

Congress of the United States

Washington, DC 20515

September 9, 2024

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

Dear Secretary Cardona:

We are writing regarding explosive new allegations, revealed in two new lawsuits brought by the American Federation of Teachers (AFT) and Project on Predatory Student Lending (PPSL), that student loan servicing giant Higher Education Loan Authority of the State of Missouri (MOHELA) has mishandled its student loan servicing responsibilities.¹ Given ongoing concerns about MOHELA's failures, we urge the Department of Education (ED) to immediately review whether MOHELA is meeting its contractual obligations as a student loan servicer and implement any corrective measures necessary, including the potential termination of MOHELA's contract if warranted.

This May, many of us wrote to you with concerns about MOHELA's performance as a student loan servicer. We shared the findings of a report, prepared by Senators Warren, Blumenthal, Markey, and Van Hollen, which identified a host of failures by MOHELA during the return to repayment on student loans following the end of the Covid-19 pandemic pause. The report found that MOHELA made over 1.5 million more billing-related errors than all other servicers combined during this period.² MOHELA also received the most borrower complaints of any student loan servicer between July 2022 and December 2023,³ likely fueled by MOHELA's record of poor customer service and absurd wait times.⁴ In our May letter, we wrote to you urging ED to hold MOHELA accountable.⁵

¹ Student Borrower Protection Center, "Embattled Student Loan Servicing Giant MOHELA Hit with Groundbreaking Consumer Protection Lawsuit for Failing 8 Million Student Borrowers," press release, July 22, 2024, <https://protectborrowers.org/mohela-hit-with-groundbreaking-consumer-protection-lawsuit/>; Project on Predatory Student Lending, "Student Borrowers Sue MOHELA for Failing to Implement Student Loan Discharges," press release, September 5, 2024, <https://www.ppsl.org/news/student-borrowers-sue-mohela-for-failing-to-implement-student-loan-discharges>.

² Offices of Senators Elizabeth Warren, Richard Blumenthal, Ed Markey, and Chris Van Hollen, "Servicing Scandals: Student Loan Servicers' Failures During Return to Repayment," April 2024, p. 3, <https://www.warren.senate.gov/imo/media/doc/Loan%20Servicer%20Report%20PDF.pdf>.

³ Offices of Senators Elizabeth Warren, Richard Blumenthal, Ed Markey, and Chris Van Hollen, "Servicing Scandals: Student Loan Servicers' Failures During Return to Repayment," April 2024, p. 16, <https://www.warren.senate.gov/imo/media/doc/Loan%20Servicer%20Report%20PDF.pdf>.

⁴ Student Borrower Protection Center "The MOHELA Papers," February 2024, <https://protectborrowers.org/wpcontent/uploads/2024/02/MOHELA-Papers-Report.pdf>.

⁵ Letter from Senators Warren, Sanders, Wyden, Markey, Merkley, Blumenthal, Butler, Van Hollen, Warnock, and Welch to the Honorable Miguel Cardona, May 8, 2024, https://www.warren.senate.gov/imo/media/doc/final_-

The new allegations raise even more concerns that MOHELA is wildly mismanaging its student loan portfolio and hurting borrowers—and suggest that more drastic ED measures are needed to protect borrowers and ensure MOHELA is fulfilling its contractual obligations.

On July 22, 2024, AFT filed a lawsuit against MOHELA, alleging that the servicer has “illegally overcharged borrowers on their monthly student loan bills, failed to timely process paperwork, and actively misled borrowers about their student loan accounts.”⁶ Along with building on the findings of a February 2024 report that first uncovered MOHELA’s “call deflection” scheme to prevent borrowers harmed by the servicer’s failures from receiving help from customer service representatives,⁷ the lawsuit contains new findings alleging that MOHELA violated ED guidance in four alarming ways.

