



Transmitted via Email to Phil@fintechcouncil.org

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Mr. Goldfeder:

We are writing to warn you about risks to students and families posed by the practices of one or more of your members engaged in private student lending. Specifically, we are writing to **raise concerns that the move by one or more of your members to expand graduate student lending options may result in unlawful discrimination against students**, in violation of fair lending and civil rights laws.

On April 22, 2026, College Ave, a private student lender and a member of American Fintech Council (AFC), announced a new suite of graduate private student loan options targeted to students pursuing specific programs of study in Science, Technology, Engineering, and Math (STEM).<sup>1</sup> In a *LinkedIn* post, College Ave CEO Joseph DePaulo explained that his company is:

*"Proud to announce College Ave's new STEM Graduate Loan. With federal loan limits for graduate students starting in July, this loan can help bridge the funding gaps for those students preparing for high-demand STEM careers.*

*Our STEM Graduate Loan is a great example of the private student loan market (and a great team) innovating and working within the limits and constraints of the existing credit markets to provide a creative solution for graduate students."*<sup>2</sup>

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<sup>1</sup> College Ave Student Loans, *College Ave Launches New STEM Graduate Loan, Designed for Graduate Students Pursuing Advanced Degrees in Science, Technology, Engineering and Mathematics* (April 22, 2026);

<https://www.collegeave.com/press/college-ave-launches-new-stem-graduate-loan-designed-for-graduate-students-pursuing-advanced-degrees-in-science-technology-engineering-and-mathematics/>.

<sup>2</sup> Joseph DePaulo, *LinkedIn Post Announcing College Ave STEM Graduate Loan* (April 22, 2026);

<https://www.linkedin.com/feed/update/urn:li:activity:7452712137619193857/>. (Permalink: <https://perma.cc/A4D3-2S9S>)

Federal, state, and local fair lending and civil rights laws prohibit private student lenders from engaging in unlawful discrimination.<sup>3</sup> This prohibition includes a bar on lending practices that discriminate based on race or gender, including practices that have a disparate impact on certain classes of students, including women and students of color.<sup>4</sup> College Ave and other private lenders' targeting of loan options to graduate students in STEM fields raise significant concerns about these firms' compliance with federal, state, and local civil rights laws.

These obligations remain in effect even as the Consumer Financial Protection Bureau attempts to repeal portions of Regulation B, the implementing rule for the Equal Credit Opportunity Act.<sup>5</sup> Last month, the New York Department of Financial Services issued a letter to covered financial companies, including many of your members, stating that it intends to supervise for compliance with and enforce the full breadth of applicable federal and state fair lending laws and emphasizing that "covered credit decisions that result in a disparate impact may constitute an unlawful discriminatory practice."<sup>6</sup>

### **Educational Redlining and Illegal Discrimination in the Private Student Loan Market**

Our concerns are informed by joint oversight work led by our organizations to combat the practice of "educational redlining" across the financial services market.<sup>7</sup> Building on a 2020 investigation by Protect Borrowers (then the Student Borrower Protection Center), our organizations entered into a settlement with the fintech lender Upstart which subjected its lending practices—including its consideration of applicants' educational history—to oversight by an independent monitor.<sup>8</sup> Throughout this project, our organizations raised warnings about fintech firms' AI models' use of educational data that result in disparate outcomes for students—potentially denying access to credit to or overcharging borrowers.<sup>9</sup>

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<sup>3</sup> For further discussion of the legal and regulatory landscape and the application of fair lending law to the student loan market, see Stephen Hayes and Alexa Milton, *Solving Student Debt or Compounding the Crisis: Income Share Agreements and Fair Lending Risks* (2020);

[https://protectborrowers.org/wp-content/uploads/2020/07/SBPC\\_Hayes\\_Milton\\_Relman\\_ISA.pdf](https://protectborrowers.org/wp-content/uploads/2020/07/SBPC_Hayes_Milton_Relman_ISA.pdf)

<sup>4</sup> *Id.*

<sup>5</sup> See, Consumer Financial Protection Bureau, Equal Credit Opportunity Act (Regulation B), *Federal Register* (April 22, 2026),

<https://www.federalregister.gov/documents/2026/04/22/2026-07804/equal-credit-opportunity-act-regulation-b>

<sup>6</sup> See, New York Department of Financial Services, *New York State's Fair Lending Law - New York Executive Law Section 296-a* (April 22, 2026),

<https://www.dfs.ny.gov/industry-guidance/industry-letters/20260422-nys-fair-lending-law>.

