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May 7, 2019

Major General Mark A. Brown, USAF (Ret.)
Chief Operating Officer
Office of Federal Student Aid
U.S. Department of Education
830 First Street N.E.
Washington, D.C. 20202

Dear General Brown:

I write to congratulate you on your recent appointment to be the Chief Operating Officer (COO) of the Office of Federal Student Aid (FSA) at the U.S. Department of Education ("the Department" or ED). You will play a pivotal role in managing the Department's over $1.4 trillion federal student loan program.[1] To that end, I am writing to learn more about your specific plans for holding student loan servicers and contractors accountable; improving customer service for over 43 million student borrowers; ensuring borrower-focused implementation of the existing repayment, discharge, and forgiveness programs; and reducing delinquencies and defaults.

I respectfully ask that you respond in writing to discuss your vision for the student loan program and loan servicing, which has been under scrutiny for years—and is facing new questions after a March 2019 ED Office of the Inspector General (OIG) audit revealed the Department's glaring failure to conduct effective oversight of student loan servicers.[2] This request also provides you with an opportunity to explain to Congress the recently announced reorganization of the leadership at FSA and whether this reorganization is in the best interest of federal student aid recipients and borrowers.[3]

FSA administers a massive, trillion-dollar federal student loan program—the largest student loan portfolio in the world—and originates approximately $100 billion in federal student loans every year.[4] FSA also distributes nearly $30 billion in Pell Grants to students annually,[5] oversees over 7,000 colleges and universities to determine their eligibility for receipt of federal

[1] Federal Student Aid, "Data Center," https://studentaid.ed.gov/sa/about/data-center/student/portfolio.
[2] U.S. Department of Education, Office of Inspector General, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," March 2019, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf.
[3] PoliticoPro, "Trump Administration Reshuffles Federal Student Aid Office," Michael Stratford, April 9,m 2019, https://subscriber.politicopro.com/education/article/2019/04/trump-administration-reshuffles-federal-student-aid-office-1340942.
[4] Federal Student Aid, "About Us," https://studentaid.ed.gov/sa/about.
[5] Federal Student Aid, "Fiscal Year 2018 Annual Report," pp. 10, https://www2.ed.gov/about/reports/annual/2018report/fsa-report.pdf.

student loan funds,[6] and manages the student loan servicers, debt collectors, and other FSA contractors that participate in and administer the federal student loan program.[7] As the FSA Chief, you are statutorily responsible for management of the federal student loan program, which was created to "improve service to students and other participants in the student financial assistance programs."[8] The COO's actions can make an enormous difference in the financial lives of millions of Americans.

As a member of the United States Senate Committee on Health, Education, Labor, and Pensions (HELP Committee), I have conducted aggressive oversight of FSA under President Obama and President Trump to ensure that it works for students and taxpayers. The HELP Committee presently has no plans to conduct a hearing on the student loan program or FSA, nor does the Committee presently have plans to invite you to share your vision for FSA or answer our questions.

Instead, in the wake of the recent revelations regarding FSA's failed student loan oversight, troubling information about the Department's mismanagement of the Borrower Defense and Public Service Loan Forgiveness programs, and recent announcements of school closures affecting tens of thousands of students nationwide, I am writing directly to you with a series of questions about your vision for FSA's management of student loan servicers, Title IV funds, and the student loan crisis generally. I ask that you provide me with detailed, written answers to these questions no later than May 28, 2019.

Student Loan Servicer Oversight

One of the primary responsibilities of FSA is to oversee dozens of contractors that administer the federal student loan program and act as middlemen between the federal government and student borrowers. Federal student loan servicers are principally responsible for collecting loan payments from borrowers, keeping borrowers out of delinquency and default, and helping struggling borrowers find the repayment or forgiveness programs that are best for them. These contractors handle over $1 trillion in federal student loans and are the critical link between student loan borrowers and the federal government. They serve as student borrowers' primary point of contact when borrowers are having difficulty repaying their loans or seeking actionable information about repayment or forgiveness options.

A February 2019 audit by the OIG, however, revealed widespread failures of student loan servicers to meet federal standards put in place to ensure accountability and fairness for student borrowers and taxpayers, and a failure by FSA to hold servicers accountable. The OIG report examined the Department's interaction and contracts with its 15 servicers from 2009 to 2013,[9] finding that:

[6] National Center for Education Statistics, "Fast Facts: Educational Institutions," https://nces.ed.gov/fastfacts/display.asp?id=84.
[7] Federal Student Aid, "Federal Student Loan Portfolio," https://studentaid.ed.gov/sa/about/data-center/student/portfolio.
[8] 20 USC§1018(a)(2)(A).
[9] Great Lakes Educational Loan Services (Great Lakes); Navient, LLC (Navient); Nelnet Servicing, LLC (Nelnet); Pennsylvania Higher Education Assistance Agency (PHEA); Aspire Resources, Inc.; College Foundation, Inc.; Council for South Texas Economic Progress; Educational Services of America, Inc. (EdFinancial Services);

- **Servicer noncompliance was widespread across all servicers.** FSA assigns loans based on servicer performance on certain metrics. Starting in 2014, FSA began assigning servicers performance scores based on these metrics, including satisfaction surveys of borrowers and percentages of borrowers at various states of delinquency. The OIG analyzed the nearly 350 monitoring reports that FSA completed between January 1, 2015 and September 30, 2017,[10] finding that over 60% of these reports (210) revealed instances of servicer noncompliance with federal requirements, including "noncompliance with requirements relevant to forbearances, deferments, income-driven repayment, interest rates, due diligence, and consumer protection." [11] Overall, the two areas of noncompliance most frequently found were in "consumer protection (servicer representatives not informing borrowers of the available repayment options) and income-driven repayment (servicers incorrectly calculating income-driven payment amounts)."[12] Furthermore, noncompliance was widespread across all servicers.[13]

- **Servicers were "not sufficiently informing borrowers of available repayment options."** FSA monitors thousands of phone calls monthly between servicer representatives and borrowers and scores each call based on whether servicers properly and completely provide borrowers with alternative options to avoid default, explain available repayment plans, and describe the requirements for obtaining forbearance and any associated costs. If the call scores below FSA's established standard, FSA considers that call to have "failed." The OIG audit revealed that almost 92% of these 73 reports between January 2015 and September 2017 included "at least 1 instance of the servicer representative not sufficiently informing borrowers about available repayment options."[14] The April 2017 report, for example, indicated that 4.3% of calls failed—with one servicer (PHEAA) having a failure rate of almost 11%.[15]

- **Servicers did not consistently calculate correct income-driven payment (IDR) amounts.** IDR amounts are monthly borrower payments calculated based on the borrowers' income and family size. These payments are supposed to be affordable for the borrower, but servicer errors are rampant, potentially undermining this objective. From January 2015 to September 2017, roughly one-third of FSA's 41 reviews focusing on IDR calculations revealed instances of servicers incorrectly calculating repayment amounts.[16]

Kentucky higher Education Student Loan Corporation (Kentucky); Missouri Higher Education Loan Authority (Missouri); New Hampshire Higher Education Loan Corporation (New Hampshire); Oklahoma Student Loan Authority (Oklahoma); South Carolina Student Loan Corporation; Utah Higher Education Assistance Authority (Utah); and Vermont Student Assistance Corporation.

[10] U.S. Department of Education, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," February 12, 2019, pp 10, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf.

[11] *Id.*

[12] *Id.*

[13] *Id.* pp. 2.

[14] *Id.* pp. 11.

[15] *Id.* pp. 11.

[16] *Id.* pp. 14.

