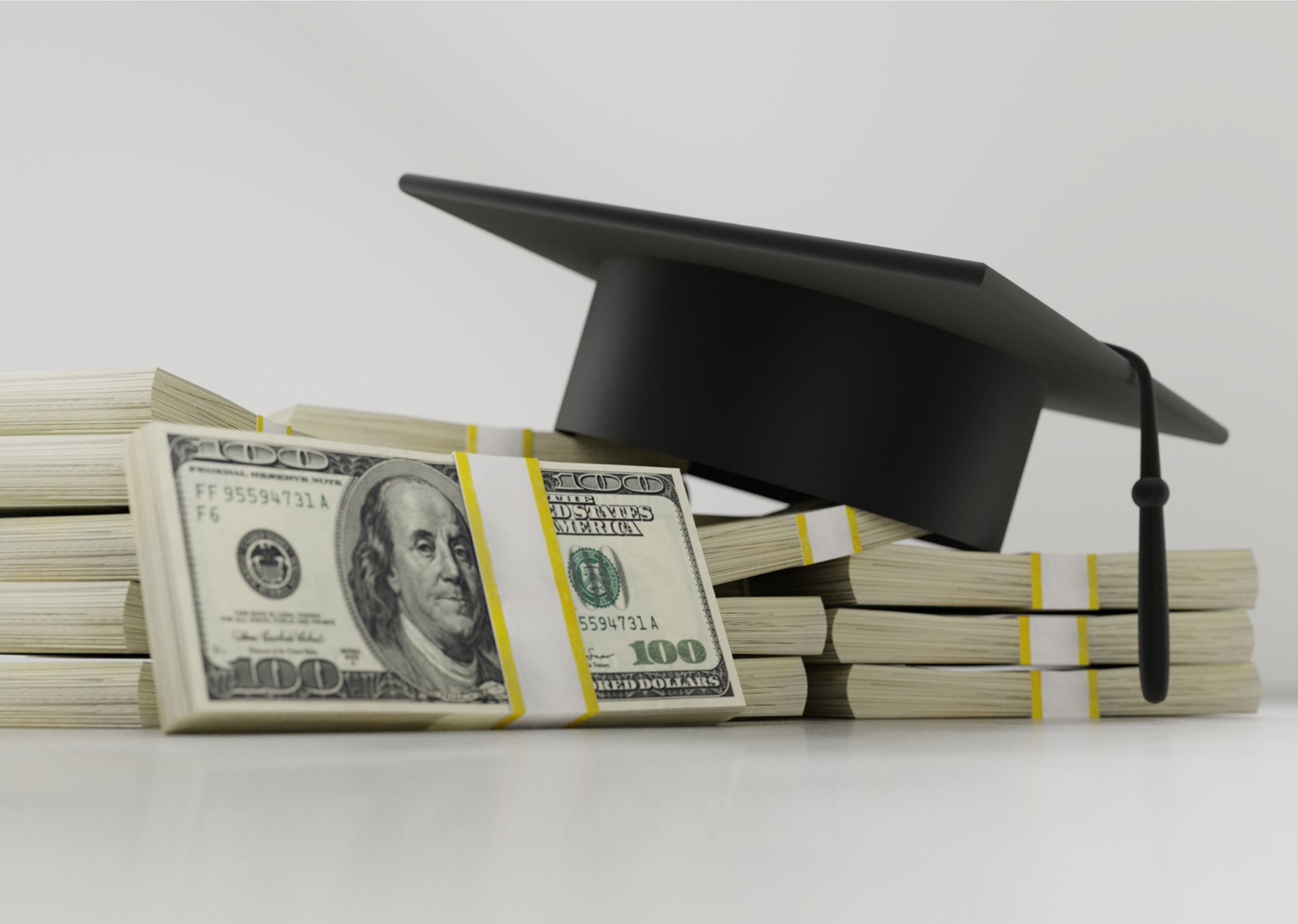
KATIE PORTER
Putting Orange County families first

Checks and Balances in the Federal Student Loan System



A Report from the Office of Congresswoman Katie Porter (CA-47)

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Executive Summary

At the start of the 2023-2024 school year, **over 35 million borrowers saw their COVID-19 student loan relief end after more than three years**. As the primary lender of student loans, the Department of Education has an outstanding portfolio of over $1.25 trillion in federal student loan debt. Once again saddled with the burden of paying off cumulative trillions in federally managed student loan debt, borrowers count on the Department of Education to guide them through repayment.