<sup>7</sup> See, e.g. LDF and Protect Borrowers, *New Report Warns of 'Educational Redlining' By FinTech Student Lender Systematically Overcharging Borrowers Who Attend Historically Black Colleges and Universities* (2021),

<https://protectborrowers.org/new-report-warns-of-educational-redlining-by-fintech-student-lender-systematically-overcharging-borrowers-who-attend-historically-black-colleges-and-universities/>

<sup>8</sup> LDF and Protect Borrowers, *NAACP Legal Defense and Educational Fund and Student Borrower Protection Center Announce Fair Lending Testing Agreement with Upstart Network* (2020),

<https://protectborrowers.org/naacpldf-sbpc-upstart-agreement>; See, also, Protect Borrowers, *Educational Redlining* (2020),

<sup>9</sup> LDF and Protect Borrowers, *LDF, SBPC, and Upstart Announce Final Monitorship Report on AI and Fair Lending* (2024);

Private student lenders' practices today raise similar concerns. For nearly two years, advocates have warned that, should Congress eliminate the Graduate PLUS Loan program, the resulting contraction of financing for graduate education would entrench racial, gender, and class disparities in higher education.<sup>10</sup> Specifically, advocates warned that the private student loan industry would tailor new private student lending only to programs that disproportionately serve male students, particularly STEM programs.<sup>11</sup> Further, these practices may disproportionately limit access to higher education for students from Black and Latino/a families, who enroll in these programs at far lower rates than their white peers—an enrollment disparity that is wider in STEM programs than in other graduate programs.<sup>12</sup>

The private loan program promoted by College Ave, if implemented as advertised, validates advocates' concerns about discrimination in the private student loan market. New private loan offerings limited to or targeting students pursuing STEM degrees will likely have a disparate impact on students from protected classes and may violate a range of fair lending and civil rights laws.<sup>13</sup>

These concerns also build on a long history of alleged unlawful discrimination by private student lenders.<sup>14</sup> As far back as 2014, the Federal Deposit Insurance Commission cited Sallie Mae for violations of federal fair lending law, forcing it to cease using schools' "cohort default rates"—a metric that correlates with the enrollment patterns of Black and Latino/a students—to target its private student lending.<sup>15</sup> In July of last year, the private student lender Earnest, a business unit of Navient Corporation and a member of AFC, settled charges of unlawful discrimination brought by Massachusetts Attorney General Andrea Campbell.<sup>16</sup> In this matter, the Massachusetts AG alleged that Earnest's:

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<https://protectborrowers.org/ldf-sbpc-and-upstart-announce-final-monitorship-report-on-ai-and-fair-lending>

<sup>10</sup> See, e.g., Aissa Banez, *Testimony before a U.S. Senate Spotlight Forum entitled "Killing the American Dream: How Republicans are Closing the Door on Working and Middle-Class Students"* (September 2025), <https://protectborrowers.org/resource/canchola-banez-testimony-senate-forum-obbbal/>; Mike Pierce, *Testimony before the U.S. Senate Committee on Health, Education, Labor and Pensions* (2025), <https://protectborrowers.org/sbpc-to-testify-before-senate-ed-committee-on-the-state-of-higher-ed/>; Aissa Banez, *Testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on Financial Institutions and Consumer Protection* (2024), <https://www.banking.senate.gov/hearings/back-to-school-shedding-light-on-risks-and-harm-in-the-private-student-lending-and-servicing-market>.

