April 10, 2024

U.S. Senate Committee on Banking, Housing, and Urban Affairs
538 Dirksen Senate Office Building
Washington, D.C. 20510

Testimony of Persis SiChing Yu, Student Borrower Protection Center before the U.S. Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on Economic Policy

RE: "MOHELA's Performance as a Student Loan Servicer"

Chairwoman Warren, Ranking Member Kennedy, and Members of the Committee, thank you for inviting me to testify today regarding MOHELA's Performance as a Student Loan Servicer. My name is Persis Yu and I am the deputy executive director and managing counsel of the Student Borrower Protection Center (SBPC). SBPC is a national nonprofit organization engaged in advocacy, policymaking, and litigation strategy to protect borrowers' rights, rein in industry abuses, and advance economic opportunity for the next generation of students.

Prior to joining SBPC, I was the director of the National Consumer Law Center's Student Loan Borrower Assistance Project where I co-authored the NCLC's legal treatise on Student Loan Law. I have more than a decade of experience providing direct representation to low-income student loan borrowers. My clients, and millions of others like them, took out student loans believing they are the key to a better future. But for many, that dream will never come to fruition because too many borrowers are unable to navigate the federal student loan system and their loan servicers fail to provide them with accurate information.

Currently in the United States, over 43 million people owe more than $1.6 trillion on their student loans.[1] Prior to the pandemic, roughly a quarter of federal borrowers were delinquent or in default on their loans.[2] For more than a decade, I have witnessed the financial devastation caused by borrowers falling through the cracks as a result of servicing failures and abuses.

[1] Fed. Student Aid Data Center, Federal Student Aid Portfolio Summary, https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.

[2] Fed. Student Aid Data Center, Portfolio by Loan Status (DL, FFEL, ED-Held FFEL, ED-Owned), https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xls; Fed. Student Aid Data Center, Portfolio by Delinquency Status (DL, ED-Held FFEL, ED-Owned) https://studentaid.gov/sites/default/files/fsawg/datacenter/library/DLPortfoliobyDelinquencyStatus.xls.

In February 2024, AFT and Student Borrower Protection Center (SBPC) released The MOHELA Papers—the results of a years-long investigation into the student loan servicing industry, highlighting previously unpublished documents produced by the Higher Education Loan Authority of the State of Missouri–better known as MOHELA—under Missouri open records laws. The report exposed a scheme to deny service to millions of working people with student debt.[3] As the federal student loan repayment system resumed and tens of millions of borrowers struggled to navigate the repayment system for the first time in three and a half years, MOHELA failed to provide adequate service to millions of borrowers.

MOHELA's Meteoric Rise within the Federal Student Loan System

MOHELA was created in 1981 by the Missouri legislature "to assure that all eligible postsecondary education students have access to student loans" and to support capital projects and technological innovation at Missouri colleges and universities.[4] Despite its legal independence, MOHELA is arguably most infamous for its central role in *Biden v. Nebraska*, in which the Supreme Court determined that the State of Missouri had standing to challenge President Biden's debt relief plan because of potential harm to MOHELA, leading to the denial of critical debt relief to 40 million federal student loan borrowers.[5]

But MOHELA's role in the $1.6 trillion federal student loan market goes beyond depriving borrowers of one-time debt relief. No longer a small Missouri-based company, MOHELA's portfolio has more than tripled in the past three years—springboarding it from a small not-for-profit servicer to one of the largest in the federal student loan system.[6] It now services the

---

[3] Student Borrower Prot. Ctr. & Am. Fed'n of Teachers, The MOHELA Papers: The Rise and Fall of the Student Loan System (2024), https://www.mohelapapers.org/_files/ugd/588c1d_3a7d1b423b2b44a7a9844942002471f5.pdf [hereinafter MOHELA Papers]. The analysis and commentary were informed by public records, borrower accounts, and thousands of pages of documents and records produced by the Missouri Higher Education Loan Authority, a state-backed student loan market participant that was awarded an exclusive contract to administer the PSLF program on behalf of the U.S. Department of Education. These documents and records were produced in response to requests made by the SBPC under state open records laws. This report was also informed by court filings, government reports, academic research, government data, and complaints submitted by individual student loan borrowers and published in the Consumer Financial Protection Bureau's (CFPB) public complaint database. Taken together, these sources of information reveal a deeply dysfunctional system created by the federal government's historical failure to faithfully execute the law as written and industry's efforts to maximize profits at the expense of borrowers' rights.

[4] Mo. Rev. Stat. § 173.360 (1981).

[5] *See* Biden v. Nebraska, 600 U.S. 477 (2023).

[6] *See* MOHELA Papers at Archive G; Letter from Wm. Anthony Hollin, Chairman & Exec. Officer, EdFinancial, to Sen. Elizabeth Warren, Sen. Chris Van Hollen, Sen. Sherrod Brown, Sen. Richard Blumenthal, Sen. Edward J. Markey, and Sen. Robert Menendez, U.S. Senate 44 (Aug. 1, 2023),

accounts of federal student borrowers in every state and is the sole servicer for borrowers seeking Public Service Loan Forgiveness (PSLF).[7]

MOHELA's original role in the federal student loan system was to service Federal Family Education Loans (FFEL)—loans made by private lenders but guaranteed by the federal government.[8] The FFEL program ceased to originate new loans in July 2010, but MOHELA still services some of the remaining FFELs.[9] Following the end of FFEL origination, the U.S. Department of Education (ED) became the only lender of federal student loans through its Direct Loan program.

As the bulk of the federal student loan system transitioned to ED, ED hired a new crop of servicers to manage its portfolio. The vast majority of loans were serviced by four main servicers, known as the Title IV Additional Servicers (TIVAS). They were: Sallie Mae (now Navient), Nelnet, Great Lakes, and the Pennsylvania Higher Education Assistance Agency (PHEAA), operating under the name FedLoan Servicing.[10] In addition to contracting with the TIVAS, the Department contracted with a number of smaller nonprofit student loan servicers, including MOHELA. These not-for-profit servicers (or NFPs as they were known) serviced a much smaller share of ED's portfolio.[11]

In response to the COVID-19 pandemic, Congress passed the CARES Act, which imposed a zero-interest, administrative forbearance, or "payment pause," for federal student loan borrowers, which following a number of administrative extensions, spanned three and a half years, from

https://www.warren.senate.gov/imo/media/doc/Servicers%20Responses.pdf; Fed. Student Aid Data Center, https://studentaid.gov/sites/default/files/fsawg/datacenter/library/servicer-portfolio-by-loan-status093023.xls.

[7] Public Service Loan Forgiveness Program Transitioning from FedLoan Servicing to MOHELA (Updated Dec. 14, 2022), Fed. Student Aid, (June 3, 2022), https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-06-03/public-service-loan-forgiveness-program-transitioning-fedloan-servicing-mohela-updated-dec-14-2022.

[8] Student loan servicers are private companies hired to administer, manage, bill, and collect on student loans by interfacing with student loan borrowers on behalf of the debt owner. *See* Commonly Asked Questions, U.S. Dep't of Educ., https://www2.ed.gov/about/offices/list/olca/fsa-casework-faqs.html (last visited Feb. 7, 2023); *see also*, Marketwired, *MOHELA Receives One Million Federal Student Loan Accounts in One Year*, Yahoo! Finance (Oct. 24, 2012), https://finance.yahoo.com/news/mohela-receives-one-million-federal-182308054.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAAQPOm0B9iIYulnh7SwDAQV-svqCDUR-TlaPuf1XRFqVr-K33IoWi9FrO-AHcjZQZzqUgTiRC9xBGVq1ZK-h6df3zQlKnQIgOrcgI1wpijIj0REo7gmQIo-DhXd3o87hp4CV_JcdSvslYjy7BlTGRBDC5OdM82ihAiHxlVnlkNuS.

[9] *See* Nat'l Consumer Law Ctr., Student Loan Law § 5.2.1.1 (7th ed. 2023), www.nclc.org/library.

[10] *Id.*

[11] *Id.*

March 2020 through September 2023.[12] That period was marked by a number of changes in the student loan servicing industry, and ED's unveiling of new programs. Notably, two of the four major TIVAS left federal student loan servicing during that time, Navient[13] and PHEAA,[14] in addition to a number of NFP servicers.[15] This mass departure of servicers led to MOHELA's rapid growth and eventual take-over of the entire Public Service Loan Forgiveness (PSLF) portfolio.[16]

Created by Congress in 2007, PSLF is a program that aims to encourage people to work in public service. In theory, it is supposed to forgive a borrower's remaining balance after they have been making payments on their loans for ten years (120 payments) while working for a qualifying employer (e.g. government or certain non-profit organizations).[17] This was intended to help alleviate the financial burden on public service workers as salaries in these fields were notably less than their private sector counterparts, and teachers and nurses still emerged from higher education with mountains of student debt but no means to pay it off. It was meant to give these borrowers a path to finally escape debts they would otherwise be stuck with for life.

