages over the current repayment system. The main one: payments track income as it is earned, so there is no annual certification process that borrowers must complete. Another advantage is that it eliminates the need for loan servicing and servicers. It could also reduce delinquency and defaults.

Under this approach, borrowers would elect additional withholding on their Internal Revenue Service Form W-4 or estimated quarterly tax filings, and then those amounts would be reconciled with the correct amount owed annually through the income tax filing process. In other publications,<sup>16</sup> I have written about how such a system would work in detail.

Note that the income-based repayment formula and forgiveness terms of the loan program would need to be simplified for this system to function well. Policymakers would also need to develop alternatives to charging monthly interest, such as a one-time origination fee, because the tax collection system is an annual process that operates with a timing lag. These issues are detailed in my other publications.<sup>17</sup>

Thank you, Chair Warren, Ranking Member Kennedy, and Members of the Subcommittee. This concludes my testimony, and I look forward to answering any questions you may have.

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**PREPARED STATEMENT OF SCOTT BUCHANAN**  
EXECUTIVE DIRECTOR, STUDENT LOAN SERVICING ALLIANCE

APRIL 10, 2024

Chair Warren, Ranking Member Kennedy, and distinguished Members of the Subcommittee: Thank you for the opportunity to testify today. The organization I lead, the Student Loan Servicing Alliance, is a nonprofit trade association that works to improve the servicing environment, practices, and educate elected officials and the media on the real issues and serious solutions. Servicers are committed to borrowers—they are our priority. Policy that puts them first is our goal. There are no simple answers to college costs and loan repayment—nothing is Black or White, but it requires sophisticated dialogue which I look forward to contributing to today.

<sup>14</sup> 20 U.S.C. §1087e(d)(1)(D) and (e).

<sup>15</sup> College Cost Reduction Act, H.R. 6951, 118th Cong. (2024), <https://www.congress.gov/bills/118/congress/house-bill/6951/cosponsors?s=1&r=39>.

<sup>16</sup> Jason Delisle, "How To Make Student Debt Equitable and Affordable", Manhattan Institute, July 23, 2019, <https://manhattan.institute/article/how-to-make-student-debt-affordable-and-equitable>.

<sup>17</sup> Jason Delisle, "How To Make Student Debt Equitable and Affordable", <https://manhattan.institute/article/how-to-make-student-debt-affordable-and-equitable>.

### **Who We Are**

The Student Loan Servicing Alliance (SLSA) is the nonprofit trade association that focuses exclusively on student loan servicing issues. Our membership is responsible for servicing over 95 percent of all Federal student loans and the vast majority of private loans, and our membership is a mix of companies, State agencies, nonprofits, and their service partners—including all federally contracted servicers and BPOs. Our servicer members and affiliate members provide the full range of student loan servicing operations, repayment support, customer service, payment processing, and claims processing for tens of millions of Federal and private loan borrowers across the country.

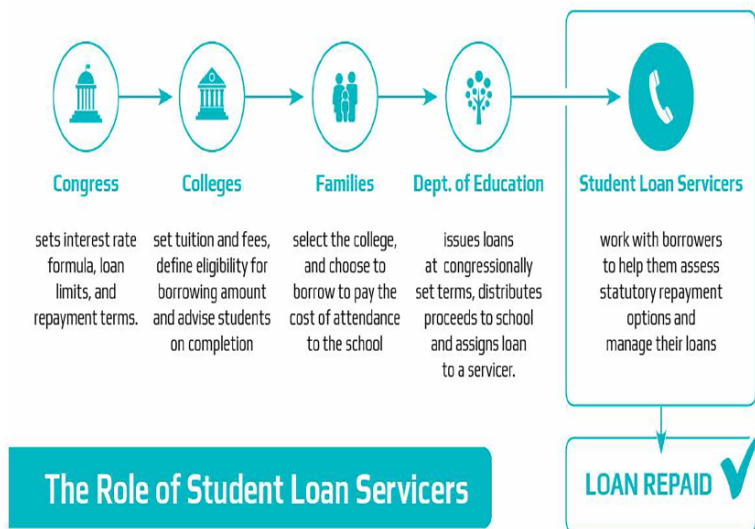
SLSA's work focuses on advocating for Federal and State policy that improves loan servicing for all borrowers. We also serve as a forum for developing operational and technical best practices that enhance customer service and loan program administration. Further, we identify obstacles and opportunities within Federal and private loan programs that can benefit from our expertise and leadership, and we formulate and support solutions that can achieve simplification and standardization. We also work with other advocacy organizations to support the continuing enhancement and streamlining of student loan servicing laws, regulations, and practices to benefit our customers, borrowers, and improve the value of higher education. In short, SLSA is the leading voice on how student loan servicing can work best to deliver improved success for borrowers and families.

### **The Role of Servicers**

While there has been much discussion about the critical issues facing the 43 million Federal student loan borrowers, there has been less discussion about the facts surrounding how the loan program works and what the responsibilities are of servicers in the lifecycle of a student loan. It is first critical to understand what a servicer does and what a servicer does not do. Servicers do not determine the amount a student borrows. Servicers do not set the interest rate on a student loan, do not determine what repayment options are available to a borrower, do not earn the interest or return off a student loan, do not fees or penalties, do not set payment application rules, and do not own the loans. Those are matters set by the lender, for whom the vast majority is the Federal Government—and therefore determined by Federal law and regulation—we do have an important role to play. Servicers communicate with borrowers to make available their repayment options. Servicers take and apply payments according to the terms of the loan. Servicers call and take calls from borrowers to explain the benefits to which a borrower is entitled. Servicers are highly regulated. And servicers take very seriously, as demonstrated by the actual metrics and facts of our performance, our role to help borrowers be as successful as possible in repaying their loans so the Federal student loan program can continue to serve future generations of students—the millions of future college students who the Higher Education Act was enacted to assist.

While what we do is often misunderstood, so is the timing of when we step in to help borrowers. Our role begins after Congress has set interest rates and repayment plans, after a student has chosen a school, after the college has set the price and determined what other aid it will offer, after the borrower has decided how much they wish to borrow, after the loan has been originated and disbursed, and usually meaningfully begins after a student has graduated—or sometimes when they have left school for other reasons. That is when we begin regular communication with the borrower to help them access the options that are available so they can make the best choice amongst the repayment plans that Congress has provided. That communication is not a one-time event, and no single interaction in isolation characterizes the work that we do or the scope of what we share. Our efforts are a continuum of activity set by FSA, ranging from letters, emails, phone calls, websites, and sometimes chat or text, to meet borrowers where they are and most prefer to interact—and over time and multiple interactions—to make available the tools for them to effectively manage their student loan obligations. As a borrower's life situation changes, we also change our efforts with them to try and identify from what information they choose to share what options are available now, that may not have been available before. Has their job situation changed? Has their family expanded? Has their income level risen? And then, what do they want to accomplish? Every borrower has a different view of what steps will be in their best interest. Some want to pay down their student loans slower because they have other debt at higher interest rates. Some want to pay them down faster because they want to become debt free as soon as possible. Some want just a little time to get beyond a financial hurdle this month. Some want a long-term solution that aligns with the career path they think they will have, where maybe their income will rise meaningfully over time or maybe where they are taking a public service job where their in-

come may be less than another. It is a fact that no single repayment plan or strategy is best—both financially and in desirability—for all borrowers. In this way, every borrower is different, and servicers are on the front lines of trying to help a borrower understand and navigate among those choices they must make. Below is the flow on responsibilities among parties involved in Federal student loans today.



### Federal Loan Servicing Contractors

Today there are four (4) primary student loan servicers that work for the Office of Federal Student Aid (FSA) and have borrower accounts: Aidvantage, Edfinancial, MOHELA, and Nelnet. The four companies today are directly contracted by FSA to perform the operational servicing and customer service functions for Federal student loans held by the Government. These contractors are paid a servicing fee that is based upon the number of borrowers, status of those accounts, and often per transaction fees for some specialty servicing functions. All loan revenue, including principal and interest payments, goes directly to the Government and drives the profitability or loss that the Government directly bears—and consequently flows to or from the taxpayer.

In the future as FSA transitions over the coming months to a next generation servicing architecture (previously known as NextGen and now known as USDS) and an additional loan servicer, CRI, will be added into the group of current servicers with borrower accounts. This change will also mean that some functions (PSLF and TEACH Grant processing and tracking) will be moved to FSA and its BPO contractors. Further, IT infrastructure will be further embedded into the studentaid.gov environment with enhanced co-branding and an effort to create a single sign-on system in the future, especially important as borrowers will need to access their both their servicer's web portal and studentaid.gov—especially those making progress towards PSLF forgiveness.

Statute, regulations, and FSA dictate the terms, conditions, and contractual requirements of servicers. The Government alone decides the way loans will be serviced, sets the standards, and then decides what level of service it wishes to pay for and how.

### Resumption of Repayment Challenges

We have long warned that the return to repayment would be challenging for the student loan ecosystem, including FSA, servicers, and borrowers. Planning was not optimal for the resumption, with guidance either not being forthcoming or changing

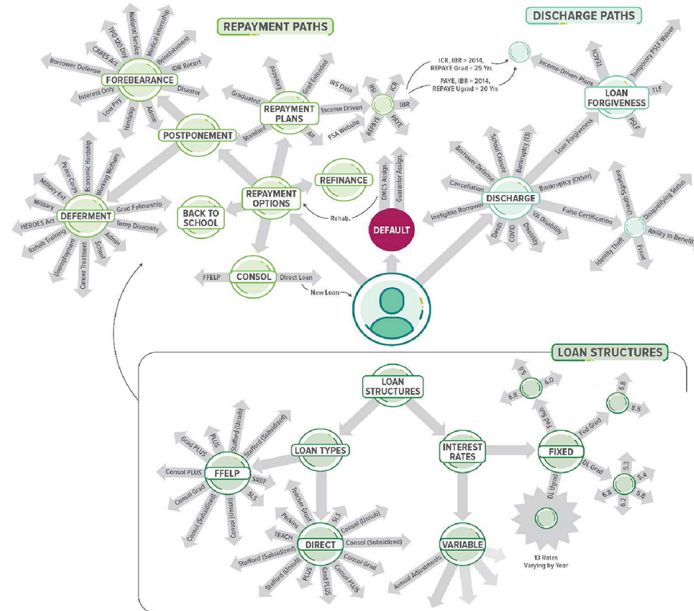
almost daily for the months leading up the final resumption date. In fact, prior to a previous potential resumption date—when we were merely days away with no clarity—I warned Secretary Cardona in a letter dated August 22, 2022 of the issues that would occur because of the lack of proper planning and insufficient time to make staffing and operational changes required. Those issues were never addressed as meaningfully as hoped.

FSA's own resumption playbook for servicers has been revised and edited more than 25 times, and was still being revised after resumption began. In the August 2023, the playbook was revised 10 times in that month alone—right when we are in the midst of trying to do the incredibly difficult IT system work, staffing preparation, and communications that should have been part of strategic planning that was not taking place. This constant shifting of expectations makes it virtually impossible to ensure that there are no errors, and often those errors still were due to lack of clarity or incorrect data or files provided by FSA. But we proactively identified errors and brought them to FSA and fixed them quickly—just exactly the way you would want any partner or contractor to do managing a massive project.

Besides the actual return to repayment, servicers have been asked to implement or do development work on the following programs with zero to little advance notice, a complete lack of programmatic planning by FSA, and without being provided the financial resources to do so effectively or on a timeline that is reasonable:

- IDR one-time account adjustments
- PSLF waivers
- Fresh Start program
- SAVE plan rushed implementation
- Mass loan forgiveness proposals
- Loan transfers due to servicers exiting due to unworkable economics

These massive changes and programmatic seismic shifts are on top of the previously existing web of complicating servicing requirements and workflows that Congress and the Department have iterated over the years. This layering and the vast array of options a servicer must manage intrinsically create an operational world where there are many potential operational fail points which must be carefully managed. Below you will see the complicated workflows that servicers must deliver every day for nearly 35 million borrowers who all have unique and specific situations:



### SBPC and AFT Allegations

The Student Borrower Protection Center and AFT have recently released a so-called “report” making accusations about MOHELA’s servicing practices. MOHELA has provided a response to those accusations.

But since we’re likely holding this hearing partially because of this document produced by political organizations with false and misleading statements and phrases like “dark history,” “company schemes,” and “uncovered documents,” I will address it as well. This kind of imagery is straight out of a John Grisham novel—but it is equally as fictional.

Let’s meet this with facts:

**Call Deflection**—Some suggest that a servicer developed and implemented a strategy called “call deflection” and suggest that they did so to harm borrowers. That is false. In fact, FSA mandated all servicers utilize this strategy and included it in their own playbook. This approach encourages borrowers—who can—to self-service online rather than waiting to speak with a customer service representative. This was Government guidance.

**PSLF Backlog**—Recent accusations suggesting servicers are responsible for a large backlog of Public Service Loan Forgiveness (PSLF) applications and that the backlog is intentional are also false. Today FSA makes all decisions about whether to approve or deny forgiveness, and so the vast majority of the backlog resides at a resource constrained FSA, which is also now struggling with their FAFSA breakdown. The assertion that a servicer wants to engage in delays or rejections for its financial benefit is grossly unjust to the thousands of employees who work every day trying to help borrowers.

### The Actual Issues and Solutions

So, what are the real and true issues we can work on together?

First, fund quality service. For several years the Government has flat-funded servicing and customer support when borrowers most need it. Congress makes these choices through appropriations. The Government gets what it pays for, and when you don’t make that choice—then borrowers pay the price.

Second, change the law to fix what’s broken. Most of the complaints about the functioning of the loan program are matters of statute. Most of the complaints about the functioning of the loan program are matters of statute. There is this false trope that 99 percent of borrowers have been denied for PSLF forgiveness because of some

mistake or operational failure. That is false. Congress designed the program and intentionally drafted it to be narrowly focused and harder to obtain forgiveness. Servicers were tasked with implementing that law and did so. If Congress now wants to change that policy, it must change the law. Even the Administration recognized that fact, asserting it needed to use temporary emergency authority to bypass the law to provide accelerated and expanded forgiveness. But that will end, and Congress must act.

Finally, we must all be accountable for our specific roles. Servicers must take accountability for issues that arise when we are given sufficient resources, direction, and time to make these programs work. But Congress and the Government must be accountable for providing those tools for success as the owner of the loans and manager of the loan program's terms and conditions.