This widespread noncompliance has had real, financial impacts for millions of student loan borrowers who may have received unfavorable repayment terms, missed out on better opportunities for repayment, paid more than they should have, or face an increased likelihood of delinquency or default.

The OIG Audit Report not only identified numerous instances of servicer failure, it also implicates FSA and highlights FSA's abysmal failure to oversee servicer performance to ensure compliance with FSA's contracts and federal laws. The OIG found that FSA poorly tracked compliance and rarely held servicers accountable for their failure to follow federal requirements. Some of the more troubling findings of FSA's failure to hold servicers accountable in the OIG audit report include:

- **FSA failed to properly and comprehensively track instances of servicer noncompliance.** The OIG found that while FSA used a database to track servicer noncompliance, FSA did not add instances of noncompliance if they found the proposed remedial actions of the servicer to be sufficient—leaving the database incomplete. Furthermore, FSA did not use the collected information to systematically and programmatically identify trends of noncompliance for each servicer. Rather, "FSA relied on the memories of the employees responsible for the oversight activities to recognize recurring instances of noncompliance," even though, as the OIG found, "noncompliance rates at some servicers were significantly higher than the average noncompliance rate of all servicers."[17]

- **FSA rarely penalized servicers for recurring noncompliance and failed to incorporate servicer performance metrics into decisions related to assigning loans to servicers.** According to the OIG, "FSA's methodology for assigning new loans to servicers did not take into account servicers' compliance with Federal loan servicing requirements or FSA's requirements for servicer representatives' interactions with borrowers."[18] Despite widespread noncompliance, servicers rarely experienced a reduction in loans assigned by FSA. Furthermore, the OIG reported that FSA only required three servicers to return $181,000 to FSA for four instances of noncompliance over a five-year period.[19] As the OIG points out, this lack of accountability "could lead to servicers being paid more than they should be" and could create "the impression that [FSA] is not concerned with servicer noncompliance with Federal loan servicing requirements, including protecting borrowers' rights."[20]

- **FSA's information collection on servicer compliance was not always complete.** The OIG found that FSA scoresheets for calls that it monitored were incomplete. As a result, FSA was unable to determine servicer compliance for nearly one in ten calls monitored from March 2017 through May 2017.[21] In addition, from June 2016 through March 2017,

[17] *Id.* pp. 9-10.
[18] *Id.* pp. 16.
[19] *Id.* pp. 4.
[20] *Id.* pp. 17.
[21] *Id.* pp. 21.

FSA's call monitoring team failed to complete "failed-call reports" to servicers. This meant that, for 10 months, servicers did not receive critical feedback about their telephone interactions with borrowers.

Finally, the OIG audit report indicates FSA's unwillingness to prioritize the interests of borrowers over the interests of its own servicers. The report:

- **Signals that FSA is incapable of properly holding its servicers accountable, reinforcing the need for state and federal regulators to protect borrowers.** In 2018, the Department issued a legally questionable Notice of Preemption, which sought to block state action to protect their borrowers and hold federal student loan servicers responsible for violations of state consumer protection laws.[22] This notice undermines state law enforcement and is dramatically inconsistent with Congressional intent. Subsequently, the notice has been met with rare bipartisan opposition from Members of Congress,[23] the National Governors Association,[24] a bipartisan coalition of 26 state Attorneys General,[25] and the heads of all 50 of the nation's state banking agencies.[26] When justifying this notice, Secretary DeVos "emphasize[d] that the Department continues to oversee loan servicers to ensure that borrowers receive exemplary customer service and are protected from substandard practices."[27] The OIG audit, however, indicates that this justification is invalid, explaining:

  > We disagree with FSA's statement that the risk of servicer noncompliance is not broad...[F]rom January 1, 2015 through September 30, 2017, 61 percent (210) of 343 reports on FSA's servicer oversight activities disclosed instances of servicer noncompliance with Federal loan servicing requirements. These reports disclosed noncompliance by all nine servicers and recurring instances of noncompliance by some servicers. These instances included failure to comply with requirements relevant to

[22] U.S. Department of Education, Federal Register Notice, "Federal Preemption and State Regulation of the Department of Education's Federal Student Loan Programs and Federal Student Loan Servicers, March 12, 2018, https://www.federalregister.gov/documents/2018/03/12/2018-04924/federal-preemption-and-state-regulation-of-the-department-of-educations-federal-student-loan.
[23] Letter from Representatives Suzanne Bonamici, Rob Bishop, Jared Polis, and Mia Love to ED Secretary Betsy DeVos, May 16, 2018, https://bonamici.house.gov/sites/bonamici.house.gov/files/documents/180516LTR_EDStatePreemption.pdf.
[24] National Governors Association, "Governors Voice Concerns Over New Student Borrower Proposal," press release, March 12, 2018, https://www.nga.org/news/press-releases/governors-voice-concerns-over-new-student-borrower-proposal/.
[25] Letter from New York Attorney General Eric T. Schneiderman et. al. to ED Secretary Betsy DeVos, October 23, 2017, http://www.marylandattorneygeneral.gov/news%20documents/DeVos_10_24_17.pdf.
[26] Letter from CSBS President and CEO John Ryan to ED Secretary Betsy DeVos, March 2, 2018, https://www.csbs.org/csbs-opposes-department-education-plan-preempt-state-authority-student-loans.
[27] U.S. Department of Education, Federal Register Notice, "Federal Preemption and State Regulation of the Department of Education's Federal Student Loan Programs and Federal Student Loan Servicers, March 12, 2018, https://www.federalregister.gov/documents/2018/03/12/2018-04924/federal-preemption-and-state-regulation-of-the-department-of-educations-federal-student-loan.

forbearances, deferments, income-driven repayment, interest rates, due diligence, and consumer protection.[28]

The Department is left with no reasonable justification for the 2018 Notice of Preemption, since it is abundantly clear that FSA cannot adequately protect student loan borrowers. This notice, therefore, is simply a signal to servicers that the Department will do anything to protect them from accountability at the expense of borrowers.

- **Proves that FSA lacks contractual requirements with servicers to adequately protect borrowers.** Servicers have claimed for years in legal filings that their compliance with FSA's contractual requirements absolves them from their legal obligation to comply with state and federal consumer protection laws, but this audit report indicates that those claims are dishonest and invalid. The OIG audit report reveals FSA never wrote contracts that allowed for meaningful oversight in the first place, explaining "[n]one of the contracts allowed FSA to establish performance metrics relevant to each servicer's compliance with loan servicing requirements and evaluate individual servicer's performance against such performance metrics."[29] The OIG Audit Report is clear about the consequences of this, concluding, "by not holding servicers accountable, FSA could give its servicers the impression that it is not concerned with servicer noncompliance with Federal loan servicing requirements, including protecting borrowers' rights."[30]

- **Specifically implicates Navient, the nation's largest federal student loan servicer, and undermines FSA's inexplicable defense of Navient.** In November 2018, I sent a letter to the President and CEO of Navient Corporation, regarding a previously undisclosed May 2017 FSA audit report that revealed Navient's disturbing record of cheating student borrowers and driving them into debt.[31] According to the audit,[32] Navient offered only forbearance as an option for about 10 percent of student borrowers the company spoke to on the phone, leaving them with incomplete information and validating allegations from state and federal regulators that Navient boosted its profits by unfairly steering student borrowers into forbearance.[33] In the wake of this startling revelation, Navient circulated a statement from the Department to shareholders and the press defending the company, asserting that FSA concluded that "Navient is substantially in compliance with its obligations" and that "Navient's overall use of forbearance was