By 2017, ten years into the program, forgiveness should have been flowing to thousands of public service workers. But in 2020, federal data revealed that the denial rate of PSLF applications reached as high as 99 percent.[18] Investigations revealed the then-PSLF servicer, PHEAA, was routinely engaging in practices that resulted in borrowers getting denied the

---

[12] Bradley D. Custer & Ella Azoulay, *Timeline: Federal Student Loans During the COVID-19 Pandemic*, The Center for American Progress (Aug. 9, 2022), https://www.americanprogress.org/article/timeline-federal-student-loans-during-the-covid-19-pandemic/.

[13] Zack Friedman, *Navient Ends Student Loan Contract — Here's What It Means For Your Student Loans*, Forbes (Sept. 28, 2021), https://www.forbes.com/sites/zackfriedman/2021/09/28/navient-to-end-federal-student-loan-servicing---heres-what-it-means-for-your-student-loans/?sh=66a35c2d6cc4.

[14] Danielle Douglas-Gabriel, *One of the nation's largest student loan servicers plans to cut ties with the Education Department*, The Washington Post (July 8, 2021), https://www.washingtonpost.com/education/2021/07/08/pheaa-ending-federal-student-loan-servicing/.

[15] Anna Helhoski and Eliza Haverstock, *CornerStone No Longer Servicing Federal Student Loans*, NerdWallet (Feb. 2, 2023), https://www.nerdwallet.com/article/loans/student-loans/cornerstone-student-loans (In addition to the departure of the servicers, Great Lakes was acquired by Nelnet).

[16] Katie Lobosco, *About 2 million people are about to get a new student loan servicer. Here's what you need to know*, CNN Politics (June 27, 2022 3:00 PM), https://www.cnn.com/2022/06/27/politics/fedloan-mohela-new-student-loan-servicer/index.html.

[17] Public Service Loan Forgiveness, Federal Student Aid, https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service.

[18] Press Release, Student Borrower Prot. Ctr., New Report Exposes More Than Five Million Student Loan Servicing Errors Hindering Public Service Loan Forgiveness (Oct. 13, 2020), https://protectborrowers.org/acs_investigation/.

benefits of PSLF[19]: it pushed borrowers into PSLF-ineligible payment plans, miscalculated payments, lost records, and improperly rejected borrowers' employment certification.[20] In 2021, following a 60 Minutes investigative report,[21] the administration enacted the PSLF Waiver, which provided that, for just one year, borrowers would receive credit for past periods of repayment that would otherwise not qualify for PSLF, bringing them closer to or across the finish line for relief.[22] PHEAA ended its contract with ED, and in June 2022, MOHELA decided to take on the PSLF portfolio knowing full well the demands of the portfolio.[23]

As a result of loan transfers due to servicer departures, MOHELA's portfolio more than tripled in less than three years—growing from 2.5 million borrowers in February 2020 to 8.4 million when payments resumed in the fall of 2023.[24]

---

[19] Letter from Mike Pierce, Exec. Dir., Student Borrower Prot. Ctr., to James Steeley, Chief Exec. Officer, Pennsylvania Higher Educ. Assistance Agency (Nov. 2, 2021), https://protectborrowers.org/letter-to-pheaa-warning-of-potential-consumer-protection-violations-related-to-pslf-implementation/; Press Release, Student Borrower Prot. Ctr., New Analysis: More Than 9 Million Public Service Workers with Federal Student Loans Eligible to Pursue Debt Cancellation, Fewer Than 2 Percent Have Received Relief, and Only 15 Percent On Track (June 9, 2022), https://protectborrowers.org/new-analysis-more-than-9-million-public-service-workers-with-federal-student-loans-eligible-for-debt-cancellation-fewer-than-2-percent-have-received-relief-and-only-15-percent-on-track/; https://protectborrowers.org/pheaa-ecf-denials/.

[20] Letter from Mike Pierce, Exec. Dir., Student Borrower Protection Ctr., to James Steeley, Chief Exec. Officer, Pennsylvania Higher Educ. Assistance Agency (Nov. 2, 2021), https://protectborrowers.org/letter-to-pheaa-warning-of-potential-consumer-protection-violations-related-to-pslf-implementation/; Press Release, Student Borrower Prot. Ctr. & Am. Fed'n of Teachers, AFT and SBPC Uncover New Evidence of Mismanagement and Abuse in Scandal-Plagued Public Service Loan Forgiveness Program (Aug. 12, 2020), https://protectborrowers.org/aft-and-sbpc-ecf-pslf/; Student Borrower Prot. Ctr. & Am. Fed'n of Teachers, Broken Promises: Employer Certification ~~Form~~ Failure (2020).

[21] Lesley Stahl, Military Members Promised Student Debt Relief in Exchange for Ten Years of Public Service Say Promise is Often Broken, 60 Minutes (Oct. 3, 2021), https://www.cbsnews.com/news/student-loan-debt-forgiveness-public-service-60-minutes-2021-10-03/.

[22] The Limited PSLF Waiver Opportunity Ended on Oct. 31, 2022, Fed. Student Aid, https://studentaid.gov/announcements-events/pslf-limited-waiver (last visited Feb. 7, 2023).

[23] Public Service Loan Forgiveness Program Transitioning from FedLoan Servicing to MOHELA (Updated Dec. 14, 2022), Fed. Student Aid, (June 3, 2022), https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2022-06-03/public-service-loan-forgiveness-program-transitioning-fedloan-servicing-mohela-updated-dec-14-2022.

[24] *See* MOHELA Papers at Archive G; Letter from Wm. Anthony Hollin, Chairman & Exec. Officer, EdFinancial, to Sen. Elizabeth Warren, Sen. Chris Van Hollen, Sen. Sherrod Brown, Sen. Richard Blumenthal, Sen. Edward J. Markey, and Sen. Robert Menendez, U.S. Senate 44 (Aug. 1, 2023), https://www.warren.senate.gov/imo/media/doc/Servicers%20Responses.pdf; Fed. Student Aid Data Center, https://studentaid.gov/sites/default/files/fsawg/datacenter/library/servicer-portfolio-by-loan-status093023.xls.

MOHELA's Performance During the Return to Repayment

In light of the unprecedented grip that MOHELA now has on the federal student loan system, it is critical to understand the impact all these changes are having on borrowers. In October 2023, during the first month of the return to repayment after the pause on federal student loan payments, ED announced it found widespread servicing failures.[25] In response to these findings, ED withheld a $7.2 million payment to MOHELA that was meant to cover loan servicing required under its federal contract but that the company never performed.[26] Also in October 2023, the New York Times reported that MOHELA miscalculated the SAVE payments for roughly 280,000 borrowers.[27] ED announced that it would place all affected borrowers in an interest-free forbearance and would count this time toward cancellation under PSLF and income-driven repayment (IDR) until the problem is resolved.[28] This news followed reports from borrowers who had been experiencing these issues and more.[29]

Reports from the CFPB just before the return to repayment also show cause for alarm. From July 1, 2022, through September 30, 2023, the CFPB received nearly 3,000 complaints about MOHELA, the most of any federal student loan servicer.[30] Of those complaints, over 1,400 (53

---

[25] Press Release, U.S. Dep't of Educ., U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers (Oct. 30, 2023), https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers.

[26] In contrast, in January 2024, ED announced it also withheld payments from Aidvantage ($2 million), EdFinancial ($161,000), and Nelnet ($13,000). *See* Press Release, U.S. Dep't of Educ., Biden-Harris Administration Takes Additional Action to Hold Student Loan Servicers Accountable for Failing to Meet Contractual Obligations (Jan. 5, 2024), https://www.ed.gov/news/press-releases/biden-harris-administration-takes-additional-action-hold-student-loan-servicers-accountable-failing-meet-contractual-obligations.

[27] Tara Siegel Bernard, More than 400,000 student loan borrowers had wrong monthly payments, The New York Times (Oct. 16, 2023), https://www.nytimes.com/2023/10/16/your-money/student-loans-save-mistakes.html.