Since my time is limited, I will close by saying that I'm pleased to be here to have this conversation but hope it results in us working together to fix the problems that exist as opposed to blaming servicers for simply doing what the Department asked and pays them to do and what the law requires. Servicers care deeply about borrowers' experience—as I know you do—so let's focus on the root causes to do them justice. I look forward to your questions.

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### PREPARED STATEMENT OF QUINTON LUCAS

MAYOR, KANSAS CITY, MISSOURI

APRIL 10, 2024

Chair Warren, Ranking Member Kennedy, and other Members of the Committee, I appreciate the opportunity to appear before the Subcommittee today. My name is Quinton Lucas and I am proud to represent the residents of Kansas City, Missouri, as their mayor.

My home State of Missouri has been in the national spotlight as some politicians have worked on behalf of student loan companies to rob more than 40 million Americans—including over 80 thousand residents in my city alone<sup>1</sup>—of much-needed student loan debt relief.

Rather than standing up for our constituents, the State's attorney general is doing the work of loan companies like MOHELA, the Missouri Higher Education Loan Authority, and arguing that student loan relief would harm our communities while exactly the opposite is true.

I would like to take this opportunity to stand with the people of Kansas City and State unequivocally that our State Attorney General is wrong. And I want to thank you, Chair Warren, for your years of leadership on this issue.

Missouri's attorney general and I both serve the people of Missouri—not student loan companies. We owe it to our people to hold student loan servicers accountable for fueling the student loan crisis in America and failing student loan borrowers and their families. While student loan borrowers bear the most direct burden, we all bear the cost of that failure because it keeps many of our youngest and brightest from being able to reach their potential as local leaders, entrepreneurs, parents, and citizens.

Nearly 45 million borrowers have been crushed by nearly \$1.7 trillion in student loan debt. Across Missouri, more than 849,000 borrowers owe more than \$30 billion in Federal student loan debt. These burdens are carried disproportionately by people of color, with Black women and Latinas especially hard hit by student debt. That's debt that makes it hard to pay for everything else from necessities like health care to childcare. And forget about buying a first home. That doesn't just hurt them, it hurts us all.

I graduated law school nearly 20 years ago, with tens of thousands of dollars of student debt, including college debt serviced by MOHELA, and was lucky enough to be able to pay it all off, but that was nothing compared to the repayment experiences I hear from borrowers today.

I've heard from hundreds of borrowers in Kansas City who say they are experiencing crushing student loan debt, sometimes paying two or three times the cost of their original loan, while trying to afford the increasing cost of necessities. These are young people who are trying to create businesses, become homeowners, and

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<sup>1</sup>Ella Azoulay, "New Analysis Shows What's at Stake for Borrowers Across the Country as President Biden's Political Opponents Attack Student Debt Relief" (Feb. 17, 2023), <https://protectborrowers.org/new-analysis-shows-whats-at-stake-for-borrowers-across-the-country-as-president-bidens-political-opponents-attack-student-debt-relief/>.

build their careers, but their plans are halted while slowly chipping away at their student loan debt, which in many cases, will take them decades to overcome.

Due to the skyrocketing cost of college, the promise of higher education as the pathway to the American dream has become a nightmare for millions of Americans, particularly working-class Black and Brown families, like many of the residents I represent back home.

Beyond the unreasonable upfront costs of an education, millions of working families have been forced to navigate a rigged student loan repayment system. A system where student loan servicing companies like the Higher Education Loan Authority of the State of Missouri or MOHELA receives millions in taxpayer dollars only to fail and deceive borrowers at every turn—driving them further into debt and leaving them to fend for themselves.

As you have said many times Chairwoman Warren. It is absolutely shameful. It is absolutely inexcusable. And it is absolutely long past time for accountability and justice.

For too long, student loan servicers have been given a free pass as they stand in the way of relief and exacerbate the student debt crisis plaguing our local communities. Today's hearing is an opportunity to change that.

Cities have been at the forefront of the student debt crisis.

As Mayor, I have witnessed the toll of this crisis firsthand. Residents across Kansas City, from the historically Hispanic Westside, to the predominately Black East Side, have told me their personal stories. They have shared the ways that student debt is holding them back from achieving their personal and economic goals—hindering their ability to purchase a home,<sup>2</sup> save for retirement,<sup>3</sup> start a small business<sup>4</sup> and contribute to their local economy, and even start or grow their family. Their struggle is our struggle because their inability to pursue opportunity denies us all the ability to share in their success.

We have seen how the crushing weight of student debt is worsening workforce shortages afflicting State and local governments, particularly in rural areas, where it is already difficult to attract and retain workers in high-need areas such as teaching and healthcare.<sup>5</sup> Shortages in these fields have reached crisis levels, with all 50 States reporting a shortage of K–12 public school teachers in 2022.<sup>6</sup> In Kansas City, we are already facing stark shortages in our teaching<sup>7</sup> and health care fields<sup>8</sup> and the student debt crisis has only made these challenges worse.

Further, the student loan debt crisis has exacerbated the mental health crisis and increased reliance on our local and State public health systems. Like other forms of financial insecurity, student loan debt has been found to negatively impact borrowers' mental and physical health<sup>9</sup>—increasing rates of anxiety and depression. Research has also shown that student debt impedes access to routine medical care and prevents borrowers from purchasing medication and even seeking non-emergency care.<sup>10</sup>

In all instances, failing these individuals results in communal costs. The repercussions of the student debt crisis hinder the quality of life for our residents and ultimately fall to State and local governments, which provide care and services of last resort.

<sup>2</sup>See Federal Reserve Bank, Consumer and Community Context (Jan. 2019), <https://www.federalreserve.gov/publications/files/consumer-community-context-201901.pdf>.

<sup>3</sup>Rutledge, Geoffrey T. Sanzenbacher, and Francis M. Vitagliano. 2016. "How Does Student Debt Affect Early-Career Retirement Saving?" Working Paper 2016-9. Chestnut Hill, MA: Center for Retirement Research at Boston College, <https://err.bc.edu/how-does-student-debt-affect-early-career-retirement-saving/>.

<sup>4</sup>Ambrose, Brent W. and Cordell, Larry and Ma, Shuwei, The Impact of Student Loan Debt on Small Business Formation (July 2015). FRB of Philadelphia Working Paper No. 15-26, Available at SSRN: <https://ssrn.com/abstract=2633951>.

<sup>5</sup>Jesse Rothstein and Cecilia Rouse, "Constrained After College: Student Loans and Early Career Occupational Choices", 95 *J. Pub. Econ.* 149 (2011).

<sup>6</sup>Emma Garcia, et al., "Are We at a Crisis Point With the Public Teacher Workforce? Education Scholars Share Their Perspectives", *Brookings* (Aug. 26, 2022), <https://perma.cc/3KRF-URVM> (citing Department of Education teacher shortage data).

<sup>7</sup>Jodi Fortino, "Missouri's Teachers Are Among the Nation's Worst-Paid. Some Districts Are Getting Creative To Fix That", KCUR (Dec. 29, 2022), <https://www.kcur.org/news/2022-12-29/missouri-low-teacher-pay-retention-recruitment-missouri-legislature-session-2023>.

<sup>8</sup>Michael Ollove, "Health Worker Shortage Forces States To Scramble", Pew (Mar. 25, 2022), <https://perma.cc/ZKAU-372E>.

<sup>9</sup>See Thomas Richardson, et al., "The Relationship Between Personal Unsecured Debt and Mental and Physical Health: A Systematic Review and Meta-Analysis", 33 *Clinical Psych. Rev.* 1148 (2013).

<sup>10</sup>Catey Hill, "Why Student Loans Are Bad for Your Health", *MarketWatch* (Oct. 7, 2014), <https://perma.cc/7YWZ-747D>; Snapshot of Older Consumers and Student Loan Debt 13, Consumer Fin. Prot. Bureau (2017), <https://perma.cc/C94YS7HL>.

When borrowers' debt burdens are eliminated or significantly reduced, they start businesses, secure housing, pursue careers in public service, and prioritize their health. These effects improve the quality of life in our communities, enhance revenues for our local and State economies, and reduce reliance on Government programs. We aren't doing them a favor, we are investing in the common good.

President Biden's debt relief program would have benefited millions, spurred economic growth, and strengthened our communities.

In August 2022, President Biden gave tens of millions of borrowers a glimmer of hope when he announced his original debt relief plan to cancel up to \$20,000 in student loan debt. The historic proposal would have eliminated student debt balances for an estimated 20 million borrowers.<sup>11</sup> By targeting relief to borrowers with the highest economic need, the plan would have made meaningful progress at reducing the racial wealth gap, with one in four Black borrowers seeing their debts entirely forgiven and half of all Latino borrowers becoming debt-free.<sup>12</sup>

Across the State of Missouri, more than 777,000 residents would have been eligible for relief.<sup>13</sup> In Kansas City alone, more than \$575 million in student debt would have been canceled for more than 80,000 borrowers and 40,000 of these borrowers would have been completely debt free.<sup>14</sup> Tens of thousands of our own residents would have seen an immediate decrease in their debt-to-income ratios, an improvement in their credit scores, and an enhancement of disposable income that they could have saved towards a downpayment on a home, their retirement, or back into our local economy.

This would have been a massive investment in working people with real benefits for everyone.

Instead of celebrating this crucial relief for our economically burdened residents, our State attorney general in partnership with politicians across five other Republican-led States, decided to fight the plan in Federal court—placing the desire to score political points and the financial interests of MOHELA ahead of the economic prosperity of our own residents and communities.<sup>15</sup>

In the suit, the Missouri Attorney General falsely argued that providing student loan debt relief would have harmed MOHELA's bottom line and, therefore would have financially harmed the State of Missouri. In partnership with the Public Rights Project, I joined 40 local leaders across 24 States across the country in filing a brief in support of the program.<sup>16</sup> Collectively, we represented more than 30 million Americans, including almost 20 million people of color. The point we made to the Supreme Court was simple: When the debt burdens of our residents are lifted, we all benefit—as someone else once said—a rising tide lifts all boats.

In the end, the far-right majority on the Supreme Court callously struck down President Biden's debt relief program, leaving millions of borrowers and their families waiting for much-needed relief and forcing them back into the jaws of a fundamentally broken student loan system.

The Biden administration has continued to make progress to deliver on debt relief and hold servicers accountable, but more is desperately needed.

Thankfully, the Biden administration has not abandoned our constituents. It has worked to make good on the President's promise to deliver debt relief using all legal tools at their disposal. Within hours of the Supreme Court's callous decision to strike down the debt relief program, President Biden announced that he would be

<sup>11</sup> Press Release, The White House, "Fact Sheet: President Biden Announces Student Loan Relief for Borrowers Who Need it Most" (Aug. 24, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>.

<sup>12</sup> Kierra Alfonseca, "Biden's Loan Forgiveness Plan to Heavily Impact Black Borrowers", ABC News, (Aug. 26, 2022), <https://abcnews.go.com/US/bidens-loan-forgiveness-plan-heavily-impact-black-borrowers/story?id=88900684>.

<sup>13</sup> Press Release, "The White House, Fact Sheet: The Biden-Harris Administration's Plan for Student Debt Relief Could Benefit Tens of Millions of Borrowers in All Fifty States (Sep. 20, 2022)", <https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/20/fact-sheet-the-biden-harris-administrations-plan-for-student-debt-relief-could-benefit-tens-of-millions-of-borrowers-in-all-fifty-states/>.

<sup>14</sup> Ella Azoulay, "New Analysis Shows What's at Stake for Borrowers Across the Country as President Biden's Political Opponents Attack Student Debt Relief" (Feb. 17, 2023), <https://protectborrowers.org/new-analysis-shows-whats-at-stake-for-borrowers-across-the-country-as-president-bidens-political-opponents-attack-student-debt-relief/>.

<sup>15</sup> Annelise Hanshaw, "Missouri Company Plays Central Role in Downfall of Biden Loan Forgiveness", *Missouri Independent* (Jul. 1, 2023), <https://www.kcur.org/news/2023-07-01/missouri-company-plays-central-role-in-downfall-of-biden-loan-forgiveness-program>.

<sup>16</sup> Brief of Amici Curiae Local Governments in Support of Petitioners, *Biden v. Nebraska*, 600 U.S. 477, 143 S. Ct. 2355 (2023), <https://protectborrowers.org/wp-content/uploads/2023/01/Biden-v.-Nebraska-Local-Govt-Amicus-Brief-01.11.23-final.pdf>.

pursuing a new plan utilizing his authority under the Higher Education Act.<sup>17</sup> Over the last several months, the U.S. Department of Education has been making critical progress in finalizing this plan, which would grant the Secretary of Education broad authority to provide debt relief for specific categories of borrowers—including borrowers who went to low value schools, borrowers who have been stuck in repayment for more than two decades, borrowers drowning in runaway student loan interest, and those who may be eligible for debt relief but are not enrolled in a relevant program. The plan would also provide authority to support borrowers experiencing hardship due to their student loan debt. This new debt relief pathway has the potential to wipe away debt for millions of borrowers and finally make dreams of economic mobility a reality.<sup>18</sup>

In the meantime, the Biden administration has been working to fix the underlying student loan system and bring justice for borrowers cheated by their servicers. In April 2022, the U.S. Department of Education announced an effort to address historical student loan servicing failures in the Administration of the Federal student loan programs through a one-time student loan account adjustment to ensure that borrowers receive credit toward student loan forgiveness under the Public Service Loan Forgiveness (PSLF) and Income-Driven Repayment (IDR) programs.<sup>19</sup>

As a result of the Biden administration's efforts, almost \$144 billion in student loan debt has been cancelled for nearly 4 million Americans.<sup>20</sup> Many of these borrowers are teachers, nurses, and first responders who were cheated by their servicer out of relief that they were entitled to under Federal law through the PSLF program. Across the State of Missouri, nearly 20,000 public service workers have benefited from more than \$1.2 billion in student loan debt relief under PSLF.<sup>21</sup> These are 20,000 residents across our State whose lives will forever be changed by policies implemented by the Biden-Harris administration to simply ensure that our Government programs work.

Prior to the Biden-Harris administration's fixes to the PSLF program, only about 7,000 borrowers had ever received forgiveness. Today, more than 100 times more borrowers are finally getting the public service loan forgiveness that they are due. Real Americans, with real families, freed to pursue the American dream.