On the one hand, the Department of Education seems well equipped to do just that since it represents the interests of student loan borrowers. The Department of Education's mission of "fostering educational excellence and ensuring equal access"[1] is best achieved when borrowers can promptly and affordably repay their student loans. On the other hand, the Department of Education also operates in its self-interest as the direct lender of federal student debt and wants to be repaid by borrowers. The Department of Education has historically been aggressive in collecting loan payments, especially from borrowers who have defaulted on their student loans.

To help meet its operational objectives, the Department of Education relies on student loan servicers to help manage student loan debt by collecting payments and engaging with borrowers on its behalf. Through written contracts with the Department of Education, student loan servicers are required to communicate to borrowers about the terms and conditions of their loans, including the consequences of missed or delinquent payments, repayment alternatives, and deadlines. Like any contractor, student loan servicers serve the business interests of their employing entity — the Department of Education — which has the business interests of a lender.[2]

No other lender is expected to operate in its own business interest while also checking its own practices and its contractors' practices to prioritize consumers. **The Department of Education, however, is required to be both a lender and advance the interests of borrowers, creating a conflict of interest in the federal student loan system.**[3]

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[1] U.S. Department of Education. (n.d.). About ED. https://www2.ed.gov/about/landing.jhtml.

[2] This includes disbursing, reconciling, and accounting for all federal student aid, managing outstanding federal student loans, and securing repayment from federal student loan borrowers.

[3] Part of the Department of Education's mission is to establish policies on federal financial aid for education, distribute and monitor those funds, and ensure equal access to education. The Office of Federal Student Aid at the U.S. Department of Education is tasked with informing students about the availability of federal student aid, offering free assistance to borrowers, and providing oversight and monitoring of all federal student aid program participants. Federal Student Aid. (n.d.) About us. U.S. Department of Education. https://studentaid.gov/about.

With the scales in the federal loan system tilted toward the interests of the Department of Education in collecting repayment, **borrowers often get shortchanged by their student loan servicers as a result of the Department of Education's failure to provide adequate oversight.** For many years, the Department of Education has allowed servicers to engage in anti-consumer conduct, such as steering borrowers to poor options or providing incorrect information.[4]

The responsibility to oversee federal student loans does not fall on the shoulders of the Department of Education alone. The Consumer Financial Protection Bureau (CFPB) has supervisory authority to detect risks to student loan borrowers.[5] The Department of Education's contracted servicers are not exempt from this oversight and pro-consumer enforcement action the CFPB provides over other lending markets. While the CFPB already has some supervisory authority over servicers, the CFPB needs greater authority to participate in the regulation of their practices.

This report advocates leveling the scales to increase representation of consumer interests in the federal student loan system, including by empowering the CFPB to perform greater oversight of the Department of Education's student loan servicers. Until that is achieved, it will continue to be difficult for borrowers to escape poor servicing practices and pay off their crushing debt.

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[4] Lewis, K. M., Vanatko, N. (2019). Federal and state regulation of student loan servicers: A legal overview. Congressional Research Service, R45917.
[5] 12 U.S.C. § 5514(b)(1).

Introduction

Student loans help many people afford higher education, but the resulting debt can burden borrowers for years afterward. That is not just because the cost of a college degree is exorbitant. Debt also can crush borrowers when their lender manages the servicing of the debt poorly, no matter the amount they owe.[6] Even small debts can become big problems.

