

# PROTECTING STUDENT LOAN BORROWERS AND THE ECONOMY IN UPCOMING TRANSITIONS

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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 SEVENTEENTH CONGRESS  
FIRST SESSION  
ON  
EXAMINING THE STUDENT LOAN CRISIS

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JULY 27, 2021  
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Printed for the use of the Committee on Banking, Housing, and Urban Affairs



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

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U.S. GOVERNMENT PUBLISHING OFFICE

52-109 PDF

WASHINGTON : 2023

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# **PROTECTING STUDENT LOAN BORROWERS AND THE ECONOMY IN UPCOMING TRANSI- TIONS**

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**TUESDAY, JULY 27, 2021**

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

The Subcommittee met at 3:03 p.m., via Webex and in room 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. This hearing is in a hybrid format. Our Members are in person, but we will have witnesses who are testifying both in-person and by video.

So, welcome to the second Economic Policy Subcommittee hearing on the student loan crisis. When we held our first hearing on this subject in April, I emphasized that the economic crisis caused by the pandemic and the pause on student loan payments increased the urgency to fix the program and to provide relief for millions of borrowers. Three months later, the student loan program is at a crossroads, and we should take advantage of the opportunity to make real change.

The pause on student loan payments, interest, and collections that was put in place at the beginning of the pandemic is set to expire in about 2 months. This pause has shown how important it is to eliminate student debt. For some borrowers, the pause meant that they did not have to choose between food, rent, and paying student loan debt. For millions more, the pause gave them a chance to pay off other debt or even to put some savings aside. This was good for borrowers and good for our economy.

Now the President should make these benefits permanent by using his authority to forgive \$50,000 in student loan debt for all borrowers. In the meantime, it is critical that the Administration extend the payment pause, which is currently set to expire on September 30th.

Earlier this month, I released the results of an investigation that found that student loan servicers were not ready for this pause to end. They need more time to connect with borrowers and more time to staff up to handle the needs of borrowers during the transition, and they are still waiting on important guidance from the Biden administration.

Now there is a new set of complications that will take time to unravel. Two weeks ago, PHEAA, a large student loan servicer that has badly mismanaged the Public Service Loan Forgiveness Program, announced that they will be leaving the Federal student loan program. This is good news, very good news.

PHEAA was responsible for failures in the Public Service Loan Forgiveness Program that have robbed untold numbers of borrowers of the debt cancellation that they were promised. The company has a nasty record of ripping off borrowers. Since 2016, 9 different department reviews have uncovered problems with PHEAA's implementation of the program. PHEAA's problems were so extensive that they have been subject to four corrective action plans and two large fines.

Despite these documented problems, when the company's CEO, James Steele, appeared at our April hearing on student loans, he told what appeared to be a bald-faced lie about PHEAA's loan servicing record; he insisted that PHEAA had never been subject to department penalties. This was absolutely not true. When we learned about the actions taken by the Department of Education against PHEAA, Senator Kennedy and I sent a letter to Mr. Steele, asking that he clarify the record. His response, which I am releasing today, is a mix of backsliding and denial that raises more questions than it answers.

Senator Kennedy and I are from different parties, and we often hold different views, but we both believe in accountability. When a corporate CEO comes before our Committee to testify, we expect that person to be reasonably accurate and, if they make a mistake, to correct it as quickly as possible. Our job is oversight, and in this context it means that we have a responsibility to respond to misinformation and outright lies and to demand accountability for anyone who provides false and misleading testimony to Congress.

As PHEAA leaves the student loan program, that is not the only problem we need to confront. Nearly 9 million borrowers will need to be transferred to a new servicer within a few months. This is no easy task, and the Administration has an important job to do to make sure that this transition happens smoothly.

But this is also a rare opportunity for a fresh start and to make sure that the student loan program works the way it is supposed to. This is our best chance in years to build strong guardrails into student loan servicing contracts and to hold student loan servicers accountable if they screw things up. It is also a chance to fix the Public Service Loan Forgiveness Program, to make sure that our hardworking public servants get the relief that our Nation promised them.

I appreciate our witnesses coming here today to give us perspective on how to make sure that that happens, and I will be working closely with the Education Department to provide student loan relief and to rebuild the student loan system so that it works in the best interest of borrowers.

We have great witnesses with us today. First, joining us virtually, I am pleased to introduce the Honorable Tish James, the Attorney General for the State of New York. Attorney General James has been a fighter for student borrowers across her State, including

bringing a case against PHEAA for its mismanagement of the Public Service Loan Forgiveness Program.

Second, we have my good friend, Ms. Randi Weingarten, the President of the American Federation of Teachers. Ms. Weingarten represents more than a million public school teachers, nurses, and other dedicated public servants. She is a champion for debt relief on their behalf.

And last, we have Ms. Persis Yu, the Director of Student Loan Borrower Assistance Project at the National Consumer Law Center. Ms. Yu is an expert on the student loan system and on consumer protection, and she is a tireless fighter on behalf of borrowers.

I want to thank our witnesses for being with us today, and let us begin our testimony. Attorney General James, you are recognized for 5 minutes.

**STATEMENT OF LETITIA JAMES, ATTORNEY GENERAL FOR  
THE STATE OF NEW YORK**

Ms. JAMES. Thank you, Madam Chair, and thank you for allowing me to testify virtually. I truly appreciate it.

My name is Letitia James, and I am the Attorney General for the State of New York. Thank you for inviting me here today to discuss the challenges facing student loan borrowers and ways to protect them.

Our office has significant experience protecting student loan borrowers based on our enforcement of State and Federal consumer protection laws. Since 2019, we have undertaken major investigations and actions against for-profit college, student lenders, and student loan servicers. Our work resulted in a \$9 million settlement with Federal student loan servicer conduit, formerly known as ACS, that provided relief to more than 40,000 New York borrowers, \$7.5 million in debt relief to more than 900 New York students at the now defunct for-profit college, ITT Tech, and a settlement with Transworld Systems, a student loan debt collector, which resulted in \$600,000 in restitution and penalties.

Our investigations have revealed that student loan borrowers are being harmed by the misconduct of student loan servicers. In fact in October 2019, my office filed a lawsuit against the Pennsylvania Higher Education Assistance Agency, PHEAA, one of the Nation's largest student loan servicers, for its mismanagement of the Public Service Loan Forgiveness Program. This program allows individuals who work in public service, like teachers and nurses and members of the Armed Forces, to have their loans forgiven after making qualifying payments for 10 years.

And as we allege in our lawsuit, PHEAA, operating under the name, FedLoan Servicing, failed these hardworking people by not accurately counting PSLF qualifying payments, failing to provide timely explanations of their determinations, and failing to inform borrowers of their options to challenge FedLoan's mistakes. As set forth in our lawsuit, FedLoan's inability to properly administer the program contributed to the shockingly high rate of rejection of PSLF forgiveness applications. When we filed our lawsuit, more than 98 percent of the applications were rejected as ineligible for forgiveness.

And PHEAA recently announced, as you indicated, Madam Chair, that it will not be renewing its contract with the Department of Education. However, State and Federal investigations have revealed that servicer misconduct extends beyond a single servicer. The widespread misconduct stems in part from the absence of comprehensive Federal servicing standards.

To prevent misconduct from continuing, the Department should implement such standards, including requiring servicers to provide accurate and timely information about income-driven repayment plans and public student loan forgiveness eligibility, requiring servicers to act in the best interest of borrowers, imposing robust quality assurance measures, implementing mechanisms for borrowers to appeal servicer actions, requiring timely processing of borrower submissions, and penalizing servicers who violate State and Federal consumer protection laws, including by reallocating the Federal student loan portfolio to other servicers.

In addition, the Department of Education should provide relief to borrowers who have been harmed by servicer misconduct, including by retroactively crediting public student loan forgiveness borrowers with qualifying payments. The Department should also ensure that the onus is on the servicer, not the borrower, to identify and correct servicer error. In addition, where State and Federal investigations reveal systemic errors, the Department should provide broad, across-the-board relief to harmed borrowers.

The Department should also continue its work to reverse former Secretary DeVos's action to shield Federal servicers from State oversight. We applaud the Department for taking steps to restore information sharing with State attorney general offices. The Department should also retract the former Secretary's March 2018 notice that stated the position that State consumer protection laws are preempted by Federal law with respect to Federal loan servicers. Retracting this ill-conceived notice will assure that States can continue their important work to protect borrowers in our States.

In addition, Congress should expand access to public student loan forgiveness to all Federal loan borrowers who devote 10 years to public service regardless of the type of Federal loan or loan repayment plan. Expanding eligibility to encompass all such borrowers will provide relief to many who were victims of servicer error and will result in a fairer, more consistent, and more equitable public student loan forgiveness program.

And finally, the Federal Government should take action to cancel a substantial amount of Federal student debt. I co-lead a multistate coalition of 17 attorneys general, urging the adoption of House and Senate resolutions that call for the cancellation of up to \$50,000 in Federal student debt for all Federal student loan borrowers. Canceling this debt will help free borrowers burdened by loan payments and allow them to move forward with their lives as well as help to close the racial and gender wealth gap.

The student debt crisis has been exasperated by misconduct by student loan servicers. It is imperative that we create safeguards—rail guards, as you indicated—that protect students from servicer misconduct, especially students who work and who have made a commitment to the public good benefit that all of us enjoy. My of-



office is committed to protecting students and student borrowers in New York State and across this country, and I thank you for allowing me the opportunity to testify today.

Chair WARREN. Thank you very much, General James. We really appreciate it.

President Weingarten, you are recognized for 5 minutes.

**STATEMENT OF RANDI WEINGARTEN, PRESIDENT, AMERICAN  
FEDERATION OF TEACHERS**

Ms. WEINGARTEN. Thank you, Senator.

[Audio interruption.]

Ms. WEINGARTEN. Good afternoon. My name is Randi Weingarten, and I am the President of the American Federation of Teachers, and I am honored to be testifying before this Committee on this topic. Our union represents 1.7 million teachers and paraprofessionals, nurses, higher education faculty and staff, and public employees. In other words, we represent and work in the professions that make a difference in the lives of others, professions that require a college degree, which means our members have been increasingly burdened by unsustainable college debt.

Over the last year-and-a-half, members of these very professions have done heroic work, keeping our communities up and running, caring for COVID patients, and educating our children during a school year like no other. Our teachers and school staff from pre-K through college are planning right now a full return to in-person learning, and they know they will need to make their students feel safe and welcome amid the myriad of crises that are facing the Nation right now. And frankly, the survey we did with the RAND Corporation this summer showed that 78 percent of teachers report experiencing frequent job-related stress during this pandemic, almost twice as much as other working adults. So for now, for many of them, the looming restart of student loan payments in this fall is deeply concerning and potentially ruinous financially, as you said, Chair Warren.

So I am here on their behalf to raise these concerns, especially in light of the news that PHEAA will no longer service student loans. Most AFT members are eligible for PSLF, but after 3½ years, the Education Department is still rejecting 98 percent of applications and has nearly 150,000 PSLF applications in backlog. What AG James just said is true across the board.

The Biden administration inherited a broken system and wisely extended the pause on student debt that the Trump administration enacted. Combined, the two have effectively canceled over \$90 billion in student loan interest, showing that the Administration can cancel student debt. The Biden administration and the Education Department can restore the promise of PSLF right now before student loan payments resume this September and immediately discharge debts for all borrowers who have completed at least a decade of public service while paying their Federal student loans.

Borrowers need relief, not a mirage. They need help from a Government that promised to forgive the remainder of any debt still unpaid after 10 years of payments if they went into public service. Public service work is valuable and should not lead to a lifetime of debt that forced people to make—forced them into terrible deci-

sions about whether to pay their loans or buy a home or raise a family.

Let me give you one example in the short time I have left: Christine Conlon, a school-based occupational therapist in Staten Island, New York. For years, Christine kept detailed notes about her student loan payments, but she could not get PHEAA to reconcile its records with the evidence she repeatedly provided them. She should be just a few years away from PSLF if not for the problem of PHEAA, but PHEAA will not—they have lied repeatedly to her, including telling her she should just give up on public service loan forgiveness.

Look, the AFT has made extraordinary efforts, as you all know, to make PSLF work, including going to court to seek justice that our members need. And while servicer errors have plagued the PSLF program for years, this has become blindingly apparent during the last Administration.

I know, and I am glad, that the Biden–Harris administration seems primed to hold servicers accountable, like PHEAA, but what we are seeing is that they are running for the doors because they know how catastrophic they have been. If the Administration does not cancel student debt for public service workers before the fall, millions of them will be forced to transfer the loans that PHEAA currently has to no servicers and the new servicers will inherit loans with paper trails that will never be able to be untangled.