While this progress is unprecedented, and the relief enacted thus far is historic, more must be done. Unfortunately, tens of millions of borrowers remain vulnerable and subject to student loan servicing failures that will drive them further into the red. Thankfully, the Biden administration has made it clear that they will not simply look the other way as student loan servicers fail to do their job. In October 2023, as millions of borrowers were forced to navigate the rocky return to repayment process, the U.S. Department of Education (the Department) found that MOHELA failed to meet its basic obligations to borrowers and American taxpayers. According to the Department, MOHELA failed to send billing statements on time to 2.5 million borrowers—causing more than 800,000 borrowers to fall into delinquency.<sup>22</sup> As a result, it withheld \$7.2 million in payment to MOHELA and directed them to protect borrowers by placing them in a forbearance until the issues were resolved. Earlier this year, the Department announced a second round of actions to withhold payments from student loan servicers failing to do their job—this time for the companies Aidvantage, EdFinancial, and Nelnet.<sup>23</sup>

<sup>17</sup> Press Release, The White House, Fact Sheet: “President Biden Announces New Actions To Provide Debt Relief and Support for Student Loan Borrowers, (Jun 30, 2023)”, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/30/fact-sheet-president-biden-announces-new-actions-to-provide-debt-relief-and-support-for-student-loan-borrowers/>.

<sup>18</sup> Aissa Canchola Banez, “President Biden’s Student Debt Relief ‘Plan B’ Must Not Leave Millions of Borrowers in Hardship Behind”, (Jan. 18, 2023), <https://protectborrowers.org/bidens-student-debt-relief-plan-b-must-not-leave-millions-in-hardship-behind/>.

<sup>19</sup> Press Release, U.S. Dep’t of Educ., “Department of Education Announces Actions To Fix Longstanding Failures in the Student Loan Programs (Apr. 19, 2022)”, <https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs>.

<sup>20</sup> Press Release, U.S. Dep’t of Educ., “Biden-Harris Administration Approves Additional \$5.8 Billion in Student Debt Relief for 78,000 Public Service Workers (Mar. 21, 2024)”, <https://www.ed.gov/news/press-releases/biden-harris-administration-approves-additional-58-billion-student-debt-relief-78000-public-service-workers>.

<sup>21</sup> Id.

<sup>22</sup> Press Release, U.S. Dep’t of Educ., “U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers”, (Oct. 30, 2023), <https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers>.

<sup>23</sup> Press Release, U.S. Dep’t of Educ., “Biden-Harris Administration Takes Additional Action To Hold Student Loan Servicers Accountable for Failing To Meet Contractual Obligations”, (Jan.

Efforts to withhold payments from student loan servicing companies that are failing to meet their basic responsibilities to borrowers and the American taxpayers are part of a larger effort by the Biden-Harris administration to increase oversight and accountability into these companies and mitigate borrower harm.<sup>24</sup>

In closing, Chairwoman Warren and Ranking Member Kennedy, industry representatives will try to present hollow talking points and spin to make excuses for MOHELA and other student loan servicers that have been failing to do right by borrowers and American taxpayers.

However, it is quite simple that student loan servicers have one job—to support borrowers as they work to manage their student loan debt. For too long, they, like MOHELA, have failed to do their job, and as a result, borrowers are further in the red and we continue to miss out on the contributions they could be making to our communities. Student loan providers can and must be held accountable.

Thank you.

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5, 2024), <https://www.ed.gov/news/press-releases/biden-harris-administration-takes-additional-action-hold-student-loan-servicers-accountable-failing-meet-contractual-obligations>.

<sup>24</sup>Press Release, U.S. Dep't of Educ., "Biden-Harris Administration Announces Framework for Student Loan Servicer Accountability To Protect Borrowers Nationwide", (Nov. 9, 2024), <https://www.ed.gov/news/press-releases/biden-harris-administration-announces-framework-student-loan-servicer-accountability-protect-borrowers-nationwide>.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR KENNEDY  
FROM JASON DELISLE**

**Q.1.** Your testimony on April 10, 2024, before the Economic Policy Subcommittee suggested that the Department of Education could do a better job at managing student loan servicers. What are some of the recent missteps committed by the Department of Education regarding its management of student loan servicers?

**A.1.** The Federal loan program has become extremely complex in its required terms and the benefits it provides borrowers. The Biden administration has pursued many policy agendas that have greatly increased the complexity of the loan program. The more complicated the student loan program becomes, the more challenges loan servicers and the department will have in administering it, and there will be more confusion and frustration for borrowers. Added complexity requires the department and servicers to develop new processes and convey large amounts of information to borrowers. Biden administration policies that have added complexity and uncertainty include the following:

- A new income-driven repayment (IDR) program (SAVE) that includes a sliding-scale loan forgiveness benefit based on borrower debt levels and different payment rates based on a weighted average of a borrower's undergraduate and graduate debt. The Administration aimed to offer these benefits on a short timeline and, as a result, had to phase in the availability of different features.
- Waivers that alter the terms of Federal student loans as they are defined in statute, creating new rules, eligibility criteria, and deadlines, all of which must be implemented by servicers on short timelines.
- Multiple new loan forgiveness programs with complicated eligibility criteria that servicers must manage and communicate to borrowers in conjunction with the Department of Education.

**Q.2.** In your view, why would a singular income-driven repayment program be more effective than the current income-drive repayment system where borrowers have multiple options?

**A.2.** Under current policy, there are several IDR plans from which borrowers can choose, and borrowers are generally eligible for all the plans. They each provide slightly different benefits, and in some cases, certain plans may provide larger benefits depending on a borrower's situation. This creates the risk that a borrower may choose a suboptimal plan, and it requires servicers to convey complicated information to a borrower in helping them make a choice. A single IDR plan would address this issue and create a more easily understandable and simple Federal loan system. There would be less borrower confusion and frustration, and there would be less risk of loan servicing errors and challenges.

**Q.3.** Please explain the intersection between inflationary fiscal policy and billions in student loan debt forgiveness.

**A.3.** There is limited empirical evidence documenting the effects of mass student loan forgiveness on inflationary pressures in the economy. Nevertheless, when the Government forgives student loans, it creates new spending, and an increase in Government

spending, especially when financed with budget deficits, has historically fed inflationary cycles. On the other hand, student loan payments are often a small share of household budgets and are low relative to the size of the student loan balances borrowers hold, partly because of the many flexible and generous repayment options the Government offers. Because payments are relatively low on several measures, forgiving the debt is unlikely to free up a consumer's discretionary spending to a large degree. That dynamic suggests that the increase in inflationary pressures that could stem from loan forgiveness are likely to be lower than what observers might assume.

The JPMorgan Chase Institute estimated in 2019 that typical monthly student loan payments before the pandemic were \$179, but that number excludes the many borrowers who qualify for \$0 payments under IDR or using deferments and forbearances (“Student Loan Payments: Evidence From 4 Million Families”, July 2019). The actual number is therefore lower. Moreover, the Biden administration has implemented an even more generous IDR plan since that study, lowering payments further. The Federal Reserve Bank of New York wrote in a blog post in 2023 that the resumption of student loan payments after the pandemic payment pause was likely to reduce consumer spending by just \$56 per month (Liberty Street Economics: “Borrower Expectations for the Return of Student Loan Repayment”, October 18, 2023). The authors then estimate that such a change would be consistent with a 0.1 percentage-point decrease in consumer expenditures. The authors also note that before the pandemic, payments were about three times higher than they are now. All these points suggest that inflationary effects of loan forgiveness could be far lower than what one might first assume.

**Q.4.** What happens to student loan debt when it is forgiven?

**A.4.** Federal student loans are recorded on the budget as an asset based on the present value of the expected future stream of payments that will be made on the loan. When the loans are forgiven, that expected value is reduced to \$0, creating a budget cost that the Government must finance by either increasing tax revenue or reducing spending on other programs relative to the loans not being forgiven. For example, when the Federal Government issues a \$100 Federal student loan, it expects, on average, that about \$84 of the loan will be repaid, according to the Congressional Budget Office May 2023 baseline. The loan therefore carries a cost of \$16. But when the loan is forgiven, that cost increases to \$100 because the remaining \$84 will never be repaid as originally expected. The Federal budget will reflect that change, and it is a cost that must be financed by the revenue or a cut in spending elsewhere.

**Q.5.** In your view, why is the current selection of student loan repayment programs so complicated? How should the Department simplify these student loan repayment programs?

**A.5.** The current selection of repayment programs is complicated because Congress and multiple Administrations have sought to provide borrowers many options for many different circumstances when repaying their loans. They have done so generally to create flexibility for borrowers, allowing them to defer and reduce their

payments. Policymakers have pursued these efforts without much consideration for a key trade-off: the benefits add complexity and increase the chances that borrowers become confused, and loan servicers struggle to administer the program efficiently and effectively. My written testimony outlines ways the program can be simplified in ways that generally benefit borrowers and that produce minimal costs to taxpayers. I'll reiterate those points here.

- Establish one IDR plan in statute, and sunset all other IDR plans, as well as authority for the secretary of education to create new plans.
- Establish one default fixed-payment plan with a 20-year repayment term to replace all other non-IDR plans, such as the standard, consolidation, extended, and graduated plans.
- Tie loan forgiveness benefits to total repayment time, not the number of payments or loan status during repayment; this change will eliminate the need for complicated payment counts that have been a source of servicing problems and administrative complexity.
- Eliminate forbearance and deferment benefits and use income-based repayment to allow borrowers to postpone payments.
- Eliminate interest and charge one large origination fee added to the initial loan balance; borrowers will know how much they owe immediately, and their balance cannot grow, and there is no need to track and tally interest accrual.
- Use grants, direct payments, or tax benefits to subsidize public service employment instead of loan forgiveness benefits like Public Service Loan Forgiveness; IDR will allow these borrowers to make affordable loan payments.
- Eliminate loan servicing and require borrowers to repay loans through Federal income tax withholding. Under this approach, borrowers would elect additional withholding on their Internal Revenue Service Form W-4 or estimated quarterly tax filings, and then those amounts would be reconciled with the correct amount owed annually through the income tax filing process. Collecting loan payments through the Federal income tax system has major advantages over the current repayment system. The main one is that payments track income as it is earned, so borrowers would no longer need to complete an annual certification. Another advantage is that it eliminates the need for loan servicing and servicers. It could also reduce delinquency and defaults.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR KENNEDY  
FROM SCOTT BUCHANAN**

Questions for Mr. Scott Buchanan, Executive Director, Student Loan Servicing Alliance, from Senator John Kennedy and Responses:

1. *Your testimony on April 10, 2024 before the Economic Policy Subcommittee suggested that the Department of Education could do a better job at managing student loan servicers. What are some of the recent missteps committed by the Department of Education regarding its management of student loan servicers?*

The Department has been challenged in its management of the federal student loan program. These challenges are exacerbated by insufficient funding for day-to-day servicing of its federal student loans. However, ED has also had major planning and operational execution issues that circle around the following:

- Constant and unpredictable changes in its policies, procedures, and guidance
- Last minute or insufficient direction
- Late production of files and missing promised deadlines for provision of data necessary to implement programs
- Prioritization of political efforts over core obligations like servicing, FAFSA simplification, and congressionally authorized programs

It is critical that the Department continue to work to improve communication and strengthen its partnership with its vendors and servicers to drive better outcomes that will lead to borrower success.

2. *Your written statement for the record and oral testimony referred to a Federal Student Aid (FSA) developed playbook that FSA sent to federal student loan servicers. What is the purpose of this playbook? Would you please provide the Subcommittee with a copy of FSA's playbook?*

See attached.

3. *Please explain the references to "call deflection" contained in multiple places throughout the FSA playbook.*

FSA directed all servicers utilize a "call deflection" strategy and included it in their own playbook, which is guidance provided from FSA to its servicers. This approach encourages borrowers - who can - to self-service online rather than waiting to speak with a customer service representative. This was government directive, an acknowledgment of the unprecedented call volumes to come; it was not a strategy developed and implemented by servicers to harm borrowers, as falsely claimed during the hearing.

4. *On March 29, 2024, The Washington Post published an article entitled "Student loan servicer MOHELA tells advocacy group to stop 'misleading claims.'" According to the article, MOHELA sent the Student Borrower Protection Center (SBPC) a cease and desist letter in light of SBPC publishing a report entitled The MOHELA Papers. Could you please provide a copy of MOHELA's cease and desist letter that was sent to SBPC?*

See attached.

5. *Were there misstatements of facts related to the operation of the federal student loan servicing environment made by others at the hearing that you would like to clarify?*

Thank you for the opportunity to correct some misstatements of facts that, if left uncorrected, might impede the ability of Congress to assess, address and find solutions for the real challenges within the federal student loan servicing system.

First, on return to repayment: Given the unprecedented scale of this event, loan servicers continuously warned the government of the challenges associated with millions of federal borrowers all resuming payment on the same date, and the stressors that would be placed on the student loan ecosystem, including the Department of Education's Office of Federal Student Aid (FSA), servicers and borrowers.

- Planning by FSA was not optimal for the resumption, with guidance provided from FSA either not being forthcoming or repeatedly changing for the months leading up to the final resumption date.
- Servicers were asked to implement massive changes to several loan programs right before the resumption of payments, within a condensed timeframe, and without being provided the funding to do so effectively or on a timeline that is reasonable for testing and implementation.

Unlike the contract modification and funding FSA provided for servicers to hire, recruit, and retain new staff to handle the volume of work needed for President Biden's Debt Relief Plan (Debt Relief), servicers, including MOHELA, did not receive a similar contract modification to prepare its customer service and processing teams for Return-to-Repayment. We anticipated the efforts needed for Return-to-Repayment would far exceed that which was going to be needed for customer service and processing for Debt Relief.

- FSA reduced funding, reduced servicer call center hours, and knew that servicers would be impacted by high call volume and increased abandonment rates for borrowers calling for assistance. As FSA understood that returning to repayment was an unprecedented event which would bring about exceedingly high call volumes, FSA waived abandon rate as a deficiency metric for new borrower allocation as part of the reduced funding.

Second, on the handling of borrower phone calls during return to repayment: FSA directed all servicers utilize a "call deflection" strategy and included it in their own playbook, which is guidance provided from FSA to its servicers. This approach encourages borrowers - who can - to self-service online rather than waiting to speak with a customer service representative. This was government directive, an acknowledgment of the unprecedented call volumes to come; it was not a strategy developed and implemented by servicers to harm borrowers, as falsely claimed during the hearing.