This adage holds true in the federal student loan system. **The conditions for student loan repayment can make all the difference between helping federal student loan borrowers stay on track with repaying their student loans or making borrowers fall behind,** incurring penalties and compounding debt.

> **"The conditions for student loan repayment can make all the difference."**

While borrowers may realize their fates are shaped by their lender's actions, they are not always sure exactly who to hold accountable when issues arise. While the Department of Education is the entity that awarded their loans, it employs servicers to manage most contact with borrowers.

This setup has evolved since the 1990s, when the William D. Ford Federal Direct Loan (Direct Loan) Program[7] was created, allowing students to bypass private lenders and borrow directly from the federal government. Loan servicing for the Direct Loan Program was initially handled by a single contractor, Affiliated Computer Services (ACS). As the demand for federal student loans grew and ACS began to underperform, the Department of Education expanded its number of servicers. Since 2009, the Department of Education has contracted with multiple federal student loan servicers to manage the increasing volume of loans; however, the number of servicers has ebbed and flowed with each new contract.[8]

Today, servicers are either for-profit or non-profit entities that contract with the Department of Education, tasked with administering federal student loans and helping borrowers navigate the complexities of the federal student loan system. Servicers process payments and provide customer service, such as delivering information about loan repayment terms.

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[6] If student loan servicers mishandle or improperly apply loan payment, borrowers can remain in repayment for longer periods of time, or interest can compound leading to higher amounts the borrower must repay.
[7] 20 U.S.C. 1087a *et seq.*
[8] The Postsecondary National Policy Institute. (2023). Issue primer: Student loan servicing. PNPI. https://pnpi.org/wp-content/uploads/2023/03/LoanServicing_Mar2023.pdf.

At the time this report was written, there were four main federal student loan servicers — at one point, there were 15 servicers.[9] While employing multiple servicers has helped the Department of Education manage a large volume of loans, it has also created a complex web of responsibilities in the federal student loan system that, at times, leads to confusion about who is accountable for servicing errors and oversight.[10]

A Tangled Web of Responsibilities in Federal Student Lending

The Department of Education

The Department of Education originates or guarantees hundreds of millions of federal student loans. The Office of Federal Student Aid (FSA) at the Department of Education awards contracts to student loan servicers and is involved in the pre-award stage, post-award process, and the ongoing monitoring of student loan servicer contracts.

Figure 1. Role of the Department of Education

Pre-Award
• FSA writes requests for contract proposals and reviews submissions from student loan servicers.
Contract Award/Post-Award
• Once FSA reviews the proposal submissions from student loan servicers, the Department awards contracts to the selected student loan servicers that meet the criteria. • After contracts have been awarded, FSA manages the transition between student loan servicers, as some servicers may exit the market and new ones enter, so that borrower information is properly transferred.
Ongoing Monitoring
• FSA engages student loan servicers through ongoing monitoring activities, including reviewing compliance with the Department of Education's business rules and federal regulations, site visits, recorded conversations with borrowers, assigning new loan volume, and assessing penalties.

[9] U.S. Department of Education, Office of Inspector General. (2019). Federal Student Aid: Additional actions needed to mitigate the risk of servicer noncompliance with requirements for servicing federally held student loans. ED-OIG/A05Q0008.
[10] Darolia, R. (2021, December 16). *Getting it right: Design principles for Student Loan Servicing Reform – Third Way*. Third Way. https://www.thirdway.org/report/getting-it-right-design-principles-for-student-loan-servicing-reform.

Federal Student Loan Servicers

At the direction of the Department of Education, **student loan servicers have the responsibility of informing student borrowers about their loan repayments, including the risk of default and assistance options.**[11] As shown in Figure 2, student loan servicers must provide borrowers with clear and comprehensive information about federal student loan payment collection, customer service, and loan administration.

