



MEMORANDUM

December 2020

TO: Stakeholders
FROM: Student Borrower Protection Center

RE: Manipulation of Cohort Default Rate (CDR) and Other Illegal “Default Aversion” by Third-Party Contractors

Specialized student loan companies routinely counsel student loan borrowers about repayment options, targeting borrowers who are experiencing financial distress. Unlike traditional student loan servicers that accept and process payments on behalf of creditors (e.g. Nelnet and FedLoan Servicing), the specialty student loan companies described below advise borrowers about repayment options but do not manage borrowers’ loan accounts. As described below, these third-party firms perform these services either on behalf of schools, including for-profit colleges, or on behalf of creditors.

- **Default Prevention and For-Profit Colleges.** In December 2020, the Student Borrower Protection Center released an issue brief detailing the use of third-party firms by for-profit schools to engage in student loan “default prevention,” manipulating a key federal accountability metric tracked by the U.S. Department of Education. This metric, known as the “cohort default rate” or “CDR,” tracks the share of former students with federal student loans who default on their debts over a three year period. If schools’ CDR metrics exceed a specific threshold set by the Department of Education, these schools forfeit eligibility to offer federal grants and loans to students—the key source of revenue for the for-profit school industry.
- **Default Aversion and Federally Guaranteed Student Loans.** Similarly, many of these same firms engage in a practice known as “default aversion” on behalf of the private-sector creditors that own older, federally guaranteed student loans made through the now-defunct Federal Family Education Loan Program (FFEL). Unlike the default prevention services performed on behalf of for-profit schools, default aversion services are expressly authorized under federal law and may only be carried out pursuant an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)).

A growing body of evidence suggests that these third-party firms, providing “default aversion” and “default prevention” services, routinely steer student loan borrowers into high-cost student loan repayment options.¹ Consumer protection stakeholders in and out of government should take immediate action to investigate these abuses, evaluating whether the counseling provided by these firms unfairly or deceptively steers borrowers into selecting forbearance when these borrowers are contacted because they are struggling to manage student loan payments.

¹ See Student Borrower Prot. Ctr., *Affirming Accountability: How the Biden Administration Can Stop the Shady Companies Helping For-Profit Colleges Evade Responsibility for Driving Students Into Default* (Dec. 2020), www.protectborrowers.org/cdr_manipulation; Student Borrower Prot. Ctr., *What it means to be a student loan servicer: Guaranty Agency edition* (Mar. 2019), <https://protectborrowers.org/what-it-means-to-be-a-student-loan-servicer-guaranty-agency-edition/>.

By prioritizing short-term repayment options that may not be in borrowers' financial interests, rather than enrolling borrowers in income-driven repayment plans, these firms are potentially engaged in similar illegal practices to those identified by CFPB and the states of the Illinois, Washington, Pennsylvania, California, New Jersey, New York, Massachusetts, and Mississippi against the largest student loan companies, including Navient.²

Law enforcement officials and regulators should investigate CDR manipulation by for-profit schools and third-party service providers. To assist in this effort, SBPC has developed a model information request attached to this memorandum. [TAB 1].

Attachment: [TAB 1] Information Request/Civil Investigative Demand

² See, e.g. Consumer Fin. Prot. Bureau v. Navient Corp., No. 17-cv-00101, 2017 U.S. Dist. LEXIS 123825 (M.D. Pa. Aug. 4, 2017), Complaint, Pa. v. Navient Corp., No. 3:17-cv-1814-RDM (M.D. Pa. June 19, 2019), <https://www.attorneygeneral.gov/wp-content/uploads/2018/01/PA-v.-Navient-Complaint-2017-10-6-Stamped-Copy.pdf>; Complaint, Cal. v. Navient Corp., No. CGC-18-567732 (Cal. Oct. 16, 2018), https://oag.ca.gov/system/files/attachments/press_releases/CA%20AG%20First%20Amended%20Complaint%20-%20Navient.pdf; Complaint, Ill. v. Navient Corp., No. 2017-CH-00761 (Ill. July 10, 2018), https://illinoisattorneygeneral.gov/pressroom/2017_01/NavientFileComplaint11817.pdf; Complaint, Miss. v. Navient Corp., No. G2108-98203 (Miss. July 24, 2018), <https://www.scribd.com/document/384612507/Navient-ComplaintFiled>; Complaint, Wash. v. Navient Corp., No. 17-2-01115-1 SEA (Wash. Jan. 18, 2017), <https://www.classaction.org/media/state-of-washington-v-navient-corporation-et-al.pdf>.

[TAB 1] Information Request/Civil Investigative Demand

Part One: Default Prevention

Internal Policies, Procedures, Scripts and Guidance for Call Center Personnel

- Please provide a complete list of all institutions of higher education on behalf of which [COMPANY] currently performs “default prevention” or “cohort default rate management” services.
- Please provide a complete list of all institutions of higher education on behalf of which [COMPANY] has performed “default prevention” or “cohort default rate management” services between 2010 and 2020.
- Please provide all current internal policies, procedures, scripts and other materials developed by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default prevention” or “cohort default rate management” services performed by [COMPANY], on behalf of an institution of higher education.
- Please provide all historical internal policies, procedures, scripts and other materials developed by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default prevention” or “cohort default rate management” services performed by [COMPANY], on behalf of an institution of higher education, in use between 2010 and 2020.
- Please describe and provide all relevant internal policies and procedures related to the current compensation and incentive structure implemented by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default prevention” or “cohort default rate management” services performed by [COMPANY], on behalf of an institution of higher education.
- Please describe and provide all relevant internal policies and procedures related to historical compensation and incentive structures implemented by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default prevention” or “cohort default rate management” services performed by [COMPANY], on behalf of an institution of higher education, in use between 2010 and 2020.