[28] U.S. Department of Education, Office of Inspector General, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," March 2019, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf.
[29] *Id.* pp. 16.
[30] *Id.* pp. 17.
[31] U.S. Senator Elizabeth Warren, "Warren releases New Evidence of Navient Student Loan Malfeasance," press release, November 20, 2018, https://www.warren.senate.gov/oversight/letters/warren-releases-new-evidence-of-navient-student-loan-malfeasance.
[32] U.S. Department of Education, Office of Federal Student Aid, "Navient Use of Forbearance Site Visit Review," May 18, 2017, https://www.warren.senate.gov/imo/media/doc/Ed.%20Dept.%20May%202017%20FSA%20Audit%20Report.pdf.
[33] Consumer Financial Protection Bureau, "CFBP Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment," press release, January 18, 2017, https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/.

consistent with that of other servicers."[34] The OIG Audit Report, however, reveals that FSA's defense of Navient was inaccurate, and bolsters the original finding of the May 2017 audit, noting that "the [May 2017 FSA Audit] report stated that Navient used forbearances instead of sufficiently informing borrowers about available repayment options."[35] The OIG report continues, **"FSA's comments do not change the finding of the May 2017 report that Navient did not always notify borrowers of their repayment options."**

This conclusion raises additional questions about why, instead of committing to hold Navient more accountable, the Department and FSA issued a mystifying statement *defending* the company it is responsible for overseeing when the report became public. It is worth noting that this company *still* owes the Department $22.3 million for a previous scandal.[36]

The OIG's findings were infuriating – and represent the culmination of years of failure at FSA. Department officials, Members of Congress, state officials, and student loan borrowers have documented a federal student loan servicing system riddled with widespread failures. I have sent four letters to the Department since 2017 attempting to address these problems. The Consumer Financial Protection Bureau (CFPB) has received thousands of complaints about servicers losing paperwork, charging unexpected fees, providing inconsistent or wrong information to student borrowers, or making other critical mistakes that cost student borrowers and often drive them into default.[37] Federal government watchdogs like the Government Accountability Office (GAO)[38] and OIG[39] have also documented failures in student loan servicing and in FSA's ability to hold federal loan servicers accountable. Nevertheless, problems continue.

Federal student loan servicing is not a traditional consumer marketplace for borrowers. Federal student loan borrowers generally do not have the ability to switch servicers when their servicer is failing them; they cannot simply take their business elsewhere. This market failure means it is even more critical for FSA to be able and willing to remove poor-performing servicers or contractors from the federal student loan program. It also means that as COO, *you* must ensure that any future student loan servicing solution, including NextGen, allows FSA to finally start protecting students and holding these companies accountable.

[34] Letter from Navient CEO Jack Remondi to Navient Shareholders, November 21, 2018, https://news.navient.com/node/11111/pdf.
[35] U.S. Department of Education, Office of Inspector General, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," March 2019, pp. 19, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf.
[36] U.S. Department of Education, Office of Inspector General, "Special Allowance Payments to Sallie Mae's Subsidiary, Nellie Mae, for loans Funded by Tax-Exempt Obligations," August 2009, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2009/a03i0006.pdf.
[37] Consumer Financial Protection Bureau, "CFPB Concerned About Widespread Servicing Failures Reported by Student Loan Borrowers." press release, September 29, 2015 http://www.consumerfinance.gov/about-us/newsroom/cfpb-concerned-about-widespread-servicing-failures-reported-by-student-loan-borrowers.
[38] U.S. Government Accountability Office, "Education Could Improve Direct Loan Program Customer Service and Oversight." May 16, 2016, http://www.gao.gov/products/GAO-16-523.
[39] Letter from ED Inspector General Kathleen Tighe to Senators Murray, Warren, and Blumenthal, February 29, 2016, https://www2.ed.gov/about/offices/list/oig/misc/scrareport02292016.pdf.

Given the long history of failures by student loan servicers and the Department officials that are supposed to provide oversight of their actions, and the latest disturbing findings from the OIG, I have numerous questions about your plans to put this program on the right track.

1. Do you agree with the OIG's six recommendations listed below? And what is your timeline for implementing each of these recommendations? The OIG recommended that the FSA Chief should:
    a. Ensure that FSA is tracking all identified instance of noncompliance,
    b. Assess servicer performance by analyzing records related to noncompliance, and identifying trends of recurring noncompliance,
    c. Hold servicers accountable for instance of noncompliance by using the available contractual accountability provisions,
    d. Ensure that FSA's complaint tracking system "prompts call monitors to complete all necessary data fields before submitting score sheets,"
    e. Ensure proper implementation of FSA's new quality control process, and
    f. Improve and increase information-sharing related to oversight activities with servicers.

2. FSA provided a series of comments to the OIG about the findings of the report.
    a. FSA disagreed with the OIG's finding that it rarely held servicers accountable for noncompliance, citing the fact "it has required servicers to return more than $2 million for noncompliance" since September 2017.[40] What is the breakdown by servicer and reason for each penalty that comprises the full $2 million return? What procedural change did FSA implement to make this happen? What specific steps did FSA take to eliminate this noncompliance?
    b. FSA stated that it has improved its oversight and monitoring policies and procedures since September 2017.[41] What were these specific improvements and what other improvements is FSA considering?
    c. FSA disclosed that the office has already begun using contractual provisions to hold servicers accountable for instances of noncompliance.[42] Since September 30, 2017, when and how has FSA used these contractual provisions? Please detail the specific provisions.
    d. FSA stated that it implemented a new call monitoring database on June 14, 2018.[43] Could you please provide a detailed description of this database, and how FSA is using it to improve compliance?
    e. FSA informed the OIG that "it had implemented a quality control process"[44] to evaluate call monitors' scoresheets. Can you describe the new FSA procedure for quality control and when these procedures were implemented?

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[40] U.S. Department of Education, Office of Inspector General, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," March 2019, pp. 18, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf.
[41] *Id.* pp. 42.
[42] *Id.* pp. 46.
[43] *Id.* pp. 47.
[44] *Id.*

3. Education Department policy requires that you develop and submit a corrective action plan within 30 days of receipt of this report. According to the OIG, you have submitted a draft of the plan, but have not yet reached a final agreement with the Department. Will you share the plan you submitted to the Department?

4. What is FSA's current methodology for assigning new loans to servicers?
    a. The report indicates that, as of September 2017, FSA's methodology "did not take into account servicers' compliance with Federal student loan servicing requirements."[45] Have you modified the methodology so it does so now?
    b. According to FSA's response to the report, FSA has already implemented a database to track instances of servicer noncompliance and uses the information from this system as a "basis for assessing servicer performance." How does the Department incorporate information from the database in assigning loan portfolios to servicers?

5. What specific changes will you be making to change the current incentive structure in order to reward servicers that are doing well with additional business, and punish servicers that are failing borrowers by taking business away?

6. Failures by student loan servicers and FSA have forced states to step in and tighten their oversight of federal student loans, and to enforce their own consumer protection laws when federal servicers harm their student borrowers. For example, Massachusetts Attorney General Maura Healey is suing the Pennsylvania Higher Education Assistance Agency (PHEAA), one of FSA's largest servicers, for allegedly undermining the Public Service Loan Forgiveness and the Teacher Education Assistance for College and Higher Education Grant programs in a manner that caused teachers and other public servants to lose access to federal benefits and forgiveness created by Congress.
    a. How is FSA working to address the concerns raised by state Attorneys General who have sued FSA's contractors?
    b. How will FSA consider and weigh prior state Attorneys General investigations, lawsuits, settlements, or sanctions in evaluating contractor proposals?
    c. How has FSA handled borrower complaints about contractors' potential violation of state consumer protection laws outside of the Department's jurisdiction?
    d. Will FSA rescind the 2018 Notice of Preemption?