Figure 2. Duties of Student Loan Servicers

Payment Collection
• Collect and process loan payments, and generate monthly statements. • Properly credit extra payments made by borrowers to their accounts.
Customer Service
• Communicate with borrowers about loan status and repayment date. • Offer responsive and accurate customer support to borrowers. • Help borrowers select the most suitable repayment plans for their financial circumstances. • Educate borrowers about the resources available to them to repay their loans, such as deferment and forbearance. • Report information related to a borrower's eligibility for additional loans.
Loan Administration
• Maintain accurate records of loan accounts, payment histories, and borrower information. • Provide borrowers with clear and comprehensive information about loan terms, repayment plans, and the consequences of default, including potential credit score harm, loan acceleration, wage garnishment, and legal actions. • Report data to the National Student Loan Data System (NSLDS) and credit reporting agencies. • Process applications for loan forgiveness programs, such as Public Service Loan Forgiveness. • Manage changes in borrower status, loan transfers, and loan servicing transfers. • Provide tax forms to borrowers. • Administer income-driven repayment plans with verified income information. • Process requests for deferment or forbearance.

[11] Ibid.

The Business Relationship between the Department and Its Servicers

Through contracts, the Department of Education lays out a range of requirements for student loan servicers; however, servicers have substantial discretion on how to service the loans assigned to them. **The requirements the Department of Education places on student loan servicers largely remain hidden from the public.**

While initial contracts for student loan servicers are posted publicly on Sam.gov, the Department of Education and servicers can modify these contracts at any time and are not required to make this information publicly available. The public has only a small glimpse into some of the contract modifications as one of the federal student loan servicers is a publicly traded company and required to disclose this information.[12]

Historically, when the Department of Education has had budget shortfalls to pay its servicers, it has issued contract modifications to student loan servicers, weakening performance and customer service obligations to make the system run within its constraints.[13] When the Department of Education must lower its standards for servicers, this harms borrowers. As a lender, however, the Department of Education's institutional incentive is to keep these standards both opaque and flexible to keep costs down when needed.

Stuck Between Lending Responsibilities and an Obligation to Borrowers

The federal student loan market is unique compared to other loan markets because **the Department of Education is both the lender responsible for collecting federal student loan repayment and tasked with representing the interests of the borrowers to which it lends.** Lenders typically do not have the obligation to look out for the financial well-being of their borrowers while also operating in their own business interests. With the Department of Education's unique circumstance, effective third-party oversight of federal student lending is essential.

As a federal agency, the Department of Education has a responsibility to the public to promote and protect the welfare of borrowers. In fact, under the pro-borrower policies of the Biden Administration, the Department of Education has taken significant steps to support student loan borrowers, such as launching a new, more

[12] For example, in a March 2023 SEC filing, Nelnet announced a series of changes in accordance with a contract modification, including reducing call center hours. U.S. Securities and Exchange Commission. (2023). https://d18rn0p25nwr6d.cloudfront.net/CIK-0001258602/dfcd75da-6cc5-4fb7-ba35-11a7bd63a124.pdf.

[13] Through contracts, the Department of Education details how much student loan servicers are paid for various responsibilities. Funding for government contracts comes from the agency's budget, which Congress appropriates. Congress flat-funded FSA in FY2023, which means it was appropriated the same amount it was given the year before.

affordable loan repayment plan option.[14] However, the extent to which the Department of Education advocates for borrowers can largely vary by presidential administration. What does not change is that as a lender, the Department of Education has the expectation that the money lent through student loans will be repaid with interest.[15]

The Department of Education's dual role creates a conflict of interest within the federal student loan system and a unique challenge for the Department. Administering student loans to maximize repayment and minimize losses will frequently be in direct tension with protecting borrowers and advising them on options to avoid default. For example, the Department of Education made cuts to student loan servicing in early 2023, which resulted in poor customer service and less help for borrowers.[16] This prioritization of the Department's business interest came at the expense of representing borrowers' interests. After all, borrowers rely on the Department of Education's contracted servicers to provide accurate and helpful information so they can repay their loans, apply for available statutory loan discharges, and avoid delinquency and default.