Nationwide Data

- How many borrowers nationwide received “default prevention” or “cohort default rate management” services performed by [COMPANY], pursuant to an agreement with an institution of higher education, between July 1, 2019 and June 30, 2020?
 - Of those borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many were placed in forbearance?
 - Of those borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many enrolled in an Income-Driven Repayment plan (IDR)?
- For each student aid year (July 1-June 30) between 2010 and 2020, How many borrowers nationwide received “default prevention” or “cohort default rate management” services performed by [COMPANY] pursuant to an agreement with an institution of higher education?
 - Of those borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many avoided default by enrolling in forbearance?



- Of those borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many avoided default by successfully enrolling in an Income-Driven Repayment plan (IDR)?

State Data

- How many borrowers in [STATE] received “default prevention” or “cohort default rate management” services performed by [COMPANY], pursuant to an agreement with an institution of higher education, between July 1, 2019 and June 30, 2020?
 - Of those borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many how many were placed in forbearance?
 - Of those borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many avoided default by successfully enrolling in an Income-Driven Repayment plan (IDR)?
- For each student aid year (July 1-June 30) between 2010 and 2019, How many borrowers in [STATE] received “default prevention” or “cohort default rate management” services performed by [COMPANY] pursuant to an agreement with an institution of higher education?
 - Of those [STATE] borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many were placed in forbearance?
 - Of those [STATE] borrowers who received “default prevention” or “cohort default rate management” services performed by [COMPANY] over this period, how many avoided default by successfully enrolling in an Income-Driven Repayment plan (IDR)?
- How many times did the U.S. Department of Education personnel conduct an on-site review of [COMPANY]'s default aversion work in 2020? Between 2010 and 2020?
 - If such a review occurred, did U.S. Department of Education personnel review or monitor individual phone calls between borrowers and [COMPANY]?

Part Two: Default Aversion

Internal Policies, Procedures, Scripts and Guidance for Call Center Personnel

- Please provide all current internal policies, procedures, scripts, and other materials developed by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default aversion” services performed by [COMPANY], pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)).
- Please provide all historical internal policies, procedures, scripts and other materials developed by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default aversion” services performed by [COMPANY], pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)), in use between 2010 and 2020.
- Please describe and provide all relevant internal policies and procedures related to the current compensation and incentive structure implemented by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default aversion” services performed



by [COMPANY], pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)).

- Please describe and provide all relevant internal policies and procedures related to historical compensation and incentive structures implemented by [COMPANY] to govern interactions between [COMPANY] personnel and student loan borrowers related to “default aversion” services performed by [COMPANY], pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)), in use between 2010 and 2020.

Nationwide Data

- How many borrowers nationwide received "default aversion" services performed by [COMPANY], pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)), between July 1, 2019 and June 30, 2020?
 - Of those borrowers who received "default aversion" services performed by [COMPANY] over this period, how many were enrolled in forbearance as a result?
 - Of those borrowers who received "default aversion" services performed by [COMPANY] over this period, how many enrolled in an Income-Driven Repayment plan (IDR)?
- For each student aid year (July 1-June 30) between 2010 and 2019, How many borrowers nationwide received "default aversion" services performed by [COMPANY] pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b))?
 - Of those borrowers who received "default aversion" services performed by [COMPANY] over this period, how many were enrolled in forbearance as a result?
 - Of those borrowers who received "default aversion" services performed by [COMPANY] over this period, how many enrolled in an Income-Driven Repayment plan (IDR)?

State Data

- How many borrowers in [STATE] received "default aversion" services performed by [COMPANY], pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b)), between July 1, 2019 and June 30, 2020?
 - Of those borrowers who received "default aversion" services performed by [COMPANY] over this period, how many were enrolled in forbearance as a result?
 - Of those borrowers who received "default aversion" services performed by [COMPANY] over this period, how many were enrolled in an Income-Driven Repayment plan (IDR)?
- For each student aid year (July 1-June 30) between 2010 and 2020, How many borrowers in [STATE] received "default aversion" services performed by [COMPANY] pursuant to an agreement with the United States Secretary of Education under Section 428(b) of the Higher Education Act of 1965 (20 U.S.C. Sec. 1078(b))?
 - Of those [STATE] borrowers who received "default aversion" services performed by [COMPANY] over this period, how many were enrolled in forbearance as a result?
 - Of those [STATE] borrowers who received "default aversion" services performed by [COMPANY] over this period, how many enrolled in an Income-Driven Repayment plan (IDR)?



- How many times did the U.S. Department of Education personnel conduct an on-site review of [COMPANY]'s default aversion work in 2020? Between 2010 and 2020?
 - If such a review occurred, did U.S. Department of Education personnel review or monitor individual phone calls between borrowers and [COMPANY]?