First, AFT alleges that MOHELA made unauthorized, automatic withdrawals from borrowers’ accounts—sometimes for incorrect amounts—without borrowers’ knowledge or permission.⁸ In the lead-up to payments resuming last fall, “ED had instructed that for borrowers to utilize auto-pay, they would have to opt in and reauthorize the government and its servicers to debit their bank accounts, even if they had been enrolled in autopay before the Payment Pause.”⁹ AFT alleges that, despite this instruction, “some borrowers who had not opted back into auto-pay had their bank accounts debited by MOHELA to pay their student loans.”¹⁰ As a result, “these automatic payments were unexpected, as [borrowers] had never authorized MOHELA to debit their bank account.”¹¹ If true, this is particularly problematic in the cases of the over 2.5 million borrowers¹² who received incorrect and untimely bills, which for those who experienced unauthorized withdrawals from their accounts, could have resulted in “incorrect amounts being withdrawn from their bank accounts.”¹³

[letter_to_ed_re_mohela_failures.pdf](#)

⁶ Student Borrower Protection Center, “Embattled Student Loan Servicing Giant MOHELA Hit with Groundbreaking Consumer Protection Lawsuit for Failing 8 Million Student Borrowers,” press release, July 22, 2024, <https://protectborrowers.org/mohela-hit-with-groundbreaking-consumer-protection-lawsuit/>.

⁷ Student Borrower Protection Center, “The MOHELA Papers: The Rise of a Student Loan Servicing Giant and the Fall of the Student Loan System,” February 2024, p. 28, <https://protectborrowers.org/wp-content/uploads/2024/02/MOHELA-Papers-Report.pdf>.

⁸ Student Borrower Protection Center, “MOHELA Lawsuit Complaint,” July 22, 2024, pp. 24-25, https://protectborrowers.org/mohela_lawsuit/.

⁹ *Id.*, p. 25

¹⁰ *Id.*

¹¹ *Id.*

¹² While ED announced that borrowers would return to repayment on their student loans on October 1, 2023, MOHELA failed to send timely bills to 2.5 million borrowers, and MOHELA sent incorrect bills to 300,000 borrowers. *See*: U.S. Department of Education, “U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers,” press release, October 30, 2023, <https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicerpart-accountability-measures-harmed-borrowers>; Senator Elizabeth Warren, “ICYMI: Chairing Economic Policy Subcommittee, Warren Highlighted MOHELA’s Failures During Return to Repayment and Its Impact on Borrowers, Urged Accountability,” press release, April 11, 2024, <https://www.warren.senate.gov/newsroom/press-releases/icymi-chairing-economic-policy-subcommittee-warren-highlighted-mohelas-failures-during-return-to-repayment-and-its-impact-on-borrowers-urged-accountability>.

¹³ Student Borrower Protection Center, “MOHELA Lawsuit Complaint,” July 22, 2024, p. 25, https://protectborrowers.org/mohela_lawsuit/.

Second, MOHELA appears to have failed to accurately and timely process Income Driven Repayment (IDR), Public Service Loan Forgiveness (PSLF), and refund applications—causing clear financial harm to borrowers.¹⁴ Per ED’s instructions, “borrowers already enrolled in REPAYE[, an earlier IDR plan,] should have been transitioned to the SAVE plan without the borrowers having to take any action,” and their payments should have been calculated using the records from the REPAYE plan.¹⁵ But MOHELA did not automatically transfer borrowers to SAVE when required, according to AFT, and the servicer used incorrect income and family size information to calculate their IDR payments.¹⁶ Additionally, MOHELA allegedly failed to approve SAVE applications in a timely manner, forcing borrowers to continue to make higher payments on their existing payment plan.¹⁷ And MOHELA appears to have further erred in its handling of refund applications: borrowers who requested refunds of voluntary payments made during the payment pause have still not been refunded according to AFT.¹⁸

Third, according to AFT’s complaint, MOHELA improperly instructed borrowers enrolled in IDR plans to recertify their income and family size well in advance of the deadline to do so, meaning borrowers’ payments increased well before they should have.¹⁹ Under clear ED guidelines, “no borrower should have had to recertify for an IDR plan prior to March 2024, and federal regulations prohibit servicers from sending recertification notices [before December 1, 2023], more than ninety days before the recertification deadline.”²⁰ Yet, AFT alleges that as early as July 2023 and through December 2023, MOHELA instructed borrowers enrolled in an IDR plan to recertify their income and family size before required, meaning borrowers whose salaries had increased were subjected to higher payments during months when their payments should have been lower.²¹