[28] Press Release, Student Borrower Prot. Ctr., U.S. Department of Education Finds Widespread Servicing Failures Across the Student Loan System, Advocates Urge Follow-On Action By Law Enforcement (Oct. 30, 2023), https://protectborrowers.org/ed-finds-widespread-servicing-failures-advocates-urge-follow-on-action/.

[29] Ella Azoulay, Dropped Calls, Hours on Hold, and Unanswered Questions: Student Loan Borrower Call-In Day Shows Servicers Are Alarmingly Unprepared to Return to Repayment (Sept. 22, 2023), https://protectborrowers.org/call-in-day-of-action-blog/; Delivering Distress: How Student Loan Companies Cheat Borrowers Out of Their Rights, Student Borrower Prot. Ctr., https://protectborrowers.org/delivering-distress-report-series/.

[30] Consumer Complaint Database, Consumer Fin, Prot. Bureau, https://www.consumerfinance.gov/dataresearch/consumer-complaints/search/?chartType=line&company=MOHELA&dateInterval=Month&date_received_max=2023-09-30&date_received_min=2022-07-01&lens=Product&searchField=all&subLens=issue&t ab=Trends (last visited Feb. 7, 2024).

percent) fell under the following categories: received bad information about your loan, trouble with how payments are being handled, or incorrect information on your report. In its first year of being the sole PSLF servicer, MOHELA itself received 36,309 complaints.[31]

Beyond the issues identified by ED, the results of this investigation show that MOHELA is causing harm to hundreds of thousands of borrowers. MOHELA voluntarily entered the federal student loan servicing business and knew what it was signing up for when it took over PSLF accounts from PHEAA, essentially tripling its accounts overnight. It knew, well in advance, the Biden Administration's plans surrounding debt cancellation and return to repayment that would result in spiked activity among its customers.[32]

The MOHELA Paper Findings

The Biden Administration has made tremendous strides in its efforts to deliver debt relief to teachers, healthcare workers, and hundreds of thousands of other public service workers previously denied relief due to decades of government mismanagement and industry abuse. Where 99 percent of public service workers were once rejected and fewer than 8,000 people had ever received debt relief under PSLF, the government has now cancelled more than $62.5 billion for more than 872,000 borrowers working in public service.[33] In total, executive actions by the Biden Administration have delivered more than $146 billion in relief to nearly 4 million people.[34]

Our investigation shows that President Biden's historic progress is in peril.

[31] Letter from MOHELA to Sen. Elizabeth Warren at 45, (Aug. 8, 2023), https://www.warren.senate.gov/imo/media/doc/Servicers%20Responses.pdf.

[32] Email from Ben Fenwick, Senior Advisor, Student Experience & Aid Delivery, U.S. Dep't of Educ., Fed. Student Aid, to Contact Ctr. Colleagues, Fed. Student Aid (Nov. 19, 2022), https://protectborrowers.org/wp-content/uploads/2023/09/FSA-warning-email-to-servicers-2022.pdf.

[33] Student Borrower Prot. Ctr. & Am. Fed'n of Teachers, Keeping the Promise of Public Service Loan Forgiveness (2018), https://protectborrowers.org/wp-content/uploads/2020/01/SBPC-AFT-PSLF-Investigation.pdf; Press Release, the White House, President Joe Biden Outlines New Plans to Deliver Student Debt Relief to Over 30 Million Americans Under the Biden-Harris Administration (Apr. 8, 2024), https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/08/president-joe-biden-outlines-new-plans-to-deliver-student-debt-relief-to-over-30-million-americans-under-the-biden-harris-administration.

[34] Press Release, the White House, President Joe Biden Outlines New Plans to Deliver Student Debt Relief to Over 30 Million Americans Under the Biden-Harris Administration (Apr. 8, 2024), https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/08/president-joe-biden-outlines-new-plans-to-deliver-student-debt-relief-to-over-30-million-americans-under-the-biden-harris-administration/

As the federal student loan payment pause comes to an end and tens of millions of borrowers struggle to navigate a complicated and changing student loan system and stretch their budgets to make payment for the first time in three and a half years, MOHELA's actions are cause for alarm. Instead of performing basic servicing functions such as providing borrowers with access to correct information about their loans and options, and processing basic forms, MOHELA has chosen a complex "call deflection" scheme—a byzantine loop of misinformation and false promises.

The "call deflection" scheme diverts borrowers away from customer service representatives—often to non-operative parts of the MOHELA website[35]—even though many servicing functions can *only* be performed by a customer service representative.[36] To borrowers needing help getting into President Biden's new Saving on a Value Education (SAVE) plan, not being able to reach a customer service representative who can tell them about the program could cost the borrower hundreds, and as much as thousands of dollars over this next year.

As the sole servicer for the PSLF program, MOHELA's servicing failures particularly harm public service workers. The obtained documents uncover that MOHELA's processing of PSLF has prevented hundreds of thousands of borrowers from progressing towards relief. Specifically:

- **MOHELA allowed the PSLF backlog to explode, with most recent federal data showing over 800,000 unprocessed forms.** Federal data show that the backlog has grown under MOHELA. When MOHELA took over as the sole PSLF servicer in July 2022, there were roughly 250,000 unprocessed forms.[37] Since then, the backlog peaked at more than 1.2 million forms in January 2023 and has remained, according to most recent ED data, at roughly 800,000—trapping nearly one-in-three PSLF borrowers in this backlog.[38] For some, now that payments have resumed, each additional month their PSLF forms are not processed represents another unnecessary payment on debt that should have been cancelled.
- **MOHELA provided borrowers with incorrect payment counts**. Evidence shows that MOHELA has been incorrectly calculating the number of qualifying payments borrowers

[35] See MOHELA (Nov. 15, 2023), www.mohela.com, [https://web.archive.org/web/20231115105645/https://www.mohela.com/]; MOHELA (Dec. 12, 2023), www.mohela.com, [https://web.archive.org/web/20231212111348/https://www.mohela.com/].
[36] See MOHELA Papers at Archive C at 383-384.
[37] Public Service Loan Forgiveness Data, Fed. Student Aid Data Center, https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data.
[38] Public Service Loan Forgiveness Data, Fed. Student Aid Data Center, https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data.

have made towards PSLF. Borrowers pursuing PSLF are encouraged to submit PSLF forms annually and when changing employers.[39] MOHELA reviews these forms to ensure the employment qualifies. Then, MOHELA is supposed to inform the borrower of how many qualifying payments they have made, and of how many are left until they reach 120 payments. In 2022, the CFPB received more than 500 complaints about MOHELA, including many from borrowers who allege MOHELA provided incorrect payment counts.[40]

- **MOHELA is denying PSLF credit to public service workers with eligible employment.** In response to a request for all records related to PSLF denials by employers that MOHELA has produced for ED, the company produced a document on June 17, 2023, that shows that it denied nearly 5,000 borrowers and nearly 11,000 borrowers were in a "hold" status.[41] MOHELA sent denials to borrowers who worked at hundreds of qualifying employers including: California State University, state-operated and non-profit healthcare centers and hospitals, state and local governments, public libraries and schools, the U.S. Department of State, the U.S. Department of the Interior, the Departments of Veterans Affairs, Human Services, Homeland Security, and Defense.

Troublingly, the documents expose MOHELA's potential financial windfall for making improper denials: MOHELA is paid for each processed application—for the wrongful denial and then again for the approval—a backwards incentive.

MOHELA's customer service problems—including the "call deflection" scheme—exacerbated problems for both public service workers and vulnerable, often low-income, borrowers alike. Records showed that:

- **MOHELA borrowers were unable to reach customer service representatives to address errors.** During the final days of the waiver, while trying to get through to a MOHELA call center representative, one public service worker recorded that they were

---

[39] Public Service Loan Forgiveness Form, Fed. Student Aid, https://studentaid.gov/manage-loans/ forgiveness-cancellation/public-service/public-service-loan-forgiveness-application (last visited Feb. 8, 2024).

[40] SBPC Analysis of CFPB Complaints (on file). Readers should also note that hundreds of Individual borrowers, including AFT members attending student debt clinics, have documented improper payment counts, delays in receiving updated payment counts, and other payment counting errors at MOHELA over the past 18 months.