7. A coalition of 21 state Attorneys General recently wrote to the Department, revealing that ED has rejected routine requests for student loan information by states and urging ED to rescind its December 2017 decision to withhold student loan information from law enforcement agencies seeking to enforce state consumer protection laws, including state banking regulators.[46] The Department's decision to withhold critical information from state and federal law enforcement agencies and regulators again indicates an extreme drive to protect servicers from routine oversight, supervision, and accountability.

[45] *Id.* pp. 4.
[46] Letter from Colorado Attorney General Phil Weiser, et. al., to ED Secretary Betsy DeVos, April 4, 2019, http://www.marylandattorneygeneral.gov/News%20Documents/Final%20AGs%20Letter%20to%20DOE%204.4.19.pdf.

a. How is FSA working to address the concerns raised by these Attorneys General who have demanded access to information that would help them enforce their laws?
b. Is FSA continuing to reject routine requests for student loan information by states? Please provide a list of all rejected information requests from states.
c. Will you commit to sharing necessary information with state Attorneys General and state banking regulators seeking to hold servicers accountable through supervision and enforcement?
d. Will FSA rescind the December 2017 Memorandum concerning the application of the Privacy Act of 1974 to federal student loan records?[47]

8. On August 31, 2017, the Department terminated its Memoranda of Understanding with the CFPB regarding the sharing of information in connection with oversight of federal student loans.[48] I believed then and continue to believe now that this decision was unjustified, unwise, and another way to protect servicers from real oversight and accountability.
    a. Since the Department's decision to terminate the Memorandum of Understanding to share servicer complaints with the CFPB, how has the FSA handled borrower complaints about contractors' potential violation of federal consumer protection laws outside of the Department's jurisdiction that prohibit unfair, deceptive, and abusive practices?
    b. When will the Department establish a new Memorandum of Understanding with the CFPB, as required by Federal Law? Please provide a full update on the status of reestablishing this Memorandum.
    c. In an April 23 letter to me, CFPB Director Kathleen Kraninger indicated that since the Department issued its December 2017 Memorandum regarding the Privacy Act of 1974, "student loan servicers have declined to produce information requested by the Bureau for supervisory examinations related to [federal student] loans held by the Department based on the Department's guidance."[49] This startling revelation means the Department's policies have emboldened servicers to ignore requests from federal regulators charged with enforcing consumer protection laws outside of the Department's jurisdiction. This is an urgent and dangerous situation for borrowers. Given this troubling information, will the Department immediately share—and demand servicers share—any records or information necessary to protect borrowers and ensure services are complying with federal consumer protection law?
    d. Will you commit to working with the CFPB to aid in its enforcement of federal consumer protection laws outside of the Department's jurisdiction with regard to federal student loan contractors?

[47] Memorandum from Patrick A. Bradfield, "Ownership of and Access to U.S. Department of Education Records and Data," Department 27, 2017, https://static.politico.com/51/1f/0f805fd04c2eb035bcd79f9200be/december-27-2017-servicer-memo.pdf.
[48] Inside Higher Ed, "Education Dept. Ends Partnership with CFPB," Andrew Kreighbaum, September 5, 2017, https://www.insidehighered.com/news/2017/09/05/education-dept-rebukes-cfpb-overreach-kills-information-sharing-agreement.
[49] Letter from CFPB Director Kathleen Kraninger to U.S. Senator Elizabeth Warren, April 23, 2018.

9. Private collections agencies (PCA) are another type of contractor used by FSA until recently, and have had their own troubling record of federal consumer protection law violations.[50] According to the CFPB, PCA policies and practices have resulted in approximately one in three defaulted student borrowers defaulting again within two years of loan rehabilitation, despite likely qualifying for zero-dollar monthly payments under an income-driven repayment plan.[51] In May 2018, the Department announced plans to end its use of PCAs,[52] which I support.
    a. Have all PCA contracts now been terminated or allowed to expire?
    b. If not, when will this termination be complete?
    c. Please provide a comprehensive update on the Department's plans to end its use of PCAs, including the degree to which FSA has used all of its available procurement flexibilities to end these contracts.

10. In general, how will you plan to hold accountable student loan servicers, debt collectors, and other contractors that break the law, abuse students, or otherwise provide poor service to borrowers, including through sanctions, fines, contract terminations and other penalties, for their poor performance?
    a. What specific, quantitative metrics have you developed to measure the effectiveness of the new policies that you are putting in place?
    b. Will you add goals to the FSA five-year performance plan related to student loan servicer accountability that include quantitative metrics of success?
    c. Will you commit to including a goal related to servicer accountability in your own performance contract? If so, will you commit to forgoing a bonus unless you meet this goal to better police servicers?

11. Will you commit to responding to Congressional inquiries about the federal student aid program and your efforts to hold student loan servicers, debt collectors, and other contractors accountable?

Public Service Loan Forgiveness and Temporary Expansion of Public Service Loan Forgiveness

Independent audits and publicly released Department data have also revealed significant problems with the Department's administration of the Public Service Loan Forgiveness Program (PSLF). PSLF was established by Congress in 2007 and is designed to provide federal student

[50] U.S. Department of Education, Office of the Inspector General, "Handling of Borrower Complaints Against Private Collection Agencies," July 2014, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2014/a06m0012.pdf.

[51] Consumer Financial Protection Bureau, "CFPB Projects that One-in-Three Rehabilitated Student Loan Borrowers Will Re-default Within Two Years," press release, October 17, 2016, http://www.consumerfinance.gov/about-us/newsroom/cfpb-projects-one-three-rehabilitated-student-loan-borrowers-will-re-default-within-two-years/.

[52] The Washington Post, "Trump Administration to Hand Student Debt Collection to Loan Servicers, Ending Use of Collectors," Danielle Douglas-Gabriel, May 15, 2018, https://www.washingtonpost.com/news/grade-point/wp/2018/05/25/trump-administration-to-hand-student-debt-collection-to-loan-servicers-ending-use-of-collectors/?utm_term=.c3b4a7e16f3f.

loan debt relief to individuals who enter and pursue public service careers after making at least 10 years of qualifying loan payments.

Recently released data from the Department indicates that FSA servicers are failing to provide borrowers with correct PSLF information or relief. In September 2017, FSA began receiving applications from the first round of PSLF applicants, and last week, the Department released updated data about these applicants. The data revealed that only 864 of 76,002 PSLF applications processed as of March 31, 2019 had been approved for loan forgiveness—meaning that over 99% of borrowers were denied PSLF, largely due to shoddy student loan servicing practices that fail to adequately ensure borrowers are properly meeting the program's requirements.[53]

The fact that the Department is denying forgiveness for the vast majority of public service borrowers indicates significant problems with the program's administration. This indication was confirmed by a September 2018 GAO report assessing FSA's oversight of PHEAA, the student loan servicer responsible for administering PSLF. Like the March 2019 OIG report, GAO similarly found failures in FSA oversight and support of PHEAA and the PSLF program.

