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United States Senate

January 29, 2020

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The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

Dear Secretary DeVos:

I write today to urge you to collect the \$22.3 million that federal student loan servicer Navient Corporation (Navient, formerly known as Sallie Mae) owes the U.S. Department of Education (the Department). After massively overcharging the federal government in a years-long scandal, and after findings from the Department's Office of the Inspector General (OIG), its Office of Federal Student Aid (FSA), and more recently, a ruling of an administrative law judge, Navient has inexplicably continued to escape accountability for bilking taxpayers for years and *still* has not repaid this money. Further delays or excuses are unacceptable: it is time for you to hold Navient accountable and finally collect the \$22.3 million the company owes to taxpayers.

Navient is one of the country's largest servicers of federal and private student loans.¹ Currently, the company manages the student loans of nearly six million federal student loan borrowers and is responsible for servicing over \$287 billion in federal student loan debt.² In August 2009, an audit by the Department's OIG found that Navient had overcharged the Department by approximately \$22.3 million after the company improperly claimed special allowance payments on student loans that were not eligible for these rates.³ These payments were "made to lenders in the Federal Family Education Loan Program to ensure that lenders receive an equitable return on their loans."⁴ In its audit, OIG found that Navient's billing practices "did not comply" with requirements for the special allowance payments calculation and recommended that FSA direct Navient to return the funds to the Department.⁵ In September 2013, FSA issued a final determination, which agreed with the OIG's determination and demanded Navient pay back to the Department the \$22.3 million it owed American taxpayers.⁶

Despite these findings, Navient has continued to resist accountability for this scandal for over six years and has wasted *more* taxpayer dollars by appealing this determination at every opportunity. The company has been found —on multiple occasions, by multiple entities—to be responsible for the repayment of these funds. In August 2016, for example, the company appealed FSA's

¹ Office of Student Aid, "Federal Student Loan Portfolio," <https://studentaid.gov/data-center/student/portfolio>

² Navient Corporation, "Form 8-K," January 21, 2020, <https://navientcorporation.gcs-web.com/node/8891/html>

³ 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 Final Audit Report," August 2009, <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2009/a03i0006.pdf>

⁴ *Id.*

⁵ *Id.*

⁶ Judge Robert G. Layton, U.S. Department of Education, *In the Matter of Navient Corporation*, Docket No.16-42-SA, March 7, 2019, <https://oha.ed.gov/oha/files/2019/03/2016-42-SA.pdf>

determination to the Department's special Administrative Actions and Appeals Service Group.⁷ Last March, the judge hearing the appeal ruled against Navient. The judge's ruling affirmed the finding of both the Department's OIG and FSA that Navient must repay the money, stating clearly, "**Navient must repay FSA for overpayments Navient received for improperly claimed special allowance payments** on loans that were not eligible."⁸ Despite the multiple failed appeals by Navient, however, the Department has inexplicably failed to hold Navient accountable by collecting these funds.

In its November 2019 Securities and Exchange filings, Navient disclosed to shareholders that it had appealed the administrative law judge's decision to you, the Secretary of Education.⁹ Navient also revealed that in 2014, it established a stockpile reserve of money to repay taxpayers in case the Department ever actually held Navient accountable for this scam, telling shareholders that the company "does not believe, at this time, that an adverse ruling would have a material effect on the Company as a whole."¹⁰

For years since this scam was revealed, Navient has continued to engage in predatory, improper, and illegal behavior, which I summarized for you in my October 2019 letter urging you to finally hold the company accountable and terminate their lucrative contract with the Department.¹¹ Moreover, instead of taking responsibility for costs to taxpayers resulting from its misconduct, Navient has instead devoted tens of millions of dollars to lobbying and influence-peddling at the Department and in Congress.¹²

This matter now sits on your desk waiting for you to act. Navient owes taxpayers \$22.3 million; you have a responsibility to the American people to ensure the company pays back the money it improperly collected. Letting Navient off the hook for its debts, particularly as you relentlessly hound defrauded student borrowers, would be a blatant demonstration of your willingness to side with loan companies that fail students and taxpayers over students and taxpayers. I urge you to take action to finally end this saga and collect the \$22.3 million that Navient owes the American people.

Sincerely,



Elizabeth Warren
United States Senator

⁷ Navient Corporation, "Form 10-Q," November 1, 2019, https://www.sec.gov/ix?doc=/Archives/edgar/data/1593538/000156459019039431/navi-10q_20190930.htm

⁸ Judge Robert G. Layton, U.S. Department of Education, *In the Matter of Navient Corporation*, Docket No.16-42-SA, March 7, 2019, <https://oha.ed.gov/oha/files/2019/03/2016-42-SA.pdf>

⁹ Navient Corporation, "Form 10-Q," November 1, 2019, https://www.sec.gov/ix?doc=/Archives/edgar/data/1593538/000156459019039431/navi-10q_20190930.htm

¹⁰ *Id.*

¹¹ Letter from Senator Elizabeth Warren to U.S. Department of Education, October 11, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.10.11%20Letter%20to%20ED%20re%20Navient%20contract.pdf>

¹² Letter from Senator Elizabeth Warren to U.S. Department of Education, May 10, 2016, <https://www.warren.senate.gov/files/documents/2016-05-10%20Letter%20to%20ED%20Navient%20re%20Lobbying%20Spending.pdf>