[41] *See* MOHELA Papers at Archive F. Hold status is not defined nor is any further explanation provided publicly by either MOHELA or FSA. *See also* What is the status of my Public Service Loan Forgiveness (PSLF) application?, Fed. Student Aid, https://studentaid.gov/help-center/answers/article/status-of-pslf-application; Public Service Loan Forgiveness, MOHELA https://www.mohela.com/DL/secure/borrower/PSLF/PSLFInformation.aspx#FormStatus.

on hold with the company for a full nine hours.[42] Other borrowers also reported waiting for hours on end at this time, during which MOHELA had an average call wait time of two hours.[43] In October 2023, MOHELA reported a 35 minute call wait time and an approximately 35 percent abandonment rate—number of borrowers placed on hold who hang up before they speak with a company representative.[44]

- **MOHELA miscalculated borrowers' payment amounts.** During the return to repayment, ED announced that it would withhold a $7.2 million payment to MOHELA after finding evidence of gross servicing errors.[45] In October 2023, it was revealed that more than 400,000 federal student loan borrowers were quoted an incorrect monthly bill amount—affecting just under 1.5 percent of all borrowers entering repayment.[46] Of those, 280,000 borrowers—or roughly 1 percent of all borrowers entering repayment—received incorrect bills because MOHELA calculated borrowers' payments utilizing the poverty guidelines from the wrong year.[47] These miscalculations were related to President Biden's new IDR payment plan, Saving on a Valuable Education (SAVE). The SAVE plan was introduced in 2023 as a new, more affordable option for borrowers; it replaced the existing REPAYE plan.[48] SAVE intended to increase the amount of protected income and lower borrowers' monthly payments.[49]
- **MOHELA lost borrowers' payments, refunds, and records.** MOHELA borrowers have reported making payments, not seeing the payment reflected in their account, and

[42] The Debt Collective (@StrikeDebt), X (formerly Twitter) (Oct. 20, 2022), https://twitter.com/StrikeDebt/status/1583295853649068032.

[43] Ayelet Sheffey, *Hours-long hold times with their student-loan company are keeping public servants in a 'limbo period' wondering if they'll get the debt relief they qualify for*, Business Insider (Oct. 22, 2022), https://www.businessinsider.com/student-loan-borrowers-cant-reach-company-mohela-pslf-debt-relief-2022-10.

[44] *See* MOHELA Papers at Archive H.

[45] Press Release, U.S. Dep't of Educ., U.S. Department of Education Announces Withholding of Payment to Student Loan Servicer as Part of Accountability Measures for Harmed Borrowers (Oct. 30, 2023), https://www.ed.gov/news/press-releases/us-department-education-announces-withholding-payment-student-loan-servicer-part-accountability-measures-harmed-borrowers; Press Release, Student Borrower Prot. Ctr., U.S. Department of Education Finds Widespread Servicing Failures Across the Student Loan System, Advocates Urge Follow-On Action By Law Enforcement (Oct. 30, 2023), https://protectborrowers.org/ed-finds-widespread-servicing-failures-advocates-urge-follow-on-action/.

[46] Tara Siegel Bernard, *More than 400,000 student loan borrowers had wrong monthly payments*, The New York Times (Oct. 16, 2023), https://www.nytimes.com/2023/10/16/your-money/student-loans-save-mistakes.html; Danielle Douglas-Gabriel, *Rollout of Biden's new student loan repayment plan hits early snags,* The Washington Post, (Oct. 7, 2023), https://www.washingtonpost.com/education/2023/10/07/save-student-loan-payment-errors/.

[47] Siegel Bernard, *supra* note 85.

[48] The Saving on a Valuable Education (SAVE) Plan Offers Lower Monthly Loan Payments, Fed. Student Aid, https://studentaid.gov/announcements-events/save-plan.

[49] *Id.*

contacting the company, to be told there is no record of the payment.[50] This also happened with refunds: borrowers would request a refund of a payment or overpayment made during the payment pause, and the amount would be added back to the balance but the borrower would wait months for a check that never arrived.[51] Others reported submitting their annual IDR recertification or PSLF forms, and MOHELA subsequently claiming to have never received them.[52] MOHELA has also claimed to not have full loan histories due to servicer transfers or, as noted by at least one borrower, it responds to complaints by blaming FSA.[53]

- **MOHELA misinformed borrowers about their options.** MOHELA's own website illustrates the bad information that many borrowers are receiving.[54] In the screenshot on page 24 of the Report, the borrower had inquired about consolidating her Parent PLUS loans and maintaining her credit towards PSLF. MOHELA inaccurately informed her that if she consolidated her loans, she would "lose all PSLF qualifying payments" that she had at the time. Had she heeded this false warning and not sought confirmation from other sources, this borrower would have missed her opportunity to consolidate and apply her PSLF credit to all of her loans through the Biden Administration's IDR Account Adjustment program.

[50] The details of these experiences were shared by borrowers who reached out to SBPC via our website. Contact Us, Student Borrower Protection Ctr., https://protectborrowers.org/who-we-are/contact-us/.

[51] Ayelet Sheffey, *A student-loan borrower was promised a $5,000 refund on payments after Biden's broad debt relief. Months later, she's still waiting — and no one is picking up the phone to help*, Business Insider (May 19, 2023), https://www.businessinsider.com/student-loan-borrower-still-waiting-for-refund-mohela-debt-relief-2023-3; Kaitlyn Koterbski, *Student loan borrowers who requested refunds after forgiveness announcement are still waiting*, Fortune (Sept. 30, 2022), https://fortune.com/2022/09/30/student-loan-borrowers-who-requested-refunds-after-forgiveness-announcement-are-still-waiting/.

[52] The details of these experiences were shared by borrowers who reached out to SBPC via our website. Contact Us, Student Borrower Protection Ctr., https://protectborrowers.org/who-we-are/contact-us/.

[53] Dawn Allcot, *New Student Loan Problems: Prepare for Lost Payments, Surprise Late Fees as Contracts Change Hands*, Yahoo! Finance (June 27, 2023), https://finance.yahoo.com/news/student-loan-problems-prepare-lost-113053325.html; Mohela Missing 3.5 years of payments. What do I do?, Reddit, https://www.reddit.com/r/PSLF/comments/xg1ruy/mohela_missing_35_years_of_payments_what_do_i_do/.

[54] *See* MOHELA (Nov. 15, 2023), www.mohela.com, [https://web.archive.org/web/20231115105645/https://www.mohela.com/]; MOHELA (Dec. 12, 2023), www.mohela.com, [https://web.archive.org/web/20231212111348/https://www.mohela.com/].

MOHELA's Call Deflection Scheme Ensures Servicing Failures Go Unresolved

MOHELA's Return to Repayment "Playbook" spells out its plan to manage high call volume through a "call deflection" scheme, intentionally giving borrowers the run-around instead of proper customer service.[55] In the Playbook, call deflection is the prime strategy used in each of the ten phases of the return to repayment. According to responsive documents from a November 1, 2023, sunshine law request, MOHELA instructs its call center representatives to use "call deflection strategies," such as directing borrowers to MOHELA's website, to FSA's website, or other self-service options, rather than providing live customer service from a call center representative.[56]

In response to an FSA query on deflection and what messages the agency should communicate, MOHELA responded that ED should "[e]xclude any phone numbers to call into on all communications" and "Avoid phrases such as call or chat with your servicer."[57] In internal correspondence, MOHELA's General Counsel expressed concern over the potential public backlash should evidence of MOHELA's "call deflection" strategy become public.[58]

However, MOHELA is "deflecting" borrowers to incomplete resources. For example, a borrower cannot get all the information they need about their loans on FSA's website alone, such as detailed payment history. And MOHELA's website is missing huge swaths of information about programs and options available to borrowers, including President Biden's on-ramp to repayment and Fresh Start. Even as MOHELA instructs its representatives to "deflect" borrowers to its website, the aforementioned documents acknowledge that the website was incomplete, with a number of "enhancements in progress."[59] In fact, from November 15 to December 12, 2023, MOHELA warned borrowers visiting its website, stating, "you may be experiencing issues while logging in."[60]

Further, MOHELA's own documents show that many borrower questions simply cannot be deflected.[61] For example, questions about the IDR Account Adjustment are specific to individual

---

55 *See* MOHELA Papers at Archive H.
56 *See id.* at Archive C at 43.
57 *See id.* at Archive C at 379.
58 *See id.* at Archive C at 520.
59 *Id*.
60 *See* MOHELA (Nov. 15, 2023), www.mohela.com, [https://web.archive.org/web/20231115105645/https://www.mohela.com/]; MOHELA (Dec. 12, 2023), www.mohela.com, [https://web.archive.org/web/20231212111348/https://www.mohela.com/].
61 *See* MOHELA Papers at Archive C at 383-384.

borrower circumstances, yet MOHELA's Return to Repayment Communications Playbook created specific messaging to deflect borrowers with questions about the adjustment.[62]

Internal MOHELA documents identified 28 topics for which there are no self-service options for borrowers, such as refunds, credit concerns including disputes, administrative forbearance, TEACH grant servicing, and PSLF reconsideration, and so borrowers calling about these topics could not be served through deflection.[63] Moreover, the "deflection strategies" does nothing for the borrower who wants someone to explain the different repayment plans to them. Because of MOHELA's call deflection scheme, borrowers who experience any of the issues or obstacles identified in this report may never see a resolution.