First, the GAO found a large amount of confusion among borrowers regarding PSLF requirements. The report cites the fact that "over half of borrowers that requested to have their employment and loans certified as of April 2018 either did not meet basic eligibility requirements or had yet to make any qualifying loan payments."[54] This confusion was verified by the CFPB, which noted that "borrowers have complained of spending years making payments, believing they were making progress towards PSLF loan forgiveness, and then learning that they were not eligible."[55] The GAO concluded that FSA's methods for conducting outreach and education to borrowers have been ineffective and insufficient, leaving many borrowers "still confused by the program requirements."[56]

In addition to creating confusion for borrowers, the GAO criticized FSA's "piecemeal guidance" provided to PHEAA. According to the GAO, FSA dispersed information and instructions to PHEAA across multiple documents (including the Department's contract and its contractual updates) and hundreds of emails. FSA did not appear to provide PHEAA with definitive information regarding which employers qualify a borrower for loan forgiveness, leaving vast amounts of uncertainty. As a result of this confusion, PHEAA reported "their staff are sometimes unaware of relevant guidance and instructions in emails provided by Education, which creates a risk that some policy updates will be overlooked and not consistently implemented."[57] PHEAA attempted to create its own processing handbook based on FSA's guidance, however parts of the handbook are inaccurate based on FSA's assessment.

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[53] Federal Student Aid, "Public Service Loan Forgiveness Data: March 2019 PSLF Report," https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data.

[54] The Government Accountability Office, "Public Service Loan Forgiveness: Education Needs to Provide Better Information for the Loan Servicer and Borrowers," September 2018, pp. 11, https://www.gao.gov/assets/700/694304.pdf.

[55] *Id.* pp. 14.

[56] *Id.* pp. 1.

[57] *Id.* pp. 16.

Lastly, the GAO found that FSA provided limited and incomplete information to borrowers, leaving them in the dark about which employers qualify for PSLF and whether errors in applications could affect borrowers' loan forgiveness eligibility. This not only has meant that borrowers have had to make employment decisions without knowing how such a decision would affect their PSLF eligibility, but also has increased the risk that PHEAA may improperly certify or deny certification to some borrowers.

For over a decade since Congress created PSLF, millions of public servants pursued careers—in the military, in law enforcement, in medicine, in education, and in other public service work—with the promise of student loan relief. It is devastating to know that the program is not working as intended because of mismanagement from the Department and its servicers, and even more distressing to see FSA further bungle the implementation of the new Temporary Expansion of Public Service Loan Forgiveness program (TEPSLF).[58] I recently joined a letter with my Senate colleagues outlining the Department's failures to properly implement TEPSLF, and requesting that the Department provide Congress with a corrective action plan that includes new outreach initiatives and specific instructions and policies for student loan servicers to assist borrowers in accessing TEPSLF.[59]

As you work on this corrective action plan, I ask you to make quick and comprehensive improvements to the PSLF and TEPSLF program implementation so that the programs can better serve borrowers in public service. Accordingly, I have the following questions for you regarding PSLF and TEPSLF:

1. What progress has FSA made toward implementing each of the following four recommendations outlined in the GAO report, "Public Service Loan Forgiveness (PSLF): Education Needs to Provide Better Information for the Loan Servicer and Borrowers" (GAO-18-547)?[60] What is your timeline for completing all recommendations?
    a. The FSA Chief should "develop a timeline for issuing a comprehensive guidance and instructions document for PSLF servicing."
    b. The FSA Chief should "provide additional information to the PSLF servicer and borrowers to enhance their ability to determine which employers qualify for PSLF."
    c. The FSA Chief should "standardize the information the PSLF servicer receives from other loan servicers to ensure the PSLF servicer obtains more consistent and accurate payment information for borrowers pursuing PSLF."
    d. The FSA Chief should "ensure that borrowers receive sufficiently detailed information from the PSLF servicer to be able to identify any errors in the

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[58] The Washington Post, "Education Department Rejects Vast Majority of Applicants for Temporary Student Loan Forgiveness Program," Danielle Douglas-Gabriel, April 2, 2019, https://www.washingtonpost.com/education/2019/04/03/education-dept-rejects-vast-majority-applicants-temporary-student-loan-forgiveness-program/?utm_term=.5178c6f7f58d.
[59] Letter from U.S. Senators Tim Kaine, et. al., to ED Secretary Betsy DeVos, April 24, 2019, https://www.scribd.com/document/407479602/Kaine-Whitehouse-Call-On-Devos-To-Fix-Missteps-With-Implementation-Of-TEPSLF-Program?secret_password=utpm11DKyldANq6RQc1r.
[60] U.S. Government Accountability Office, "Public Service Loan Forgiveness: Education Needs to Provide Better Information for the Loan Servicer and Borrowers," September 2018, https://www.gao.gov/assets/700/694304.pdf.

servicer's counts of qualifying payments, including information on whether or not each payment qualified toward forgiveness."

2. In the fiscal year 2018 and 2019 appropriations bills, Congress appropriated $700 million for TEPSLF to forgive loans of public service borrowers who were erroneously placed in non-qualifying repayment plans, but otherwise would have qualified for PSLF.[61] The bills also directed over $4 million to be used to conduct outreach to borrowers about both PSLF and TEPSLF. How have these outreach funds been used by FSA to achieve these goals?

3. What other actions are you taking to improve loan servicers' administration of PSLF and TEPSLF and to ensure eligible borrowers receive forgiveness?

4. What other actions are you taking to improve the information and guidance you provide to borrowers regarding PSLF and TEPSLF?

5. Many borrowers have reported that PHEAA, and its FedLoan Servicing Program, has undercounted their payments and that the wait time for correcting these mistakes could take up to a year.[62] In response to these allegations, a Department of Education spokesperson, told the New York Times, "We understand the time it takes for borrower accounts to be reviewed is a problem, and we are working with our loan servicers to fix it."[63] What issues has FSA identified that contribute to the problem of long resolution wait times? What specific steps is FSA taking to fix this problem?

For-Profit College Closures and Borrower Defense

In addition to strengthening oversight of student loan servicers, FSA must also take a more aggressive approach to ensure proper oversight of the institutions receiving Title IV funding.

On March 8, 2019, Dream Center Education Holdings, LLC (Dream Center) announced the closure of dozens of campuses across the country, leaving over 26,000 students scrambling for answers and to find a way to finish their education.[64] Just a few months earlier, in December 2018, the Education Corporation of America (ECA) announced it would close more than 70 campuses in 20 states, affecting 18,000 students nationwide.[65] Within weeks of ECA's closure,

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[61] Letter from U.S. Senators Tim Kaine, et. al., to ED Secretary Betsy DeVos, April 24, 2019, https://www.scribd.com/document/407479602/Kaine-Whitehouse-Call-On-Devos-To-Fix-Missteps-With-Implementation-Of-TEPSLF-Program?secret_password=utpm1lDKyldANq6RQc1r.

[62] The New York Times, "Your Student Loan Servicer Will Call You Back in a Year. Sorry," Ron Lieber, April 12, 2019, https://www.nytimes.com/2019/04/12/your-money/public-service-loan-forgiveness.html.

[63] *Id.*

[64] The New York Times, "A College Chain Crumbles, and Millions in Student Loan Cash Disappears," Stacy Cowley and Erica L. Green, March 7, 2019, https://www.nytimes.com/2019/03/07/business/argosy-college-art-insititutes-south-university.html.

[65] Inside Higher ED, "Collapse of For-Profit Chain Long in the Making," Andrew Kreighbaum, December 6, 2018, https://www.insidehighered.com/news/2018/12/06/closure-education-corporation-america-raises-questions-about-oversight-and-support.

Vatterott's Career Colleges closed 15 campuses, affecting over 2,000 students.[66] These abrupt school closure announcements have disrupted the education of thousands of students, leaving many of them in limbo with huge student loans and no way to continue their education. These closures underscore the need for FSA to take seriously its responsibility to ensure that Title IV schools are fiscally and operationally sound.