Fourth, as alleged, MOHELA actively misinformed borrowers about their debt relief options.²² In April 2022, the Biden-Harris Administration announced an automatic IDR Account Adjustment, which allowed time spent repaying loans to count towards IDR cancellation relief, even if a borrower had never enrolled in an IDR plan before, addressing longstanding failures by servicers and the Trump Administration to accurately count borrowers’ time in repayment.²³ However, in August 2023, for instance, a borrower who asked MOHELA whether consolidating her Direct Loans would result in losing her existing PSLF credit was told in a written message: “if you consolidate [your loans] you will lose all PSLF qualifying payments that you currently have.”

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*, 26.

¹⁷ *Id.*

¹⁸ *Id.*, 27.

¹⁹ *Id.*, 28-29.

²⁰ *Id.*, 28.

²¹ *Id.*, 28-29.

²² *Id.*, 29-30.

²³ Nerd Wallet, “Q&A: The New Student Loan Income-Driven Repayment Account Adjustment,” Anna Helhoski May 17, 2024, <https://www.nerdwallet.com/article/loans/student-loans/idr-waiver>.

Because those payments would have counted under the IDR Account Adjustment, this was inaccurate, contrary to clear ED regulations.²⁴

AFT's lawsuit is not the only litigation alleging serious missteps by MOHELA. Just last week, California borrowers and the Project on Predatory Student Lending filed a separate lawsuit alleging that MOHELA systematically denied debt relief to borrowers who were the victims of school misconduct.²⁵ The lawsuit alleges that, after ED announced it would discharge federal student loans for former students of six predatory for-profit institutions,²⁶ MOHELA continues to report full balances on these accounts and refuses to process authorized refunds.²⁷ Until recently, according to PPSL's complaint, MOHELA even demanded payments from borrowers on their cancelled loans and provided inaccurate information about borrowers' discharge status.²⁸

Under MOHELA's federal contract, the company has received \$1.1 billion to date to service student loans for 8 million borrowers.²⁹ But what appear to be careless, blatant, and harmful violations of ED guidance exposed by the AFT and PPSL suits, suggest, once again, that MOHELA cannot be trusted to meet its contractual obligations as a federal student loan servicer. While we are encouraged by the work the Department has done to hold MOHELA accountable, including withholding \$7.2 million in payments from MOHELA last October³⁰ and announcing the transfer of one million borrower accounts away from MOHELA this past April,³¹ we urge you to take even greater measures to protect borrowers from MOHELA's abuses.

Given the new allegations raised in the AFT and PPSL suits, along with the concerns we already raised to ED in our May 2024 letter about MOHELA's billing errors, poor customer service record, and decisions to avoid public and private accountability at every turn, we request that ED immediately conduct an evaluation of MOHELA's fulfillment of its contractual obligations as a servicer, share key data with our offices and federal and state regulators, and act quickly to apply corrective measures—including the potential termination of MOHELA's federal contract if such

²⁴ *Id.*

²⁵ Project on Predatory Student Lending, "Student Borrowers Sue MOHELA for Failing to Implement Student Loan Discharges," press release, September 5, 2024, <https://www.ppsl.org/news/student-borrowers-sue-mohela-for-failing-to-implement-student-loan-dischargesnbsp>.

²⁶ PPSL v. MOHELA, complaint, filed September 4, 2024, pp.6-8, https://static1.squarespace.com/static/62d6e418e8d8517940207135/t/66d9a7fca3407e76d8e33f74/1725540348854/240904+Maldonado+v+MOHELA+Complaint_FINAL.pdf.

²⁷ *Id.*, pp. 13-18.

²⁸ *Id.*

²⁹ American Federation of Teachers, "Embattled Student Loan Servicing Giant MOHELA Hit with Groundbreaking Consumer Protection Lawsuit for Failing 8 Million Student Borrowers," press release, July 22, 2024, <https://www.aft.org/press-release/embattled-student-loan-servicing-giant-mohela-hit-groundbreaking-consumer-protection>.