> **"[This] dual role creates a conflict of interest within the federal student loan system."**

Historically, the Department of Education has struggled to balance its business interests alongside prioritizing the interests of federal student loan borrowers. **No private lender is expected to operate in its own business interest while also checking its own practices — and the practices of its contractors — to prioritize consumers.** The Department of Education, however, largely oversees its own servicers, creating a regulatory gap and lapse in oversight.

Systems, whether public or private, best serve the public interest when they integrate checks and balances and enhanced oversight. The student loan system is

[14] The White House. (2023). Fact sheet: The Biden-Harris Administration launches the SAVE plan, the most affordable student loan repayment plan ever to lower monthly payments for millions of borrowers. https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/22/fact-sheet-the-biden-harris-administration-launches-the-save-plan-the-most-affordable-student-loan-repayment-plan-ever-to-lower-monthly-payments-for-millions-of-borrowers/.
[15] The Direct Loans program was originally expected to generate billions in income for the federal government because borrowers were charged higher interest rates than the Department of Education's cost of borrowing. U.S. Government Accountability Office. (2022). Education has increased federal cost estimates of Direct Loans by billions due to programmatic and other changes. GAO-22-105365.
[16] Sheffey, A. (2023). Student-loan borrowers are about to face more hurdles after a major company reduced its call center hours — and laid off 550 more employees. https://www.businessinsider.com/student-loan-company-nelnet-reduces-call-center-hours-layoffs-borrowers-2023-4.

no exception. Congress recognized this when they delegated some oversight responsibility of student loans to the CFPB; however, CFPB's authority is limited primarily to a supervisory role.[17] **Right now, federal student loan borrowers lack an effective check over their lender.**

Harmful Cross-Incentives in Student Lending

Representing both the lender and consumer, **the Department of Education is the primary entity responsible for holding servicers accountable to meet their contractual requirements to support borrowers through repayment of their loans**. As the lender that manages over $1.25 trillion in student loan debt, the Department of Education must protect student loan borrowers from harmful servicing practices. With inadequate oversight and accountability from the Department, however, servicers have fallen short of their contractual obligations to borrowers.

There are numerous, well-documented examples of poor customer service, delays, issues in calculating repayment rates, and failures to communicate important information to borrowers – all of which are tasks required under federal student loan servicer contracts.[18] Most recently, student loan borrowers were sent incorrect monthly bills from their student loan servicer or not sent billing statements at all during the first month of return to repayment.[19] Investigations from 2016 and 2023 found that several student loan servicers struggled to implement income-driven repayment plans, including failing to track borrower payments, losing records of previous payments made by borrowers, and not knowing when borrowers qualified for cancellation.[20]

The failure to effectively check student loan servicers harms borrowers. Without proper oversight, servicers can mishandle or improperly apply loan payments, make incorrect calculations on borrowers' repayment obligations, deny or fail to

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[17] 12 U.S.C. § 5514(b)(1).
[18] Consumer Financial Protection Bureau. (2023). Report of the CFPB Education Loan Ombudsman. Consumer Financial Protection Bureau. https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf; Contracts between the Department of Education and student loan servicers are posted publicly on Sam.gov. These lengthy contracts outline servicer responsibilities; however, any modifications to the contracts are not required to be posted.
[19] U.S. Department of Education. (2023). Decision memorandum: Use of Secretary's compromise authority for remediating potential harm to borrowers caused by return to repayment servicing errors. https://www2.ed.gov/policy/gen/leg/foia/decision-memorandum-return-to-repayment-servicing-errors-10-29-23-signed-redacted.pdf.
[20] Turner, C. (2022). Exclusive: How the most affordable student loan program failed low-income borrowers. National Public Radio. https://www.npr.org/2022/04/01/1089750113/student-loan-debt-investigation; Consumer Financial Protection Bureau. (2023). Report of the CFPB Education Loan Ombudsman. Consumer Financial Protection Bureau. https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf.

communicate forgiveness opportunities, and make it more difficult to enroll in income-driven repayment programs.[21] This pushes borrowers deeper into their debt struggles.