The problem is clear. The solutions are clear as well. The Administration should cancel debt for all public service workers who have paid their debts for a decade and should cancel the debt of \$50,000 of debt per borrower for the following reasons: These actions will make a big difference for all communities, particularly communities of color. Ninety-three percent of the lowest-income Black households hold student debt, and they would experience substantial relief. In fact, debt cancellation would be an immediate and long-lasting stimulus to our economy, increasing average yearly pay by \$3,000, and increasing the gross domestic product by \$1 trillion.

We know that the Ed Department is trying, but right now is the moment to cancel up to \$50,000 of debt and to do the work that we need to do to fix PSLF in the future. Thank you.

Chair WARREN. Thank you, President Weingarten.

Ms. Yu, you are recognized for 5 minutes.

**STATEMENT OF PERSIS YU, DIRECTOR, STUDENT LOAN BORROWER ASSISTANCE PROJECT, NATIONAL CONSUMER LAW CENTER**

Ms. YU. Good afternoon. Chairwoman Warren, Members of the Committee, thank you for inviting me to testify today regarding how to protect student loan borrowers in the upcoming transitions in the student loan system. My name is Persis Yu. I am the Director of the National Consumer Law Center's Student Loan Borrower Assistance Project, and I offer my testimony here today on behalf of our low-income clients of the National Consumer Law Center.

Our clients and millions of others like them take out student loans believing that they are the key to a better future. The vast majority of clients that I see are low-income women of color, who

wanted to provide a better life for their children but are stuck instead in a cycle of inescapable debt.

The student loan system is broken and has been broken for a very long time. Currently, in the United States, nearly 45 million people owe more than \$1.7 trillion on their student loans. Prior to the pandemic, roughly a quarter of Federal loan borrowers were delinquent or in default on their loans. Racial disparities in the student loan portfolio threaten the financial security of borrowers of color, with Black and Latinx borrowers defaulting at twice the rate of their White peers. Cruelly, the communities hit hardest by the student loan crisis are also the communities hit the hardest by the pandemic.

The COVID-19 payment suspension, which provided vital protections to many of our clients throughout the pandemic, is currently set to expire on September 30th, just a few short months away. And on top of this looming deadline, two of the Department of Education's loan servicers, PHEAA and also Granite State servicers, have announced they will not be extending their contracts this December, meaning that roughly 10 million borrowers will need to transfer their loan servicers.

Student loan borrowers, low-income and otherwise vulnerable borrowers in particular, are at significant risk during these upcoming transitions. The combination of restarting payments along with the risks associated with large-scale loan transfers by servicers who have a long history of failing to adequately serve student loan borrowers will have dire consequences unless meaningful consumer protections are put in place to protect these borrowers.

The end of the COVID-19 payment suspension, on its own, poses unprecedented challenges and is fraught with risk. Historical data from the Department shows that default rates typically spike following disaster-related forbearances. My clients and others like them face severe consequences if they default on their Federal student loans. The punitive collection tactics, such as wage garnishment, Social Security offsets, and tax refund offsets, often push low-income households to or even over the financial brink.

I have heard from hundreds of borrowers who have lost their earned income tax credits and child tax credits due to default on their Federal student loans. These payments are designed to support families and lift millions of children out of poverty, but if a family has experienced student loan default, these payments may be seized in their entirety. The loss of the EITC and the CTC is devastating to my clients and their families. I have had clients unable to access stable housing. I have had clients unable to buy diapers, food, basic necessities for their children because of these offsets. Simply put, the student debt crisis was hampering our families' economic stability even before the pandemic.

Notably, there are already approximately 9 million borrowers in default on their—on their student loans. The Department should immediately remove these borrowers from default. Otherwise, they will be subject to the Government's draconian collection powers as soon as the suspension ends.

As the Department restarts payments for tens of millions of student loan borrowers, high-quality servicing is paramount. Getting borrowers into an affordable income-driven payment plan, or IDR,

will be particularly important for ensuring borrowers' success. But starting repayment while also simultaneously transferring roughly 10 million borrowers will make this goal nearly impossible. The consequences of this massive and imminent transfer will impact all borrowers in the Department's loan portfolio.

The remaining servicers will need to rapidly staff up and train a whole cadre of customer service representatives in a very short amount of time in order to absorb the accounts of nearly a third of the direct loan portfolio. At a time when two major changes are occurring for student loan borrowers, borrowers need the best servicing possible. Instead, they will likely receive—they will likely encounter inexperienced customer service representatives and servicers who are stretched too thin. Even in ordinary circumstances, errors in student loan servicing are common and often result in borrowers missing out on relief programs or on qualifying payments for IDR or PSLF. These mistakes cause borrowers to pay more and for a longer period of time.

Fairness and justice require that these borrowers have the ability to enforce their rights when breached by servicers and obtain adequate remedies. Policymakers must also recognize that for many borrowers the harm from a bungled transition will come on top of years, if not decades, of financial distress and dreams postponed as a result of our broken student loan system.

Widespread administrative debt cancellation is needed now. The student loan system has failed borrowers for too long. In addition to widespread administrative debt cancellation, the Department should clear the books of borrowers who are unlikely to ever repay their debts and automatically provide relief to all of the borrowers who are already entitled to cancellation under law. In addition to providing much-needed relief to these borrowers, if done prior to the restart of repayments, these steps will eliminate the debts of many of the hardest to reach borrowers and will allow servicers to dedicate their resources to ensuring the success of the remaining borrowers.

Thank you for the close attention you are paying to protecting student loan borrowers in the upcoming transitions and for the opportunity to provide this testimony. I look forward to your questions.

Chair WARREN. Thank you very much. I Appreciate all of your testimony here.

So I now yield to myself for 5 minutes of questions. The first hearing that we held in this Subcommittee just a few months ago focused on student loan servicers. These are the private companies that manage student loans for the Federal Government. During that hearing, I asked the CEO of PHEAA, one of the largest servicers in the country, whether the Department of Education had ever penalized his company in any way for its blatant mismanagement of the Public Service Loan Forgiveness Program or PSLF. He told me, "No, they have not," but it turns out that was not true.

After the hearing, the Department of Education sent Senator Kennedy and me a letter detailing the multiple penalties PHEAA has faced. So Senator Kennedy and I wrote to PHEAA's CEO, asking him why he had lied to Congress. Two weeks later, PHEAA an-

nounced they would be quitting the student loan program when their contract expires in December.

Attorney General James, your office has had multiple dealings with PHEAA, including suing them for mismanaging the Public Service Loan Forgiveness Program. Based on what you have seen in New York, are you sorry to see PHEAA quit the student loan program?

Ms. JAMES. I think PHEAA's exit is an opportunity for a fresh start. As we allege in our lawsuit, PHEAA failed the teachers, the nurses, the social workers, those who serviced in the military by failing to accurately count these qualifying payments, failing to provide timely explanations of their determinations, failing to inform borrowers of their options to challenge their mistakes. Public workers who fulfill their obligations to the public should be able to get the debt relief they earn, and we are hopeful that the Department of Education will work with our office and other State and Federal partners to ensure that in the future that the public student loan forgiveness program fulfills its promise.

Our case, as you know, is in the midst of discovery, and we will continue our litigation and hopefully get the relief that countless number of borrowers so desperately need, not only in New York but all across the country.

Chair WARREN. Thank you. You know, I think we all know what happened here. PHEAA realized that Congress and the Department of Education and the attorneys general were finally starting to hold them accountable for cheating borrowers and lying about it, so they turned and ran. I am glad they are gone. All 8.5 million of the accounts that PHEAA currently handles now must be turned over to the student loan servicers.

Ms. Yu, did the contract that PHEAA has with the Department of Education have any requirements in it obligating PHEAA to protect borrowers if they suddenly decided to quit?

Ms. YU. The contracts provide no meaningful requirements to borrowers in the case that they suddenly decide to quit, and importantly, they do not provide the meaningful relief to the borrowers if they get harmed, as indicated by General James.

Chair WARREN. OK. So let us talk a little bit about that. The Department is currently negotiating with PHEAA over what they need to do when PHEAA walks away. What specifically do you think the Department of Education should require from PHEAA to make sure that student loan borrowers are not hurt even more during the transition to a new servicer?

Ms. YU. Well, first of all, we need to learn from the lessons of the transfer from ACS a number of years ago. We need to learn that borrowers must have complete and full payment histories, and that includes the payment histories from prior servicers as well as the payment histories when the borrower is with PHEAA. They need to also transfer any records of complaints, any information where borrowers may have disputes about the loan system as well. And we need to be proactive about identifying vulnerable borrowers who might get lost in this transfer. But, critically, we need to understand that inevitably some borrowers will get harmed in this transfer, and we need to make sure that we have adequate remedies available to those borrowers.

Chair WARREN. I think that is a really important point. You know, President Weingarten made the point that PHEAA has done such a bad job of accounting for the loan payments that people have been making, but expecting them suddenly to have 100 percent compliance when they make the transition, and they are not even going to stay in the business is pretty unrealistic. I thought you made a very powerful point about that.

Look, our student loan system is broken more than just PHEAA. I have been saying for years that the Department of Education needs to do more to hold all student loan servicers accountable when they break the law or when they hurt borrowers, and for years the excuse has been that there is no alternative to working with these incompetent companies because there is no plan for how to get by without them. Contracts get renewed year after year after year, with no accountability and no consequences for bad behavior and zero provisions about what the companies would do if they went under or if they walked away. When the Federal Government props up companies like that, that is the definition of "too big to fail."

Now in December, all of our servicer contracts will be up for renewal, not just PHEAA's but all of them, which means that right now the Department of Education is negotiating over what conditions these companies will have to agree to in order to keep making money off the student loan borrowers.

Ms. Yu, what would loan servicing contracts with real teeth to protect our students look like?

Ms. YU. Yeah, thank you for your question. There needs to be real penalties for poor performance and abuse practices, and the Department needs to proactively look for those and do screenings. But the Department also needs to get out of the way of State attorneys general, like General James. And for private borrowers who are seeking relief using the State consumer protection laws, they need to rescind the notice on preemption that Attorney General James mentioned before but also prevent servicers from raising defenses such as preemption or derivative sovereign immunity, which are intended to shield them from liability and prevent them from giving borrowers real relief.

Chair WARREN. Thank you. We need to get control of our broken loan servicing system so that we never end up in this situations again. Right now, the incentives in the servicers' contracts are not strong enough to get them to change their behavior, and the penalties are nothing more than a slap on the wrist when the companies injure student loan borrowers. We have an opportunity over the next year to write new rules that will tell servicers that if they do a great job servicing the borrowers then they will be rewarded and if they mislead the borrowers or break the law then they are out. That is fair for everyone.

I now recognize Senator Reed for his questions.

Senator REED. Thank you very much, Madam Chairman, and welcome to the witnesses.

I must first recognize one of the AFT attendees, Sarah Tammelleo. I first met Sarah more than 30 years ago when she was in grammar school. She was handing out brochures for Jack Reed at a polling place at Park View Junior High School in Cran-

ston, Rhode Island. Nice to see you again. And because of you I am here, and I do not blame you. I do not blame you.

This is absolutely critical, and the Chair has raised a number of important issues. One legislative initiative I have been working on for years is to have those lenders with high default rates share the cost on a graduated basis, which I think will ensure that they provide the sort of loans for education that will lead to real jobs and real pay and the ability to pay back the loans. That is just one aspect. That might even be in the contract, I hope, negotiations that are going in now.

But one of the areas—and I thought I would get President Weingarten's comments on this—is the educator pipeline. We need more educators. We have to have legislation that addresses this program, that touches capacity at the lower levels of communities, States, et cetera. One of the ideas we are talking about is doubling or increasing the TEACH grant to \$8,000 per year and make it easier for educators to complete and get their credit.

As you have talked about, we have to make loan forgiveness simpler. I believe it should be not at the end of 5 or 10 years, but it should be progressive throughout your period of time so that in fact you can see some real tangible benefits early in terms of the commitment to public service.

Any comments, President Weingarten?

Ms. WEINGARTEN. Thank you, Senator. So there are many things that could help solve the problems of how do we recruit and retain people in public service, people in teaching, and the TEACH grants are part of that, the doubling of Title I.

