July 13, 2015

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G St., NW
Washington, DC 20552

Re: Request for Information Regarding Student Loan Servicing [Docket No. CFPB-2015-0021]

Dear Ms. Jackson,

Consumers Union, the advocacy division of Consumer Reports,[1] appreciates the opportunity to comment on the Bureau's request for information regarding student loan servicing practices. We applaud the Bureau's interest in this issue, and write to share the common problems we've heard from consumers as well as recommendations for reform.

The time is long past due for federal regulators to take action in this area. The Bureau has broad supervisory authority over servicers of both federal and private education loans, as well as the authority to write rules to prevent unfair, deceptive and abusive practices. For these reasons, we urge the Bureau to draft new rules of the road for education loan servicing immediately.

Introduction

In the U.S., our leaders have orchestrated a vast shift in how we all pay for higher education. Over the past few decades, federal and state policymakers have moved away from direct investment in schools and students, and have instead chosen to grow a large debt-financing system that puts the economic burden on the backs of students and their families to pay for the cost of education. In the last ten years in particular, more and more families have been forced to borrow money from the federal government and other financial institutions in order to access college. As a result, the vast majority of students who attend college – whether or not they graduate – are now leaving school with loans averaging almost $29,000.[2]

As these former students exit school, they encounter a bewildering and complex system meant to administer loan repayment plans, process payments, engage in debt collection tactics, and more. A handful of companies in contract with the Department of Education are responsible for collecting payments on federal loans, which are the bulk of the loans

[1] Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

[2] THE INST. FOR COLLEGE ACCESS & SUCCESS, STUDENT DEBT AND THE CLASS OF 2013 1 (2014), *available at* http://projectonstudentdebt.org/files/pub/classof2013.pdf.

people carry today. Some of these same companies also make their own private-label loans to students.

Despite the fact that students who take out federal education loans have a legal right to access a range of different repayment options and other benefits after they leave school, many are simply overwhelmed by the complexity of the system. Many of the income-driven repayment (IDR) plans, intended to help borrowers make affordable monthly payments, appear similar but have different eligibility requirements, adding to further confusion. Some may encounter frustration at receiving inconsistent information and having trouble processing paperwork. Others may find the relationship between the Department and these servicing companies confusing, due in part to receiving communications that are from the government while in school, followed by communications from different companies later on in repayment.

Students who take out private loans to help pay for college have fewer legal rights. Unlike federal loans, these loans do not come with guaranteed income-driven repayment plans, forbearances, or debt cancellation rights. [3] They are at the mercy of the lender, and no better off than if the debt came from a credit card. Meanwhile, because many of the same companies that service federal loans are also private lenders, all too many students don't understand the differences between federal and private loans until it is too late.

Servicers' poor practices have also created an unfortunate side effect: the recent growth of "student debt relief" companies. These companies take unfair advantage of people overwhelmed by the system, promising to enroll them in income-driven repayment plans, consolidate their loans, or even get their debts discharged – all for a hefty fee. In some cases, companies imply that they are affiliated with the federal government. Both the Bureau[4] and state attorneys general[5] have sued such companies for such practices.

Stories from Students and Families

Starting in May 2013, Consumers Union began soliciting stories from students and their families to learn more about their experiences taking out loans to pay for college. We

[3] Even if the private lender offers forbearance options, they can come at a price. CONSUMER FIN. PROTECTION BUREAU, ANNUAL REPORT OF THE CFPB STUDENT LOAN OMBUDSMAN 10 (2012), *available at* http://files.consumerfinance.gov/f/201210_cfpb_Student-Loan-Ombudsman-Annual-Report.pdf; *see also* Eric Pianin, *Student Loans See as Potential Next "Debt Bomb" for U.S. Economy*, WASH. POST, Mar. 10, 2012, *available at* http://www.washingtonpost.com/business/student-loans-seen-as-potential-next-debt-bomb-for-us-economy/2012/03/05/gIQAM0iF4R_story.html (discussing Sallie Mae loan borrowers' protest over forbearance fees).