Several lawsuits have accused federal student loan servicers of steering borrowers to forbearance, a period during which monthly loan payments are temporarily suspended or reduced, instead of helping borrowers enroll in an income-driven repayment plan, which could be more advantageous for the borrower.[22] Under the contracts currently in effect, student loan servicers earn less money per borrower when their account is in forbearance; however, borrowers remain in the student loan system for longer periods of time, which is advantageous for the lender. These complicated cross-incentives are inconsistent with the Department of Education's obligation to facilitate equitable access to education by helping students borrow and successfully repay.

These failures make it more difficult for borrowers to manage and pay off their debt and allow more borrowers to approach default. **The cost of default to borrowers can be devastating and costly.** Federal student loans are not secured and require no collateral. Defaulting on student loans can have lasting consequences for borrowers, including damaging their consumer credit, impeding their access to or raising prices in other lending markets, or leading them to additional penalties such as license suspension and wage garnishment.[23]

Despite the devastating consequences of mismanaging federal student loans, the Department of Education has failed to hold student loan servicers accountable for many years. The Department has clear contractual authority to do so, but historically has not acted.[24] Multiple reports over the last eight years from the Government Accountability Office (GAO)[25] and the Office of the Inspector General at the Department of Education (OIG)[26] indicate that FSA failed to hold federal student loan servicers accountable even when they had knowledge of servicer misconduct. For example, FSA issued five reports between 2015 and 2017, three of which noted that servicer representatives did not sufficiently inform borrowers about their available

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[21] Lewis, K. M., Vanatko, N. (2019). Federal and state regulation of student loan servicers: A legal overview. Congressional Research Service, R45917.
[22] Nelson v. Great Lakes Educ. Loan Servs., Inc., 928 F.3d 639, 642 (7th Cir. 2019); Pennsylvania v. Navient Corp., 354 F. Supp. 3d 529, 536-37 (M.D. Pa. 2018).
[23] Darolia, R. (2021, December 16). *Getting it right: Design principles for Student Loan Servicing Reform – Third Way*. Third Way. https://www.thirdway.org/report/getting-it-right-design-principles-for-student-loan-servicing-reform.
[24] FSA can withhold payment to servicers or reduce loan volume.
[25] U.S. Government Accountability Office. (2015). Federal student loans: Key weaknesses limit education's management of contractors. GAO-16-196T; U.S. Government Accountability Office. (2016). Federal Student Loans: Education Could Improve Direct Loan Program Customer Service and Oversight. GAO-16-523.
[26] U.S. Department of Education, Office of Inspector General. (2019). Federal Student Aid: Additional actions needed to mitigate the risk of servicer noncompliance with requirements for servicing federally held student loans. ED-OIG/A05Q0008.

repayment options.[27] Despite having this knowledge, FSA did not assess penalties on these three servicers who failed to uphold their contractual obligation to provide complete and accurate information to borrowers.[28]

> **"FSA failed to hold federal student loan servicers accountable."**

The Department of Education has rarely used accountability provisions to remediate these problems. In response to the GAO and OIG reports, the Department of Education has taken steps to increase oversight of federal student loan servicers, such as creating an entity solely focused on servicer oversight.[29] Under the Biden Administration, the Department of Education took action to hold student loan servicers accountable for the first time. In October 2023, the Department of Education announced that it would withhold payment to one of its servicers, MOHELA, for failing to send out billing statements in a timely manner to 2.5 million borrowers.[30] These recent enforcement and accountability actions are encouraging; however, **self-oversight has not proven effective for the Department of Education in the past**.

Student Loans Need Oversight

The mission of the Consumer Financial Protection Bureau (CFPB) is to "make consumer financial markets work for consumers, responsible providers, and the economy as a whole."[31] This includes the Department of Education's student loan servicers; however, CFPB's current authority to participate in pro-consumer regulation is limited and the effectiveness of that regulation is dependent upon which political party is in power.