³⁰ U.S. Department of Education, "U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers," press release, October 30, 2023, <https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loanservicer-part-accountability-measures-harmed-borrowers>.

³¹ Business Insider, "More than 1 million student-loan borrowers could soon be transferred to a new company after their servicer requested a lighter load, the Education Department says," Ayelet Sheffey, April 29, 2024, <https://www.businessinsider.com/student-loan-borrowers-being-transferred-from-mohela-to-new-servicers-2024-4>.

action is justified. With this in mind, we request the following information by September 23, 2024:

1. On April 24, 2023, ED awarded contracts to five student loan servicers through the Unified Servicing and Data Solution (USDS) solicitation: Central Research; EdFinancial Services; Maximus Education; MOHELA; and Nelnet Diversified Solutions.³² Additionally, ED awarded Business Process Operations (BPO) contracts to servicers to assist with contact centers and manual processing.³³
 - a. How has MOHELA performed as compared to other servicers in fulfilling its responsibilities under the USDS contract? Please provide concrete data, including MOHELA’s SLA/SLO performance metrics, monthly traffic Light Scorecard, individualized Tier 1 and Tier 2 metrics, and regular and quarterly performance reports.
 - b. How has MOHELA performed as compared to other servicers in fulfilling its responsibilities under the BPO contract? Please provide concrete data on MOHELA’s quality and accuracy in conducting tasks, including interactions with customers and complaint handling, research, and responses.
 - c. Since these contracts began, how many complaints has ED received regarding MOHELA’s servicing failures as compared to other servicers?
 - d. Has ED received indications from the Consumer Financial Protection Bureau (CFPB) about the level of complaints from borrowers being serviced by MOHELA as compared to other servicers? If so, please explain what CFPB has shared with ED.
2. In a press release, ED stated that, under the USDS contracts, “servicers that provide unsatisfactory or untimely service will face financial disincentives.”³⁴
 - a. Has MOHELA provided “unsatisfactory of untimely service” since the initiation of its contract in April 2023? Has MOHELA faced any financial disincentives as a result?

³² U.S. Department of Education, “U.S. Department of Education’s Office of Federal Student Aid Awards New Contracts to Five Companies to Serve Borrowers, Reduce Delinquency, and Improve Accountability,” press release, April 24, 2023, <https://www.ed.gov/news/press-releases/us-department-educations-office-federal-student-aid-awards-new-contracts-five-companies-serve-borrowers-reduce-delinquency-and-improve-accountability>.

³³ *Id.*

³⁴ *Id.*

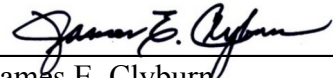
- b. ED stated that it withheld \$7.2 million from MOHELA for sending late or no billing statements to 2.5 million borrowers, declining to pay for work that was not completed. Does ED consider this to be “unsatisfactory or untimely service”? Has MOHELA faced any financial disincentives as a result?

We look forward to hearing from you in response to these questions and continuing to work alongside you to hold MOHELA accountable to its obligations for America’s student borrowers.