[4] Press Release, CFPB Takes Action to End Student "Debt Relief" Scams (Dec. 11, 2014), *available at* http://www.consumerfinance.gov/newsroom/cfpb-takes-action-to-end-student-debt-relief-scams/ (shutting down one company and suing another for false promises and illegal fees, among other things).

[5] *See, e.g.*, Marcus E. Howard, *Minnesota Attorney General Lori Swanson Sues Company Allegedly Promising Student Loan Debt 'Forgiveness,'* STAR TRIBUNE, July 1, 2015, *available at* http://www.startribune.com/attorney-general-sues-company-allegedly-promising-student-loan-debt-forgiveness/311248281/ (alleging false promises of loan forgiveness and illegal fees, as well as other violations of state law); Press Release, Madigan Files Lawsuits Against Student Loan Debt Relief Scammers (May 4, 2015), *available at* http://www.illinoisattorneygeneral.gov/pressroom/2015_05/20150504.html (Illinois Attorney General suit alleging various false promises and illegal fees).

asked them about their experiences throughout the process, including: applying for financial aid; comparing different options for financing college; deciding how much to borrow; choosing repayment plans; managing monthly payments; and how they fared financially over the long term. We received hundreds of stories, with people writing to us that they're frustrated at having to take on debt to get an education, and confused by the financial aid process; struggling to find affordable repayment options, and encountering problems with their servicers; and they see no end to the debt burdens they face.

Our November 2013 report, "Degrees of Debt,"[6] identified common problems students and families shared with us, and urged policymakers to begin restoring fairness to the financial aid system. People wrote to us about a range of common problems, but the majority of stories we received were about problems related to repayment and servicing.

Many story sharers expressed frustration that they couldn't lower their monthly payments through flexible repayment plans or refinancing. For example, "S.C." from Bethesda, MD expressed frustration at the lack of options for reducing monthly payments on a combination of federal and private loans:

> I'm currently paying 30% of my monthly income to student loans, both private and federal. **What I find so frustrating is that there is no relief for private loans….the private lenders don't offer any programs to help reduce monthly payments….**There are literally no options to reduce my monthly payment. My private loans are at a very high interest rate, more than double that of my federal loans. The monthly payments are majority interest payments and barely dent the principal.

Lori from Belleville, IL also told us that she wished there were options for refinancing her loans to get a lower rate:

> **I cannot "refinance" my student loan balance to a lower interest rate** because I consolidated my loans. I am stuck with a daily 6% interest rate on my balance, moving my dream date of payoff even further away…. **I truly believe if existing student loans could be refinanced for a lower interest rate we would see a significant increase in repayments and payoffs.**

Story sharers also told us that servicers were processing payments in ways that maximized interest charges, or adding other fees they felt were unfair. For example, "C." from New York, NY was frustrated at having to pay fees to suspend payments on a private student loan:

> My private student loans are now DOUBLE the amount I borrowed (back in 2003-2005). The interest rate I was given, by Sallie Mae, was 12% Plus Libor. After I was laid off in 2009, I almost went into default. **Sallie Mae would only give me a Forbearance (at their discretion), if I paid $150 & $50 for each loan- then the Forbearance lasts only 3 months anyway. And, the interest gets thrown onto the back of the loan, too.** There is an incredible amount of interest & usury fees on my account. I am not young- I will never be able to pay it off- it will just keep growing, & growing. And, I paid back half of what I borrowed originally- but now the balance is still double.

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[6] CONSUMERS UNION, DEGREES OF DEBT: STORIES FROM STUDENT LOAN BORROWERS HIGHLIGHT URGENT NEED FOR REFORM (2013), *available at* http://consumersunion.org/wp-content/uploads/2013/11/Degrees-of-Debt_2013.pdf.

Richard from Globe, AZ told us about his frustration at having no control over how his payments were applied to his balance, even when he tried paying more than his required monthly amount:

> **After a year of paying more than due each month I noticed that it made no difference in the balance**….I asked AES if I could make principal payments only on top of the monthly payment. They said no, the only way I can save on interest is to pay off the loans, about now $60,000….**My last letter from them on my inquiry of how I can pay off this loan sooner was: "Any amount received that exceeds the amount billed is applied towards the next due installment. This does not affect the manner in which payments are applied. Although your payment may satisfy a bill due in the future, the payment is applied to the outstanding interest, then to the principal balance, effective the date the payment was received."** So as far as I can tell there is no way to pay off this loan early, except to pay the total amount due plus interest.