Senator Van Hollen has had this great idea about the PACT Act in terms of how you increase both Title I and IDEA in a way that schools with kids with special needs or schools with kids who are poor or impoverished, they have a long—they have an understandable and tangible Federal investment that you can count on over multiple years, so you change the conditions in schools and people want to be in those schools. Parents want to send their kids there. Teachers want to teach there. Kids thrive there. So there is lots of different ways to try to recruit and retain over the long period of time.

The dilemma right now is that with the pause ending in—you know, in less—essentially, in less than 2 months, what is happening is that there is going to be this jolt on people. And none of the changes that were supposed to be made to make PSLF more functionable, more available, they have not happened yet. So you are going to have people who are all of a sudden going to be paying 400, 500, 800, 1,000 dollars a month at the same time as all of these existing problems still exist. So—and at the same time as they are going back to school for the first time, with a Delta variant and things like that.

So that is why this urgency right now is so important in the short term as well as then dealing with your ideas for residencies, your ideas for how we recruit and retain, including the TEACH grants, for the longer term.

Senator REED. Thank you very much. And just a quick slight detour, I think very slight. School infrastructure is one of the major

issues that I have been trying to advance in our various proposals for Rebuild America.

Just a quick comment, President Weingarten, the schools in most communities are old and need a lot of work, and if we do not provide the resources, it goes to your point about why would a child want to go to a place that just does not work. And some of our communities keep the windows open all winter and children in coats so they could just stay in the classroom. I presume that you would strongly support this effort.

Ms. WEINGARTEN. I would strongly support this effort. Let me just give you this one example of this amazing school in New York City, Martin Luther King High School. The ventilation system never worked. Never worked. And with the CARES Act money that you helped get us—that you helped get us, we were able to work with the private sector to figure out why the ventilation system did not work. This school was built in the 1970s.

I was the president of the teachers union in New York City for 10 years. I could not get the ventilation system to work. The CARES Act money, the work with a focus on ventilation, you walk into that school now, you can breathe. I am an asthmatic. I could breathe with a mask on. Could you imagine what that means for the thousands of kids who go into that school?

And that is the kind of work that we need all throughout the country. Two-thirds of the country has ventilation systems in schools that are not appropriate. We need that money for infrastructure. It will create jobs. It will help kids breathe. And it will help us have a safe return to schooling this fall.

Senator REED. Thank you very much. Thank you, Madam Chairman.

Chair WARREN. Thank you, Senator Reed.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you. Thank you, Madam Chairman. Thank you for holding another hearing on this important issue, and thank you to all our witnesses for your efforts to make sure that we ultimately uphold the promise of the Public Service Loan Forgiveness Program.

And, President Weingarten, thank you for mentioning the Keep Our Promises to America's Children and Teachers Act. With your help, we will get it over the finish line. And I was pleased to see the President's budget requests for both Title I and for IDEA. We need to make sure that is something that stays with us over the years.

So you know, I represent a State where we have lots of folks who are engaged in public service, either Federal employees, of course, like other States, State employees, lots of nonprofit professionals. And they all were hoping to be beneficiaries of this program, this loan forgiveness program for public service, when they embarked on those careers, only to find out in many circumstances that they were at a dead end for various reasons. And we have all heard the very startling figure of the 98 percent denial rate, and we have got to turn that around.

Attorney General James, thank you for all your efforts with respect to PHEAA and your lawsuit against PHEAA. Where do you think we can go from here in terms of remedy, and what adminis-



trative actions can the Biden administration take to help supply a remedy?

Ms. JAMES. Well, hopefully going forward, as they renew these contracts with the servicers, again requiring servicers to provide accurate and timely information about income-driven repayment plans and eligibility, requiring servicers to act in the best interest of borrowers and not the servicers themselves, imposing robust quality assurance measures, implementing mechanisms to borrowers to appeal servicer actions.

Making—streamlining the process is so critically important. Staffing up is important. Requiring a timely processing of their submissions of the applications and again penalizing servicers who violate State and Federal law is so critically important. But also, just expanding the Public Service Loan Forgiveness Program to other Federal student loan borrowers would also be helpful.

It is important to note that there are 45 million student loan borrowers in this country. We are only second in consumer loans to mortgages. And it is really critically important that we help Americans and that we ensure that these servicers are working in the best interest of borrowers, and that is so critically important.

And last, as was mentioned by my colleagues, we need to extend the pause period, particularly during this epidemic and as we face new dangers. It is important that individuals have an opportunity to get back on track and that individuals are put in a position so they can pay their debt in a fashion and in a manner and in a time when it is most appropriate to them.

Senator VAN HOLLEN. Well, thank you for your good work in this area.

And, Ms. Yu, thank you and the National Consumer Law Center for the work that you have been doing. And I saw that, together with the Center for Responsible Lending, you looked at some of the Department of Education borrowers, 428,000-plus, that were serviced by Navient, who collectively owe over \$28 billion. And as I understand, the analysis that showed nearly two-thirds of these borrowers, who made payments during COVID, still had not paid—been able to repay dollar one of their principal, so they were underwater in that sense, and that, of those, almost 90,000 borrowers owe more than 125 percent of their original balance now.

So how much of this is due, in your opinion, to the servicer sort of malfeasance and outright negligence? And how do we fix this problem going forward?

Ms. YU. Thank you for your question, Senator. Servicer abuses absolutely keep borrowers out of affordable repayment plans which allow them to make progress on their student loans. When servicers—one of the very common problems that we see is that servicers steer borrowers into costly deferments and forbearances. And what that does is interest continues to accrue, and then after that interest accrues, it is capitalized. So we see that not only are borrowers being charged interest, but they are being charged on top of interest.

We see actions by State attorneys general, by the CFPB, to hold servicers accountable for those actions, but we also need—we need more of those actions. We need the Department to take proactive steps to remedy that. But we also need to see borrowers given ret-

roactive credit for the payments that they should have been able to make, and we need to see servicers held more accountable and to pay borrowers restitution for those—for those harms.

Senator VAN HOLLEN. Well, thank you. I look forward to working with all of you and Senator Warren and Members of the Committee to try to make this right for these students and borrowers. Thank you.

Chair WARREN. Thank you, Senator Van Hollen.

Senator SMITH.

Senator SMITH. Thank you so much, Chair Warren. Sounds great. And I really appreciate our testifiers who are here today.

So the student debt crisis is out of control. We know this, and we have had an opportunity to really explore it during this hearing and the last hearing we held earlier this year. And I can tell you I hear from Minnesotans, my constituents, about this all the time. People that are struggling to carry student loan debt. This debt which is stifling their opportunity to become entrepreneurs or innovators or public servants, which is what they want to do. And this is bad.

But what is worse is that borrowers who worked hard, who have made major life decisions, like committing to public service, and then in return not seeing that promised loan forgiveness that led them to make these decisions to begin with, only to find that because of some bureaucratic SNAFU they are not eligible, apparently, for student loan forgiveness at all.

So this kind of debt relief would open the door for millions of Americans to have the freedom and the opportunity to build the lives that they want. And that is why it is so important that the Federal Government address this challenge and, I think, forgive up to \$50,000 of student loan debt.

Now, President Weingarten, I have heard from many Minnesotans, including of course many educators, about their struggles with the Public Service Loan Forgiveness Program. And as I said, they have done everything they have been asked to do, only to find that the servicer tells them everything is fine, everything is fine, until it is not fine. After years of making payments, they discover that they are not eligible for getting their remaining student loans forgiven.

So I would like to ask you about a specific piece of this. You and I have spoken many times about the challenges of recruiting and retaining teachers, especially teachers of color. Can you tell me how you think these deep challenges with the public loan forgiveness program is affecting our challenges around recruiting and retaining teachers and what difference it would make if we fix this?

Ms. WEINGARTEN. So let me give you the example of one of the plaintiffs in a case that we have, who is a Minnesotan, Janelle Manzel, who could have had lots of other opportunities in her life. She is a math teacher. She decided to teach in the public schools in Minnesota, and she taught for 10 years, paid her student loans every month, and when it was time to get PSLF, she was given the royal runaround by her servicer and told that none of the payments qualified. Anyone who hears that story says, why would I become a teacher?

And that story just runs rampant, not only through Minnesota but, as AG James could tell you, through New York. AG Stein from—could tell you from North Carolina. It is—it is why all these AGs have been out there trying to help all of us vindicate rights for people who have done everything right. And if we are trying to attract people into our profession, who do not come with a wealthy nest egg, they need the salary that they are making to actually make ends meet.

Senator SMITH. Right.

Ms. WEINGARTEN. And they had this promise of PSLF, and then they are told that they cannot get it. It says lots of things about Government inaction in so many different—

Senator SMITH. Right. Well, and it says so much about the promise of valuing teachers, the thanks that we give to teachers. But then are we going to put any beef behind that? Are we going to actually put our shoulder into demonstrating that respect and not only just talking about it?

Ms. WEINGARTEN. And let me say one more thing, which is that if this was in the financial markets and someone had a contract and that said that if you did X you will get Y, they would get Y.

Senator SMITH. Yes.

Ms. WEINGARTEN. The fact that we have such disrespect for this contract is part of the disrespect of public service, of nurses, of firefighters, and of teachers.

Senator SMITH. Yes, yes. Thank you for that.

And I want to just—I have just a couple seconds left, but I want to go to Ms. Yu to actually follow up on something because when Chair Warren held the earlier hearing we heard from an individual who was struggling under student loan debt, trying to do everything that she could possibly do for her family and just literally sinking under this debt.

I can hear sort of the challenge that some people would say here. They would essentially say—they would argue that providing student loan forgiveness to people like this, it is almost like a moral hazard, that you are rewarding people for not living up to their obligations. I am wondering, thinking about the clients that you serve, how you respond to that argument.

Ms. YU. Thank you. Thank you for your question, Senator. Look, we have a student loan system that is broken and has been holding our student loan borrowers back. Our system gives our borrowers very few opportunities to succeed and hammers them really hard anytime that they fail. We take their wages without a court order. We take their Social Security benefits. We are taking their earned income tax credit and their child tax credits, which are designed to lift their families out of poverty. We are hammering student loan borrowers, and we are making it really hard for them to succeed.

Senator SMITH. Thank you so much. I appreciate it.

Thank you, Madam Chair.

Chair WARREN. Thank you, Senator Smith. I think that your question is right on target, that there are some who are willing to criticize people whose big sin was that they tried to get an education and now they are in financial trouble and cannot pay back the student loan debt and to hold them accountable, but then an organization like PHEAA, that has made millions and millions of

dollars off this system, cannot even account for the payments that have come in, which goes to President Weingarten's point. How long would a credit card company last if it was not accounting for the payments that came in, or a mortgage loan company, and yet these student loan servicers keep getting their contracts renewed? I think we see why PHEAA decided that maybe it was a new day in Washington and a new day at the Department of Education and decided to tuck tail on this one and run.

Senator Menendez, are you ready yet, or would you like me to start with Senator Ossoff?

[No response.]

Chair WARREN. Senator Ossoff.

Senator OSSOFF. Thank you, Madam Chair. Thank you for your consistent attention to this issue. Thank you to our panelists.

Ms. Weingarten, regarding Public Service Loan Forgiveness, a promise was made to America's teachers. Is that not right?

Ms. WEINGARTEN. Yes, Senator.

Senator OSSOFF. And what was that promise?

Ms. WEINGARTEN. The promise that was made—by the way, a bipartisan promise in 2007—was that in exchange for working in public service, teaching, nursing, firefighting, the Army, and paying your student loans for 10 years, the rest of those student loans would be forgiven. And it was a pretty simple promise. And it was done, as I said before, in a bipartisan way, to try and make clear that the United States valued this kind of public service. And while you may not get paid what you are worth, you certainly would be able to afford the education that was required for this kind of public service.

Senator OSSOFF. A bipartisan promise made to America's teachers, to servicemembers, to others who take on public service, who pay their loans diligently for a decade.

Ms. WEINGARTEN. Correct.

Senator OSSOFF. And in exchange for that service, this bipartisan promise was the prospect of the forgiveness of the remainder of their loans at the end of that decade. Is the U.S. Government making good on that promise?

Ms. WEINGARTEN. No. I mean, the—you know. Look, the Biden administration inherited a mess. The first year that we would have seen real making good on that promise was 2017. And the former Secretary of Education, Betsy DeVos, made that worse, not better, and then made it hard for anyone else, including attorney generals across the country or someone's—or a member's union to try to vindicate their rights, as the testimony of my colleagues have made so clear earlier today.

The dilemma now is that there is such a backlog in the kind of cases that have come up to be redeemed under PSLF that no Administration, as good as the Biden administration is, is going to be able to get through a backlog of 150,000 cases and then on top of that every new case that comes in every day. And so what we are seeing is we are still seeing a huge fail rate in terms of not being able to redeem this basic promise, a fail rate of about 98 percent.