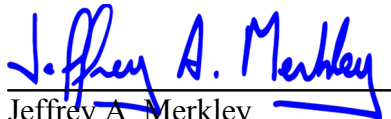
Sincerely,



Elizabeth Warren
United States Senator



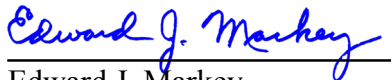
James E. Clyburn
Member of Congress



Jeffrey A. Merkley
United States Senator



Bernard Sanders
United States Senator



Edward J. Markey
United States Senator



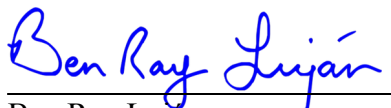
Peter Welch
United States Senator



Chris Van Hollen
United States Senator



Richard Blumenthal
United States Senator



Ben Ray Lujan
United States Senator



Mazie K. Hirono
United States Senator



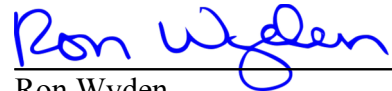
Sherrod Brown
United States Senator



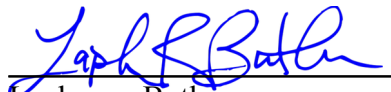
Tammy Duckworth
United States Senator



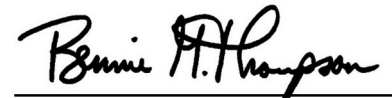
Raphael Warnock
United States Senator



Ron Wyden
United States Senator



Laphonza Butler
United States Senator




Bennie G. Thompson
Member of Congress



Jahana Hayes
Member of Congress



Barbara Lee
Member of Congress



Andrea Salinas
Member of Congress



Alma S. Adams, Ph.D.
Member of Congress



Lloyd Doggett
Member of Congress



Andy Kim
Member of Congress



Katie Porter
Member of Congress



Nikema Williams
Member of Congress



Ilhan Omar
Member of Congress



Troy Carter
Member of Congress



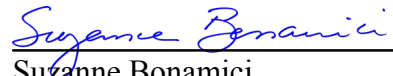
Frederica S. Wilson
Member of Congress



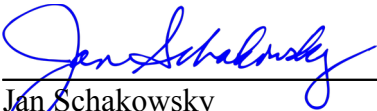
Maxine Waters
Member of Congress



Timothy M. Kennedy
Member of Congress



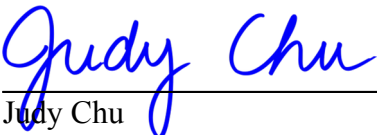
Suzanne Bonamici
Member of Congress



Jan Schakowsky
Member of Congress



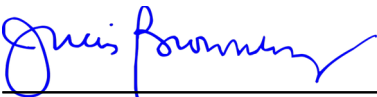
Eleanor Holmes Norton
Member of Congress



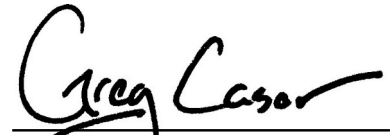
Judy Chu
Member of Congress



James P. McGovern
Member of Congress



Julia Brownley
Member of Congress



Greg Casar
Member of Congress



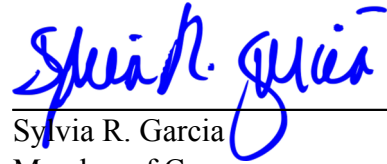
Jamaal Bowman, Ed.D.
Member of Congress



Mark DeSaulnier
Member of Congress




Pramila Jayapal
Member of Congress




Sylvia R. Garcia
Member of Congress



Dan Goldman
Member of Congress



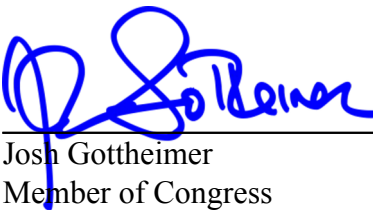
Mark Takano
Member of Congress



Robert Garcia
Member of Congress



Steve Cohen
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Josh Gottheimer
Member of Congress



Jamie Raskin
Member of Congress



Ayanna Pressley
Member of Congress



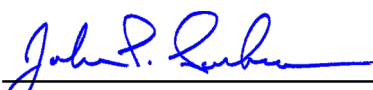
Gwen S. Moore
Member of Congress



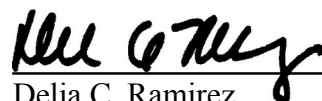
Jared Huffman
Member of Congress



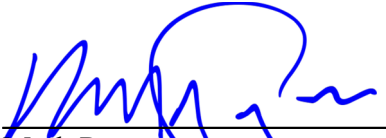
Val Hoyle
Member of Congress




John P. Sarbanes
Member of Congress



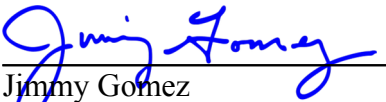
Delia C. Ramirez
Member of Congress



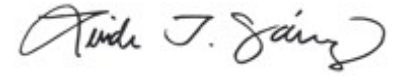
Mark Pocan
Member of Congress



Madeleine Dean
Member of Congress



Jimmy Gomez
Member of Congress



Linda T. Sánchez
Member of Congress