While the Department of Education Office of Postsecondary Education (OPE) is largely responsible for the accreditation and shares the responsibility to oversee colleges, FSA has program compliance responsibilities and mechanisms at its disposal to identify and monitor schools at-risk of unplanned closure. FSA, for example, is supposed to monitor schools' ability to meet their financial obligations, ensure that schools have a passing composite score (a reflection of a school's overall financial health), and enforce schools' compliance with Title IV program participation rules. In the wake of the 2015 collapse of Corinthian Colleges—the largest collapse of an institution in American history—the OIG audited FSA's processes and found that improvements to FSA's systems for identifying risky schools were urgently needed.[67]

The February 2017 OIG report, "Federal Student Aid's Processes for Identifying At-Risk Title IV Schools and Mitigating Potential Harm to Students and Taxpayers," found that FSA needed to make critical improvements to better protect students and taxpayers. For example, one of the main problems with FSA's oversight of Corinthian was that FSA "did not timely request an [Letter of Credit] or promptly resolve Corinthian's FY 2011 composite score appeal, enabling Corinthian to avoid posting an [Letter of Credit] with FSA even though one was warranted."[68] Because FSA dragged its feet in response to clear signs of financial turmoil from Corinthian, the company was able to continue enrolling students, exploiting federal dollars, and loading more students with debt. As this continued, FSA appallingly failed to secure any form of financial surety from the company to cover the costs to taxpayers in the event of an inevitable collapse. The result was disastrous for students and taxpayers.

I have a number of questions related to the processes by which FSA monitors at-risk schools. I also would like an update on the status of the Student Aid Enforcement Unit within FSA. The Obama Administration created this unit in the wake of Corinthian's collapse in order to protect against fraud and abuse in taxpayer-funded financial aid programs,[69] but Secretary DeVos and other Department officials have reportedly scaled back the unit's enforcement efforts.[70]

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[66] AP, "Vatterott College System Closes All 15 Campuses," December 18, 2018, https://www.apnews.com/71a07fb863bf4e459a7f1c2417cb1ecd.
[67] The U.S. Department of Education, Office of Inspector General, "Federal Student Aid's Processes for Identifying At-Risk Title IV Schools and Mitigating Potential Harm to Students and Taxpayers," February 24, 2017, https://www2.ed.gov/about/offices/list/oig/auditreports/fy2017/a09q0001.pdf
[68] *Id.* pp. 9.
[69] U.S. Department of Education, "U.S. Department of Education Expands Focus on Enforcement and Consumer Protections for Students, Parents and Borrowers," press release, August 31, 2017, https://www.ed.gov/news/press-releases/us-department-education-expands-focus-enforcement-and-consumer-protections-students-parents-and-borrowers.
[70] The New York Times, "Education Department Unwinds Unit Investigating Fraud at For-Profits," Danielle Ivory, Erica L. Green, and Steve Eder, May 13, 2018, https://www.nytimes.com/2018/05/13/business/education-department-for-profit-colleges.html.

FSA's Enforcement Unit also includes the Borrower Defense unit, which is supposed to process claims for relief from students who attended colleges that broke the law. In November 2017, however, I released a report documenting the Department's failure to grant debt relief to deserving borrowers,[71] and the most recent reports indicate that over 158,000 borrower defense claims are still pending before the Department.[72] To that end, I have questions regarding debt relief, borrower defense, and other related FSA actions:

1. What progress has FSA made toward each of the three recommendations outlined in the OIG report, "Federal Student Aid's Processes for Identifying At-Risk Title IV Schools and Mitigating Potential Harm to Students and Taxpayers" and listed below? What is your timeline for completing all recommendations?
    a. The GAO report recommends the FSA COO should "ensure that composite score appeals are resolved timely,"
    b. "[E]stablish a standard timeframe under which applicable FSA personnel must send formal letters to all schools that are required to provide an LOC to continue participating in the Title IV programs,"
    c. "[E]nsure that schools are not manipulating their composite scores to avoid FSA sanctions or increased oversight,"
    d. "[I]dentify common ways that a school could manipulate its composite score,"
    e. "ensure that FSA financial analysts are aware of any school composite score issues from the prior year," and
    f. Amend FSA's "Financial Analysis Procedures" to include requirements as suggested by GAO.

2. FSA conducts school risk assessments each year and generates risk scores for each school participating in Title IV federal financial aid programs. These risk scores help FSA determine which programs deserve a more in-depth review. On average, FSA aims to conduct roughly 300 program reviews every year. How will FSA improve its program reviews under your leadership to ensure that students are protected from precipitous closures or fraud?

3. Last year, I sent a letter to Secretary DeVos expressing serious concerns about the Department's reported intention to scale back the operations of the Student Aid Enforcement Unit.[73] According to the New York Times, "the unwinding of the team has effectively killed investigations into possibly fraudulent activities at several large for-profit colleges where top hires of Betsy DeVos, the education secretary, had previously worked."[74]

[71] U.S. Senators Elizabeth Warren and Richard J. Durbin, "Insult to Injury: How the DeVos Department of Education is Failing Defrauded Students," November 2017, https://www.warren.senate.gov/files/documents/2017_11_Warren_Durbin_Borrower_Defense_Report.pdf.
[72] Letter from FSA COO Mark A. Brown, to U.S. Senator Patty Murray, March 29, 2019, https://www.help.senate.gov/imo/media/doc/2018Q4%20BD%20Report.pdf.
[73] Letter from U.S. Senator Patty Murray et. al., to ED Secretary Betsy DeVos, May 23, 2018, https://www.warren.senate.gov/imo/media/doc/2018-05-23%20ED%20FSA%20Enforcement%20Response.pdf.
[74] The New York Times, "Education Department Unwinds Unit Investigating Fraud at For-Profits," Danielle Ivory, Erica L. Green, and Steve Eder, May 13, 2018, https://www.nytimes.com/2018/05/13/business/education-department-for-profit-colleges.html.

a. Do you intend to continue the operations of the Student Aid Enforcement Unit?
b. According to data provided to Congress by the Department's staff, there are now only two full-time investigators in the unit—overseeing thousands of schools and $130 billion in taxpayer dollars.[75] Is this information still accurate? What is the current staffing level of the office? What are your staffing plans for the unit?
c. What is the planned staffing level for FY 2020?
d. How many new Enforcement actions—meaning fines, limitations, suspensions, terminations, and emergency actions for violation(s) of the Higher Education Act and regulatory prohibition on substantial misrepresentations—has the unit taken since January 2017?
e. Has the Enforcement Unit released any findings of misrepresentations to students or other illegal activity since January 2017?
f. Please provide a list of all enforcement actions (fines, limitations, suspensions, terminations, and emergency actions) for violation(s) of the Higher Education Act and regulatory prohibition on substantial misrepresentations.

4. In the wake of recent school closures, I am especially concerned that the backlog of federal student loan discharge requests under "borrower defense" will continue to grow. In your role at FSA, what plans do you have to help clear the backlog of requests?
    a. How many borrower defense claims are pending at FSA?
    b. How many borrower defense claims has FSA processed in the past two years?
    c. On average, how long does it take FSA to process borrower defense claims?

5. Secretary DeVos has argued before Congress that the Department cannot process borrower defense claims because it is subject to a preliminary injunction from the *Manriquez v. DeVos* lawsuit, which only concerns Corinthian Colleges and the Department's illegal use of federal Social Security Administration data to implement a "partial relief" scheme to limit relief for borrowers.[76] The court's injunction, however, does not prevent the Department from fully discharging the loans of Corinthian students or any students waiting on relief. In fact, the preliminary injunction expressly allows for cancellation: "Nothing in this Order prohibits the Secretary from fully discharging the loans of any borrower who has successfully completed or who successfully completes an attestation form." Given the court's clear assertion that the Department is able to fully discharge the loans of borrowers eligible for borrower defense, will you commit to using your position to formally and publicly recommend the Secretary discharge the loans of eligible borrowers, including Corinthian borrowers?