Senator OSSOFF. Well, I know the Chair is committed to this, and we have to make good on this bipartisan promise made to teachers and others who serve 10 years of diligent repayment, 10 years of

service, that their student loan debt would be forgiven for that service. And I am ready to work with you, Madam Chair, to take the action necessary to make that happen.

I want to ask you, Ms. Yu, about college affordability. My personal belief is that you should not have to take on a penny of debt to get a degree from a public college in this country or to get a degree from a HBCU in this country. The kind of opportunity that access to public college and HBCU education, without debt, would make for the people of Georgia would be extraordinary. And that is why I am advocating now that this Congress act to expand the Pell Grant program, to make higher education accessible to all Americans through our public colleges and HBCUs, without debt. What kind of a difference would expansion of the Pell Grant program make, for example, to the folks the organization serves?

Ms. YU. It would make a huge difference. We absolutely need to move away from a system of financing higher education through debt. Debt is holding back my clients. It is keeping them from being able to fulfill the promises. It also allows them to take the chance on an education. Right? Like, that is one of the problems that our clients see is that they are trying; they are trying, and some of them do not succeed.

And we need to lower the risks of attempting to improve your lives and make—you know, get an education and have an opportunity to feed your family. We need to lower the risks. We need to move away from debt-financed higher education.

Senator OSSOFF. And, Ms. Yu, expanding opportunity can also mean expanding access to skills, job training, vocational training. And just as I believe that you should not have to take on debt to get a 4-year degree from a public college, I think we should be working to make access to job training and vocational skills free in this country. We have a national interest in having a highly skilled workforce, and there are so many people in Georgia and across the country for whom an HVAC certificate, a welding certificate, a commercial driving license is the ticket to a middle-class standard of living. What kind of a difference would it make in communities across this country to offer free job training and vocational training?

Ms. YU. That would make a huge difference.

Senator OSSOFF. Thank you, Ms. Yu.

I yield back, Madam Chair.

Chair WARREN. Thank you, Senator Ossoff.

Senator Menendez.

Senator MENENDEZ. Well, thank you, Madam Chair. First of all, I want to really thank you for the incredible, fierce advocacy that you have had in this regard in the way you view the Subcommittee. And I am pleased to be allowed to join, as a Member of the full Committee, you today.

And of course, it seems to me that the best way to protect student loan borrowers is to forgive student loan debt, and I am pleased to be working with the Chair, Senator Schumer, and others to achieve that.

But I would like to focus on the impact of PHEAA's upcoming student loan service transfer will have in my view. An already beleaguered program, the Public Service Loan Forgiveness Program,

I think is going to be further beset by this transfer. So, Attorney General James, can you tell me any lessons that you learned from previous Federal Loan transfers?

Ms. JAMES. Well, thank you, Senator, for that question. The last Federal loan portfolio, the transfer provided valuable lessons that all of us should learn from. In 2013, the Federal loan servicer known as ACS, now known as Conduent, lost its contract to service Federal direct loans and transferred millions of loans to other servicers. And when ACS transferred its portfolio, many of the now servicers found that their records were missing and that ACS borrowers', their records reflected servicing errors.

And as a result, some ACS borrowers, they lost credit for qualifying for the Public Service Loan Forgiveness Program. They lost actual paperwork and documents with respect to their payments, and such losses will unfairly delay their ability to obtain forgiveness and increases the cost of their loans. And there is a risk that similar programs could arise from PHEAA's transfer of loans to other servicers.

And it is important to note that not only PHEAA has—is considering—is transferring their loans, but there is other servicers that are considering servicing their loans to other services as we review—as the Federal Government reviews contracts. And to ensure that such problems do not happen in this upcoming—in the upcoming transfer, the Department of Education, together with State and Federal partners and my colleagues all across this Nation, State attorney generals, we must ensure that PHEAA and other servicers, that they provide all the necessary and accurate and up-to-date records relating to the loans, that they ensure that new servicers audit and actively monitor accounts for any errors that might occur during or prior to transfer, that they have adequate staff to meet the demands of all borrowers, and that they ensure borrowers are not penalized for prior service errors or errors arising from the transfer, and last, but not least, that the burden is not put on borrowers but that the burden is placed on servicers.

The Department should apply a rebuttable presumption that payments made during the period of missing records or qualifying for the Public Service Loan Forgiveness Program. That is so absolutely, critically important.

You know, as was mentioned before, Senator, Senator Warren, Chair Warren, in the previous hearing, indicated how the student loan program and the amount of debt really just exasperates the racial wealth gap in our Nation. And it is important that individuals understand that this wealth gap, unfortunately, is having a disproportionate impact on borrowers of color and low-income borrowers all across this Nation. It is a system that has already been indicated by the Chair and others a system that is broken and needs to be fixed as soon as possible.

Senator MENENDEZ. Well, thank you. That was a very full answer, took most of my time. Do you have a—may I have another minute or two?

Chair WARREN. Of course.

Senator MENENDEZ. Oh, OK.

Chair WARREN. Take as long as you need here.

Senator MENENDEZ. That spoke to many of the questions I had, so you gave me a very comprehensive answer, Madam Attorney General.

So basically, ACS not only managed millions of borrowers' Federal loans, but they executed the transfer poorly, and those transferred loans were riddled with missing or inaccurate information. And is it true that you found that ACS deceived borrowers concerning the availability of their PSLF opportunities?

Ms. JAMES. Yeah. We are again in the practice of looking at all of these loans, and our allegations include, but are not limited, to the fact that they engaged in deceptive business practices, Senator.

Senator MENENDEZ. Mm-hmm. And is it true that that mismanagement that you uncovered from ACS blocked consumers from obtaining the forgiveness that they qualified for under the PSLF program?

Ms. JAMES. Not only blocked them but delayed their payments and delayed their ability to pay off these loans and to not only pay off the loans but also to get a loan forgiveness under the PSLF program.

Senator MENENDEZ. So I would like to ask both you and Ms. Yu, so if that is the experience that we have here, do we not agree that there needs to be extensive supervision, both by the Department of Education and the CFPB, to ensure there is not a repeat of the errors that hurt student borrowers?

Ms. YU. Absolutely.

Ms. JAMES. I would agree, along with attorney generals all across this Nation. There needs to be a collaboration with all of the various agencies as well as the attorney generals.

Senator MENENDEZ. Now finally, today, 3.3 million private student loan borrowers owe an estimated \$80 billion in loans that reference LIBOR. As the lenders transition away from LIBOR, I am concerned about the lack of protections for borrowers in private student loan contracts. Ms. Yu, as lenders transition away from LIBOR, can private lenders choose a replacement reference rate that is higher, thereby potentially increasing the borrowers' interest rate?

Ms. YU. Yes, they can.

Senator MENENDEZ. And how can Congress and regulators ensure that lenders choose a replacement reference rate that is fairest to the borrowers? For example, should the CFPB release guidance to private lenders as they transition away from LIBOR to ensure that borrowers are not stuck permanently paying higher interest rates?

Ms. YU. Yes. The CFPB must quickly complete its rulemaking related to LIBOR and encourage companies to adopt the SOFR, which is the recommended rate by the Alternative Reference Rates Committee.

Senator MENENDEZ. Yes. You know, Madam Chair, this is an area where you could have a dramatic increase in debt as a result of the transfer away from LIBOR.

And I have a real concern with the fact that—and this is the very last point I will make—Ms. Yu, your research found that millions of borrowers who have been in income-driven repayment programs for more than 20 years, of that, only 32 borrowers have had

their loans canceled through income-driven repayment. Is that right?

Ms. YU. That is absolutely right.

Senator MENENDEZ. And according to the CFPB, more than 90 percent of African Americans and 72 percent of Latino students take out loans to attend college in comparison to 66 percent of White students. Additionally, minority borrowers are defaulting on their loans at disproportionately high rates. What is the impact of IDR problems on borrowers of color, who disproportionately rely on student loans?

Ms. YU. Absolutely. The impact is that borrowers of color are paying more on their loans for longer, and this is robbing families and their communities of the wealth that they need to rebuild—to, frankly, you know, bridge the racial wealth gap.

Senator MENENDEZ. Well, “more for longer” is not a phrase I like, Madam Chair. And, you know, “less for less time” would be a lot better. So thank you to all of our witnesses for your insights.

Chair WARREN. And thank you, Senator Menendez. Appreciate your partnership in this. We will keep working on it. So, appreciate it.

Let us see if we can wrap up where we are on the Public Service Loan Forgiveness Program. So the Public Service Loan Forgiveness Program was set up with a simple promise: Work in public service for 10 years, make payments toward your loans, and after a decade, your remaining balance will be canceled. But the Federal Government, with PHEAA’s help, has failed to keep our end of the bargain.

President Weingarten, let us go over some of the numbers here. You represent more than 1.7 million school teachers, nurses, early childhood educators, exactly the kinds of public servants who should benefit from this program. So I want to run through these numbers. How many people have applied for relief through the Public Service Loan Forgiveness?

Ms. WEINGARTEN. So, Madam Chair, according to the Education Department’s most recent data, about 322,000 borrowers have applied for relief.

Chair WARREN. OK. And how many of those have successfully had their loans forgiven?

Ms. WEINGARTEN. 3,458.

Chair WARREN. And since you are a former school teacher, you can do the math on that?

Ms. WEINGARTEN. You know, I was a social studies teacher.

Chair WARREN. That is no excuse.

Ms. WEINGARTEN. But that is very few, about 2 percent.

Chair WARREN. About 2 percent. And here is the part that you can bring to Congress, to talk about it just one more time. You talk with your members. Why are they having trouble qualifying for loan forgiveness?

Ms. WEINGARTEN. So this is—I am really glad you asked that question, Madam Chair, because it was hard to—at least for me, it was hard to understand how teachers who very much follow the rules, that this was—as Senator Ossoff said earlier, it is a pretty simple promise that for 10 years, in exchange for you paying your debt each month for 10 years, you would get the rest of it forgiven.



So they would be, you know, paying their debt. They would be sending in a coupon or doing a Venmo or doing whatever millennials do now to pay debt, and it would get credited, and they would keep the forms. But then what would happen is that they would hear “Well, it is the wrong loan type” or “You are in the wrong repayment plan,” or Servicer A said this, and then after 10 years Servicer A would say, “Well, you have to go to the Department of Education to find out. You cannot talk to us about it.”

And you would see these kinds of two different islands of misinformation because a person would go to the Department of Education and they would be told one piece of information and then they would go back to the servicer and say, “The Department of Education said A” and the servicer said, “No, that is not true.”

So it was a—it is a labyrinth where you could be wrong by a cent on 1 payment in 10 years and that could put you back to the beginning again.

Chair WARREN. Wow.

Ms. WEINGARTEN. It is—I have never seen such a mess from a program that is supposed to be pretty clear and the promise pretty direct.

Chair WARREN. Yes. Now there are a lot of reasons for this 98 percent denial rate, this astronomical denial rate, including the complicated rules that Congress wrote. But a big part of the problem is that the Federal Government turned over the management of the program to a private company that could not do even the most basic part of the job. This company cheated public servants out of relief and, until recently, faced no meaningful consequences for its failures.

Attorney General James, in your investigation, what role did you find that PHEAA played in denying forgiveness to public servants?

Ms. JAMES. My office alleges in our lawsuit that PHEAA’s failure to accurately count the Public Student Loan Forgiveness qualifying payments contributed to, as you described, the shockingly high rate of denials, 98 percent, when borrowers apply for forgiveness.

Again, the borrowers run the gamut. They are teachers. They are nurses. They are firefighters. They are police. They are librarians. They are even Government workers. And when we filed our lawsuit, again, more than 98 percent of those applications were rejected. And these are individuals, again, who have made payments and unfortunately were turned down, and they made these payments based on the promise that was made.

And so going forward, we look forward to working with the Department of Education, and we look forward to working with our other—with other Federal and State partners to increase oversight over these servicers. In addition, it is important that, again, we extend the pause, that we offer \$50,000 in debt relief to student borrowers, that we reverse the previous Administration’s rule with respect to States being preempted by certain rules, and last but not least, that the Federal agencies share information with State attorney generals so that we could collaborate and be partners together, to protect student borrowers all across this Nation.

Chair WARREN. Well, that is very powerful, Attorney General James, and I appreciate it.

President Weingarten, I want to also give you a shot at that same question. What do you think the Department of Education should do to make this right?