Currently, the CFPB has supervisory authority to assess student loan servicers'

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[27] Ibid.
[28] Ibid.
[29] Following the U.S. Government Accountability Office and Office of Inspector General reports, the Department of Education made some changes to better hold servicers accountable. For example, FSA now has a Vendor and Program Oversight Group that solely focuses on servicer oversight. The Vender and Program Oversight Group is responsible for contract enforcement, call and process monitoring, and embedded contracting and oversight support. Additionally, the Department of Education is working on implementing a new student loan servicing system, the Unified Servicing and Data Solution, that allows for the Dept. Of Ed. to play a more centralized role in oversight of the federal student loan servicers.
[30] U.S. Department of Education. (2023). U.S. Department of Education announces withholding of payment to student loan servicers as part of accountability measures for harmed borrowers. https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers.
[31] Consumer Financial Protection Bureau. (n.d.) About us. CFPB. https://www.consumerfinance.gov/about-us/.

compliance with consumer financial protection laws and detect risks to consumers[32] as well as bring enforcement actions.[33] In response to failures in the federal student loan servicing system, the CFPB has already stepped in and brought enforcement actions against student loan servicers. For example, the CFPB sued one of the largest federal student loan servicers in 2017 for failing borrowers.[34] CFPB's authority to participate in regulating the student loan servicing system, however, is limited.

In addition to the CFPB's supervisory authority under statute, the Department of Education and CFPB entered into Memoranda of Understanding (MOUs) in the early 2010s to share information about complaints about student loan servicers and coordinate oversight activities.[35] Under the Trump Administration, the Department of Education terminated these MOUs in 2017, citing the CFPB's outsized oversight role.[36] In 2020, CFPB and the Department of Education signed a new MOU; however, this agreement solely focuses on addressing consumer complaints and is missing coordination of oversight activities that was present in the prior MOUs.[37]

Right now, the CFPB uses its authority to point out areas where student loan servicers fail to comply with federal law and provide inaccurate information to borrowers, yet it lacks the necessary follow through to make real change in the student loan servicing system. When servicers fail to adequately support borrowers, the risk of loan defaults increases, and when borrowers default on their loans, taxpayers bear the brunt of the cost. Defaults create significant financial burdens for the government. **Establishing effective oversight mechanisms and clear lines of responsibility within the federal student loan system will help borrowers avoid these outcomes.**

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[32] 12 U.S.C. § 5514(b)(1). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 authorizes the CFPB to supervise certain companies, including student loan servicers. Supervision includes assessing compliance with federal consumer financial laws, obtaining information about activities and procedures, and detecting or assessing risks to consumers.
[33] 12 U.S.C. § 5564. The CFPB may enforce federal consumer financial laws by filing an action in federal district court or by initiating an administrative adjudication proceeding.
[34] Consumer Financial Protection Bureau. (2017). CFPB sues nation's largest student loan company Navient for failing borrowers at every stage of repayment. https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/.
[35] Pub. L. No 111-203, 124 Stat. 1376 (2010); See Memorandum of Understanding between the Bureau of Consumer Financial Protection and the U.S. Department of Education concerning the sharing of information. (2011). https://www.governmentattic.org/18docs/CFPB-MOUsMOAsCorres_2013.pdf; See Memorandum of Understanding concerning supervisory and oversight cooperation and related information sharing between the U.S. Department of Education and the Consumer Financial Protection Bureau. (2014).
[36] See Letter from Acting Assistant Secretary Kathloon Smith and Chief Operating Officer Dr. A. Wayne Johnson to Director Richard Cordray. (2017). https://buckleyfirm.com/sites/default/files/Buckley%20Sandler%20InfoBytes%20-%20Department%20of%20Education%20Letter%20to%20CFPB%20Terminating%20MOUs%202017.08.31.pdf.
[37] See Memorandum of Understanding between the Consumer Financial Protection Bureau and the U.S. Department of Education. (2020). https://files.consumerfinance.gov/f/documents/cfpb_ed-memorandum-of-understanding_student-loan-borrowers_2020-02.pdf.