Third, on the Public Service Loan Forgiveness (PSLF) backlog: As the owner of federal loans, FSA makes all decisions about whether to approve or deny forgiveness, including updating the

number of borrower qualifying payments, and so the backlog of approval on a borrower's forgiveness application resides at a resource-constrained FSA, which is also now struggling with the FAFSA breakdowns.

Misstatement 1:

Servicers had years to prepare for this transition to repayment and they still screwed up.

Fact:

Return to repayment (R2R) started and stopped nine (9) times. No additional funding was provided by FSA for the obvious surge in activity related to R2R.

After nine extensions of the COVID-19 Forbearance, the passage and signing of the Fiscal Responsibility Act of 2023 (FRA, Public Law 118-5), at the beginning of June 2023 solidified that student loans owned by the federal government would enter repayment on September 1, 2023.

On December 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023 (Public Law 117-328), which provided funding for FSA through September 30, 2023. While FSA was level-funded, it reduced servicer fees within MOHELA's federal student loan servicing contract beginning in April 2023. FSA pays its servicers, including MOHELA, a static fee per account status as of the end of each month. Due to budgetary constraints, FSA reduced specific fees paid to MOHELA and did not indicate an investment in resources to support an extraordinary surge in activity. FSA did not issue change requests for MOHELA to procure resources to prepare for and execute additional customer services beyond a steady state environment.

Misstatement 2:

After payments resumed in October, MOHELA sent the wrong bills to approximately 300,000 borrowers, 300,000 borrowers got the wrong amount in their bills.

Fact: The statement that wrong bills were sent to 300,000 borrowers is not true.

Misstatement 3:

Now, maybe it's no surprise that MOHELA received the most complaints of any federal student loan servicer in 2023.

Fact:

This statement is out of context and therefore intentionally misleading. See the March 25, 2024 Cease and Desist letter sent by MOHELA outlining the inaccuracies to the Student Borrower Protection Center which made false, misleading and sensationalized claims and insinuations regarding MOHELA and its business activities. MOHELA became the interim PSLF servicer in July of 2022. FSA and several of its other contractors and systems impact the experience of PSLF borrowers, although in many cases, borrowers assume all of the PSLF program is in the control of the servicer.

Misstatement 4:

Under MOHELA's watch, the backlog of PSLF forms hit a peak of 1 million. This meant that many teachers and nurses and firefighters did not get the relief that they were entitled to until

much later. So late that some borrowers continue to make payments on debts that should have already been canceled.

MOHELA knew that it had problems. And many of those problems caused borrowers to pick up the phone and call for help. Last month, a blockbuster report by the Student Borrower Protection Center and the American Federation of Teachers documented MOHELA's response to those calls.

Instead of just hiring and training more people to help clean up the mess that it had made, MOHELA implemented a call deflection scheme. That meant that a firefighter or a teacher who called in would be diverted away from live agents to dead-end parts of its website.

Fact:

These statements about the PSLF backlog, processing, and staffing efforts are out of context and designed to mislead the public discussion about how to improve loan servicing. See Cease and Desist letter sent by MOHELA outlining the inaccuracies to the Student Borrower Protection Center which made false, misleading and sensationalized claims and insinuations regarding MOHELA and its business activities.

Misstatement 5:

Instead of just hiring and training more people to help clean up the mess that it had made, MOHELA implemented a call deflection scheme. That meant that a firefighter or a teacher who called in would be diverted away from live agents to dead-end parts of its website.

Fact:

This statement about call deflection is incorrect for all servicers. See Cease and Desist letter for MOHELA's own factual response to the matter.

Misstatement 6:

Finally, MOHELA played a central role in blocking President Biden's boldest attempt to fix this broken student loan system through litigation against the president's first debt cancellation plan. If it weren't for MOHELA, 43 million borrowers might have gotten the student debt relief that President Biden laid out for them.

Fact: No servicer, including MOHELA, was a named or active party in the legal challenge before the Supreme Court that challenged President Biden's debt relief plan.

Misstatement 7:

Now, the actual job of a student loan servicer is pretty straightforward. MOHELA is responsible for communicating with borrowers about their loans, processing their payments, and advising borrowers on their repayment options. That's it. And for three years during COVID during the payment pause, MOHELA had a lot less to do than normal in many ways.

Even so, the federal government faithfully paid MOHELA throughout the pause, sending them hundreds of millions of dollars so that when the payments came back online, MOHELA would be ready to do its job and process those payments and advise those borrowers accurately.

Fact: This could not be further from the truth and reflects a lack of understanding of the incredibly complex nature of federal student loan servicing – perhaps one of the most complicated lending programs that has ever existed. As outlined by Mr. Delisle, there are

numerous complexities and complications of the federal student loan environment – many different benefits and repayment plans, a variety of actors involved, and a lot of changes and rewritten rules driven by the U.S. Department of Education – often with short turnaround times for implementation – that have increased the risk of some servicing problems. Servicers are tasked with much more than communication to borrowers, processing payments, and advising borrowers on their repayment options. Many other tasks and responsibilities continued during the COVID payment pause, for which FSA continued to pay us for the work we were contracted to perform.

Misstatement 8:

And according to the Department of Education, 800,000 of MOHELA's borrowers became delinquent on their loans because of the company's mistakes.

Fact: This statement does not reflect the reality. Delinquencies were always expected to be high by Congress, the Department, and honest policymakers – this is symptom of the challenges presented by such a long delay in repayment and a confusing resumption process directed by the government. The delinquency rates of those accounts that were impacted by system or slight billing delays are no higher than those of other accounts.

6. *Do student loan servicing companies have the legal authority to forgive student loans under one or more student loan forgiveness programs?*

Student loan servicers do not have authority to independently determine what loans are eligible or forgiveness in the federal student loan program. They comply with directives from the US Department of Education and effectuate practices that must align with law and regulation.

7. *Is there additional information about the overall student loan servicing environment that you would like to provide for the record?*

Servicers are a part of the student loan servicing environment - a very critical part. However, Congress and the Department of Education set the program rules, provide funding to accomplish goals, and provide all operational decisions and direction. All parties involved must work collaboratively together to achieve success for borrowers. The interaction between all these entities must be improved, rather than constantly blaming servicers for issues we have long warned about and tried to head off – or that are not in our control.



**Return to Repayment, Student Debt Relief, and Income Driven  
Repayment New Communications Playbook**

Federal Student Aid's Outreach Plan to Borrowers

July 3, 2023

Version 1

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## Overview

On March 13, 2020, the president signed the *CARES Act*, which implemented several student loan flexibilities for borrowers of Department of Education (ED)-held student loans. These flexibilities ranged from (but were not limited to) interest rates being set to 0% to not requiring borrowers to make their monthly student loan payments. These COVID-19 emergency relief flexibilities were extended multiple times, and as they end, interest will begin accruing for borrowers on Sept. 1, and payments will resume in October. The latest information on these emergency relief flexibilities can be found on [StudentAid.gov/coronavirus](https://StudentAid.gov/coronavirus).

FSA has devised an approach that plans for several communications to be sent out via numerous communication channels beginning now until March 2024. FSA will author most of the communications and will leverage its available communication channels and capabilities, or the capabilities of its servicers, to ensure these communications reach every borrower before, during, and after payments resume later this year.

This document is intended to provide a roadmap for each servicer and supporting vendors on the following topics:

- When FSA intends to send out communications to borrowers and via what channel
- The different audiences FSA intends to reach
- How planned vendor communication beyond this plan should be handled and sent to FSA for review and approval

New for this version of the playbook is also information on our communications related to Student Debt Relief (SDR), the new proposed income-driven repayment (IDR) plan Saving on a Valuable Education (SAVE) (formerly known as REPAYE), and the new functionality on [StudentAid.gov/idr](https://StudentAid.gov/idr).<sup>1</sup> Information on these communication items is now also included throughout this playbook. Additionally, we will be providing language at certain points in time for servicers to use in their IVR and websites to help with coordinated call deflection actions to promote borrower self-service.

FSA intends to update this document on a regular basis as new information becomes available or its communication plan changes. All correspondence and/or questions related to this communications playbook should be sent to [FSACaresActComms@ed.gov](mailto:FSACaresActComms@ed.gov) and [FSAVendorManagementTeam@ed.gov](mailto:FSAVendorManagementTeam@ed.gov). Servicers must designate at least two email addresses to receive correspondence regarding these communications efforts and notify the [FSACaresActComms@ed.gov](mailto:FSACaresActComms@ed.gov) email box of these email addresses.

## Main Return to Repayment Communication Segments

In the context of return to repayment FSA will target communications to several specific borrower segments. While numerous segments will be listed below, it is likely that borrowers will fall into multiple categories. Additionally, the messaging to many of these segments will be the same, and as a result, the number of unique messages that will be sent in any given time will likely be less than the total number

<sup>1</sup> The Department plans to finalize a new IDR plan in the coming weeks. This playbook contains details about the plan and timing of communications that may change based on the final rule. For more information on SAVE visit [StudentAid.gov/SAVE](https://StudentAid.gov/SAVE).

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of identified borrower segments. Additionally, if a borrower falls into multiple segments, they will be prioritized to get a message in one segment only. Finally, depending on the Supreme Court decision on debt relief additional segments may be added in the future.

#### At-Risk Segment

The segments listed below are those that FSA intends to reach when you see the main communication segment label of "At Risk" within a communication send or outreach effort. Note the audiences that are marked (TEDI) are part of the Targeted Early Delinquency Intervention program described later in this document.

Segment
Borrowers who will enter another deferment or forbearance not otherwise defined when payments resume (would have to recertify a deferment or conditions to get back in)
Borrowers who have recently transferred in the past three months to a new federal student loan servicer
Perkins borrowers that are currently serviced by ECSI
Borrowers currently on an IDR plan but have not recertified or recalculated their monthly payments during the payment pause
Borrowers who attended a private for-profit institution and graduated
GA FFEL borrowers who entered default after March 13, 2020, and are being reassigned to Nelnet under the Special Mandatory Assignment process (TEDI)
Borrowers who were 30+ days delinquent immediately prior to March 13, 2020, and had their delinquency resolved due to the payment pause (TEDI)
Borrowers who successfully rehabilitated their defaulted loans during the payment pause (TEDI)
Borrowers who opted into Fresh Start and had their loans transferred to a non-default servicer (TEDI)
Borrowers who did not complete their program of study at a private for-profit institution before or during the payment pause and currently have a loan balance (TEDI)
Borrowers who did not complete their program of study at a non-profit school before or during the payment pause and currently have a loan balance (TEDI)
Borrowers who previously missed their first payments after exiting grace before the payment pause and still have a balance remaining (TEDI)
Borrowers who entered into a non-administrative forbearance on two or more occasions before the payment pause at any point in time and have a balance remaining (TEDI)
Borrowers who paused, missed, or made partial payments while enrolled on an IDR plan before the payment pause (TEDI)
Borrowers who missed two or more consecutive payments on three or more occasions (TEDI)
Borrowers who entered a non-administrative forbearance for a period longer than a year before the payment pause (TEDI)

#### Soon to Make Payments Segment

The segments listed below are those that FSA intends to reach when you see the main communication segment label of "Soon to Make Payment" within a communication send or outreach effort.

Segment
Will exit the grace period after the payment pause

Borrowers who never made a payment and will make first payment after payment pause ends
---

**In Previous Good Standing Segment**

The segments listed below are those that FSA intends to reach when you see the main communication segment label of “In Previous Good Standing” within a communication send or outreach effort.

Segment
In good standing and on an IDR Plan, including those that have recertified or recalculated their monthly payments during the payment pause
In good standing and on any (non-IDR) repayment plan

**Currently Making Payments Segment**

The segments listed below are those that FSA intends to reach when you see the main communication segment label of “Currently Making Payments” within a communication send or outreach effort.

Segment
Opted out of COVID Administrative Forbearance (currently in a repayment status)

**No Payment Due Segment**

The segments listed below are those that FSA intends to reach when you see the main communication segment label of “No Payment Due” within a communication send or outreach effort.

Segment
In School when payment pause ends (In school deferment)
Awaiting discharge or adjudication of discharge application, such as forbearances related to Borrower Defense, account adjustment, or other forgiveness programs
In a deferment or forbearance, for example military borrowers

**Fresh Start Segment**

The segments listed below are those that FSA intends to reach when you see the main communication segment label of “Fresh Start” within a communication send or outreach effort.

Segment
GA FFEL defaulted borrowers pre-March 13, 2020
All DMCS borrowers

Specific communications only related to IDR and/or SAVE will be colored in light green in the communications schedule.

### Main Student Debt Relief Communication Segments

As part of the return to repayment communication efforts, FSA will also prepare certain communications as it relates to a Supreme Court (SCOTUS) decision on Student Debt Relief (SDR). Once a decision is made, FSA will communicate with all borrowers about the impact of the decision. Specific comms only related to SDR will be colored in light orange in the communications schedule.

Possible Segments
Eligible for SDR, have not applied
Applied for SDR, in processing
Applied for SDR, approved but not yet in processing
All who applied for SDR
All who have not applied for SDR
All DL, all-ED-held FFEL, ED-held Perkins, and defaulted commercial borrowers

### Main Income-Driven Repayment Communication Segments

Additionally, during the return to repayment and SDR communication timeframe FSA will also be communicating with borrowers about the changes being implemented for IDR on July 30, 2023. This will also be when unique communications to borrowers specifically about the SAVE IDR plan will also begin to be sent and last till the end of 2023 into 2024. There will be strong overlap between FSA return to repayment and IDR communications as many of the calls to action FSA intends will focus borrowers to consider and sign up for IDR to prepare to resume payments. While there are no specific segments FSA will target all eligible borrowers. Specific communications only related to IDR and/or SAVE will be colored in light yellow in the communications schedule.