Ms. WEINGARTEN. So first, the Department of Education has one of two choices. It could attempt to deal with 150,000 claims that are backlogged, to try to untangle every single one of these in every single place. Or, it could actually have a presumption that says, if you have been a school teacher for 10 years and you have some evidence that you have paid your loans, all the rest of the loans have been forgiven.

And during this period of time, there could be a presumption that said that up to \$50,000 of loans could be forgiven, which would be the preferable way because then you could start from scratch and fix these programs and hold these servicers accountable, and do the work that we need to do in the future to recruit and retain people in public service, and say, a promise made is a promise kept.

But right now, it is such a tangled web. I do not know how any Department of Education is going to untangle the mess that Betsy DeVos left. So it would be the right thing to do to deal with the wealth gap, to deal with what has just happened in terms of the pandemic, to actually say, let us cancel \$50,000 of student debt and let us fix PSLF in the future.

Chair WARREN. Thank you. President Biden has the authority to fix this problem today. I know the Department of Education has put out a call for borrowers' feedback, and I encourage anyone who is watching this to submit their stories to the Secretary of Education, Secretary Cardona.

I hope that once the Education Department hears from borrowers they will follow Congress's intent and simplify the rules of the program so that future public servants do not get lost in this maze. But let us be clear. We need wholesale forgiveness, and we need it now. People have been cheated. They have been given the run-around. People have been harmed over and over and over again. The President has the capacity to make this right, and it is time to do that.

I would like to do one more issue before we leave today. So I am going to reset my clock here for another 5 minutes and ask a final round of questions. Just weeks after the Coronavirus pandemic started in March 2020, the Department of Education suspended student loan payments and collections and canceled student loan interest for every single student loan borrower. A Republican administration took this unprecedented step because borrowers needed help during a crisis.

When he took office in January, President Biden extended this policy because millions of borrowers are still struggling to get back on their feet, but this payment pause is scheduled to end in just 2 months, on September 30th. This is a disaster in the making. This student loan time bomb could drag down our entire economic recovery when it explodes.

Ms. Weingarten, tell me how important this student loan pause has been. How has the pause on student loan payments, interest, and collections affected the borrowers that you represent?

Ms. WEINGARTEN. So, sorry, Chair Warren, that I keep on telling stories of my members.

Chair WARREN. I want you to.

Ms. WEINGARTEN. But this is—this is—you know, it makes your heart break when you hear these stories and when you try to actually deal with this. So let me tell you about the story of Elise [phonetic], who is a clinical lab tech at SUNY Upstate Medical University in Syracuse. She went to college, she pursued her career, and then she had lots and lots of student loans. This is her quote to me: “My husband and I drive a 10-year-old car. I cannot buy work shoes even though the ones I wear are contaminated with body fluids. I have to work overtime just to make ends meet. I am doing work that I love and that people depend on, but my debt is a prison sentence that will haunt me and my family for life.”

What happened with the pause? It gave her the money so that her husband could stay home to care for her child because child care had closed while she was working. It gave them some breathing room so that they could buy a new car. It gave them the breathing room so that they did not have to worry every single month whether she was going to buy work shoes or whether she was going to pay her student debt.

I hear these stories all the time, the kind of breathing room that it gave people so that they could navigate during this period of time, and even with that you see the stress that my members are under. That is why we are so concerned that in a month or two, as schools are trying to reopen, as our job is to create a welcoming and safe environment, people are going to start stressing about what they are going to do again when they start having payments of 200 to 400 to 600 to 1,000 dollars a month.

And if we do not have a solution long-term for the debt, if we do not cancel that debt long-term, if they cannot figure that out, then they are going to have on top of that this PHEAA transition and these other transitions, which will be also equally stressful because the paperwork is so bad already.

Chair WARREN. The pause has been good for Elise, good for Elise’s family, and good for our economy.

Now some people are saying the economy is improving and as more people get vaccinated we are getting COVID under control. That is true, and that is obviously good news. So they are wondering, why do we still need a pause in student loan payments?

You have talked about this some, President Weingarten. But, Ms. Yu, I want—your organization also works with student loan borrowers. So let us think together about how prepared student loan borrowers are. Have these borrowers been told what their monthly payments will be after the pause ends?

Ms. YU. They have not.

Chair WARREN. Have the servicers been proactively communicating with borrowers to help them get ready for a restart?

Ms. YU. No, they have not.

Chair WARREN. A lot of borrowers’ financial situations have probably changed in the last year and a half. Has the Department of Education made it easier for people to enroll in income-driven repayment plans or to update their income information?

Ms. YU. No. In fact, the opposite, many people are struggling with that.

Chair WARREN. And some borrowers are facing other problems. If a borrower is facing eviction or foreclosure, do you think that paying their student loans is going to be at the top of their mind?

Ms. YU. Not at all.

Chair WARREN. You know, even before COVID, student loan debt disproportionately hurt people of color and exacerbated racial wealth gaps. These are the same communities that have been hardest by the pandemic. And as I said, the suspension is scheduled to end in just 2 months. So, Ms. Yu, what risks to consumers are you worried about if the repayments start on October 1st as scheduled?

Ms. YU. Thank you, Senator. So we know that the economic recovery has not been even and some of the most vulnerable borrowers are still struggling the most. We are very concerned about borrowers in default, who are going to have their Social Security benefits immediately seized when the payment suspension ends. I am very concerned about borrowers relying on their earned income tax credits and their child tax credits when next tax season comes. But we are also worried about the millions of borrowers who will not even know that payments have restarted because they have no contact with their servicers and will have trouble accessing income-driven repayment and then will fall into default as a result of communication failures and servicing errors.

Chair WARREN. You know, we talk about the borrowers are not ready; the system is chaotic. The student loan servicers are not ready either. When I ask them about their plans, one servicer described the complexity of the challenge as “unprecedented,” noting that “The Federal Student Aid servicers have never attempted to move 43 million-plus accounts into a repayment status, all at once, all across the country.”

Last month, I led 60 of my House and Senate colleagues in calling on President Biden to extend the payment pause at least until March 2022 to give borrowers, to give servicers, and to give the Department of Education more time to prepare. I am fighting to cancel \$50,000 of student loan debt so that borrowers who are struggling can get permanent relief. In the meantime, borrowers are facing a financial disaster on October 1st. President Biden should act immediately to make sure that all borrowers are protected.

I want to thank our witnesses who have been here today. I want to thank you for your testimony. I also just want to thank you for your work, your hard work in the trenches on behalf of people who are struggling with student loan debt.

For Senators who wish to submit questions for the record, those questions are due 1 week from today, Tuesday, August 3rd. For our witnesses, you will 45 days to respond to any questions. Thank you again for being here and sharing with us today.

With that, this hearing is adjourned.

[Whereupon, at 4:29 p.m., the hearing was adjourned.]

[Prepared statements and additional material supplied for the record follow:]

**PREPARED STATEMENT OF LETITIA JAMES**

ATTORNEY GENERAL FOR THE STATE OF NEW YORK

JULY 27, 2021

Good Afternoon Chair Warren, Ranking Member Kennedy, and Members of the Committee. My name is Letitia James and I am the Attorney General for the State of New York. Thank you for inviting me here today to discuss the challenges facing student loan borrowers and ways to protect them.

My office has significant experience protecting student loan borrowers based on our enforcement of State and Federal consumer protection laws. Since 2019, we have undertaken major investigations and actions against for-profit colleges, student lenders, and student loan servicers. Our work resulted in a \$9 million settlement with Federal student loan servicer Conduent, formerly known as ACS, that provided relief to more than 40,000 New York borrowers; \$7.5 million in debt relief to more than 900 New York students at the now-defunct for-profit college ITT Tech; and a settlement with Transworld Systems, a student loan debt collector, which resulted in \$600,000 in restitution and penalties.

Our investigations have revealed that student loan borrowers are being harmed by the misconduct of student loan servicers. In October 2019, my office filed a lawsuit against the Pennsylvania Higher Education Assistance Agency (PHEAA), one of the Nation's largest student loan servicers, for its mismanagement of the Public Service Loan Forgiveness (PSLF) program. This program allows people who work in public service, like teachers, nurses, and members of the armed forces, to have their loans forgiven after making qualifying payments for 10 years. Our lawsuit alleges that PHEAA, operating under the name FedLoan Servicing, failed these hard-working people by not accurately counting PSLF-qualifying payments, failing to provide explanations of their determinations, and failing to inform borrowers of their options to challenge FedLoan's mistakes. As set out in our lawsuit, FedLoan's inability to properly administer the PSLF program contributed to the shockingly high rate of rejection of PSLF forgiveness applications. When we filed our lawsuit, more than 98 percent of applications were rejected as ineligible for forgiveness.

PHEAA recently announced that it will not be renewing its contract with the Department of Education. However, State and Federal investigations have revealed that servicer misconduct extends beyond a single servicer. The widespread misconduct stems, in part, from the absence of comprehensive Federal servicing standards. To prevent misconduct from continuing, the Department should implement such standards, including:

- requiring servicers to provide accurate and timely information about income-driven repayment plans and PSLF eligibility;
- requiring servicers to act in the best interests of borrowers;
- imposing robust quality assurance measures;
- implementing mechanisms for borrowers to appeal servicer actions;
- requiring timely processing of borrower submissions; and
- penalizing servicers who violate State and Federal consumer protection laws, including by reallocating the Federal student loan portfolio to other servicers.

In addition, the Department should provide relief to borrowers who have been harmed by servicer misconduct, including by retroactively crediting PSLF borrowers with qualifying payments. The Department should also ensure that the onus is on the servicer, not the borrower, to identify and correct servicer errors. In addition, where State and Federal investigations reveal systemic errors, the Department should provide broad, across-the-board relief to harmed borrowers.

The Department should also continue its work to reverse former Secretary DeVos's actions to shield Federal servicers from State oversight. We applaud the Department for taking steps to restore information-sharing with State attorneys general offices. The Department should also retract Secretary DeVos's March 2018 notice that espoused the position that State consumer protection laws are preempted by Federal law with respect to Federal loan servicers. Retracting this ill-conceived notice will ensure that States can continue their important work to protect borrowers in our States.

In addition, Congress should expand access to PSLF loan forgiveness to all Federal loan borrowers who devote 10 years to public service, regardless of the type of Federal loan or loan repayment plan. Expanding PSLF eligibility to encompass all such borrowers will provide relief to many who were victims of servicer error and will result in a fairer, more consistent, and more equitable PSLF program.

Finally, the Federal Government should take action to cancel a substantial amount of Federal student debt. I co-led a multistate coalition of 17 attorneys general urging the adoption of House and Senate resolutions that call for the cancellation of up to \$50,000 in Federal student debt for all Federal student loan borrowers. Canceling this debt will help free borrowers burdened by loan payments and allow them to move forward with their lives, as well as help to close the racial and gender wealth gap.

The student debt crisis has been exacerbated by misconduct by student loan servicers. It is imperative that we create safeguards that protect students from servicer misconduct, especially students whose work and commitment to the public good benefit all of us. My office is committed to protecting students and student borrowers in New York State and across the country. Thank you for allowing me the opportunity to testify today.

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### **PREPARED STATEMENT OF RANDI WEINGARTEN**

PRESIDENT, AMERICAN FEDERATION OF TEACHERS

JULY 27, 2021

Good afternoon, I'm Randi Weingarten, President of the American Federation of Teachers.

Our union represents 1.7 million teachers and paraprofessionals, nurses, higher education faculty and staff, and public employees. In other words, AFT members work in professions that make a difference in the lives of others—professions that require college degrees, which means our members have been increasingly burdened by unsustainable college debt.

Over the last year-and-a-half, members of these very professions have done heroic work, keeping our communities up and running, caring for patients in COVID-19 wards, and educating our children during a school year like no other. Our teachers and school staff from pre-K through college are planning a full return to in-person learning, and they know they will need to make their students feel safe and welcome amid the myriad crises facing our Nation. A survey we did with the Rand Corp. showed 78 percent of teachers reported experiencing frequent job-related stress—almost twice as many as most other working adults during the pandemic. And now, for many, the looming restart of student loan payments in the fall is deeply concerning and potentially ruinous financially.

I am here on behalf of them to raise concerns, especially in light of the news that the Pennsylvania Higher Education Assistance Agency (PHEAA) will no longer service student loans.

Most AFT members are eligible for Public Service Loan Forgiveness, but after 3½ years, the Education Department is still rejecting 98 percent of applications and has nearly 150,000 PSLF applications in backlog.

