



U.S. Department of Justice
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VIA CM/ECF

November 1, 2022

Michael E. Gans, Clerk
U.S. Court of Appeals for the Eighth Circuit
Thomas F. Eagleton Courthouse
111 South 10th Street
St. Louis, MO 63102

Re: *State of Nebraska, et al. v. Biden, et al.*, No. 22-3179 (8th Cir.)

Dear Mr. Gans,

The district court in this case held that the State of Missouri failed to meet “its burden to show that it can rely on harms allegedly suffered by” the Higher Education Loan Authority of the State of Missouri (MOHELA) to establish the State’s Article III standing to challenge the Secretary’s debt-relief action. Op. 12.

We write to inform the Court of the attached October 28, 2022, letter MOHELA sent to U.S. Representative Cori Bush that may have bearing on this matter. See Oct. 28, 2022 Letter, https://bush.house.gov/imo/media/doc/letter_to_hon_cori_bush.pdf. In response to an inquiry from Representative Bush, MOHELA’s letter clarifies that its “executives were not involved with the decision of the Missouri Attorney General’s Office to file for [a] preliminary injunction”; that MOHELA “has not had, and does not have, a contractual relationship or agreement with the Missouri Attorney General’s Office on any topic including as to student debt relief”; that MOHELA’s “only communications” with the Missouri Attorney General’s Office relating “to student debt relief” “is that the [Attorney General’s] Office recently filed a series of sunshine law requests on MOHELA seeking copies of documents relative to MOHELA’s federal loan servicing contract”; that MOHELA “does not exist to make profits”; and that MOHELA is “committed to meeting the expectations and requirements as directed and administered by [the U.S. Department of Education’s Office of] Federal Student Aid.” Letter 1-2.

Sincerely,

Brian M. Boynton
Principal Deputy Assistant Attorney General

Michael S. Raab
Sarah Carroll
/s/ Courtney L. Dixon
Courtney L. Dixon
Simon C. Brewer
Attorneys, Appellate Staff
Civil Division

cc: all counsel (by CM/ECF)



October 28, 2022

The Honorable Cori Bush
1st District, Missouri
563 Cannon HOB
Washington, D.C. 20515

Dear Representative Bush:

This letter is in response to your letter dated October 18, 2022, regarding the involvement of the Higher Education Loan Authority of the State of Missouri (MOHELA) in certain aspects of federal education loan programs.

By way of background, MOHELA was created by state statute and is a public instrumentality of the State of Missouri. As a governmental entity, it is nonprofit and does not have shareholders. Any available funds above its operating needs and reasonable reserves are devoted by MOHELA to student financial aid. MOHELA has been involved with federal education loan programs since 1982 and has always been committed to providing borrowers with a first-rate experience.

MOHELA became a federal loan servicer for the U.S Department of Education, Office of Federal Student Aid (Federal Student Aid) in October 2011. By the Fall of 2021 MOHELA had grown to provide student loan services for over 2.7 million student loan recipients with a staff of over 500 employees. In the last year, for a variety of reasons, MOHELA has been asked by FSA to take on the loan servicing of greatly increased numbers of federal loans. MOHELA has increased its staffing dramatically to over 2,500 staff because of the loan volume. As discussed further below, a principal reason for the increase in MOHELA loan volume is because it recently assumed the servicing of loans eligible for Public Service Loan Forgiveness (PSLF). Federal Student Aid needed a solution with the resignation of the loan program's long-time loan servicer. FSA turned to MOHELA to become the servicer of PSLF loans on July 1, 2022.

In response to your specific questions, please refer to the responses below:

1. What is the extent of MOHELA executives' involvement with the Missouri Attorney General's office decision to file the preliminary injunction filed in federal court on September 29, 2022?

MOHELA's executives were not involved with the decision of the Missouri Attorney General's Office to file for the preliminary injunction in federal court on September 29, 2022.

2. What is the nature of MOHELA's relationship with the Missouri Attorney General's office? Please provide any contractual agreements, correspondence, or communication between the two parties as it relates to student debt relief?

MOHELA endeavors to have a professional and respectful relationship with the offices of all federal and state elected officials, including with the Missouri Attorney General's Office. MOHELA has not had, and does not have, a contractual relationship or agreement with the Missouri Attorney General's Office on any topic including as to student debt relief. The only communications between MOHELA and that Office as it relates to student debt relief, is that the Office recently filed a series of sunshine law requests on MOHELA seeking copies of documents

relative to MOHELA's federal loan servicing contract. The requests were dated August 26, 2022, September 2, 2022, and October 4, 2022.