### Communication Schedule

Outreach related to ACH/Auto-Debit

Servicers – R2R Focus	
Title 1	Outreach to all borrowers based upon their ACH status (CR5881)
Audience 1	All borrowers who are on ACH, but by sign up status (CR5881)
Description 1	Outreach to encourage borrowers to reconfirm their auto-debit and, at the direction of FSA,
Expected Date for Content to be Available for Review	Previously Provided
Start Date	All communications should be completed except the unenrollment notification – FSA will notify when unenrollment should occur
End Date	All communications should be completed except the unenrollment notification – FSA will notify when unenrollment should occur
Method	As defined in CR5881

June 2023

Federal Student Aid – SDR Focus	
Title 1	SCOTUS Decision Update
Description 1	Message from FSA to borrowers immediately after the SCOTUS decision to provide an update on the decision and what it means for them and what it means for return to repayment
Audience 1	All DL, all-ED-held FFEL, ED-held Perkins, and defaulted commercial borrowers
Expected Date for Finalized Content	To be determined
Start Date	As soon as possible after SCOTUS decision
End Date	To be determined
Method	E-mail

Servicer – SDR Focus	
Title 1	SCOTUS Decision Update
Description 1	<p>Immediately after the release of the SDR decision servicers should place on their website and IVR the following statements:</p> <p><b>Website:</b> The Supreme Court has issued a ruling on whether the U.S. Department of Education can move forward with the Biden-Harris Administration's student debt relief program. As soon as information is available, it will be posted to <a href="https://studentaid.gov/debtrelief">StudentAid.gov/debtrelief</a>. Please visit that page for more information.</p> <p><b>IVR:</b> The Supreme Court has issued a ruling on whether the U.S. Department of Education can move forward with the Biden-Harris Administration's student debt relief program.</p> <p>Our agents do not have additional information at this time about the debt relief program or an application you submitted previously. As soon as information is available, it will be posted to <a href="https://studentaid.gov">studentaid.gov</a> forward slash debtrelief.</p> <p>Thank you for your patience.</p>
Audience 1	All borrowers
Expected Date for Finalized Content	Already provided
Start Date	As directed by FSA
End Date	As directed by FSA
Method	Website Banner and IVR Updates

Servicer – R2R Focus	
Title 1	Return to Repayment Date Confirmation
Description 1	Servicers should put the following banner on their website and IVR.

## 8 R2R, SDR, and IDR Communications Playbook

	<p><b>Website/IVR:</b> Congress recently passed a law preventing further extensions of the payment pause. Student loan interest will resume starting on September 1, 2023, and payments will be due starting in October.</p> <p>Borrowers will receive a billing statement from their loan servicer at least three weeks before their payment is due.</p>
Audience 1	All borrowers
Expected Date for Finalized Content	Already provided
Start Date	As directed by FSA
End Date	As directed by FSA
Method	Website Banner and IVR Updates

July 2023

Federal Student Aid – R2R Focus	
Title 1	Return to Repayment Resources are available
Description 1	Focused return to repayment message that the payment pause will be ending, when they should get billing statements, steps they can take now, and who is their loan servicer.
Audience 1	At Risk, Soon to Make Payments, In Previous Good Standing
Expected Date for Finalized Content	To be determined
Start Date	Mid-Late July
End Date	Late July
Method	E-mail
<b>Title 2</b>	
Title 2	ACH Enrollment Reminder
Description 2	FSA email to borrowers who have not yet confirmed their ACH enrollment with their servicer
Audience 2	All borrowers who have not confirmed as provided by servicers
Expected Date for Finalized Content	July 6, 2023
Start Date	July 10, 2023
End Date	July 14, 2023
Method	E-mail

Servicer – R2R Focus	
Title 1	Call Center Deflection Messaging
Description 1	FSA will be providing messaging to servicers to help with coordinated call deflection efforts to promote self-service. These messages should be used in the servicer IVR, Banner language on websites, and social media promotion in concert with FSA email campaigns
Audience 1	All Borrowers

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## 9 R2R, SDR, and IDR Communications Playbook

Expected Date for Finalized Content	To be determined
Deflection Messages	To be determined
Start Date	To be determined
End Date	To be determined
Method	IVR, Website, Social Media, etc.

Federal Student Aid – IDR Focus	
Title 1	Announcing SAVE
Description 1	Public announcement of new SAVE IDR plan and the new regulation changes
Audience 1	All borrowers
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Social Media Post and Updates to StudentAid.gov
<b> </b>	
Title 2	Comparing the new SAVE IDR Plan to Existing IDR Plans
Description 1	Public announcement showing the differences between the new and existing IDR plans showing calculations and expected savings
Audience 1	All borrowers
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Social Media Posts

August 2023

Federal Student Aid – R2R Focus	
Title 1	Payments are resuming soon
Description 1	Focus on preparing borrowers for disclosures, billing statements, and to start making payments soon. Also encourage to sign up for auto-debit and for IDR (SAVE). Personalization made to borrowers based upon population segment.
Audience 1	At Risk
Expected Date for Finalized Content	To Be Determined
Start Date	Early August
End Date	Early August
Method	E-mail
<b> </b>	
Title 2	Payments are resuming soon

Description 2	Focus on preparing borrowers for disclosures, billing statements, and to start making payments soon. Also encourage to sign up for auto-debit and for IDR (SAVE). Personalization made to borrowers based upon population segment.
Audience 2	Soon to make Payments
Expected Date for Finalized Content	To Be Determined
Start Date	Early August
End Date	Early August
Method	E-mail
<b>Title 3</b>	
Title 3	Payments are resuming soon
Description 3	Focus on preparing borrowers for disclosures, billing statements, and to start making payments soon. Also encourage to sign up for auto-debit and for IDR (SAVE). Personalization made to borrowers based upon population segment.
Audience 3	In Previous Good Standing
Expected Date for Finalized Content	To Be Determined
Start Date	Early August
End Date	Early August
Method	E-mail
<b>Title 4</b>	
Title 4	Keep making your payments
Description 4	Informs borrowers who had opted out and were already making payments that they need to continue to make their payments. Inform them of the 0% interest rate ending.
Audience 4	Currently Making Payments
Expected Date for Finalized Content	To Be Determined
Start Date	Early August
End Date	Early August
Method	E-mail
<b>Title 5</b>	
Title 5	No payment due after the pause ends
Description 5	Inform borrowers who are expecting a full discharge of their loans or who will be entering into another forbearance or deferment that no payment will be required.
Audience 5	No Payment Due
Expected Date for Finalized Content	To Be Determined
Start Date	Early August
End Date	Early August
Method	E-mail
<b>Title 6</b>	
Title 6	0% interest is ending and interest resumes 9/1

## 11 R2R, SDR, and IDR Communications Playbook

Description 6	Informs borrowers that 0% interest rate is ending and interest will resume 9/1. Incorporates previous Fresh Start email content.
Audience 6	Fresh Start
Expected Date for Finalized Content	To Be Determined
Start Date	August
End Date	August
Method	E-mail
<b>Title 7</b>	
Title 7	Reminder: Payments are resuming soon
Description 7	Additional reminder reinforcing the need for preparing borrowers for disclosures, billing statements, and to start making payments soon. Also encourage to sign up for auto-debit and for IDR (SAVE). Personalization made to borrowers based upon population segment.
Audience 7	At-Risk populations to include: <ul style="list-style-type: none"> <li>• Did not complete program of study no matter school (for profit or not for profit)</li> <li>• 30+ days delinquent immediately prior to the payment pause</li> <li>• Borrowers who rehabilitated from default or opted into Fresh Start plus and transferred to a non-default servicer</li> <li>• All remaining at-risk borrowers not in these three categories</li> </ul>
Expected Date for Finalized Content	To Be Determined
Start Date	Mid-Late August
End Date	Late August
Method	E-mail

**Servicer – R2R Focus**

Title 1	Call Center Deflection Messaging
Description 1	FSA will be providing messaging to servicers to help with coordinated call deflection efforts to promote self-service. These messages should be used in the servicer IVR, Banner language on websites, and social media promotion in concert with FSA email campaigns
Audience 1	All Borrowers
Expected Date for Finalized Content	To be determined
Deflection Messages	To be determined
Start Date	To be determined
End Date	To be determined
Method	IVR, Website, Social Media, etc.

**Federal Student Aid – IDR Focus**

Title 1	SAVE is available – What does this mean?
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Description 1	Get borrowers to the IDR application to determine which plan works for them. Ensure borrowers in REPAYE understand the changes in their payment amounts.
Audience 1	All borrowers
Expected Date for Finalized Content	To be determined
Start Date	Mid-Late August
End Date	Late August
Method	SMS Social Media Updates to StudentAid.gov Video
<b>Title 2</b>	
Description 2	Let them know they don't need to do anything and will be automatically enrolled in the new SAVE plan, and they will potentially see a lower payment amount.
Audience 2	Borrowers currently on REPAYE
Expected Date for Finalized Content	To be determined
Start Date	Late August
End Date	Late August
Method	Email
<b>Title 3</b>	
Description 3	Let the know about the new SAVE plan and that it might be a better option for their situation than their existing IDR plan. Potentially see a lower payment amount.
Audience 3	Borrowers currently on IDR, but not REPAYE
Expected Date for Finalized Content	To be determined
Start Date	Late August
End Date	Late August
Method	Email
<b>Title 4</b>	
Description 4	Let the know about the new SAVE plan if they want to lower their monthly payment amount. Learn about benefits of SAVE.
Audience 4	Borrowers currently on the standard repayment plan
Expected Date for Finalized Content	To be determined
Start Date	Late August
End Date	Late August
Method	Email

September 2023

Federal Student Aid – R2R Focus	
Title 1	Look out for your billing statement – Make sure you are prepared
Description 1	Remind borrowers that they have or will soon receive their first billing statement. Encourage them to seek help if they are unable to afford their first payment. Also encourage to sign up for auto-debit and for IDR (SAVE).
Audience 1	At Risk
Expected Date for Finalized Content	To Be Determined
Start Date	Early-Mid September
End Date	Mid-September
Method	E-mail
<b> </b>	
Title 2	Look out for your billing statement – Make sure you are prepared
Description 2	Remind borrowers that they have or will soon receive their first billing statement. Encourage them to seek help if they are unable to afford their first payment. Also encourage to sign up for auto-debit and for IDR (SAVE).
Audience 2	Soon to make Payments, but only focusing on those who have never made a payment (e.g., exited grace during the pause)
Expected Date for Finalized Content	To Be Determined
Start Date	Early-Mid September
End Date	Mid-September
Method	E-mail
<b> </b>	
Title 3	Look out for your billing statement – Make sure you are prepared
Description 3	Remind borrowers that they have or will soon receive their first billing statement. Encourage them to seek help if they are unable to afford their first payment. Also encourage to sign up for auto-debit and for IDR (SAVE).
Audience 3	In Previous Good Standing
Expected Date for Finalized Content	To Be Determined
Start Date	Early-Mid September
End Date	Mid-September
Method	E-mail
<b> </b>	
Title 4	Look out for your billing statement – Make sure you are prepared
Description 4	Remind borrowers that they will soon receive their first billing statement. Encourage them to seek help if they are unable to afford their first payment. Also encourage to sign up for auto-debit and for IDR (SAVE).
Audience 4	Soon to make Payments, but only focusing on those that will exit grace after the payment pause
Expected Date for Finalized Content	To Be Determined
Start Date	Early-Mid September

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End Date	Mid-September
Method	E-mail
<b>Title 5</b>	<b>Reminder Look out for your billing statement – Make sure you are prepared</b>
Description 5	Additional reminder borrowers that they have or will soon receive their first billing statement. Encourage them to seek help if they are unable to afford their first payment. Also encourage to sign up for auto-debit and for IDR (SAVE).
Audience 5	At-Risk populations to include: <ul style="list-style-type: none"> <li>• Did not complete program of study no matter school (for profit or not for profit)</li> <li>• 30+ days delinquent immediately prior to the payment pause</li> <li>• Borrowers who rehabilitated from default or opted into Fresh Start plus and transferred to a non-default servicer</li> </ul> All remaining at-risk borrowers not in these three categories
Expected Date for Finalized Content	To Be Determined
Start Date	Mid-September
End Date	Late September
Method	E-mail
<b>Title 6</b>	<b>Reminder Look out for your billing statement – Make sure you are prepared</b>
Description 6	Additional reminder borrowers that they have or will soon receive their first billing statement. Encourage them to seek help if they are unable to afford their first payment. Also encourage to sign up for auto-debit and for IDR (SAVE).
Audience 6	Soon to Make Payments (entire population)
Expected Date for Finalized Content	To Be Determined
Start Date	Mid-September
End Date	Late September
Method	E-mail

<b>Servicer – R2R Focus</b>	
<b>Title 1</b>	<b>Call Center Deflection Messaging</b>
Description 1	FSA will be providing messaging to servicers to help with coordinated call deflection efforts to promote self-service. These messages should be used in the servicer IVR, Banner language on websites, and social media promotion in concert with FSA email campaigns
Audience 1	All Borrowers
Expected Date for Finalized Content	To be determined
Deflection Messages	To be determined
Start Date	To be determined
End Date	To be determined

For FSA and Servicer Usage Only

Method	IVR, Website, Social Media, etc.
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Federal Student Aid – IDR Focus	
Title 1	SAVE is available – What does this mean?
Description 1	Get borrowers to the IDR application to determine which plan works for them. Ensure borrowers in REPAYE understand the changes in their payment amounts.
Audience 1	All borrowers
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	SMS Social Media Updates to StudentAid.gov Video

October 2023

Federal Student Aid – R2R Focus	
Title 1	Payments have resumed
Description 1	Remind borrowers that they need to start making payments. Encourage them to seek help if they are unable to afford their first payment. Continue to encourage auto-debit and signing up for IDR (SAVE).
Audience 1	At Risk
Expected Date for Finalized Content	To Be Determined
Start Date	Mid-Late October
End Date	Late October
Method	E-mail
<b> </b>	
Title 2	Payments have resumed
Description 2	Remind borrowers that they need to start making payments. Encourage them to seek help if they are unable to afford their first payment. Continue to encourage auto-debit and signing up for IDR (SAVE).
Audience 2	Soon to make Payments
Expected Date for Finalized Content	To Be Determined
Start Date	Mid-Late October
End Date	Late October
Method	E-mail

Title 3	Payments have resumed
Description 3	Remind borrowers that they need to start making payments. Encourage them to seek help if they are unable to afford their first payment. Continue to encourage auto-debit and signing up for IDR (SAVE).
Audience 3	In Previous Good Standing
Expected Date for Finalized Content	To Be Determined
Start Date	Mid-Late October
End Date	Late October
Method	E-mail

Servicer – R2R Focus	
Title 1	Call Center Deflection Messaging
Description 1	FSA will be providing messaging to servicers to help with coordinated call deflection efforts to promote self-service. These messages should be used in the servicer IVR, Banner language on websites, and social media promotion in concert with FSA email campaigns
Audience 1	All Borrowers
Expected Date for Finalized Content	To be determined
Deflection Messages	To be determined
Start Date	To be determined
End Date	To be determined
Method	IVR, Website, Social Media, etc.