The Biden administration inherited a broken system and wisely extended the moratorium on student debt that the Trump administration enacted. Combined, the two have effectively canceled over \$90 billion in student loan interest.

The Biden administration and the Education Department can restore the promise of PSLF now—before student loan payments resume this September—and immediately discharge debts for all borrowers who have completed at least a decade of public service while paying their Federal student loans.

Borrowers need real relief, not a mirage. They need help from a Government that promised to forgive the remainder of any debt still unpaid after 10 years of payments if they went into public service. And they need a reason to tell the next generation of borrowers that public service work is meaningful and valuable, not a clear path to a lifetime of debt that will force them to make terrible decisions about whether to pay their loans, buy a home, or put food on the table.

Take, for example, Christine Conlon, a school-based occupational therapist in Staten Island, N.Y. For years, Christine has kept detailed notes about her student loan payments, but she can't get PHEAA to reconcile its records with the evidence she is repeatedly providing to them. Christine should be just a few years away from PSLF if not for the problem of PHEAA failing to properly record her payments, and that has meant she has put off major life choices like buying a home.

Every day, horror stories like Christine's arise detailing borrowers who learn years into repayment that a technicality made them ineligible for PSLF, that their servicer lied, and that they will have to restart the 10-year clock toward PSLF—if they're still even able to do that. As countless lawsuits by State attorneys general have made clear, student loan servicing companies, like PHEAA—working on behalf

of the department—have failed to provide borrowers with sufficient and correct information regarding PSLF eligibility.

The AFT has made extraordinary efforts to make PSLF work, but we’ve also had to deliver financially devastating news to our teachers, corrections officers, and nurses, information their servicers and the Education Department should have given them years before. We have even had to go to court to seek the justice our members were not getting on their own.

And while servicer errors have plagued the PSLF program for years, this reality became blindingly apparent during the last Administration. Now that the Biden–Harris administration seems primed to hold servicers accountable, those servicers, like PHEAA, are canceling their contracts instead of being subject to meaningful oversight. This is evidence of a system run catastrophically amok.

If the Administration does not cancel student debt for public service workers before the fall, millions of them will be forced to transfer the loans currently serviced by PHEAA to new servicers that will inherit loans with paper trails that can never be untangled.

The problem is clear, and the solution is too: The Administration should cancel debt for all public service workers who have made payments on their Federal loans for a decade AND should cancel up to \$50,000 of debt per borrower.

These actions will make a big difference for communities of color: 93 percent of the lowest-income Black households with student debt would experience total student debt relief with \$50,000 in cancellation. And debt cancellation would be an immediate and long-lasting stimulus to our economy—increasing average yearly pay by \$3,000 and increasing the gross domestic product by \$1 trillion.

The promise of Public Service Loan Forgiveness remains broken, and while the Education Department recently took a positive step by soliciting feedback on these failures, public service workers can’t wait for a fix or new rule years into the future. On behalf of millions of borrowers, I call on the Administration to cancel student debt now.

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### PREPARED STATEMENT OF PERSIS YU

DIRECTOR, STUDENT LOAN BORROWER ASSISTANCE PROJECT, NATIONAL CONSUMER  
LAW CENTER

JULY 27, 2021

#### Introduction

Chairwoman Warren, Ranking Member Kennedy, and Members of the Committee, thank you for inviting me to testify today regarding how to protect student borrowers in the upcoming transitions in the student loan system. I offer my testimony here on behalf of the low-income clients of the National Consumer Law Center (NCLC).<sup>1</sup>

As the director of NCLC’s Student Loan Borrower Assistance Project at NCLC, I lead NCLC’s policy and advocacy efforts to make the student loan system work for the students it is intended to help. Our efforts are grounded in our direct legal assistance work with low-income clients in Massachusetts who are struggling with student loan debt. In addition to our work in Massachusetts, we consult with advocates across the country representing borrowers, many with complaints against student loan servicers.

Our clients, and millions of others like them, take out student loans believing they are the key to a better future. But for many, that dream will never come to fruition because the student loan system is broken and has been broken for a very long time. Currently in the United States, nearly 45 million people owe more than \$1.7 trillion on their student loans. Prior to the pandemic, roughly a quarter of Fed-

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<sup>1</sup> The National Consumer Law Center (NCLC) is a nonprofit organization specializing in consumer issues on behalf of low-income people. Since 1969, we have worked with thousands of legal services, Government, and private attorneys and their clients, as well as community groups and organizations that represent low-income and older individuals on consumer issues. NCLC’s Student Loan Borrower Assistance Project provides information about student rights and responsibilities for borrowers and advocates, and provides direct legal representation to student loan borrowers. We work with other advocates across the country representing low-income clients. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens, and make loan repayment more manageable. See the Project’s website at [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org).

eral borrowers were delinquent or in default on their loans.<sup>2</sup> As I and my colleagues witness every day from low-income borrowers here in Massachusetts, borrowers often default because they do not understand how to navigate the Federal student loan system and their loan servicers fail to provide them with accurate information.

Defaulting carries severe consequences for borrowers and their families. The Federal Government has collection powers against defaulted student loans that far exceed the collection powers of most unsecured creditors. Wielding these coercive collection tools, the Government often siphons thousands of dollars from borrowers already experiencing financial distress. The Government can garnish a borrower's wages without a judgment, seize tax refunds (including the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC)), and seize portions of Federal benefits such as Social Security. The amount the Government seizes using these tools often is far greater than the amounts borrowers would have been required to pay under an income-driven repayment (IDR) plan. These punitive collection activities can push low income households to or over the financial brink. Facing involuntary collections often means that our clients cannot afford their rent, pay for medication, cover transportation to and from work, or even buy food. Simply put, the student debt crisis was already hampering both families' and the Nation's economic stability even before the current pandemic.

Racial disparities in the student loan portfolio and with default rates in particular disproportionately expose borrowers of color to these Government offsets and other damaging debt collection practices.<sup>3</sup> At every income level, Black households are more likely to hold student debt than their White counterparts.<sup>4</sup> Moreover, as the Education Trust's research shows, at every income level, Black borrowers are more likely to default than White borrowers.<sup>5</sup> In fact, Black borrowers at the highest income levels are twice as likely to default than the lowest earning White borrowers. Thus, the Government's collection practices have the disastrous effect of systematically removing wealth from communities of color through seizures of wages, tax refunds, and benefits to service student debts and huge collection fees. In effect, such practices systematically strip wealth from families and communities which are already economically disadvantaged and disproportionately of color. Cruelly, the communities hit hardest by student loan crisis are also the same communities hit the hardest by the COVID-19 global health crisis.

### **Protecting Low-Income Borrowers During Loan Transfers and Restarting Repayment**

As the U.S. Department of Education restarts Federal student loan repayment for over 30 million student loan borrowers, high quality servicing is going to be paramount. Despite the critical nature of servicing at this time, both the Pennsylvania Higher Education Assistance Agency<sup>6</sup> (AKA "FedLoan Servicing") and the New Hampshire Higher Education Loan Corporation<sup>7</sup> (AKA "Granite State Management & Resources") announced that they will not be extending their Federal contracts this December. This has potentially devastating consequences for, not just for the roughly 10 million borrowers whose loans will need to be transferred, but for all borrowers in the Federal student loan portfolio. The remaining servicers will need to rapidly increase staffing and train a whole cadre of customer service representatives

<sup>2</sup>See U.S. Dep't of Educ., Federal Student Aid, Data Center, Federal Student Loan Portfolio; see also, Student Loan Servicing: Analysis of Public Input and Recommendations for Reform, Consumer Fin. Prot. Bureau (Sept. 2015).

<sup>3</sup>Judith Scott-Clayton, "The Looming Student Loan Default Crisis Is Worse Than We Thought", *Economic Studies at Brookings* (Jan. 2018), available at <https://www.brookings.edu/research/the-looming-student-loan-default-crisis-is-worse-than-we-thought/>; Ben Miller, "The Continued Student Loan Crisis for Black Borrowers", Center for American Progress (Dec. 2, 2019), available at <https://www.americanprogress.org/issues/educationpostsecondary/reports/2019/12/02/477929/continued-student-loan-crisis-black-borrowers>.

<sup>4</sup>Raphael Charron-Chenier and Louise Seamster, "Some Notes on the Impact of Student Debt Forgiveness Across Income Groups", *Scatterplot* (Dec. 17, 2020) available at <https://scatter.wordpress.com/2020/12/17/some-notes-on-the-impact-of-student-debt-forgiveness-across-income-groups/>.

<sup>5</sup>Victoria Jackson and Tiffany Jones, "The 'Black Tax' Is Key to Understanding and Solving the Black Student Debt Crisis in the Time of COVID-19 and Beyond", The Education Trust, (Apr. 16, 2020) available at <https://edtrust.org/resource/the-black-tax-is-key-to-understanding-and-solving-the-black-student-debt-crisis-in-the-time-of-covid-19-and-beyond/>.

<sup>6</sup>Pennsylvania Higher Education Assistance Agency, "News Advisory: PHEAA Federal Student Loan Contract Statement" (July 8, 2021) <https://www.pheaa.org/documents/press-releases/ph/070721.pdf>.

<sup>7</sup>New Hampshire Higher Education Association Foundation, Press Release: "NHHEAF Network Will Not Seek Renewal of Federal Student Loan Servicing Contract" (July 19, 2021) <https://www.nhheaf.org/pdfs/investor/NHHEAF-Network-IR-Announcement-07-19-21.pdf>.



in a very short amount of time in order to absorb the accounts of nearly a third of all Direct loan borrowers.

Even prior to the two servicers' announcements that they were not renewing their contracts, research by The Pew Charitable Trusts concluded that "simultaneously navigating uncertainty, financial challenges, and a confusing repayment system could lead borrowers to reach out to loan servicers in unprecedented numbers when payments resume, overwhelming the system."<sup>8</sup> At a time when two major changes are occurring for student loan borrowers, borrowers need the best servicing possible. Instead, they will likely encounter inexperienced customer service representatives and servicers who are stretched too thin.

It is imperative that the Department of Education protect the interests of the most vulnerable student loan borrowers as it decides how and when to restart repayment while also transferring roughly 10 million borrowers' loans.<sup>9</sup> Borrowers—low-income and otherwise vulnerable student loan borrowers in particular—are at significant risk during the upcoming transitions. As will be described in greater detail, the combination of restarting repayment, along with the risks associated with large scale loan transfers by servicers with a long history of failing to adequately serve Federal student loan borrowers, will have cataclysmic consequences unless meaningful consumer protections are put in place.

### *1. Risk of Restarting Repayment for Borrowers*

Since the passage of the CARES Act in March 2020, Congress put critical protections in place to help Federal student loan borrowers weather the COVID-19 pandemic. Among other protections, the CARES Act suspended payments and interest accrual and ceased collection on all Department-held Federal student loans. That payment suspension is currently set to expire on September 30. The end of the COVID-19 payment suspension is fraught with risk as the Department of Education attempts the unprecedented task of bringing tens of millions of student loan accounts into repayment after over a-year-and-half of being suspended. Historical data from the Department demonstrates that default rates typically spike following disaster-related forbearances.<sup>10</sup> Specifically, following Hurricanes Harvey, Irma, and Maria and the California wildfires, the loans of borrowers living in those impacted areas were placed in mandatory administrative forbearance.<sup>11</sup> This means that borrowers' loans were counted as being current without the borrower having to make any payments, something intended to help people deal with the fallout of a natural disaster. Unfortunately, after these disaster forbearances ended, many borrowers never reentered repayment which resulted in their loans defaulting. The resumption of payments following the COVID-19 payment suspension has the potential to be much worse than what we saw following these previous disasters because those were much shorter in duration and impacted a significantly smaller number of borrowers. Allowing borrowers to fall into default following the end of the payment suspension, which would make them vulnerable to loss of wages, social security benefits, and the critical family supports such as the EITC and CTC, will have devastating consequences for these borrowers and will eviscerate any economic recovery following the pandemic.

The risks created by the transition to repayment are not limited to eventual student loan default, which only occurs 270 days after missing a payment. Even before a payment is missed, borrowers can suffer dire consequences such as overdrawn bank accounts if auto-debits resume without borrowers having sufficient funds in their bank accounts. If payments are unaffordable, borrowers may be forced to either forgo paying for basic necessities or miss their student loan payments and experience negative credit reporting which can hold them back for years to come.

<sup>8</sup>Sarah Sattelmeyer and Lexi West, "Outreach From Borrowers Could Overwhelm Student Loan System When Pandemic Pauses End", Pew Charitable Trusts (Nov. 3, 2020) available at <https://www.pewtrusts.org/en/researchand-analysis/articles/2020/11/03/outreach-from-borrowers-could-overwhelm-student-loan-system-when-pandemicpauses-end>.

