August 11, 2022

The Honorable Miguel Cardona
Secretary
United States Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Dear Secretary Cardona:

We are State Student Loan Ombudspersons writing to you on behalf of the student loan borrowers we serve from the seven states and the District of Columbia. We urge you to take immediate action to implement the entirety of the Stop Student Debt Relief Scams Act of 2019 ("STOP Act"),[1] particularly the provisions that provide for authorized third-party access to borrowers' federal student aid data by their advocates.

As background, when Congress passed the STOP Act, it intended to crack down on debt relief scammers and imposed criminal penalties on third parties who obtained data about a borrower held by the U.S. Department of Education ("ED") by using that borrower's FSA ID and password to access ED websites. Congress intended that ED would create a third-party data-access system so that advocates could directly obtain borrowers' student loan information without asking the borrower to provide them with the data.[2] The STOP Act stated that it would take effect on June 20, 2021 (180 days after December 22, 2020).[3] As of this date in August 2022, over a year later, ED has failed to create a third-party access system for student loan borrower advocates.

ED must immediately implement the third-party data access, particularly considering the impending restart of loan repayment for millions of Americans and the programs ED has recently announced to address longstanding failures of the federal loan repayment system, including the Limited Public Service Loan Forgiveness (PSLF) Waiver, the One-Time PSLF Income-Driven Repayment Adjustment ("One-Time Adjustment"), and "Fresh Start" Program. Even before these major changes, we have counseled thousands of federal student loan borrowers about their rights to an administrative discharge, IDR plans, default resolution options, and many other topics. The recent changes will substantially increase the number of borrowers seeking our help

[1] Pub. L. No. No. 116-251; 134 Stat. 1129.
[2] Public Law 116-251, Sec. 4(e)(2)(B) ("An authorized person or entity described in this paragraph means a licensed attorney representing a student, borrower, or parent, or another individual who works for a Federal, State, local or Tribal government or agency, or for a nonprofit organization, providing financial or student loan repayment counseling to a student, borrower or parent.")
[3] Public Law 116-251, Sec. 6.

to determine what steps they must take to access ED's remedial programs and enter repayment in the best possible position.

We Ombudspersons rely on borrowers' National Student Loan Database System (NSLDS) data—a data system created by ED—to discern how many loans a borrower has, when each loan was originated, what school(s) a borrower attended, what types of federal loans they have, who owns the loans, who their servicers are, the repayment history and status of each loan, and other critical information needed to assist borrowers. Much of this information is only available from NSLDS.

It is difficult for borrowers to download NSLDS data as it requires several steps. Borrowers must have an internet connection, remember their login information, log in to Federal Student Aid, navigate to their personal "dashboard," find and click on the "download aid data" link, download the file as a "txt" file and then email it as an attachment to their advocate. These steps are not possible on a smartphone and must be done on a computer, creating a barrier for many borrowers. Yet, this information is necessary for an advocate to provide competent and accurate guidance to a borrower, particularly about their eligibility for an administrative discharge, IDR plans, or getting out of default. Without this vital information from NSLDS, we are extremely limited in the timely guidance we can offer borrowers in our jurisdictions.

NSLDS information is also key to determining whether a borrower must consolidate to access ED's recently announced remedial programs, including the Limited PSLF Waiver and the One-Time Adjustment. For example, although borrowers who have commercially-held Federal Family Education Loans (FFELs) must consolidate into the Direct Loan Program to benefit from the One-Time Adjustment, it is very difficult for a borrower to determine if their FFEL is owned by the Department or a commercial lender unless they access their NSLDS data.

The most vulnerable borrowers, such as those who are elderly, disabled, low-income, or experiencing housing insecurity, job loss, and other traumas, do not have internet access and/or cannot navigate an interactive website like studentaid.gov. Older borrowers and borrowers with disabilities in particular, may not have the experience or physical ability necessary to access, download, and share their NSLDS data with us or to check it consistently for necessary updates.

A complete and comprehensive overview of a borrower's federal aid history cannot reasonably be obtained through other means. Servicers often do not have the borrower's complete loan history—especially when there has been a prior default or loan transfer, or when the borrower has loans held by multiple servicers. Moreover, servicers can take weeks, and sometimes months, to respond to requests for information. When working with vulnerable borrowers, time is of the essence. Some borrowers are facing imminent garnishments and offsets and waiting may be financially detrimental to them. Delays in obtaining information can mean, in the worst case, that the borrowers are unable to receive assistance at all.

ED has made it clear that it would like to "partner with state agencies to effectively oversee loan servicers and debt collectors" to protect student loan borrowers.[4] However, we have been asking ED for years to grant us access to NSLDS to enable us to be most effective. We are all state employees required under our respective state laws to advocate for and protect borrowers. Blocking our access to NSLDS is significantly impeding our ability to carry out the duties of our state laws and does not comport with ED's pledge to partner with state consumer protection agencies.

ED must do right by borrowers and their advocates and keep its promise to provide NSLDS access to advocates such as state student loan ombudsmen by immediately implementing the STOP Act's mandatory third-party access provision. We urge you to do so now.

Thank you for considering these comments.

Sincerely,



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Washington Student Loan Advocate



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Student Loan Ombudsman
Mortgage Foreclosure and Mediation Program Manager
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[4] https://blog.ed.gov/2021/05/stronger-partnerships-with-state-allies-to-protect-student-borrowers/





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