Federal Student Aid – IDR Focus	
Title 1	SAVE is available – What does this mean?
Description 1	Get borrowers to the IDR application to determine which plan works for them. Ensure borrowers in REPAYE understand the changes in their payment amounts.
Audience 1	All borrowers
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Social Media Updates to StudentAid.gov Video

November 2023

Federal Student Aid – IDR Focus	
Title 1	What if you are having trouble making payments
Description 1	Get borrowers to the IDR application to determine which plan works for them. Provide supporting information on how to enroll and to navigate the new IDR flow. Provide information on the IDR account adjustment.
Audience 1	To be determined
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Email Social Media Posts (3-5 per month) Videos

December 2023

Federal Student Aid – IDR Focus	
Title 1	Choose a repayment plan for your federal student loans
Description 1	Get borrowers to the IDR application to determine which plan works for them. Provide supporting information on how to enroll and to navigate the new IDR flow. Provide information on the IDR account adjustment.
Audience 1	To be determined
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Email Social Media Posts (3-5 per month)

January 2024

Federal Student Aid – IDR Focus	
Title 1	An IDR plan may be beneficial if you have a higher balance
Description 1	Get borrowers to the IDR application to determine which plan works for them. Provide supporting information on how to enroll and to navigate the new IDR flow. Provide information on the IDR account adjustment.
Audience 1	To be determined
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Email Social Media Posts (3-5 per month)

	SMS
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February 2024

Federal Student Aid – IDR Focus	
Title 1	Consider an IDR Plan
Description 1	Get borrowers to the IDR application to determine which plan works for them. Provide supporting information on how to enroll and to navigate the new IDR flow. Provide information on the IDR account adjustment.
Audience 1	To be determined
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Email Social Media Posts (3-5 per month)

March 2024

Federal Student Aid – IDR Focus	
Title 1	SAVE Plan can offer you lower payments, apply today
Description 1	Get borrowers to the IDR application to determine which plan works for them. Provide supporting information on how to enroll and to navigate the new IDR flow. Provide information on the IDR account adjustment.
Audience 1	To be determined
Expected Date for Finalized Content	To be determined
Start Date	To be determined
End Date	To be determined
Method	Email Social Media Posts (3-5 per month)

## On Ramp Program In-Depth

### Program Summary

Under CR6703, servicers, to help borrowers back into repayment, will implement the Department of Education's temporary "on ramp." Although payments are due and interest will continue to accrue, the on-ramp will help borrowers avoid the harshest consequences of missed, partial, or late payments in the months following the end of the pause so that they do not result in negative credit reporting or default.

As part of this implementation, servicers will notify borrowers when the on-ramp forbearance is applied to their account to prevent these consequences of missed, partial, or late payments. FSA will be providing to servicers a copy of the message to use as outlined in CR6703 and some Frequently Asked

Questions to help customer service representatives answer questions about the program and what it means for their student loans.

Communications around this on-ramp will continue until the program is ended as described in CR6703.

## Targeted Early Delinquency Intervention (TEDI) Program In-Depth

### Program Summary

As announced, FSA has put together an always-on communication approach to conduct outreach to borrowers in At Risk categories. Also known as TEDI, the goal of this program is for FSA to communicate with these borrowers based upon their behavior once payments resume in 2023. The messages to be sent to these borrowers are as follows:

1. For borrowers in the TEDI audience who successfully make their student loan payment on time, FSA will send an email message of support before their next payment is due (1 email randomly assigned or no email at all).
2. For borrowers in the TEDI audience who miss their student loan payment, FSA will send a message providing information on how to get support and the risks of remaining delinquent before their next payment is due (10 different messages randomly assigned).

Beyond this originally identified segment of borrowers, FSA will add in borrowers over time whom we did not consider "At Risk" but miss a payment after payments resume. FSA will send these borrowers a message providing information on how to get support and the risks of remaining delinquent before their next payment is due.

Finally, borrowers who are in the At-Risk audience who successfully make 3 consecutive months of payments will then be removed from the TEDI email send population. If, subsequently, they miss a payment after being removed, they would return into TEDI to receive outreach from FSA.

FSA intends to send emails at a regular cadence throughout the month with an initial goal of emails being sent to borrowers no later than 15 days after they make or miss a payment. For example, if a borrower had a payment due on October 10, 2023, they should expect to receive a tailored email from FSA no later than October 25, 2023. This will allow enough time for the borrower to react to the message before their next payment is due in November 2023.

### Role of Servicers in Relationship to TEDI

Beyond TEDI, servicers should conduct outreach efforts based upon the understanding of their borrower population and outreach capabilities. FSA will not prescribe the content, type, and frequency of outreach done by servicers, but may request samples or information on the status of outreach being conducted by servicers to help modify future FSA messaging to this population as the TEDI program matures.

## Planned Vendor Communications Beyond This Plan

Servicers are also encouraged to send additional communication or correspondence to borrowers related to the ending of the extension period. If a servicer intends to do additional communication or correspondence, FSA is asking to see the following:

1. Documentation of their communications plan/approach to ending of the payment pause.
  - a. This should include planned communications such as inserts, additional emails, SMS, website updates, etc.
  - b. This should not include mandatory communications (e.g., disclosure notices and billing statements)
2. Planned communications, which FSA may review and provide feedback.

Upon review of the plan and provided communications, FSA will provide feedback. After this feedback is provided, servicers can use this feedback to craft additional communications and messages if so desired.

Servicers should ensure the following when drafting and releasing additional communication as it relates to their plan:

1. Follows all applicable laws and regulations to include borrower's agreement to receive such communication via the format intended (e.g., SMS).
2. Reflects guidance and/or content that can be found on StudentAid.gov OR within CR5505 and all subsequent extension CR Questions & Answers.
3. Uses previously issued communication as an example of accepted language.
4. If servicers are unsure regarding the accuracy of the authored content, or would like FSA to review content at any point in time, they should connect with their liaison and cc the [FSACaresActComms@ed.gov](mailto:FSACaresActComms@ed.gov) email box to discuss and review before releasing to borrowers.

Servicers are asked to provide their plan and communications to [FSACaresActComms@ed.gov](mailto:FSACaresActComms@ed.gov) for review.

Provided communications plans and/or content should follow this email template below:

- Vendor Name.
- Primary Vendor Point of Contact Name, Email, and Phone Number.
- Secondary Vendor Point of Contact Name, Email, and Phone Number.
- Summarized Description of Content (Including the Two Example Messages for the Initial Review).
- Intended Borrower Audiences the Entire Plan or Communication Intends to Reach (see the examples FSA is using above).
- Date the Plan/Communication will be Implemented by the Servicer.

### Website Content

Servicers will be notified as soon as possible when FSA updates StudentAid.gov content related to the ending of benefits, SDR, and IDR. Servicers should ensure that their website content accurately reflects the content on StudentAid.gov for all associated topics. If they have questions on such topics, they should confirm content with FSA via the [FSACaresActComms@ed.gov](mailto:FSACaresActComms@ed.gov) mailbox.

### Reporting Requirements

It is expected that servicers may be asked from time to time to provide data on the success of their communication outreach. Possible data could be, but is not limited to:

## 21 R2R, SDR, and IDR Communications Playbook

- Confirmation the communications have been sent.
- Evidence and tracking of all undeliverable email and postal mail for each communication sent per borrower to demonstrate each attempt made to reach the borrower.
- Social media engagement metrics.
- Open rates as it relates to email communication.
- Calls to action success (update contact information, IDR sign up, etc.)

FSA will reach out to servicers requesting updates on campaign or communication success based upon the provided communication plan.





March 25, 2024

Mr. Mike Pierce  
 Executive Director  
 Student Borrower Protection Center  
 1025 Connecticut Avenue NW, Suite 717  
 Washington, DC 20005

Re: MOHELA

Dear Mr. Pierce:

The Student Borrower Protection Center ("SBPC") publication named "The MOHELA Papers," dated February 2024 (the "Publication"), made false, misleading and sensationalized claims and insinuations regarding MOHELA and its business activities. The Publication took a consistently one-sided position, ignoring many facts and circumstances favorable to MOHELA while exaggerating and falsely presenting other circumstances. It also referenced citations that did not support its claims and attributed actions to MOHELA that were the actions of others.

The description herein highlights some of the most blatant false assertions in the Publication and describes how they are false. Moreover, this description actually downplays the sensationalized effect of the combination of the overblown headings and false assertions in the Publication. The accusations in the Publication are not fairly supported by the complete facts. Almost none of these key facts are mentioned in the Publication. Not only are statements wholly wrong, but the Publication gives the unmistakable and false impression that all of the problems with the federal student loan program and related matters are MOHELA's responsibility.

The Publication includes clear cases of inaccurate and highly misleading statements set forth herein. If the SBPC, having knowledge of these facts, and understanding the recklessness and errors of its Publication, continues to publish such statements, or makes new statements to the same effect, because of its reckless disregard for the truth or its knowing falsity, it will be subject to liability for libel and other publication-based claims.

#### SOME OF THE MOST EGREGIOUS FALSE STATEMENTS

- The Publication repeatedly alleges that MOHELA intended to mislead borrowers during R2R by maintaining a complex "call deflection scheme." As is well-known, "call deflection" is not a "nefarious scheme," rather it is the common name for the technique widely used in the business community, particularly by customer service call centers, to provide callers access to information even during periods of high call volume through self-service options. More importantly, this was a technique that MOHELA was directed to employ by the U.S. Department of Education's Office of Federal Student Aid ("FSA"). In connection with R2R, FSA directed all federal student loan servicers (not just MOHELA) to employ "call deflection" to address the anticipated dramatic call volume. FSA's July 2023 Communications Playbook for R2R, issued before the start of R2R, references the need for FSA's loan servicers to utilize call deflection. FSA references call deflection 13 times in that initial Playbook. In the 26

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versions of the Playbook issued by FSA to the loan servicers from July to December 2023, there were 120 mentions of the use of "call deflection." As any fair-minded person would acknowledge, it was not possible for any of the federal loan servicers, to immediately answer the dramatic increase in call volume at the inception of R2R. This was recognized by FSA. One example of this increase in call volume is that the percentage of borrowers assisted by MOHELA customer service representatives increased by over 300% in October 2023 compared to February 2020.

- The Publication states that MOHELA has allowed the Public Service Loan Forgiveness ("PSLF") backlog to explode with over 800,000 unprocessed forms in February 2024. This is false. To the contrary, as of today, MOHELA has less than 15,000 new PSLF forms to process. Other forms are pending employer adjudication by FSA, consolidation loans to be made or loans to be transferred from another federal servicer. The volume of applications continues to fluctuate and an uptick may occur because of an April 30, 2024 deadline allowing borrowers to take advantage of additional payment adjustments.
- Contrary to the statements and insinuations throughout the Publication, MOHELA dramatically increased its staffing in an attempt to meet the challenges of both PSLF and R2R loan processing. MOHELA's staffing increased from 531 staff (September 2021) to 3,419 (February 2024), an increase of 543%. During the period from August 2022 to September 2023, MOHELA's hiring of customer service representatives increased over 200% from 330 to 1,022. During that same period, supervisor hiring increased 159%, from 22 to 57.
- Many of the footnote citations in the Publication for alleged "bad acts" by MOHELA are incorrect. Cited authorities often relate to time periods before MOHELA was involved with PSLF processing, actions that did not relate to MOHELA but that involved other loan servicers, the loan servicing industry in general, or to events that never occurred.
- The Publication repeatedly refers to millions of borrowers serviced by MOHELA experiencing a documented servicing failure and occasionally references a \$7.2 million withholding by FSA of MOHELA servicing fees as evidence of same. The reference to servicing failures suggests some misapplication or misappropriation of funds, bad advice or other malicious action. In fact, the withholding by FSA relates to whether bills were timely sent to borrowers for their first payment after their payment pause. FSA's withholding of those fees was an initial protective measure, not yet even at the stage of a claim, and that action by FSA is in the early stages of review. FSA's action thus far fails to recognize that there was a constant stream of notifications by FSA and the loan servicers as to when payments were due and the multiple ways for borrowers to learn of when payments were due. More importantly, approximately 65% of the borrowers who allegedly received late bills and are the subject of the withholding, either paid on time or owed nothing. Many others were sent bills at least two weeks before payments were due. Accordingly, the statements in the Publication on this topic are incomplete and misleading.
- A major difficulty in pointing out false statements in the Publication is that it regularly "flip flops" between discussions involving PSLF and R2R, between time periods before and after MOHELA serviced PSLF on FSA's behalf, and as to matters not unique to MOHELA but applicable to all federal student loan servicers or to other servicers.

#### DATA POINTS FOR BACKGROUND ON FALSE STATEMENTS

Most of the false assertions in the Publication are repeated throughout the 32-page text in various iterations of untruths. The following is a list of contextual data points so that they will not have to be repeated with each account.

- MOHELA is a public instrumentality of the State of Missouri. It has no shareholders. Its revenues above expenses and reserves are devoted to student financial aid. Since 2011 MOHELA has been a federal loan servicer assisting student borrowers for FSA. As a federal contractor, MOHELA follows FSA's requirements that dictate the assistance provided to FSA borrowers in the management of repayment of their federally owned loans. FSA is the lender and owner of the loans and terms of the loans are set by Congress and FSA. Further, borrower loan payments are not sent to MOHELA but to a different federal contractor. Any refunds due to borrowers are made by FSA and not MOHELA.
- In almost every FSA survey performed historically, MOHELA has been rated the highest of the federal student loan servicers per FSA performance metrics.
- Much of the Publication is devoted to problems with the PSLF program which allows qualifying borrowers to obtain federal student loan forgiveness. At the request of FSA, MOHELA became the program's sole processor in July of 2022. This was just a few months before the filing deadline in October for a special FSA initiative to loosen the rules for PSLF forgiveness. A flurry of late, unanticipated FSA communications about the initiative by FSA, the White House and others to borrowers led to an historic deluge of borrower inquiries to MOHELA and FSA starting in August 2022. Further, despite good intentions, in the summer of 2022, FSA was experiencing an upgrade to a main loan database, the National Student Loan Database ("NSLDS"). This delayed FSA's receipt of data files to validate PSLF counters and discharges. Only FSA has the authority to update PSLF counters and process PSLF discharges under the FSA special PSLF initiative, the Limited Waiver Program ("LWP"), and under a special income-driven repayment program adjustment. Further, MOHELA only has the authority to process PSLF discharges after FSA provides the PSLF discharge files to MOHELA. FSA was only able to begin providing MOHELA with both types of files to effectuate loan processing by MOHELA on August 25 which was only a short time before the filing deadline for the LWP. This led to a PSLF backlog at MOHELA not of its own making. Notably, intermittent delays of delivering these data files by FSA have continued through 2024. As said, these data file transfer delays, out of MOHELA's control, substantially contributed to PSLF processing delays and borrower unhappiness.
- MOHELA does not have authority to process loan forgiveness until authorization is provided by FSA and the final decision to discharge loans is with FSA, not MOHELA.
- MOHELA made a major effort to increase staffing for PSLF and R2R. New staff members required many weeks of training and to be approved for a federal security clearance before starting work, all of which can take at least 60-90 days to complete. Despite the early challenges, MOHELA had staffed up for PSLF and by March 2023 MOHELA's call queues and hold times for PSLF had dropped to less than one minute. Also, March 2023 PSLF average speed to answer was 18 seconds. More importantly, MOHELA has been able to complete the processing of a historic number of PSLF loans. In the nearly 20 months MOHELA has been the processor, nearly 1,750,000 loans have been discharged compared to the 14,172 discharged from 2007 to 2021. These loans amounted to over \$47 billion for over 662,000 borrowers as of February 29, 2024. During the months of MOHELA's

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processing, FSA has also been overwhelmed by the PSLF volume and it understandably often took months for FSA to provide MOHELA needed information, responses and approvals regarding PSLF matters.