MOHELA's Abuses in the Context of Historical Servicing Abuses

The abuses by MOHELA during the return to repayment have proliferated because of the lax oversight of an ecosystem where servicers have historically prioritized profits at the expense of borrowers' rights. Prior to the pandemic, the student debt system was in crisis—marked by widespread economic distress, government inaction, endemic corruption, and a shocking range of abuses by some of the largest financial companies in the world.

[62] *See id.* at Archive H at 8.
[63] *See id.* at Archive C at 383-384.

Rising levels of student debt have kept borrowers from owning homes,[64] depressed wages[65] and savings,[66] while increasing credit card debt.[67] Borrowers are less able to save for retirement,[68] exacerbating the growing threat of intergenerational student borrowing.[69]

---

[64] *See, e.g.*, Meta Brown & Sydnee Caldwell, *Young Student Loan Borrowers Retreat from Housing and Auto Markets*, Fed. Res. Bank of N.Y. (Apr. 17, 2013), http://libertystreeteconomics.newyorkfed.org/2013/04/young-student-loan-borrowers-retreat-from-housing-and-auto-markets.html (finding that homeownership rates of 30-year-old student loan borrowers decreased by more than 5 percent compared with homeownership rates of 30-year-old non-borrowers, and finding that over the analyzed time period student borrowers were less likely to hold auto debt than nonborrowers); Fed. Res. Bank of N.Y., *Press Briefing On Household Debt, With Focus On Student Debt* 36–47 (Apr. 3, 2017), https://www.newyorkfed.org/medialibrary/media/press/PressBriefing-Household-Student-Debt-April32017.pdf#page=39 (finding that college attendees with student debt have lower homeownership rates than college attendees without student debt and that higher debt balances are associated with lower home ownership rates).

[65] *See, e.g.*, Justin Weidner, *Does Student Debt Reduce Earnings?*, Princeton U. (Nov. 2016), https://scholar.princeton.edu/sites/default/files/jweidner/files/Weidner_JMP.pdf (finding that "student debt is permanently scarring, as graduates with debt experience no faster income growth than their unburdened peers. Debt induces graduates to enter employment faster and select jobs in unrelated fields, leading to lower income levels and growth rates.").

[66] *See, e.g.*, Daniel Cooper & J. Christina Wang, *Student Loan Debt and Economic Outcomes*, Fed. Res. Bank of Bos., *Current Pol'y Persp*. No. 14-7 (Oct. 2014), https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/economic/cpp1407.pdf ("In addition, the distribution of total wealth excluding student debt liabilities is lower for homeowners with student debt than for homeowners without student loan debt (again conditional on at least some college attendance). This wealth disparity remains even after controlling for a wide range of demographic and other factors.").

[67] *See, e.g*. Consumer Fin. Prot. Bureau, *New research report on student loan repayment and broader household borrowing* (June 29, 2018), https://www.consumerfinance.gov/about-us/blog/new-research-report-student-loan-repayment-and-broader-household-borrowing/.

[68] *See, e.g.*, Consumer Fin. Prot. Bureau, *Snapshot of older consumers and student loan debt* 14 (Jan. 2017), http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf (finding that borrowers nearing retirement "had a lower median amount in their employer-based retirement account or an Individual Retirement Account (IRA) than consumers without student loan debt"); Joe Valenti, *A Look at College Costs Across Generations*, AARP (May 2019), https://www.aarp.org/content/dam/aarp/ppi/2019/05/a-look-at-college-costs-across-generations.doi.10.26419-2Fppi.00063.001.pdf (finding that student loan borrowers may need to work two to seven years longer than non-borrowers to achieve the same retirement savings); Joseph Egoian, *73 Will Be the Retirement Norm for Millennials*, NerdWallet (Oct. 23, 2013), https://www.nerdwallet.com/blog/investing/73-retirement-norm-millennials/ (finding that a 4 year college graduate with median student loan debt of $23,000 has about $115,000 less in retirement savings than a 4 year college graduate with no student loans by the time they reach age 73); Mikhail Zinshteyn, *Saddled With Debt, Recent Grads Can't Save*, AARP (May 29, 2019), https://www.aarp.org/money/credit-loans-debt/info-2019/recent-grads-delay-saving.html.

[69] *See, e.g.*, William Elliot & Melinda Lewis, *Student Debt Effects on Financial Well-Being: Research and Policy Implications*, 29 J. Econ. Surveys 614 (2015), http://onlinelibrary.wiley.com/doi/10.1111/joes.12124/full (finding that student loan debt can delay asset accumulation for years and can decrease a family's net worth by 63 percent); Daniela Kraiem, *The Cost of Opportunity: Student Debt and Social Mobility*, 48 Suffolk U. L. Rev. 689, 699 (2015) ("Students with unmanageable debt are more likely to be low-income, female, black, and have dependent members such as children or elderly parents."); William Elliot & Melinda Lewis, *Student Loans Are Widening The Wealth Gap: Time To Focus On Equity*, Assets & Educ. Initiative, U. Of Kan. 7 (2013), https://aedi.ssw.umich.edu/sites/default/files/publications/publication-cd-reports-r1.pdf ("However, despite our

Ending the student debt crisis is a matter of equity and a matter of justice. Borrowers of color take on more debt, struggle to repay these debts at higher rates, disproportionately default on federal student loans, and—as a consequence of both government mismanagement and abusive industry practices—are disproportionately crushed by the government's predatory debt collection machine.[70]

The consequences for borrowers of color have been catastrophic and have exacerbated economic inequities. A conclusive and growing body of evidence confirms that rising levels of student debt and distress disproportionately affect borrowers of color,[71] in particular Black women.[72] A 2019 study by researchers at Brandeis found that "twenty years after starting college, the median debt of [white borrowers] has been reduced by 94 percent—with almost half holding no student debt—whereas Black borrowers at the median still owe 95 percent of their cumulative borrowing total."[73] And, according to a study by researchers at the Jain Family Institute, over three quarters of student loans in majority-minority zip codes have a higher balance than what was originally borrowed.[74]

---

collective belief in an American dream of equitable opportunities for all, higher education today increasingly reinforces patterns of relative privilege, particularly as students rely more and more on student loans to finance college access.").

70 Judith Scott-Clayton, Shrinking Racial Gaps in Student Debt and Default: Recommendations to Congress (Mar. 6, 2019), https://ccrc.tc.columbia.edu/easyblog/shrinking-racial-gaps-student-debt-default-congress.html.

71 *See*, *e.g*., The Educ. Trust, *Jim Crow Debt: How Black Borrowers Experience Student Loans* (Oct. 2021); https://edtrust.org/wp-content/uploads/2014/09/Jim-Crow-Debt_How-Black-Borrowers-Experience-Student-Loans_October-2021.pdf; *see also* Dalié Jiménez & Jonathan Glater, *Student Debt Is a Civil Rights Issue: The Case for Debt Relief and Higher Education Reform*, 55 Harv. C.R.- C.L. L. Rev. 131, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3475224&dgcid=ejournal_htmlemail_education:law:ejournal_abstractlink; Ashley Harrington & Mark Huelsman, *Introduction to Delivering on Debt Relief* (Dec. 2020), https://protectborrowers.org/wp-content/uploads/2021/02/Delivering-on-Debt-Relief-Final.pdf.

72 *See*, *e.g*., The Education Trust, *How Black Women Experience Student Debt* (2022), https://edtrust.org/resource/how-black-women-experience-student-debt/.

73 Laura Sullivan, et. al., *Stalling Dreams: How Student Debt is Disrupting Life Chances and Widening the Racial Wealth Gap* (2019), https://heller.brandeis.edu/iasp/pdfs/racial-wealth-equity/racial-wealth-gap/stallingdreams-how-student-debt-is-disrupting-lifechances.pdf.