<sup>11</sup> *Id.*, See also Hayes and Milton, *supra* note 3.

<sup>12</sup> *Id.*, See also Hayes and Milton, *supra* note 3.

<sup>13</sup> For further discussion, see Hayes and Milton, *supra* note 3.

<sup>14</sup> For further discussion, see Protect Borrowers, *Educational Redlining* (2020), <https://protectborrowers.org/wp-content/uploads/2020/02/Education-Redlining-Report.pdf>.

<sup>15</sup> Federal Deposit Insurance Commission, *In the Matter of Sallie Mae Bank* (2014), [https://archive.fdic.gov/view/fdic/4897/fdic\\_4897\\_DS2.pdf](https://archive.fdic.gov/view/fdic/4897/fdic_4897_DS2.pdf).

<sup>16</sup> Massachusetts Attorney General, *In the matter of Earnest Operations LLC* (filed on July 10, 2025), <https://www.mass.gov/doc/earnest-aod/download>.

*lending practices violated various consumer protection and fair lending laws, including through the use of artificial intelligence (AI) models that could lead to disparate harm to Black, Hispanic, and non-citizen applicants and borrowers.<sup>17</sup>*

## **Questioning American Fintech Council's Standards for Lenders**

On your website, AFC pledges that your members “advance standards of fairness and nondiscrimination.”<sup>18</sup> Given this public commitment and new evidence that at least one of your members is implementing new loan programs that raise concerns about their commitment to “fairness and nondiscrimination,” we are writing to request the following information about how AFC members are mitigating fair lending risk as lending to graduate students expands. Specifically:

1. Do AFC members believe that **targeting** private lending by degree program is consistent with AFC’s commitment to “fairness and nondiscrimination”?
2. Do AFC members believe that **targeting** private lending by degree program is consistent with AFC’s commitment to “fairness and nondiscrimination,” even where this targeting results in lenders serving only programs that disproportionately educate male students?
3. Do AFC members believe that **targeting** private lending by degree program is consistent with AFC’s commitment to “fairness and nondiscrimination,” even where this targeting results in lenders serving only programs that disproportionately educate white students?
4. Do AFC members believe that **pricing** private lending by degree program is consistent with AFC’s commitment to “fairness and nondiscrimination”?
5. Do AFC members believe that **pricing** private lending by degree program is consistent with AFC’s commitment to “fairness and nondiscrimination,” even where this targeting results in lenders serving only programs that disproportionately educate male students?
6. Do AFC members believe that **pricing** private lending by degree program is consistent with AFC’s commitment to “fairness and nondiscrimination,” even where this targeting results in lenders serving only programs that disproportionately educate white students?
7. Will AFC publicly affirm, on behalf of its members, that its members will not engage in the targeting and pricing practices described above?

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<sup>17</sup> Massachusetts Attorney General, *AG Campbell Announces \$2.5 Million Settlement With Student Loan Lender For Unlawful Practices Through AI Use, Other Consumer Protection Violations* (July 2025), <https://www.mass.gov/news/ag-campbell-announces-25-million-settlement-with-student-loan-lender-for-unlawful-practices-through-ai-use-other-consumer-protection-violations>.

<sup>18</sup> American Fintech Council, *Standards for Lenders* (Accessed on April 27, 2026), <https://www.fintechcouncil.org/our-mission#our-mission>. (“4. Members advance standards of fairness and nondiscrimination.”)

As millions of students and families navigate the first student financial aid cycle since the passage of the One Big Beautiful Bill Act, the private student loan market is changing rapidly as schools and lenders unveil new loan products in efforts to capture greater market share. It is critical that students and families understand where AFC and its members stand with respect to the bedrock principles of “fairness and nondiscrimination” in this market. Please provide a response to these questions as soon as possible.

Sincerely,

**Protect Borrowers**

**NAACP Legal Defense and Education Fund, Inc. (LDF)**