- It was always intended that MOHELA was to be just an "interim" PSLF loan processor between the time the prior PSLF processor stepped down and the time that FSA was able to take over processing under its new long-term loan servicing solution (USDS). This was documented by FSA in its April 24, 2023 publication "The Next Generation of Loan Servicing." MOHELA has been advised by FSA that, consistent with the forgoing, its role as the sole PSLF processor is currently scheduled to end April 30, 2024. Thereafter, PSLF processing will be handled by FSA and contractors under a different contract. This will mark a dramatic change in MOHELA's role with respect to the PSLF program.
- Much of the rest of the Publication involved discussion of the challenges surrounding the return-to-repayment of nearly 43 million loan borrowers in Fall 2023 after over three years during which loan repayments were not required ("R2R"). FSA and all of the federal student loan servicers faced challenges in dealing with the onslaught of borrower inquiries. Close to the beginning of R2R, FSA and its servicers were also busy implementing a new income-driven repayment plan, Saving on A Valuable Education ("SAVE"). Accordingly, FSA directives to all of the federal student loan servicers (not just MOHELA) as to R2R and new programs were often provided up against deadlines which necessitated hurried verification and implementation by the loan servicers. Further, FSA's implementation of its on-ramp program providing that delinquent borrowers do not face negative credit reporting or being deemed in default, is an acknowledgement by FSA of the significant challenge presented by R2R.

#### DETAILED DESCRIPTION OF FALSE STATEMENTS IN THE PUBLICATION

Attached hereto and submitted herewith as Attachment A is a multi-page description of false statements in the Publication entitled "DETAILED DESCRIPTION OF FALSE STATEMENTS IN THE PUBLICATION" (the "Detailed Description").

#### MOHELA's DEMAND AND CONCLUSION

MOHELA has been advised by counsel as to the following legal standards applicable to the SBPC in this case. They have noted that Federal law sets certain minimum standards for truthfulness, honesty and fairness. Specifically, even those who report and comment on public affairs are required by Federal law not to make assertions with reckless disregard for the truth, or with knowing falsehood. This is the constitutional standard of *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964) and *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974).

Whether or not SBPC believes it has a professional or ethical obligation to retract and correct the many blatant errors in the Publication, it does have an unquestionable legal obligation not to make further such misstatements. Specifically, under *Sullivan* and *Gertz*, the United States Supreme Court, while recognizing the constitutional right of free speech, drew the line at publication of statements that the speaker knew to be false, or for which the speaker acted with reckless disregard of truth or falsity. This standard not only trumps the protection normally afforded for speech about public officials and public figures; it also permits awards of punitive damages. If SBPC, having knowledge of the facts set forth herein, and understanding the recklessness and

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errors of its original report, continues to publish such statements, or makes new statements to the same effect, because of its reckless disregard for the truth or its knowing falsity, it will be subject to liability for libel and other publication-based claims, and having acted with the highest level of fault, it would be liable for punitive damages.

Perhaps SBPC hopes or believes that because the Publication sensationalized everything so much, that it will be legally protected as commentary. But that is not so; as the U.S. Supreme Court has noted, statements couched as opinions may imply defamatory facts, and hence lead to liability for libel. *Milkovich v. Lorain Journal, Inc.*, 497 U.S. 1 (1990). That is exactly what has occurred with your use of the word "scheme" to describe MOHELA's use of its call diversion program—it clearly implies that MOHELA deliberately employed the program in a manner that benefits itself and harms applicants. This, of course, is the opposite of what happened. MOHELA followed the law and the directive of FSA to create and implement such a plan.

Perhaps SBPC believes that its reporting will be legally protected if the various individual statements it writes are accurate, even if they present a misleading picture overall—for example, mentioning the number of complaints or mistakes, without explaining the context which would show those problems to be a tiny portion of the processed applications. But that belief is not correct. A published report can be held to be libelous or false even if it contains some true facts, or if those facts fail to tell the entire story and if they leave ordinary readers with an incorrect conclusion. See, for example, *Memphis Publishing Co. v. Nichols*, 569 S.W.2d 412, 420 (Tenn. 1978) ("The published statement, therefore, so distorted the truth as to make the entire article false and defamatory. It is no defense whatever that individual statements within the article were literally true."); *Cochran v. Indianapolis Newspapers, Inc.*, 372 N.E.2d 1211, 1217 (Ind. App. 1978) ("A false implication or impression may be created by the positioning of true statements and headlines").

Finally, perhaps SBPC believes that its purported intentions (helping student borrowers) are so pure that it is entitled to go ahead and hack away at MOHELA and FSA, taking whatever pot shots it can, using whatever claims it can find, here and there, that show that their performance has been less than perfect. Perhaps that is what happened here, since the Publication uses a patchwork of statements — some false, and some perhaps arguably true on their own, but used without the proper explanatory context — to portray MOHELA in a false and misleading light. But even a purported idealist's motives will not protect SBPC legally, because it has an obligation to be truthful not just in individual particulars, but in the general message it conveys. Where, by any means, you create, directly or by implication, a highly disparaging and false portrayal of MOHELA, that can be actionable. SBPC's obligation is to fully and fairly research and consider, not to begin with hatchet flying and a "facts be damned" attitude—even if that fair approach goes against the grain of SBPC's ideology and prejudices. The U.S. Supreme Court has held that a "purposeful avoidance of the truth" is the equivalent to reckless disregard for the truth, and knowing publication of falsehood. *Harte-Hanks Communications v. Connaughton*, 491 U.S. 657, 691 (1989).

MOHELA has suffered serious damage from the Publication. The false assertions in the Publication are particularly distressing because, in a breach of basic journalistic responsibilities, the SBPC failed to contact MOHELA and afford it the opportunity to explain the true facts and correct SBPC's many mistakes. MOHELA demands that you immediately cease and desist from publishing further false or misleading statements about MOHELA. Further, MOHELA also demands that you delete the Publication from your website and discontinue any further distribution of it. Failure to comply with these demands, and distribution or publication, will be viewed by MOHELA as a deliberate refusal to address the errors.

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This letter provides the SBPC with notice of the falsity of the above-described statements and insinuations. Consequently, if the SBPC continues to make and publish any of these false and misleading statements, MOHELA will treat that continuation as done with knowledge of the statements' falsity or with reckless disregard of their truth or falsity, which can lead to punitive damages under libel laws and other related laws. MOHELA is hopeful that you understand that MOHELA will take all appropriate action necessary to stop this conduct if you persist. MOHELA greatly values and aggressively protects its rights and reputation and intends to vigorously enforce its rights.

Very truly yours,

Higher Education Loan Authority  
of the State of Missouri

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Attachment ADETAILED DESCRIPTION OF FALSE STATEMENTS IN THE PUBLICATIONPublication – page 5

**Statement:** MOHELA's servicing failures have affected more than four in ten of its customers. Instead of performing basic servicing functions such as providing borrowers with access to correct information about their loans and options, and processing basic forms, MOHELA has chosen a complex "call deflection" scheme – a byzantine loop of misinformation and false promises.

**MOHELA Response:** The Publication does not cite or present evidence that MOHELA did not perform its basic servicing functions for 40% of its borrowers. MOHELA services loans for nearly 8 million federal student loan borrowers and many millions of private student loans. As stated above, MOHELA has, in almost every survey, been rated the highest federal student loan servicer per FSA performance metrics. Further, as described above, what the Publication refers to as a "call deflection scheme and a byzantine loop of misinformation" is categorically false as described above as MOHELA was following good business practices and FSA's direction to employ call deflection strategies.

Publication – page 6

**Statement:** The obtained documents uncover that MOHELA's processing of PSLF has prevented hundreds of thousands of borrowers from progressing towards relief. Specifically:

- MOHELA allowed the PSLF backlog to explode with over 800,000 unprocessed forms;
- MOHELA provided borrowers with incorrect payment counts; and
- MOHELA is denying PSLF credit to public service workers with eligible employment.

**MOHELA Response:** It is categorically false that MOHELA's processing prevented anyone from progressing to PSLF relief. Every entitled borrower that it processed for PSLF debt relief has or will obtain debt forgiveness. The challenges (not of MOHELA's making) at the time it began servicing PSLF on FSA's behalf for processing and which led to a substantial initial backlog are set forth in the section above titled "Data Points for Background on False Statements." The initial backlog of new PSLF applications was largely worked through by March 2023. As mentioned in the section above titled "Some of the Most Egregious False Statements," as of today, MOHELA has less than 15,000 new PSLF forms to process with some forms pending action outside MOHELA's control. However, relief is ultimately determined by FSA, not MOHELA, and it can understandably take FSA substantial time to provide communications and directions to MOHELA as to its PSLF processing. Except in rare and isolated cases, MOHELA does not wrongfully deny credit to workers with eligible employment and any missteps are quickly corrected when identified. Many so-called "denials" as to PSLF applications are simply requests by MOHELA for further information.

Publication – page 6

**Statement:** Troublingly, the documents expose MOHELA's potential financial windfall for making improper denials: MOHELA is paid for each processed application—for the wrongful denial and then again for the approval—a backwards incentive.

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**MOHELA Response:** Pursuant to MOHELA's contract with FSA, MOHELA is paid a fee to process PSLF applications. It receives the same amount whether an application is approved or denied. MOHELA's processing role as to PSLF has been and is heavily monitored by FSA and any wrongful application denial scheme would have been uncovered by FSA long ago. MOHELA has never been accused by any investigatory body or reputable source of intentionally denying applications to make money. You present no evidence of a MOHELA scheme or history of wrongful denials to increase payments and, without evidence, this is a defamatory insinuation and statement.

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**Publication – page 6**

**Statement:** MOHELA's customer service problems—including the "call deflection" scheme—exacerbated problems for both public service workers and vulnerable, often low-income, borrowers alike. Evidence showed that:

- MOHELA borrowers were unable to reach customer service representatives to address errors;
- MOHELA miscalculated borrowers' payment amounts;
- MOHELA lost borrowers' payments, refunds, and records; and
- MOHELA misinformed borrowers about their options.

**MOHELA Response:** For the reasons previously mentioned above, including in the section titled "Some of the Most Egregious False Statements," it is factually incorrect to state that MOHELA engaged in a call deflection scheme when it was merely following FSA Playbook guidance and accepted business practices. The statement is also incorrect in claiming that MOHELA intentionally did not provide adequate customer service to borrowers. As mentioned, FSA and all federal student loan servicers suffered a massive influx of calls and other communications during R2R and there were times of inability to reach company representatives quickly. However, it is false and incomplete to state that this was only a problem for MOHELA. Further, there was only a small percentage of actual documented instances involving miscalculation of borrower payment amounts or refunds by MOHELA during R2R. In many cases when these acts are alleged by borrowers, it turns out not to be true.

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**Publication – pages 6-7**

**Statement:** In all, nearly 3.5 million student loan borrowers serviced by MOHELA have experienced a documented servicing failure since loan payments resumed in September 2023 after a three-and-a-half-year-long pause on bills and interest charges. The following investigation shows that the errors and abuses outlined in this report can be directly attributed to choices made by MOHELA. While the U.S. Department of Education (ED) has taken some actions to hold MOHELA accountable—withholding \$7.2 million in payment for failing to perform on its contract and providing some borrowers with zero percent interest forbearances—these actions fail to provide a full and adequate remedy to borrowers who have been harmed, may be subject to their own implementation errors by MOHELA, and do not hold the company's executives accountable.

**MOHELA Response:** As mentioned in the prior sections hereof, MOHELA is only aware of a small percentage of borrowers who experienced any real "errors" in servicing. As mentioned in the section above titled "Some of the Most Egregious False Statements," the \$7.2 million

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withholding by FSA is a protective measure, has not risen to a claim and is subject to the equitable fact that 65% of involved borrowers paid on time or owed nothing.

**Publication – page 11**

**Statement:** “MOHELA’s Central Role in Ripping Debt Relief from Millions of Borrowers”

**MOHELA Response:** This heading indicates that MOHELA “ripped debt relief” from borrowers. This is an example of an overstated headline that is highly misleading, false and sensationalized. Further, the headline is not supported by the discussion that follows the headline. In addition as is well-known, MOHELA was not a named or active party in the legal challenge before the Supreme Court that challenged President Biden’s debt relief plan.

**Publication – page 12**

**Statement:** Reports from the CFPB just before the return to repayment also show cause for alarm. From July 1, 2022, through September 30, 2023, the CFPB received nearly 3,000 complaints about MOHELA, the most of any federal student loan servicer. Of those complaints, over 1,400 (53 percent) fell under the following categories: received bad information about your loan, trouble with how payments are being handled, or incorrect information on your report. In its first year being the sole PSLF servicer, MOHELA itself received 36,309 complaints.