74 Jain Family Inst., *Student Debt and Young America* (February 2021), https://www.jainfamilyinstitute.org/assets/student-debt-and-young-america-jfi-feb-2021.pdf#page=23.

Administrations of both parties have ignored the stark reality that the student debt crisis is principally a failure of public policy—one made far worse by widespread lawlessness across the student loan industry.[75]

The Higher Education Act makes bold promises to Americans with student debt, including that:

- Monthly student loan payments will never be "unaffordable;"[76]
- Public service workers who serve for a decade will receive loan forgiveness;[77]
- Those whose disabilities prevent them from working will get debt cancellation;[78]
- Student loan payments will never be a life-long burden for low-income people;[79] and
- The government will discharge debts for those who have been defrauded by a predatory school and those who have faced a school closure.[80]

Yet despite these promises, before the pandemic more than one million student loan borrowers defaulted each year—the equivalent of a new default every 26 seconds.[81] Officials of both parties routinely call the state of the student loan system "broken,"[82] a "mess,"[83] and "corrupt."[84]

---

[75] *See*, *e.g*., Consumer Fin. Prot. Bureau v. Navient Corp., 2017 WL 3380530 (M.D. Pa. Aug. 4, 2017); Lawson-Ross v. Great Lakes Higher Education Corp., No. 18- 14490 (11th Cir. 2020); Grewal v. Navient Corp., No. ESX-C-172-2020 (N.J. Super. Ct. Ch. Div. Oct. 20, 2020); Consent Order, Vullo v. Conduent Educ. Services (Jan. 4, 2019); Nelson v. Great Lakes Higher Education Corp., No. 18-1531 (7th Cir. 2019); First Amended Complaint, People v. Navient Corp., No. CGC-18-567732 (Cal. Super. Ct. Nov. 1, 2018); Mississippi v. Navient Corp, No. 25CH1:18-CV-00982 (Miss. Ch. Ct. Hinds Cty. July 17, 2018); Commonwealth v. Navient Corp., No. 19-2116 (M.D. Pa. Oct. 5, 2017); Marek v. Navient Corp., 2017 WL 2881606 (N.D. Ohio July 6, 2017); Complaint, People v. Navient Corp., No. 17CH761 (Ill. Cir. Ct. Cook Cty. Jan. 18, 2017).

[76] *See, e.g.*, 20 U.S.C. § 1098e.

[77] 20 U.S.C. § 1087e(m).

[78] 20 U.S.C. § 1087.

[79] *See, e.g.*, 20 U.S.C. § 1087e(d)(D).

[80] 20 U.S.C § 1087e.

[81] Student Borrower Prot. Ctr., *New Data Show Student Loan Defaults Spiked in 2019 – A Warning to Industry and DeVos Amid Economic Fallout* (2019), https://protectborrowers.org/every-26-seconds.

[82] CBS News, *Secretary of Education Miguel Cardona on why "fixing a broken" student loan system is a priority for Biden administration* (2021), https://www.cbsnews.com/news/secretary-of-education-miguel-cardona-student-loan-system/.

[83] Nat'l Pub. Radio, *Exclusive: How the most affordable student loan program failed low-income borrowers* (2022,; https://www.npr.org/2022/04/01/1089750113/student-loan-debt-investigation.

[84] Office of Sen. Elizabeth Warren, *Warren Statement on Department of Education's Decision to Collect $22.3 Million from Student Loan Giant Navient After Years of Predatory Behavior* (2021), https://www.warren.senate.gov/newsroom/press-releases/warren-statement-on-department-of-educations-decision-to-collect-223-million-from-student-loan-giant-navient-after-years-of-predatory-behavior.

When President Biden took office, he inherited a student loan system that was failing each of these student loan borrowers.

- In 2021, the Government Accountability Office (GAO) found that the Public Service Loan Forgiveness (PSLF) program, which was established 14 years prior, had only canceled the loans of 124 members of the military, even as hundreds of thousands of borrowers have served.[85] Because of President Biden's PSLF Waiver, more than 872,000 borrowers have benefited from PSLF.[86]
- The National Consumer Law Center published data under the Freedom of Information Act showing that, as of January 2021, only 32 borrowers had successfully navigated the income-driven repayment (IDR) plans and received cancellation.[87] Eighteen months later, the Government Accountability Office found that just 132 people have had debts canceled, out of more than 4 million with decades-old debts.[88] This prompted the IDR Account Adjustment which has now increased that number to nearly a million borrowers.[89]
- The government identified more than 500,000 people with disabilities who are eligible to have their debts immediately canceled based on data provided by the Social Security Administration to the Department.[90] Here, the Biden Administration has cancelled $14.1

[85] *See* Gov. Accountability Off., *Public Service Loan Forgiveness* (2021), https://www.gao.gov/products/gao-21-65?utm_medium=social; *see also* Consumer Fin. Prot. Bureau, *Remarks of CFPB Student Loan Ombudsman Seth Frotman before the Judge Advocate General School* (2017), https://files.consumerfinance.gov/f/documents/201710_cfpb_Frotman-Remarks-JAG-School.pdf. ("....more than 200,000 servicemembers collectively owe more than $2.9 billion in student debt.").

[86] *See* U.S. Dep't of Educ., *Press Release: Biden-Harris Administration Announces New Plan to Deliver Debt Relief to Tens of Millions of Americans* (Apr. 8, 2024), https://www.ed.gov/news/press-releases/biden-harris-administration-announces-new-plans-deliver-debt-relief-tens-millions-americans.

[87] Nat'l Consumer L. Ctr. & Student Borrower Prot. Ctr., *Education Department's Decades-Old Debt Trap: How the Mismanagement of Income-Driven Repayment Locked Millions in Debt* (Mar. 2021), https://www.nclc.org/uncategorized/new-government-data-exposes-complete-failure-of-education-departments-income-driven-repayment-program.html.

[88] Gov. Accountability Off., *Education Needs to Take Steps to Ensure Eligible Loans Receive Income Driven Repayment Forgiveness* (Apr. 2022), https://www.gao.gov/assets/gao-22-103720.pdf; Office of Sen. Elizabeth Warren, Education Department Responses to Data Request by Senator Warren (2021), https://www.warren.senate.gov/imo/media/doc/Education%20Department%20Response%20to%20Sen%20Warren%20-%204-8-21.pdf.

[89] *See* U.S. Dep't of Educ., *Press Release: Biden-Harris Administration Announces New Plan to Deliver Debt Relief to Tens of Millions of Americans* (Apr. 8, 2024), https://www.ed.gov/news/press-releases/biden-harris-administration-announces-new-plans-deliver-debt-relief-tens-millions-americans.

[90] Nat'l Consumer L. Ctr., Student Defense, et. al, *Letter to Secretary Cardona on Total and Permanent Disability Discharge* (2021), https://www.nclc.org/images/pdf/student_loans/TPD_Regs_Ltr.pdf; *see also* Social Security Admin. Off. of the Inspector Gen., *Social Security Administration Beneficiaries Eligible for Total and Permanent*

billion for more than 548,000 borrowers, and issued new regulations that will automatically discharge loans owed by borrowers identified as eligible through a data match with the Social Security Administration.[91] .

The Biden Administration's steps are important and have been life changing for those individuals who benefit. For example, one public service worker who benefited from debt cancellation since the Biden Administration temporarily loosened program rules in 2021 described debt relief as life-changing: "No more student debt. I only have a car payment, that's all I owe in the whole world. That is incredible."[92] Another said, "everything is close to the bone and so often the savings account is empty…[for public school educators, debt cancellation is] like a validation: I am important, and you do want us to stick around!"[93]

Yet many of these changes are limited and temporary, and as The MOHELA Papers shows, the student loan system is still unable to function properly. There is evidence that borrowers continue to receive unreliable or incorrect information regarding how to access relief,[94] and when payments resumed last fall after over three years, borrowers whose applications for cancellation were pending were thrown back into repayment.[95] Further, the Department of Education's most recent public reports acknowledged a backlog of more than 464,000 applications for Borrower Defense discharges—the number of unprocessed claims for debt relief due to fraud by a school climbed by more than 438,000 during the Biden Administration's first two years.[96] Although the

---

Disability Federal Student Loan Discharge (Nov. 2020), https://oig.ssa.gov/sites/default/files/audit/summary/pdf/A-06-17-50281Summary.pdf.

91 See U.S. Dep't of Educ., Press Release: Biden-Harris Administration Announces New Plan to Deliver Debt Relief to Tens of Millions of Americans (Apr. 8, 2024), https://www.ed.gov/news/press-releases/biden-harris-administration-announces-new-plans-deliver-debt-relief-tens-millions-americans.