<sup>9</sup>Michael Stratford, "Another Federal Student Loan Servicer To Call It Quits", *Politico* (July 20, 2021), <https://subscriber.politicopro.com/article/2021/07/another-federal-student-loan-servicer-calls-it-quits-2070755>.

<sup>10</sup>Ben Kaufman, "New Data Show Student Loan Defaults Spiked in 2019—A Warning to Industry and DeVos Amid Economic Fallout", Student Borrower Protection Center (Mar. 13, 2020), available at <https://protectborrowers.org/every-26-seconds/> (citing Fed. Student Aid, Federal Student Aid Posts New Reports to FSA Data Center (Aug. 07, 2019)).

<sup>11</sup>Id.

In addition, approximately 9 million student loan borrowers are currently in default.<sup>12</sup> Unless the Department takes immediate action to remove these borrowers from default, they will be subject to the Government's draconian collection powers immediately upon the end of the payment suspension.<sup>13</sup> Many of the borrowers in default are older Americans who will face seizure of a portion of their Social Security benefits for old student loans of their own or loans they took out for family members.

## 2. Risk of Transfer of Loan Servicing

Prior large-scale transfers of Direct loans have resulted in serious long-term harm to vast numbers of Federal student loan borrowers and should serve as a warning for the upcoming loan transfers. From the beginning of the Government's Direct Loan Program in 1994 until 2008, the Department of Education contracted with a single Direct Loan servicer—ACS (Xerox). In 2009, as it was moving to a system under which nearly all student loans were originated directly by the Federal Government through the Direct Loan Program, the Department entered into new servicing contracts with four companies, Great Lakes Educational Loan Services, Nelnet, FedLoan Servicing (PHEAA), and Sallie Mae (now Navient). Loans were transferred from ACS to the new servicers between the years 2009 and 2013.<sup>14</sup> The Department also contracts with a number of nonprofit student loan servicers, including Cornerstone, Granite State, HESC/EdFinancial, MOHELA, and OSLA.<sup>15</sup>

As described by a report by the American Federation of Teachers and the Student Borrower Protection Center:

Public reports contemporaneous to the transition indicate not only that ACS executed the handover process poorly, but the transferred loans were also plagued with missing or inaccurate information, among a host of other servicing errors. In 2012, one journalist described Direct Loan borrowers as 'Dazed and Confused by [the] Servicer Shuffle,' while a large, unnamed student loan servicer reported to the CFPB that at least half a million transferred accounts had problems.<sup>16</sup>

Borrowers whose loans were transferred during this time complained that "they were hit with higher payments and fees after their loan balances were transferred to another servicer . . . without warning."<sup>17</sup> Data shows that over a hundred thousand loans were transferred with "incorrect information or with borrower information missing, including data related to past bankruptcy settlements."<sup>18</sup>

The impact of this incorrect information has had lingering effects on the Federal student loan portfolio today. Thousands of borrowers seeking to cancel their loans through the Public Service Loan Forgiveness (PSLF) program are struggling to demonstrate that they have made the required number of qualifying payments. These PSLF problems are a foreboding sign of what is to come. Many low-income borrowers will soon qualify for forgiveness of the remainder of their student loans because of having made 20 or 25 years worth of qualifying payments in IDR. If the transfer of servicing results in the same level of erroneous and lost payment records, we will see the same chaos but with our most vulnerable borrowers.

Finally, loan transfers inevitably result in massive confusion for borrowers. As Will Shaffner, MOHELA's director of business development and Government relations said in 2012, "Anytime you change a servicing relationship, it can cause concern."<sup>19</sup> Additionally, the ability to contact borrowers will be hampered by the lack

<sup>12</sup> U.S. Dep't of Educ., Federal Student Aid Default Management, Official Cohort Default Rates for Schools, <https://www2.ed.gov/offices/OSFAP/defaultmanagement/cdr.html>.

<sup>13</sup> Letter from Senator Elizabeth Warren, et al., to Secretary of Education Miguel Cardona dated April 19, 2021, available at <https://www.warren.senate.gov/imo/media/doc/2021.04.19%20Letter%20to%20ED%20about%20Auto%20Rehab%20Student%20Loans.pdf>. See also Sarah Sattlemeyer, "3 Ways Biden Can Help Families and Student Loan Borrowers", Brookings (April 22, 2021) available at <https://www.brookings.edu/research/three-ways-the-biden-administration-can-help-families-and-student-loan-borrowers-affected-by-the-pandemic/>.

<sup>14</sup> National Consumer Law Center, Student Loan Law §5.2.1.1 (6th ed. 2019), updated at [www.nclc.org/library](http://www.nclc.org/library).

<sup>15</sup> Id.

<sup>16</sup> "Broken Promises: The Untold Failures of ACS Servicing", American Federation of Teachers and Student Borrower Protection Center (Oct. 2020) available at <https://protectborrowers.org/up-content/uploads/2020/12/Broken-Promises-ACS-12-9.pdf>.

<sup>17</sup> Lisa Parker, "Student Loan Borrowers Say They're Being Gouged", NBC 5 Chi. (July 23, 2013) <https://www.nbcchicago.com/news/local/target-5-student-loans-mohela/1955834/>.

<sup>18</sup> "Broken Promises", supra n. 16.

<sup>19</sup> Marian Wang, "Student Loan Borrowers Dazed and Confused by Servicer Shuffle", ProPublica (Apr. 23, 2012) available at <https://www.propublica.org/article/student-loan-borrowers-dazed-and-confused-by-servicer-shuffle>.

of good contact information on file for tens, if not hundreds of thousands of borrowers.<sup>20</sup> Given that most borrowers have not had contact with their servicers since March 2020, the number of borrowers without accurate contact information has likely increased. This will disproportionately harm low-income borrowers who are more likely to have moved during the payment suspension.

The Department of Education must take steps to ameliorate the negative consequences of loan transfers and to make sure that repayment is not restarted until loans have been successfully transferred.

### 3. *The History of Servicing Abuses Preventing Borrowers From Accessing High Quality Servicing*

Servicers are often borrowers' first point of contact when attempting to resolve their student loans. With the assistance of a competent and efficient servicer, financially distressed borrowers may avoid default by accessing the flexible repayment plan, loan cancellation program, or deferment or forbearance option appropriate for their circumstances. Unfortunately, as has been extensively documented, the student loan servicing industry has long been rife with misconduct.

The four largest Federal student loan servicers have a documented history of "widespread servicing failures" that "create obstacles to repayment, raise costs, cause distress" and "driv[e] borrowers to default."<sup>21</sup> According to an October 2017 report by the Consumer Financial Protection Bureau (CFPB), problems in the student loan servicing industry included a range of payment processing, billing, customer service, borrower communications, and income-driven repayment plan enrollment problems.<sup>22</sup>

Income-driven repayment (IDR) is at the heart of affordable loan repayment options offered by the Higher Education Act (HEA), which governs the Federal student loan program. IDR plans require borrowers to pay only a set percentage of their income toward their student loan bills. Depending on the borrower's income, this can be a small or even zero monthly payment.<sup>23</sup> An IDR plan gives the borrower a sustainable loan repayment amount and a path to forgiveness of any remaining balance after 20 or 25 years of IDR payments.<sup>24</sup>

More than 25 years have passed since the implementation of the first IDR plan, the Income-Contingent Repayment Plan (ICR). This means that student loan borrowers who entered ICR before 1996 should be receiving loan forgiveness for completing 25 years of qualifying payments. Because of changes in IDR repayment options, borrowers originally enrolled in ICR who have not yet completed 25 years of payments can achieve forgiveness sooner or immediately by switching to the Revised Pay As You Earn plan, which counts the prior payments and, for borrowers without graduate debt, has a shorter repayment period (20 years). Yet, of the 4.4 million borrowers<sup>25</sup> who have been in repayment on their Federal loan for more than 20 years, only 32 borrowers have received cancellation under IDR.<sup>26</sup>

Moreover, despite the abundant benefits of IDR plans to the financial health of borrowers and their families, the Department and its servicers have consistently failed to make these plans accessible for many borrowers, and the U.S. Government Accountability Office (GAO) has documented low levels of participation by eligible

<sup>20</sup> During the COVID-suspension, the Department of Education was unable to return illegally seized wages to over 20,000 borrowers due to not having current contact information for these borrowers. See *Lawsuit Against DeVos Ends; Fight for Defrauded Borrowers Continues*, Nat'l Consumer Law Center, (Mar. 22, 2021) available at <https://www.studentloanborrowerassistance.org/lawsuit-against-devos-ends-fight-for-defaulted-borrowerscontinues/>. Similarly, in attempting to notify borrowers who were determined to qualify for a total and permanent disability discharge through a data match with the Social Security Administration, nearly 47,000 notices were returned for to sender. See Response to National Student Legal Defense Network request to U.S. Dep't of Education, 21-01335-F (May 24, 2021).

<sup>21</sup> CFPB Concerned About Widespread Servicing Failures Reported by Student Loan Borrowers, Consumer Fin. Prot. Bureau (Sept. 29, 2015).

<sup>22</sup> Annual report of the CFPB Student Loan Ombudsman Strategies for Consumer-Driven Reform, Consumer Fin. Prot. Bureau (Oct. 2017).

<sup>23</sup> 20 U.S.C. §§1087e(d)(1)(E) (applicable to Direct Loans), 1098e (FFEL). See 34 CFR §§682.215 (FFEL), 685.221 (Direct Loan).

<sup>24</sup> Id.

<sup>25</sup> Education Department Responses to Data Request by Senator Warren, (April 2, 2021) available at <https://www.warren.senate.gov/imo/media/doc/Education%20Department%20Response%20to%20Sen%20Warren%20-%204-8-21.pdf>.

<sup>26</sup> "Education Department's Decades-Old Debt Trap: How the Mismanagement of Income-Driven Repayment Locked Millions in Debt", Nat'l Consumer Law Center & Student Borrower Protection Center (March 2021), available at <https://www.nclc.org/images/pdf/student-loans/IB-IDR.pdf>.

borrowers.<sup>27</sup> Problems with enrolling and renewing borrowers in IDR are prevalent. Entering a borrower into an IDR plan is time-intensive and expensive for servicers, so too often servicers fail to invest resources in ensuring that borrowers understand and successfully access the most affordable and sustainable repayment plan. Instead, servicers steer many borrowers into forbearances and deferments, which are profitable for the servicer but costly to the borrower, and in many cases, servicers have misrepresented that those borrowers have no other repayment options.

An NCLC client had this experience as she struggled to afford her student loan payments after completing a medical assistant program at a local for-profit school. Every year, she dutifully contacted her servicer and submitted documentation of her financial hardship. Nevertheless, despite clear eligibility for a zero-dollar payment, she had never been enrolled in an IDR plan. When this borrower came to NCLC, she had never even heard of IDR options. Instead, each year when she called her servicer to discuss her financial situation and options, she was directed into a number of forbearances. She had been out of school since for over 7 years before coming to our office and was still in good standing on her loan, due to her extreme diligence. However, the servicer's actions steering her towards forbearance have wasted years she could have spent in an affordable repayment plan, working toward the eventual resolution of her loan. This client's experience is far from unique, and private and State enforcement actions targeted at this type of misbehavior tell similar stories.<sup>28</sup>

Failing to ensure that borrowers are able to access IDR has harmful and expensive consequences. In 2016, the GAO estimated that a borrower owing \$30,000 in Federal loans who spent 3 years in a forbearance would pay \$6,742 more than a borrower on a 10-year standard repayment plan who did not spend any time in forbearance.<sup>29</sup> The GAO further stated that encouraging "forbearance over other options that may be more beneficial, such as [IDR] plans," will continue to place some borrowers "at risk of incurring additional costs without any longterm benefits."<sup>30</sup>

Getting borrowers into an affordable IDR plan will be particularly important for ensuring borrower success following the upcoming restart to repayment. Without improvements by servicers, borrowers will lose out on the many important benefits of IDR, such as making qualifying payments towards cancellation after 20 or 25 years, or 10 years for public service workers. In the worst case, borrowers will lose out on the opportunity to stay in good standing on their loans and may fall into default with its devastating consequences.