6. Massachusetts Attorney General Maura Healey submitted a group application for borrower defense on behalf of 7,200 Corinthian borrowers in Massachusetts. Upon a complaint filed by the Attorney General, a court concluded that Corinthian had extensively violated Massachusetts law, and ordered restitution of all tuition paid to the

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[75] U.S. Senate Subcommittee on the Committee of Appropriations, "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations for Fiscal Year 2019," June 5. 2018, pp. 98, https://www.govinfo.gov/content/pkg/CHRG-115shrg89104815/pdf/CHRG-115shrg89104815.pdf.
[76] *Calvillo Manriquez, et al., v. DeVos*, Case No. 17-07210-SK, Doc. No. 70 (June 19, 2018, N.D. Cal.), https://predatorystudentlending.org/wp-content/uploads/2018/06/show_temp-4.pdf

school. The Department, however, has taken no action on the Attorney General's application. In October 2018, a federal court ruled that the Attorney General "invoked the administrative remedy of [ED's] review process such that [ED] was required to adjudicate the [group borrower defense] request."[77] The court further ruled that the Department cannot offset borrowers' tax refunds or federal benefits while a borrower defense application, including a group application submitted by an attorney general, is pending with the Department.

a. How does FSA plan to comply with this ruling?
b. How many group discharge applications has the Department received from attorneys general? Please provide a complete list of all such applications, the date submitted, by whom, and identify the subject school/programs, and the number of covered borrowers.
c. How many of the applications referenced above are pending? How many (if any) have been granted? Which?
d. How many (if any) have been denied? Which?
e. For the years 2016, 2017, 2018, and 2019 how many borrowers covered by a group discharge application are in default on their federal student loans?
f. For the years 2016, 2017, 2018, and 2019, how many loans of the borrowers covered by a group discharge application have been certified by the Department for Treasury offset?
g. For the years 2016, 2017, 2018, and 2019, how many borrowers covered by a group discharge application have been subject to an administrative wage garnishment order put in place by the Department?
h. For the years 2016, 2017, 2018, and 2019, what are the total dollar amounts of federal student loans (interest and principal) covered by a group discharge application from an attorney general?
i. For the years 2016, 2017, 2018, and 2019, what are the total dollar amounts collected through the Treasury Offset Program on defaulted student loans covered by a group discharge application from an attorney general?

7. How many pending claims are from students who attended Dream Center, ECA, or Vaterott institutions, respectively?

The Student Debt Crisis

The weaknesses of FSA's student loan servicer oversight and the failure to adequately address shady for-profit colleges that survive off federal student aid funds do not represent the only failures by FSA to address the challenges faced by millions of student loan borrowers.

Currently, there are 8.6 million borrowers in default on nearly $150 billion in federal student loans, and over one million student borrowers defaulted in the past year alone.[78] In 2015, CFPB estimated that one in four borrowers are either in default on or are struggling to repay their federal student loans, and current trends suggest that the number of borrowers in this status has

[77] Order, Williams v. DeVos, Case No. 16-11949, Doc. 99 (D. Mass.)
[78] Office of Federal Student Aid, "Federal Student Loan Portfolio," December, 2017 https://studentaid.ed.gov/sa/about/data-center/student/portfolio.

since increased.[79] Notably, the majority of students who default do so within three years of entering repayment, resulting in lifelong problems with their financial and credit health.[80]

Student loan debt is a particular crisis for borrowers of color. Based on data from the Department's National Center for Education Statistics, Black students were nearly 15 percentage points more likely to take out federal student loans and less likely to pay down debt than their White peers.[81] In fact, the median Black student owed more on their student loan balances 12 years after college than they owed the day they took out the original loans.[82]

Student loan delinquencies, unlike other forms of debt, are increasing despite the strong economy.[83] Moreover, the number of student borrowers in financial distress is growing, despite the universal availability of income-driven repayment plans that allow borrowers to lower their monthly payments to more affordable levels or even to zero dollars in many cases.[84] These data collectively point to one stark conclusion: the country is facing an urgent student debt crisis.

To understand your vision for addressing this crisis, as well as a number of specific concerns I have had with FSA over the past year that contribute to the crisis, I have the following questions:

1. Do you believe this country is facing a student loan crisis?

2. What are your top priorities to mitigate the student debt crisis?

3. What plans do you have to eliminate or significantly reduce loan delinquencies and defaults? What are your specific numeric goals for reducing loan delinquencies and defaults?

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[79] Consumer Financial Protection Bureau, "CFPB Concerned About Widespread Servicing Failures Reported by Student Loan Borrowers," press release, September 29, 2015, http://www.consumerfinance.gov/about-us/newsroom/cfpb-concerned-about-widespread-servicing-failures-reported-by-student-loan-borrowers.

[80] Center for American Progress, "Who Are Student Loan Defaulters," Ben Miller, December 14, 2017, https://www.americanprogress.org/issues/education-postsecondary/reports/2017/12/14/444011/student-loan-defaulters/.

[81] Center for American Progress, "New federal data show a student loan crisis for African American borrowers," Ben Miller, October 16, 2017, https://www.americanprogress.org/issues/education/news/2017/10/16/440711/new-federal-data-show-student-loan-crisis-african-american-borrowers/.

[82] *Id.*

[83] Federal Reserve Bank of New York, "Household Debt Reaches New Peak Driven by Gains in Mortgage, Auto, and Student Debt," 2017, https://www.newyorkfed.org/microeconomics/hhdc.html.

[84] Executive Office of the President of the United States, "Investing in Higher Education: Benefits, Challenges, and the State of Student Debt," July 2016, https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160718_cea_student_debt.pdf.

4. Last week, the Wall Street Journal reported that FSA has entered into a contract with McKinsey & Co. to assess the office's student-loan portfolio, and the Department is "weighing selling all or portions of the debt to private investors."[85] This would be an unprecedented move on the part of FSA. Please provide an update on the status of this proposal, including a justification for why this move would be in the best interests of student loan borrowers.

5. Recent news reports indicate that staffing shortages at the FSA—specifically in the Default Resolution Group (DRG) and the Debt Management and Collections System (DMCS), may be hampering the ability of the office to provide proper and effective customer service.[86] What are your plans to increase staffing levels or otherwise address these problems?

6. In 2016, FSA established an online feedback system to allow students, borrowers, and the public to submit complaints about federal financial aid programs.[87] The feedback system is a critical tool for FSA to identify systemic problems and address its oversight challenges I have outlined throughout this letter. However, recent changes to the system have seemingly made it more difficult to report wrongdoing.[88] For example, in February 2018 the Department removed the ability to anonymously report complaints of "suspicious activity." The Department has also prohibited individuals from filing complaints regarding systematic problems, such as misleading recruiting or marketing or even illegal financial aid practices or policies because these issues are not associated with a specific individual. As a result of these changes, reports of suspicious activity have dropped by nearly 20% over the course of the past year.[89]
    a. How do you plan to improve the FSA Feedback System?
    b. For the first time since the system's creation, FSA has failed to post an end-of-year-report for 2018. When do you plan to release this report?
    c. How do you plan to ensure that people, including people without an FSA use ID, can anonymously report complaints of suspicious activity?

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[85] The Wall Street Journal, "Trump Administration Hires McKinsey to Evaluate Student-Loan Portfolio," Michelle Hackman, Josh Mitchell, and Lalita Clozel, May 1, 2019, https://www.wsj.com/articles/trump-administration-hires-mckinsey-to-evaluate-student-loan-portfolio-11556728035.