3. Is MOHELA supporting efforts to block millions of borrowers from accessing President Biden's debt relief plan in an effort to preserve its own profits?

MOHELA is faithfully fulfilling its obligations pursuant to its federal loan servicing contract. As mentioned above, MOHELA is a public instrumentality of the state. As a governmental entity it does not have shareholders and does not exist to make profits. Any available funds above reasonable operating needs and reserves are devoted by MOHELA to student financial aid.

4. Attorney's acting on your behalf argued before a federal judge that "MOHELA's revenue as a servicer of Direct Loan Program loans is a function of accounts it services. So when student loan balances go to zero ... MOHELA will lose the revenue from servicing those student loans." This suggests that it is not in your financial interest for borrowers to have their loan cancelled through the PSLF program. What steps are your company taking to ensure that this clear conflict of interest is remedied and does not result in borrowers losing out on relief?

MOHELA is a public instrumentality with a mission including serving student loan borrowers. It is a nonprofit entity with its available funds in excess of operating expenses and reserves being devoted by MOHELA to student financial aid. MOHELA became the Public Service Loan Forgiveness (PSLF) program servicer on July 1, 2022, and fully understood that the existing and new borrowers entering into this program are expected to be forgiven under the limited PSLF waiver and beyond. In other words, MOHELA transitioned a program and portfolio for servicing understanding that the portfolio is expected to decrease and largely disappear. MOHELA is under a contract with Federal Student Aid, therefore there is no conflict of interest as we are committed to meeting the expectations and requirements as directed and administered by Federal Student Aid.

MOHELA believes that background will be helpful in understanding our response to this question and, more importantly, to address the questions raised in your letter about MOHELA's servicing practices regarding the PSLF loans. MOHELA was selected by Federal Student Aid to take over the servicing of the PSLF loans for a servicer who resigned. MOHELA took over the program a short time ago, on July 1, 2022, in the midst of a historic tidal wave of borrower interest in PSLF.

On Oct. 6, 2021, the U.S. Department of Education announced temporary changes to the PSLF program under the limited PSLF waiver to provide federal student loan borrowers with credit for past periods of repayment that would otherwise not qualify for PSLF. Within a matter of two weeks after becoming the PSLF servicer, large scale outreach initiatives were underway by the White House, Federal Student Aid and MOHELA to promote the limited PSLF waiver due to the waiver ending on October 31, 2022.

As a result of the overwhelming interest in this program and the waiver ending soon, MOHELA has been inundated with unprecedented "paper" application volume leading to substantial call volume. This extraordinary situation has been acknowledged by Federal Student Aid which has stated as follows on its website [StudentAid.gov](https://studentaid.gov):

"Due to the flexibilities offered under the limited PSLF waiver and this rare opportunity, there are unprecedented volumes of PSLF form submissions and consolidation applications. It will take time for the PSLF servicer to process all of the form submissions and make adjustments to your accounts."

We expect that it may take at least 90 business days for the PSLF servicer to process these forms. Many factors impact processing times, including if your loans were with another servicer and require a transfer, if the form had any missing fields such as an employer's EIN, the number of PSLF forms we receive, and if ED is reviewing your employer's eligibility, among other factors.

If the processing of your form is not complete until after Oct. 31, 2022, you will still receive the benefit of the limited PSLF waiver if your form is later approved.

In the meantime, you may receive several auto-generated communications from the PSLF servicer's system to inform you of intermittent actions such as your employment has been approved, the transfer of your loans is complete, or your consolidation has been processed. For the most up-to-date status of your payment count, we recommend periodically checking MOHELA's borrower portal for real-time actions. You may check the status of your form on [MOHELA's website](#)."

MOHELA as well as StudentAid.gov provide information about the PSLF process to aid borrowers in their self-service journey and we will continue to update information. We are dedicated to *processing* every form received within approximately 90 business days so that the PSLF borrowers waiting can receive their PSLF form decision. We continue to dramatically increase our current staff dedicated to supporting our Federal Servicing contract.

Please let us know if we can provide additional information to any of the information in this letter.

Sincerely –

MOHELA