**MOHELA Response:** The foregoing is a terribly unfair, misleading and incomplete statement for obvious reasons. Historically, the PSLF program was the most criticized and complained about student loan program long before MOHELA began servicing PSLF on FSA’s behalf. Of course, there would be more complaints about MOHELA than any other servicer because, as previously described, MOHELA had just started as to PSLF and was the sole PSLF processor during this time frame. As mentioned above, MOHELA took over PSLF under extremely difficult circumstances, received needed PSLF data late from FSA and performed as well (or better) than could have been expected under the circumstances. Aside from that obvious explanation, your statement fails to note that historically what are referred to as borrower “complaints” do not all constitute complaints in any common sense meaning of that word. Many of the complaints that MOHELA is aware of reflected the borrowers’ unfamiliarity with student loan finance terms and programs like PSLF and R2R, not dissatisfaction with MOHELA’s servicing. Many other matters labeled “complaints” were actually borrowers seeking information, involved incorrect information by borrowers or complaints that lacked evidence of validity. No federal student loan servicer is perfect, especially during the previously described circumstances of PSLF processing and R2R, but MOHELA works diligently to attempt to address all legitimate complaints and it is false to suggest all so-called “complaints” were legitimate.

**Publication – page 14**

**Statement:** The following sections of this report detail how MOHELA has harmed borrowers, and more broadly how it is failing at its job as a federal student loan servicer. An examination of documents related to MOHELA’s servicing of the PSLF portfolio show that public service workers pursuing PSLF have been left stranded, denied promised relief, left with no information, or misinformation, causing years-long setbacks. Beyond PSLF, MOHELA’s broader servicing failures prevent borrowers from accessing their rights and getting critical information.

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**MOHELA Response:** For the reasons previously set forth, it is inaccurate and misleading to state that borrowers were harmed by MOHELA, that it is failing at its job as a servicer, or that its failures prevent borrowers from accessing debt relief and getting information. You present no believable facts to support this position. As mentioned above, in almost every FSA survey performed historically, MOHELA has been rated the highest of the federal student loan servicers per FSA performance metrics. As to PSLF, as set forth, MOHELA has made the most of a challenging situation and has processed an incredible number of PSLF applications in its 18 months as the PSLF processor. During times of high volume, it was not possible to answer every call or respond to every inquiry as soon as MOHELA preferred.

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**Publication – pages 14-15**

**Statement: MOHELA's Processing of PSLF has Prevented Hundreds of Thousands of Borrowers From Progressing Towards Relief.** Since 2022, MOHELA has served as the specialty servicer responsible for handling the loans of borrowers working towards cancellation through the PSLF program. As described in greater detail in this section, MOHELA's handling of these borrowers' accounts is denying public service workers Congress's promise of debt relief. **PSLF Backlog has Exploded Under MOHELA.** As of the date of this report, MOHELA has a backlog of over 800,000 unprocessed PSLF forms submitted by public service workers. Many of these public service workers have made their 120 payments, and fulfilled their end of the deal, but are often left waiting more than six months for the loan relief that they have been promised. Others are attempting to do their due diligence and certify their employment regularly, as they have been instructed, only for their forms to be stuck in the backlog, resulting in uncertainty surrounding the relief they are working toward. Now that the payment pause has ended, these borrowers are receiving bills and being told to make payments. This means that thousands of borrowers whose debts should be cancelled are being forced to make payments or face the consequences of not paying, which can be severe. This causes both immediate and long-term harm. These borrowers who received bills may have made payments on debt that should no longer exist. Especially for low-income borrowers, MOHELA's processing failure may therefore jeopardize their abilities to make ends meet. Borrowers may make loan payments to avoid delinquency but without any guarantee that overpayments will be refunded. Federal data show that the backlog has grown under MOHELA. When MOHELA took over as the sole PSLF servicer in July 2022, there were roughly 250,000 unprocessed forms. Since then, the backlog peaked at more than one million forms and has remained at roughly 800,000. In fact, the most recent available data indicate that nearly one-in-three PSLF borrowers are trapped in this backlog. For some, now that payments have resumed,

**MOHELA Response:** The headline is sensationalized and obviously misleading. The statements following the headline are inaccurate and highly misleading for the reasons previously set forth above regarding PSLF. MOHELA is not denying PSLF. The Publication states that "as of the date of this report, MOHELA has a backlog of over 800,000 unprocessed PSLF forms." To the contrary, as of today, MOHELA has less than 15,000 new PSLF forms to process with some other forms pending action outside of MOHELA's control. The backlog increased after MOHELA took over as the PSLF servicer because of the dramatic increase in the number of PSLF applications in the first four months of MOHELA's involvement due to the filing deadline for the aforementioned Limited Waiver Program. The number of applications far exceeded any previously received by a huge number. Due to the unprecedented volume, there was a backlog at FSA and, as well, at MOHELA. As mentioned, a significant reason for any backlog is due to FSA's role. Only FSA can determine PSLF relief. Borrowers regularly fail to provide the needed information to complete the

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processing. Given the large volume facing FSA, MOHELA often has to wait for months for responses from FSA which causes a backlog at MOHELA. While relief for those entitled may sometimes take longer than hoped, FSA has indicated, and MOHELA agrees, that all individuals entitled to debt relief will receive it. Further, FSA has assured MOHELA that it has and will continue to make refunds of payments made by borrowers as required after they reached PSLF forgiveness. In addition, a fair reading of this section's footnotes do not support the claims.

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**Publication – page 16**

**Statement: MOHELA Reported Incorrect Payment Counts to Borrower.** In 2022, the CFPB received more than 500 complaints about MOHELA, including many from borrowers who allege MOHELA provided incorrect payment counts. These problems have plagued the PSLF program for years. For example, in the fall of 2022, the federal agency announced that its examiners found "both wrongful denials and approvals of applications or ECFs," which resulted in borrowers receiving inaccurate and inconsistent information about their progress toward cancellation through the PSLF program."

**MOHELA Response:** The foregoing headline is false, misleading and sensationalized. Further, the statement is inaccurate and misleading as to MOHELA. First, the referenced CFPB Supervisory Highlights Report was issued in September 2022. As noted above, MOHELA did not begin receiving the data from FSA that was necessary to begin PSLF processing until late August/September 2022. Accordingly, the wrongful denials cited by the CFPB necessarily predated MOHELA's processing of PSLF applications, a fact that you could have discovered through a basic due diligence investigation. Second, as stated above, many of the so-called "complaints" are not really complaints in the common understanding of that term and many others are not supported by the evidence. Third, 500 out of the universe of borrowers serviced by MOHELA is less than .001% of the borrowers. Finally, this statement as to 500 complaints is said to be based on a SBPC analysis of CFPB complaints --- maybe these complaints were regarding the prior servicer too as in the CFPB Supervisory Report SBPC cited as referring to MOHELA.

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**Publication – page 16**

**Statement: MOHELA is Denying Credit to Public Service Workers with Eligible Employment.** In 2022, the CFPB found that servicers improperly denied relief to borrowers such as public school workers. Specifically, it found occurrences where "ECFs were wrongfully denied when representatives erroneously determined the forms had invalid employment dates, were missing an employer EIN (Employer Identification Number) or were otherwise incomplete—when in fact they were not." These improper denials have the effect of postponing when otherwise eligible borrowers receive cancellation.

**MOHELA Response:** The headline cited is inflammatory and false. As mentioned in the immediately prior section, the statements after the headline are not based on activities during MOHELA's time as PSLF servicer. The CFPB Supervisory Highlights Report published in September 2022, shortly after MOHELA became the PSLF servicer, was based on the activities of the prior PSLF servicer. As further mentioned in the prior section, mistakes and complaints do occur given the volume of loan processing in PSLF occurring in a short amount of time.

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**Publication – page 16**

**Statement:** SBPC has uncovered that MOHELA continues to deny public service workers with qualifying employment. In response to a request for all records related to PSLF denials by employers that MOHELA has produced for ED, the company has produced a document on June 17, 2023 that it denied nearly 5,000 borrowers and nearly 11,000 more in a “hold” status.

**MOHELA Response:** MOHELA does not deny or seek to deny PSLF applications incorrectly or to mislead borrowers. The Publication states, without meaningful evidence, that MOHELA erred in denying forgiveness to borrowers with qualifying employment. Rather than just admitting that the SBPC did not have sufficient information to determine whether a denial was proper or not, SBPC simply assumed that many were not proper. Denials by MOHELA as to PSLF applications have been, with few exceptions, justified. What the SBPC refers to as “denials” by MOHELA are often just requests for more information. Further, the applications on hold are yet to be reviewed by either FSA or MOHELA.

**Publication – page 17**

**Statement: MOHELA Financially Benefits From Improper PSLF Denials as Borrowers are Harmed.** Under its contract with the Department, improper denials can turn out to be quite lucrative for MOHELA because the servicer gets paid for both denial and for the PSLF approval form it processes. This means if they deny an application and the borrower resubmits forms or applies for reimbursement, the company is paid an additional \$8.17. This both rewards MOHELA for making improper determinations during its first review and create a perverse incentive for it to improperly deny borrowers in order to collect payment for a second review.

**MOHELA Response:** As discussed above in the third MOHELA Response, MOHELA does not benefit from improper denials. To make this inference with no evidence of any intent on the part of MOHELA to perpetrate fraud is a defamatory insinuation.

**Publication – page 18**

**Statement: MOHELA’s Poor Customer Service Made Everything Worse.** The problems identified in the following section demonstrate that MOHELA was unprepared and ill-equipped to deal with the servicing of the PSLF Waiver and the return to repayment. The company was unprepared even when it had foreknowledge of ED’s plans and upcoming deadlines and announcements, increased activity, and other factors that would cause an increase in call center activity and borrower requests. For example, emails show that prior to sending out notices to borrowers about Biden’s debt relief plan, ED explicitly warned the servicers of this influx in writing and to be prepared accordingly.

**MOHELA Response:** The foregoing headline is inaccurate and inflammatory. For the reasons mentioned above including in the section titled “Some of the Most Egregious False Statements,” the statements under the headline are false. MOHELA staffed up to meet the demand to the extent possible. The last sentence is also irrelevant because the statement and the authority for the statement cited in Footnote 65 is not referring to PSLF or R2R. Rather, it has to do with staffing up for an anticipated event that never occurred, that is, the Biden debt relief plan which was ruled unlawful in June 2023.

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**Publication – page 19**

**Statement:** In advance of payments resuming, MOHELA adopted minor changes to its customer service options, but seemingly with minimal effect. It is one of the servicers that offers a call-back feature, so borrowers do not have to wait on hold but can hang up and request a call from a representative when it is their "turn" in line. Yet borrowers reported this feature failing, and never receiving a call back at all. Regulators have determined that when a servicer's call centers are understaffed for an extended period of time resulting in consistently and excessively long call wait times, the servicer is engaging in a prohibited practice. This is because, as a result, borrowers are left without an adequate avenue to timely resolve disputes by phone for an extended period, which is an unfair act or practice. By denying borrowers access to a MOHELA representative, MOHELA is preventing borrowers from accessing their rights and likely engaging in that very prohibited practice.

**MOHELA Response:** The foregoing statements give misimpressions and are highly inaccurate. MOHELA made major hiring and other service enhancements to address R2R. Further, we note that many of the negative comments on this page related to all of the student loan servicers during R2R, not just to MOHELA yet this is not highlighted. In addition, the only citations for SBPC's borrower comments are to SBPC's own prior publications and also for the SBPC to rely on the comments of a few borrowers out of the millions serviced by MOHELA is misleading and does not support SBPC making broad generalizations as statements of fact regarding MOHELA's loan servicing. It should also be noted that, as previously stated, MOHELA was directed by FSA to refer borrowers to and encouraged the use of self-service options whenever possible, to help manage the anticipated surge of millions of borrowers returning to payment. This was being done at a time when FSA apparently felt compelled to mandate that all federal loan servicers cut costs and limit customer servicer hours despite the anticipated high demand.

**Publication – pages 22 - 27**

**Statement:** These pages contain the following misleading and sensationalized headlines: discussions following each headline:

**MOHELA Lost Borrower's Payments, Refunds, and Records**  
**MOHELA Misinformed Borrowers About Their Options**  
**MOHELA's Actions Are Keeping Borrowers From the Benefits of the SAVE Plan.**

**MOHELA Response:** The headlines give a completely unfair and misleading impression of the discussion that follows and the sections are replete with errors and misimpressions. A large number of the statements cite as evidence what are described as borrowers that SBPC had contact with. These contacts are, of course, impossible to verify. Further, the statement refers to random alleged complaints and intimates that they apply to a large swath of the eight million federal student loan borrowers served by MOHELA. Also, the statements, and supporting footnotes, flip "back and forth" between references to the student loan industry generally, actions by other servicers and MOHELA, without adequately distinguishing between them. Ultimately, SBPC inappropriately attributes all bad actions to MOHELA. Further, one statement criticizing MOHELA relies on a footnote (Footnote 106) from a 2019 article long before MOHELA's PSLF and R2R activities.

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**Publication – pages 28-30**

**Statement:** These pages start with the headline **MOHELA's Call Deflection Scheme Ensures Servicing Failures Go Unresolved.**

**MOHELA Response:** The statements on these pages include references to a "call deflection" scheme by MOHELA intentionally giving borrowers the run-around instead of proper customer service and that in MOHELA's playbook call deflection is the prime strategy for R2R. The tone of the pages is false and misleading. The facts are that every fair-minded person understands that R2R presented a historic challenge for the student loan industry with nearly 43 million borrowers returning to repayment after three and half years. FSA realized this and did what it could to communicate with borrowers about the difficult situation, the extended wait time on calls and the need for patience. FSA prepared and distributed a "playbook" which it provided to all loan servicers (not just MOHELA) before R2R. Starting on the first page of all 26 versions of the FSA playbook provided to loan servicers in 2023, FSA directed servicers to use "deflection" because it understood that it was not possible for servicers to handle the call volume. MOHELA's playbook was based on the FSA playbook and MOHELA assumes all other federal loan servicers did the same. As is well-known, "call deflection" is a technique used throughout this country's business community during times of high call volume to direct callers to websites for information and other digital options. MOHELA knew that referring callers to relevant websites was the best way for the greatest number of borrowers to get the information and service needed, as well as to allow them to take actions to apply for new repayment plans which could lower their payment amounts, or to set up payments which were primary call reasons as borrowers were resuming repayment. MOHELA believes that the information on its website was accurate and accommodated a tremendous number of borrowers. Others that needed more detailed information, and did not seek it in the months before the long-known R2R date, would occasionally have to wait for some period. However, it is false to suggest MOHELA intended to delay responses --- it would have no reason to do so. FSA repeatedly advised borrowers to expect long delays which any fair-minded individual would acknowledge.

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