[86] The Washington Post, "Staffing Shortage at Education Department's Loan Default Units Frustrates Struggling Borrowers," Danielle Douglas-Gabriel, March 21, 2019, https://www.washingtonpost.com/education/2019/03/21/staffing-shortage-education-departments-loan-default-units-frustrates-struggling-borrowers/?utm_term=.001cebb88060; Forbes, "The Department of Education's Loan Default Unit is In Disarray," Adam Minsky, February 25, 2019, https://www.forbes.com/sites/adamminsky/2019/02/25/the-dept-of-educations-loan-default-unit-is-in-disarray/#3be119cb1343 .

[87] Federal Student Aid, "FSA Feedback System Reports," https://studentaid.ed.gov/sa/about/data-center/business-info/feedback-system-reports.

[88] Letter from U.S. Senator Margaret Wood Hassan et. al., to ED Secretary Betsy DeVos, February 5, 2019, https://www.hassan.senate.gov/imo/media/doc/CommentLetterEDNoticeFSAFeedbackSystem.190205.pdf.

[89] In FY 2018, there were 1,874 cases of suspicious activity reported. In FY 2017, there were 2,310 such cases. This represents a decline of 18.9% of suspicious activity cases, compared to an increase of 119.9% in overall cases (17, 430 to 38,332) in the same period. Source: FY 2018 FSA Annual Report, pp. 86, https://studentaid.ed.gov/sa/sites/default/files/FSA-FY-2018-Annual-Report-Final.pdf; FY 2017 FSA Feedback System Annual Report, pp. 9, https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/Feedback-System-Report-2017.pdf.

d. Will you ensure that individuals can file complaints regarding systematic problems, such as misleading recruiting or marketing or even illegal financial aid practices or policies because these issues are not associated with a specific individual?

7. FSA recently presented a plan to staff to reorganize its leadership. The plan will reportedly reduce the number of senior officials who serve on the FSA executive committee and report directly to you. The plan will also create new "cross-functional teams" led by project managers who would be "responsible for completely implementing critical solutions." Examples of these project teams include: borrower defense; Public Service Loan Forgiveness; TEACH grants; data-sharing under Section 6103 of the tax code; Consumer Financial Protection Bureau; and servicer oversight.[90]
   a. Please provide detailed rationale for this reorganization, including how this reorganization is in the best interest of borrowers and will improve servicer oversight.
   b. Please provide a detailed description of the responsibilities and objectives of each project team, including the leadership of each team, major initiatives or projects delegated to each team, and timelines for such initiatives or projects.

8. Last year, I sent Secretary DeVos a letter with 20 of my Senate colleagues and 40 of my colleagues on the House of Representatives raising concerns regarding the specific challenges facing students of color in the federal student loan system and calling on the Department to take a series of steps to study and mitigate these challenges.[91]
   a. What are your specific plans to address the unique and pervasive student loan crisis facing borrowers of color?
   b. Will you create a task force at FSA to study the specific challenges facing student loan borrowers of color and to propose policy solutions that help get borrowers of color out of debt, dramatically reduce delinquencies and defaults among borrowers of color, and eliminate the need for many of these borrowers to go into debt in the first place?
   c. Will you create a cross-functional project team at FSA to address the specific challenges facing student loan borrowers of color?

9. Will you create a cross-functional project team at FSA to address the specific challenges facing student loan borrowers in extreme financial distress, including borrowers who have defaulted, have been forced to declare bankruptcy, or deal with wage garnishment or administrative offset?

[90] PoliticoPro, "Trump Administration Reshuffles Federal Student Aid Office," Michael Stratford, April 9, 2019, https://subscriber.politicopro.com/education/article/2019/04/trump-administration-reshuffles-federal-student-aid-office-1340942.
[91] Letter from U.S. Senator Elizabeth Warren et. al., to ED Secretary Betsy DeVos, June 18, 2018, https://www.warren.senate.gov/imo/media/doc/DeVos%20Borrowers%20of%20Color%20Letter%20FINAL%206.15.18.pdf.

10. Will FSA report annual data on loan default rates, repayment rates, forbearance status, and loan delinquency status, disaggregated by race, ethnicity, sex, loan type, loan servicer, and school attended in an appropriate manner that protects borrower privacy?

Conclusion

You are the fourth person to lead FSA since the start of the Trump Administration. As head of FSA—an office of over 1,200 federal employees—you are the primary federal government official responsible for over a trillion dollars worth of federal student loans for tens of millions of borrowers.[92] Based on the massive size of this loan portfolio, FSA is essentially the country's fifth largest bank and the world's largest student loan bank. Yet, FSA has repeatedly failed borrowers and taxpayers. You have a great deal of work to do to improve FSA.

Since joining the Senate, I have consistently worked to hold FSA accountable to students, borrowers, and taxpayers. I have laid out my own vision for reforming federal student loan servicing through five fundamentals for student loan servicing reform that would improve customer service, protect student borrowers, strengthen accountability, and ensure data transparency.[93] I strongly supported the previous Administration's policies to improve student loan servicing[94] and hold servicers accountable[95]—policies that Secretary DeVos almost immediately tore up upon taking office.[96]

With both contactors' and predatory for-profit colleges' financial and profit incentives pushing so hard in the opposite direction, it is imperative that FSA actively prioritize students over contractors and for-profit colleges to protect the integrity of the federal student aid program and the students it serves. You have a responsibility to hold student loan contractors and predatory institutions accountable when they break the rules or mistreat borrowers, to ensure that contractors provide borrowers with consistent and high-quality customer service, and to enforce the rights of borrowers. To explain how you will take these actions, and how you plan to bring desperately needed reform to FSA, I ask that you provide answer to all of the questions in this letter in writing.

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[92] U.S. Department of Education, Office of Federal Student Aid, "Federal Student Aid Strategic Plan FY 2012-16," December 2011, https://studentaid.ed.gov/sa/sites/default/files/fsawg/static/gw/docs/FiveYearPlan_2012.pdf.

[93] U.S. Senator Elizabeth Warren, "Senator Warren calls on Department of Education to implement five fundamentals to reform student loan servicing," March 30, 2016, https://www.warren.senate.gov/?p=press_release&id=1093.

[94] Memorandum from ED Under Secretary Ted Mitchell to FSA COO James Runcie, "Policy Direction on Federal Student Loan Servicing," July 20, 2016, https://www.help.senate.gov/imo/media/doc/Servicing%20Recompete%20Policy%20Memo.pdf

[95] Memorandum from ED Secretary John King to FSA COO James Runcie, "Consideration of Past Performance in Student Loan Servicing Recompete," June 30, 2016, https://sites.ed.gov/ous/files/2016/06/John-King-servicer-past-performance-memo.pdf.

[96] Memorandum from ED Secretary Betsy DeVos to FSA COO James Runcie, "Student Loan Servicer Recompete," April 11, 2017, https://www2.ed.gov/documents/press-releases/student-loan-servicer-recompete.pdf.

We have to get this right. The financial lives of millions of Americans depend on it. I look forward to working with you to protect and serve students—the real customers of the federal student aid program.

Sincerely,

Elizabeth Warren
United States Senator

CC: The Honorable Betsy DeVos, Secretary of Education, U.S. Department of Education
Senator Lamar Alexander, Chairman, Senate HELP Committee
Senator Patty Murray, Ranking Member, Senate HELP Committee
Representative Bobby Scott, Chairman, House Committee on Education and Labor
Representative Virginia Foxx, Vice Chair, House Committee on Education and Labor