#### 4. The Need for Greater Servicer Accountability and Remedies for Borrowers

Unlike the protections in other areas of consumer credit such as credit cards and mortgages, there are few laws specifically governing student loan servicer conduct for either Federal or private loans. In its October 2013 report, the CFPB pointed to protections in the Real Estate Settlement Procedures Act (RESPA) for mortgages and the Credit Card Accountability Responsibility and Disclosure (CARD) Act for credit cards and the need to examine whether these types of reforms could apply to the student loan servicing market.<sup>31</sup>

The CFPB pointed out that some of the provisions in mortgage servicing rules that could apply to student loan servicers include notice of transfer of loan servicing, timely transfer of documents to new servicers, payoff statements, error resolution

<sup>27</sup> U.S. Gov't Accountability Office, "Federal Student Loans: Education Could Do More To Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options", Report No. GAO-15-66 (Aug. 2015).

<sup>28</sup> Consumer Financial Protection Bureau, Office for Older Americans & Office for Students and Young Consumers, Snapshot of Older Consumers and Student Loan Debt (Jan. 2017). 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. Pa. Higher Educ. Assistance Agency, No. 1:2019cv09155 (S.D.N.Y. Oct. 3, 2019); Vullo v. Conduent Educ. Services (Jan. 4, 2019) (consent order), available at [www.dfs.ny.gov](http://www.dfs.ny.gov); 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).

<sup>29</sup> U.S. Gov't Accountability Office, "Federal Student Loans: Education Could Improve Direct Loan Program Customer Service and Oversight: Highlights", Report No. GAO-16-523, 19 (May 16, 2016).

<sup>30</sup> *Id.* at 20.

<sup>31</sup> Annual Report of the CFPB Student Loan Ombudsman, Consumer Fin. Prot. Bureau (October 16, 2013).

and dispute review procedures, continuity of contact, records retention, and early intervention for borrowers nearing default.<sup>32</sup>

In April 2019, the *New York Times* highlighted one of the problems keeping borrowers from accessing loan forgiveness: errors in the count of their qualifying payments.<sup>33</sup> In order to verify the number of qualifying payments and to ensure that servicers are counting payments properly, borrowers need to have access to a full and complete payment history. Unfortunately, borrowers do not currently have easy access to this information, as servicers are often the only ones who have this data. Borrowers are able to get basic loan level information from the Federal Student Aid website, but it does not provide payment level data.

The student loan servicer that is servicing a particular loan should have payment records, but the extent to which they make this information available varies by servicer.<sup>34</sup> In contrast to mortgages, where servicers are required to provide the borrower with information within 30 days of a qualifying written request, there are no Federal standards requiring a student loan servicer to give the borrower a payment history.

According to the *New York Times*, some borrowers are told that it could take up to a year to get the information.<sup>35</sup> It took over a year-and-a-half for one NCLC client to receive a complete payment history from FedLoan Servicing.

There are some protections in the contracts that the Department signs with the servicers. However, borrowers rarely know about those rights. In general, the Department states in the contracts that it does not intend to provide additional service level requirements, but it does expect “best of business practices” to be deployed. Servicers are also required to meet “all statutory and legislative requirements.” The contractually provided incentives fail to set standard and transparent borrower protections and for too long, the Department has failed to adequately enforce these requirements. Further, the lack of Department enforcement combined with limited borrower rights to enforce protections means that servicers are largely unaccountable when they fail to provide quality service or violate applicable law.

Even if the Department acted more aggressively to police the contractors through termination or sanctions, harmed borrowers would not be made whole. Often, the harm caused by servicer errors and abuses cannot be remedied by simply applying an administrative forbearance or returning the borrower’s money. For example, when money is erroneously debited from a borrower’s bank account, it can lead to overdraft fees and insufficient funds to cover basic necessities like groceries or rent. When servicer abuses prevent borrowers from accessing critical programs or missing out on qualifying payments for IDR and PSLF, it causes borrowers to pay for a longer time and to pay more over the life of the loan. Fairness and justice require that borrowers have the ability to enforce their rights when breached by servicers and to obtain adequate remedies.

Yet 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. Borrowers can raise State law claims, including those based on fraud and misrepresentation, but servicers assert both that these claims are preempted by the HEA and that they are shielded from liability through derivative sovereign immunity. The Department can address this need for remedies both by broadening the cancellation provisions of IDR to ensure that borrowers get credit for time that should have qualified for a cancellation, more consistently and robustly compromising or modifying borrowers’ loans, and supporting borrowers’ efforts to recoup damages through private litigation by withdrawing its notice of interpretation on preemption<sup>36</sup> and prohibiting its servicers and debt collectors from asserting preemption and governmental contractor immunity defenses.

### Conclusion

With the impending transition of student loan servicing for tens of millions of student loan borrowers, it is critical that Congress and the Department of Education take proactive steps to ensure that borrowers are protected. As with most things,

<sup>32</sup> Id.

<sup>33</sup> Ron Lieber, “Your Student Loan Servicer Will Call You Back in a Year. Sorry.” *N.Y. Times*, April 12, 2019.

<sup>34</sup> See Persis Yu, “Student Loan Forgiveness Cannot Work Without a Right to a Payment History” (May 22, 2019), available at <https://protectborrowers.org/qualifying-payments/>.

<sup>35</sup> Lieber, *supra* n. 33.

<sup>36</sup> Federal Preemption and State Regulation of the Department of Education’s Federal Student Loan Programs and Federal Student Loan Servicers, 83 FR 10619 (March 12, 2018).

the most vulnerable borrowers are the ones who will be harmed the most. Low-income borrowers are vulnerable to unaffordable loan repayments, improperly debited payments, negative and sometimes erroneous credit reporting, and in many cases, the seizure of wages, Federal benefits, or vital tax credits. These consequences threaten the financial stability of borrowers, their families, and wider communities.

In structuring both the plans to transfer millions of loans and to end the COVID-19 payment pause, the Department must give borrowers as many chances to get back on track as possible. But policymakers must also recognize that, for many borrowers, the harm from a bungled transition will come on top of years if not decades of abusive servicing and collection practices.

Widespread administrative debt cancellation is needed to remedy the failures of our student loan system. The student loan system has failed borrowers for too long. While they have waited, their debt has ballooned, and their financial futures have grown more bleak. Over 4 million borrowers have been in repayment for over 20 years,<sup>37</sup> yet only 32 borrowers have had their loans canceled through income-driven repayment.<sup>38</sup> In addition to widespread administrative debt cancellation, the Department should clear the books of borrowers who have been in repayment for more than 15 years, and automatically provide relief to all of the borrowers who are already entitled to cancellation under existing law. In addition to providing much needed relief to these borrowers, if done prior to restarting repayments, these steps will eliminate the debts of many of the hardest to reach borrowers and will allow servicers to dedicate their resources to ensuring the success of the remaining borrowers.

Thank you for the close attention you are paying to how to protect student loan borrowers in the upcoming transitions in the student loan system, and for the opportunity to provide this testimony. I look forward to your questions.

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<sup>37</sup> Laura Camera, “Progressives Up the Pressure on Biden Over Student Debt Cancellation”, *U.S. NEWS* (April 14, 2021), available at <https://www.usnews.com/news/education-news/articles/2021-04-14/progressives-up-the-pressure-on-biden-over-student-debt-cancellation>, citing Education Department Responses to Data Request by Senator Warren, (April 2, 2021) available at <https://www.warren.senate.gov/imo/media/doc/education%20Department%20Response%20to%20Sen%20Warren%20-%204-8-21.pdf>.

<sup>38</sup> Education Department’s Decades-Old Debt Trap, *supra* n. 27.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

**LETTER SUBMITTED BY SARAH DUCICH, SENIOR VICE PRESIDENT,  
PUBLIC POLICY AND GOVERNMENT RELATIONS, NAVIENT**



Sarah Ducich  
Senior Vice President  
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August 24, 2021

The Honorable Elizabeth Warren  
United States Senate  
309 Hart Senate Office Building  
Washington, DC 20510

The Honorable John Kennedy  
United States Senate  
416 Russell Senate Office Building  
Washington, DC 20510

Dear Chair Warren and Ranking Member Kennedy:

I am writing to you to correct for the record some inaccurate information that was provided inadvertently during the U.S. Senate Banking Subcommittee on Economic Policy hearing on July 27, 2021, "Protecting Student Loan Borrowers and the Economy in Upcoming Transitions." During the hearing, Senator Van Hollen asked a question of Persis Yu, National Consumer Law Center, citing a short study her organization had released.<sup>1</sup> The question was:

*And Ms. Yu, thank you and the National Consumer Law Center for the work that you've been doing. And I saw that together with the Center for Responsible Lending, you looked at some of the Department of Education borrowers -- 428,000 plus -- that were serviced by Navient who collectively owe over \$28 billion.*

*And as I understand, the analysis showed that nearly two-thirds of these borrowers who made payments during COVID still had not paid -- been able to repay dollar one of their principal -- so, they are underwater in that sense -- and that, of those, almost 90,000 borrowers owe more than 125 percent of their original balance now.*

*So, how much of this is due, in your opinion, to the servicer sort of malfeasance and outright negligence? And how do we -- how do we fix this problem going forward?*

Unfortunately, the question and the report on which it is based inadvertently omitted important information regarding the types of student loan borrowers included in the report. The report did

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<sup>1</sup> [https://www.nclc.org/images/pdf/student\\_loans/CRL\\_navient\\_borrowers\\_covid.pdf](https://www.nclc.org/images/pdf/student_loans/CRL_navient_borrowers_covid.pdf)

not examine *all* borrowers who made payments during COVID, as was implied by the question highlighted above. In actuality, the report examined only borrowers enrolled in income-driven repayment plans. The finding, therefore, that two-thirds of these borrowers have not reduced their principal, while unfortunate, should be no surprise. In fact, most borrowers enrolled in income-driven repayment plans see their balances grow. This is not because of servicer misconduct or borrowers failing to make payments but rather due to the way that Congress designed the program. Income-driven repayment programs allow borrowers to pay a percentage of their income regardless of the loan balance or interest rate. Unlike other payment plans that are designed to gradually pay off the principal balance, payments made under IDR plans often do not cover the accruing interest cost.<sup>2</sup> In other words, because of the amount of debt taken on and how the program is set up, if borrowers' monthly payments are less than the accruing interest on their loan, which happens frequently under income-driven repayment plans, they will watch their balances grow despite making every payment on time.

Regarding the report from the National Consumer Law Center (NCLC) and the Center for Responsible Lending (CRL), our understanding is that this was an inadvertent mistake. These organizations received the data through a request under the Freedom of Information Act. As provided from the Department of Education, our understanding was that the request was a series of questions regarding borrowers in income-driven repayment plans, including how many made payments during the pandemic. That is how we responded to the Department. We are unaware of how the Department provided the data to NCLC or CRL. We have reached out to the organizations and they have updated their report to make clear that these are borrowers enrolled in income-driven repayment plans.<sup>3</sup>

As you know, Congress and the Department of Education encourage servicers like Navient to ensure borrowers are aware of income-driven repayment options. Accordingly, Navient has helped more than one-third of the borrowers we service enroll in plans based on income, and we have made several recommendations to improve the program based on our experience with these borrowers. Navient CEO Jack Remondi specifically testified to your subcommittee in April regarding the problem of student loan balances growing during repayment and made recommendations to reform income-driven repayment plans to ensure that borrowers see their balances go down instead of up. In his testimony he stated:

*To improve the success and fairness of income-driven repayment programs, we recommend simplifying into one, new "Forgive-As-You-Go" repayment plan going forward. This simple straightforward approach would remove the complexity of today's nine different plans, creating a more visible path to repayment success...*

*...because most IDR payments do not cover the interest that accrues each month, many IDR borrowers see their balances grow despite the various interest subsidies embedded in the current IDR plans. Data from the Department of Education shows that the average balances of borrowers who are out of school have grown by 76% as a result of this negative amortization...*

<sup>2</sup> <https://www.cbo.gov/publication/56277>

<sup>3</sup> <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-nclc-datapoint-navient-aug2021.pdf>



*Rather than wait for years to realize loan forgiveness, under "Forgive-As-You-Go" borrowers would see their balance decline each month as they make their payments adjusted to their income and receive monthly loan forgiveness.<sup>4</sup>*

We would be happy to work with you to explore opportunities to enact legislation to simplify and improve income-driven repayment plans.

I respectfully request that you include our response in the official record of the July hearing.

Please let me know if you have any further questions.

Sincerely,



Sarah Ducich  
Senior Vice President, Public Policy & Government Relations

cc: The Honorable Chris Van Hollen

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<sup>4</sup> <https://www.banking.senate.gov/imo/media/doc/Remond%20Testimony%204-13-21.pdf>