92 Am. Fed'n of Teachers, *Student debt: One happy ending* (Dec. 22, 2022), https://aftvoices.org/student-debt-one-happy-ending-a7b931526f6b.

93 *Meet The Educators Whose Student Debt Has Been Forgiven,* National Education Ass'n (Jan. 20, 2022), https://www.nea.org/advocating-for-change/new-from-nea/meet-educators-whose-student-debt-has-been-forgiven.

94 See Student Borrower Prot. Ctr., Consumer Protection Agencies Must Ensure Student Loan Companies Inform Borrowers About Once-In-A-Lifetime Opportunity to Become Debt-Free (Nov. 15, 2023), https://protectborrowers.org/consumer-protection-agencies-must-ensure-student-loan-companies-inform-borrowers-about-idr-aa/.

95 U.S. Department of Education Office of Federal Student Aid, Electronic Announcement on Public Service Loan Forgiveness Waiver (2021), https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-06-14/federal-student-aid-posts-two-new-quarterly-portfolio-reports-fsa-data-center-and-highlights-recent-changes-public-service-loan-forgiveness-ea-id-general-21-40.

96 *Compare* U.S. Dep't of Educ. Off. of Fed. Student Aid, *Borrower Defense Data* (Jan. 31, 2023), https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data, *with* U.S. Dep't of Educ. Off. of Fed. Student Aid, *Borrower Defense Data* (Jan. 31, 2021), https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data.

Administration has issued rules that make Borrower Defense more accessible to students who have been defrauded, those rules have been challenged and are currently enjoined.[97]

In important ways, the national conversation surrounding the cancellation of student debt has only recently caught up with a reality that millions of people with student loan debt experience each day.

Student Loan Servicers Turned a Policy Failure into a Generational Crisis

Over the past decade, federal and state regulators and law enforcement officials have meticulously documented a shocking range of abuses by student loan companies. As Consumer Financial Protection Bureau Director Rohit Chopra explained to this committee in 2022, misrepresentations by student loan servicers have "long been a concern" given the "incentive mismatch" between servicers, whose costs are reduced if they can limit interaction with borrowers, even where borrowers are entitled under the law to be fully informed about their rights.[98] According to Director Chopra, this incentive mismatch is reflected in reports from servicer employees that "their job was to get the borrower off the phone as quick as possible," even if that meant directing borrowers into costly [repayment arrangements] when that was not necessarily their best option.[99]

These illegal acts and practices have affected every type of borrower, with every type of loan, at every stage of repayment.[100] For example, over the past decade, student loan servicers have been caught by regulators:

[97] Katherine Knott, *Borrower Defense Rules Blocked Again*, Inside Higher Ed (Apr. 8, 2024), https://www.insidehighered.com/news/quick-takes/2024/04/08/borrower-defense-rules-blocked-again.
[98] Youtube, *Menendez Questions CFPB Director Chopra At Banking Committee Hearing* (Apr. 2022); https://www.youtube.com/watch?v=MTJh8IidV6k.
[99] *Id*.
[100] *See, e.g.,* Consumer Fin. Prot. Bureau v. Navient Corp., 2017 WL 3380530 (M.D. Pa. Aug. 4, 2017); Lawson-Ross v. Great Lakes Higher Education Corp., No. 18- 14490 (11th Cir. 2020); Grewal v. Navient Corp., No. ESX-C-172-2020 (N.J. Super. Ct. Ch. Div. Oct. 20, 2020); People v. Pennsylvania Higher Educ. Assistance Agency, No. 1:2019cv09155 (S.D.N.Y. Oct. 3, 2019); Vullo v. Conduent Educ. Services (Jan. 4, 2019) (consent order); Nelson v. Great Lakes Higher Education Corp., No. 18-1531 (7th Cir. 2019); People v. Navient Corp., No. CGC-18-567732 (Cal. Super. Ct. Nov. 1, 2018) (first amended complaint); Mississippi v. Navient Corp, No. 25CH1:18-CV-00982 (Miss. Ch. Ct. Hinds Cty. July 17, 2018); Commonwealth v. Navient Corp., No. 19-2116 (M.D. Pa. Oct. 5, 2017); Marek v. Navient Corp., 2017 WL 2881606 (N.D. Ohio July 6, 2017); People v. Navient Corp., No. 17CH761 (Ill. Cir. Ct. Cook Cty. Jan. 18, 2017) (complaint).

- Illegally denying or failing to approve applications for affordable loan payments under IDR, forcing borrowers to pay more than they owe and increasing interest charges.[101]
- Harvesting late fees from borrowers by engaging in a scheme to maximize the number of payments counted as late payments.[102]
- Deceiving borrowers who have made extra payments on their loans about how interest would be charged.[103]
- Covering up improper loan deferments and illegally failing to address the increased interest charges these errors imposed on people with student debt.[104]
- Engineering a scheme to deceive borrowers and maximize interest charges when borrowers used multiple deferments or forbearances over extended periods of time.[105]
- Lying to borrowers about whether late fees may be charged on loans held by ED.[106]
- Failing to inform borrowers with private student loans that pausing loan payments will forfeit other consumer protections, including the right to release a co-signer.[107]
- Illegally increasing borrowers' interest rates when one creditor sold student loans to a different investor, resulting in a botched servicing transfer.[108]
- Illegally "auto-defaulting" student loan borrowers when a loan's cosigner filed for bankruptcy, regardless of whether the borrower was current on all payments.[109]

In addition, federal and state law enforcement officials have taken enforcement actions and filed lawsuits against servicers, including, for example:

- In 2014, the Federal Deposit Insurance Corporation and the U.S. Department of Justice each took an enforcement action against Sallie Mae and Navient for a range of abuses,

---

101 *See* Consumer Fin. Prot. Bureau, *Supervisory Highlights* (Fall 2016), https://www.consumerfinance.gov/documents/1389/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.
102 *See id*.
103 *See id*.
104 *See* Consumer Fin. Prot. Bureau, *Supervisory Highlights* (April 2017), https://www.consumerfinance.gov/documents/4608/201704_cfpb_Supervisory-Highlights_Issue-15.pdf.
105 *See id*.
106 *See* Consumer Fin. Prot. Bureau, *Supervisory Highlights* (Fall 2015), http://files.consumerfinance.gov/f/201510_cfpb_supervisory-highlights.pdf.
107 *See* Consumer Fin. Prot. Bureau, *Supervisory Highlights* (Winter 2016), http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf.
108 *See id*.
109 *See id*.

including violations of the Servicemember Civil Relief Act that resulted in $60 million being returned to nearly 78,000 military borrowers.[110]

- In 2015, the CFPB took action against Discover Bank for deceiving borrowers about how much they owed each month and making illegal debt collection calls to borrowers early in the morning and late at night.[111]
- In 2016, the CFPB found that Wells Fargo was illegally harvesting late fees from student loan borrowers who paid less than the amount due each month.[112]
- In 2017, the CFPB took action against Navient, along with state attorneys general in Washington, Pennsylvania, and Illinois for illegally steering borrowers into forbearance—a repayment option designed to assist borrowers experiencing short-term financial hardship—when borrowers have a right under federal law to enroll in repayment plans that allow for lower monthly payments over the long-term and that entitle them to eventual loan forgiveness.[113]
- Enforcement officials' investigation into Navient also found that:
    - Navient failed to properly inform borrowers of the need to renew their income-driven repayment plans and failed to properly process those renewals, resulting in interest capitalization on borrowers' loans.[114]
    - Navient was misreporting to credit bureaus that loans were in default when they were in fact discharged under total and permanent disability discharge, including loans owed by servicemembers with service-connected disabilities.[115]

---

[110] *See, e.g.*, Press Release, U.S. Dep't of Justice, *Nearly 78,000 Service Members to Begin Receiving $60 Million Under Department of Justice Settlement with Navient for Overcharging on Student Loans* (May 28, 2015), https://www.justice.gov/opa/pr/nearly-78000-service-members-begin-receiving-60-million-under-department-justice-settlement. Further, state attorneys general have increased the volume of enforcement actions in this market, bringing high profile cases against a range of actors.

[111] *In Re Discover Bank, The Student Loan Corporation, and Discover Products, Inc.*, Administrative Proceeding File No. 2015-CFPB- 0016, Dkt. 1, (July 22, 2015), https://files.consumerfinance.gov/f/201507_cfpb_consent-order-in-the-matter-of-discover-bank-student-loan-corporation.pdf.