Needed Improvements to Student Loan Servicing

Empowering the CFPB to more comprehensively check the lending interests in the student loan system will give the interests of borrowers better representation.

Congresswoman Porter's ***CFPB Student Loan Integrity and Transparency Act***, first introduced in the 116th Congress, gives the CFPB a greater direct role in requiring transparency and accountability within the student loan servicing industry. The legislation would codify the MOUs from the Obama Administration, which require the CFPB and the Department of Education to:

- Share information and borrower complaints to coordinate better oversight and resolution of borrowers' issues;
- Harmonize the Department of Education's oversight activities with the CFPB's supervision activities; and
- Work together to analyze past complaint resolution and make recommendations for collaborative improvement.

Historically, the Department of Education only shared limited portions of the data it collects on servicers.[38] **With little data publicly available** on servicer performance and the Department of Education's management of federal student loan servicers, **it is difficult to assess what additional reforms to the system may be needed.**

To help policymakers identify additional solutions, the Department of Education must:

- Post up-to-date contracts for all of the loan servicers;
- Require stronger reporting requirements of servicers; and
- Allow the public to better access data on servicer performance.

Transparency is key to effective oversight. As mentioned above, the Department of Education is not forthcoming with information regarding its student loan servicers, such as the modifications to servicer contracts or how servicers perform relative to each other. The public, including consumer watchdogs and good governance organizations, must understand the full responsibilities and extent of effectiveness of student loan servicers. To do this, the public needs data on the effectiveness of student loan servicers in assisting borrowers, including how much time borrowers spend in default before servicers provide adequate assistance and how much money borrowers accrue in interest by being in forbearance.

[38] The Department used to share some data on servicer performance, but hasn't done so since December 31, 2021. This data can be found at: https://studentaid.gov/data-center/business-info/contracts/loan-servicing/servicer-performance.

Data also enables the Department of Education to compare servicer performance, and award high-performing student loan servicers with more loan volume while reducing loan volume for underperforming servicers. In October 2021, the Department of Education announced stronger standards for servicer performance, largely related to customer service.[39] These standards allow FSA to reduce the number of new student loan borrowers assigned to servicers if they fail to meet the performance standards or levy financial disincentives. These changes are a step in the right direction; however, the Department of Education has not consistently utilized the full extent of these stronger standards to hold student loan servicers accountable.

> **"The public needs data on the effectiveness of student loan servicers."**

Without insight into what student borrowers can expect from servicers, current and future borrowers are left confused and frustrated by servicing practices. Our government cannot fully provide for equitable access to education without insight into the strengths and weaknesses of loan servicers.

Conclusion

Though students often shoulder the blame when they are unable to successfully repay their student loans, **the student loan system is not fully set up for borrowers to succeed.** When the Department of Education represents both its interests as the lender and those of student borrowers, the Department of Education's self-interest may come first.

Student borrowers need someone in their corner to hold the Department of Education and its servicers accountable. This is no less than the public would expect in any other lending market, public or private. **We need better checks and balances on the student loan system to attain better servicing practices that benefit borrowers.**

By empowering the Consumer Financial Protection Bureau with an enhanced role in regulating the student loan system, we can achieve a federal student loan system that meets the Department of Education's mission of "fostering educational excellence and ensuring equal access" in higher education.[40]

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[39] U.S. Department of Education. (2021). U.S. Department of Education increases servicer performance, transparency, and accountability before loan payments restart. https://www.ed.gov/news/press-releases/us-department-education-increases-servicer-performance-transparency-and-accountability-loan-payments-restart.

[40] U.S. Department of Education. (n.d.). About ED. https://www2.ed.gov/about/landing.jhtml.