[112] *In Re Wells Fargo Bank, N.A.*, Administrative Proceeding File No. 2016-CFPB-0013, Dkt. 1, (Aug. 22, 2016), https://files.consumerfinance.gov/f/documents/2016-CFPB-0013Wells_Fargo_Bank_N.A.--_Consent_Order.pdf.

[113] Consumer Fin. Protect. Bureau v. Navient Corp. et. al., Case No. 3:17-cv-00101-RDM, Dkt. 1 at ¶1-6, (M.D. PA. Jan. 18, 2017), https://files.consumerfinance.gov/f/documents/201701_cfpb_Navient-Pioneer-Credit-Recovery-complaint.pdf; *AG Ferguson Files Suit Against Sallie Mae Offshoot Navient Corp., Announces Student Loan Bill of Rights Legislation*, Wash. State Off. of the Att'y Gen. (Jan. 18, 2017), https://www.atg.wa.gov/news/news-releases/ag-ferguson-files-suit-against-sallie-mae-offshoot-navient-corp-announces-student.

[114] *Id.*

[115] *Id.*

  - Navient falsely represented to borrowers with cosigned loans the criteria for cosigner release and denied borrowers with the stated criteria.[116]

- In late 2017, the Bureau took action against Citibank for deceiving borrowers about tax-deduction benefits, incorrectly charging late fees, and, like in the Discover case, overstating the minimum amount owed.[117]
- In 2017, the Commonwealth of Massachusetts brought an enforcement action against the Pennsylvania Higher Education Assistance Agency, finding that the company cheated teachers and other public service workers out of their rights to have debts canceled under the Public Service Loan Forgiveness program.[118] The action was settled in 2021.
- In 2019, New York law enforcement officials announced a settlement with the student loan servicer Conduent, formerly known as ACS, for steering borrowers into forbearance and other illegal servicing practices.[119]
- In 2020, the Bureau, then under the leadership of a Republican agency head, took another action against Discover Bank for violating the terms of its prior settlement with the agency and continuing to cheat borrowers out of their rights.[120]
- In 2022, following nearly three years of litigation, the Pennsylvania Higher Education Assistance Agency settled charges brought by the New York Attorney General that it cheated public service workers out of their rights to loan forgiveness and affordable loan payments.[121]
- In 2022, Navient settled with 39 State Attorneys General to resolve claims related to forbearance steering and predatory subprime lending to students attending for-profit

---

[116] *Id.*

[117] *CFPB Takes Action Against Citibank For Student Loan Servicing Failures That Harmed Borrowers,* Consumer Fin. Protect. Bureau (Nov. 21, 2017), https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-citibank-student-loan-servicing-failures-harmed-borrowers/.

[118] *Commonwealth v. Pennsylvania Higher Educ. Assistance Agency*, No. 1784CV02682-BLS2, 2018 WL 1137520, Dkt. 1. (Mass. Super. Mar. 1, 2018).

[119] *Attorney General James And Superintendent Vullo Announce $9 Million Settlement Of Federal Student Loan Servicing Claims With Acs Education Services,* N.Y. Att'y Gen. (Jan. 4, 2019), https://ag.ny.gov/press-release/attorney-general-james-and-superintendent-vullo-announce-9-million-settlement-federal.

[120] *Consumer Financial Protection Bureau Settles with Student Loan Servicers Discover Bank, The Student Loan Corporation, and Discover Products, Inc. for Violating a Bureau Consent Order and Other Unlawful Practices,* Consumer Fin. Protect. Bureau (Dec. 22, 2020), https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-with-student-loan-servicers-discover-bank-the-student-loan-corporation-and-discover-products-inc-for-violating-a-bureau-consent-order-and-other-unlawful-practices/.

[121] *Attorney General James Secures Student Debt Relief for Thousands of New Yorkers,* N.Y. Att'y Gen., (Apr. 28, 2022), https://ag.ny.gov/press-release/2022/attorney-general-james-secures-student-debt-relief-thousands-new-yorkers.

schools.[122] The company agreed to pay $1.85 billion to resolve the allegations.

Consider the story of one borrower who reached out to SBPC for help after decades of struggle. "Marie" consolidated her loans in 1995 with a loan balance of less than $9,000. More than 25 years later, her loan balance is now over $105,000. Her servicer, American Education Services (AES) never informed her of income-driven repayment options and steered her into costly forbearances and deferments, which exacerbated the exponential growth of her loan balance.

During this time, Marie was earning an average of $20,000 gross for a household of two and would have qualified for $0 or very low payments under IDR. But for her servicer's abusive practices, Marie could have been debt free long ago. Thanks to the assistance of a legal services attorney who helped her consolidate her loan into the Direct loan program, Marie's loans have been cancelled through the IDR Account Adjustment.

The impact of abuses like those encountered by Marie have caused millions of student loan borrowers to needlessly spend additional years, and in some cases, decades trapped in unaffordable student loan debt.

Accountability and Remedies are Necessary to Break the Cycle of Deception and Abuse

For the millions of federal student loan borrowers whose loans are serviced by MOHELA, attempting to navigate the return to repayment has proven to be perilous. Though the Biden Administration has provided many tools to help ease borrowers' experience into repayment, too many MOHELA borrowers still find those programs to be illusive.

As with prior servicing abuses, borrowers are the ones paying the ultimate price for deliberate choices made by MOHELA executives with regards to staffing decisions and ensuring quality control over its communications and accounts.

While ED has taken some actions to hold MOHELA accountable—withholding $7.2 million in payment for failing to perform on its contract and providing some borrowers with zero percent interest forbearances—these actions fail to provide a full and adequate remedy to borrowers who have been harmed, may be subject to their own implementation errors by MOHELA, and do not hold the company's executives accountable.

[122] See generally Navient AG Multi-State Settlement, https://www.navientagsettlement.com/Home/portalid/0 (last accessed Apr. 9, 2024).

By their contracts, servicers are required to "comply with all Federal, State, and local laws, rules, and regulations applicable to its performance."[123] But the contractually provided incentives fail to set standard and transparent borrower protections and for too long, ED has failed to adequately enforce these requirements. Further, few student loan borrowers have the ability to seek redress when servicers violate their rights. The few who are able to find a lawyer to assist them still face an uphill battle because the HEA provides no explicit private right of action to student loan borrowers who seek to enforce disclosure requirements or challenge a servicer's failure to comply with other obligations set out in federal law.[124] Borrowers can raise state law claims, including those based on fraud and misrepresentation, but servicers—including MOHELA—often assert both that these claims are preempted by the HEA and that they are shielded from liability through sovereign immunity.[125]

Now is the time to break the cycle of deception and abuse. Borrowers deserve better than an endless cycle of scandal and yet no accountability.

For the record, MOHELA should be fired. Borrowers deserve more.

To fix the student loan system, the Biden Administration should implement:

A circuit breaker for the student loan system. When the COVID-19 pandemic struck, policymakers recognized that the student loan system could not be relied upon to protect vulnerable people and respect borrowers' rights. Congress shut the whole system down. The Biden Administration has done something similar as servicing errors mounted in recent months, suspending bills and waiving interest charges for classes of borrowers harmed by servicing failures. This should be routine and noncontroversial. The student loan system should shut off whenever a circuit is tripped, whether that is due to lawbreaking by a student loan company, a change in economic conditions, or the loss of a key federal contractor. Borrowers should never bear the cost when the system fails them.

A strategy to remove discretion from the student loan industry. Rather than continuing to rely on the same awful student loan companies and allow them to rebrand as creatures of the

[123] Amendment of Solicitation/Modification of Contract Issued by U.S. Department of Education at 3, https://www.sec.gov/Archives/edgar/data/1258602/000125860221000070/exhibit10109d0013_mod001.htm.
[124] *See* 20 U.S.C. § 1001 *et seq*.
[125] *See* Defendant Higher Education Loan Authority of the State of Missouri's Reply Memorandum in Support of its Motion to Dismiss Plaintiffs' Complaint, Joy et al. v. MOHELA, No. 23-cv-01590-SEP (E.D. Mo. Apr. 8, 2024), ECF No. 23.

federal government, we should pursue a strategy that acknowledges the limits of the existing system and seeks to move beyond the current era of privatization and abuse.

In the end, we need to cancel the debt and make college free.

Thank you for the close attention you are paying to MOHELA and the harm they are inflicting on millions of student loan borrowers, and for the opportunity to provide this testimony. I look forward to your questions.