Customer service problems were another common theme. Many story sharers expressed frustration with servicers who gave inconsistent answers, failed to have accurate records, or simply refused to work with them to resolve outstanding issues. For example, Christopher from Hastings-on-Hudson, NY told us about his failed attempts to work out a reasonable payment plan and being unable to get any of the paperwork associated with his loan:

> I took a job at a restaurant, but after Christmas one year, I literally only brought home $600 for the month. My fiancée at the time also had student loans through Sallie Mae, she called on her behalf and they asked her to fax in her pay stubs and they would see about lowering her payments. She is a RN and they lowered her payment to less than $200. So naturally, I tried to do the same thing since I only made $600 in a month. **They said sorry but I have a private loan and the best they could do is lower my payment to $457.58 a month that would only cover the interest. I was dumbfounded. I said what was interest rate? They said it's variable, but currently it is 13.5% variable. I told them I signed the loan agreement at 6%. I have requested on three occasions to get a copy of said agreement, but have yet to receive it.**

Tara from Glastonbury, CT also experienced ongoing hassles with her loans, because they were transferred over and over again to different servicers:

> I finished graduate school in 1987, received a student loan deferment in the year following graduation while I searched for a job. When the deferment was up I began to pay back the loan, in spite of being underemployed and struggling to keep up with other bills. **Fast forward about 10 years. During this period the loan was repeatedly sold to other lenders, often several times in 1 year. The lenders themselves could not keep track, often failing to notify me of the change, and causing me to chase after them to learn the correct holder of the loan and their new mailing address for payment.** I was diligent and responsible, and always paid my bills.

More recently, we have received stories with additional common themes. For example, we have heard that many people are experiencing problems related to loan consolidation. Carolyn from Florence, MS couldn't stop her servicer from consolidating additional loans against her wishes:

> I had problem after problem after problem with Sallie Mae - **when I consolidated I didn't include loans that only had 3 years left. They sent them anyway. When they got them back they set new terms without my permission.** Took me close to 3 years to get that fixed.

We have also received stories from parents who co-signed loans for their children and struggled to fix problems. For example, Nancy from Wyoming, RI wrote to us that she had a tough time with her daughter's loans after they were transferred to a new servicer:

> I am the cosigner on my daughters student loans. She did not pay anything on the loans when they came due so the lender came after me. The loans where with Sallie Mae who sold them to Navient. I was not notified about the lack of payment until September of 2014. Now I am being forced to pay the three loans. **Navient sent out a notice to the credit reporters regarding the loans being late which was sent to my bank who then frozen my line of credit. I have been trying since then to correct this information since in September I had to bring all 3 loans up to date and they have been on auto pay since**.

In addition, we have heard many stories from people who were confused as to whether or not they qualify for certain debt cancellation options. For example, Suzanne from Baton Rouge, LA got the runaround when trying to learn about options for public service employees:

> **I think that I might be eligible for one of the loan forgiveness programs (I teach in a state-funded university), but when I wrote to my loan servicer (Sallie Mae), I was told that I would have to contact the loan originator. I have no idea who that might be -- and I'm quite certain that is not correct, but I can't get any better information from them.** There is no information on these programs on the Sallie Mae site, or if there is, it is well-hidden.

The most common refrain we've heard by far, however, has been the sheer desperation and anxiety people feel when they can't afford their loan payments. For example, Diane from Salem, OR described her worries over being unable to make payments while struggling to find work:

> I'm a veteran. In 2005, I lost my employment with a private business. That fall, I went back to college to hopefully improve my chances of finding new employment. I haven't been able to find new employment (other than a 12 week TEMP position in 2012) nor finish my Associates Degree. **I keep getting phone calls mail and email from my student aid debt holders. I've filed forbearance forms with them. I'm at a loss of what to do, since I still haven't been able to find new employment (have many years of office/admin experience through military, public and private previous employment). What to do?**

Susan from Bradford, PA described the crushing impact of parent loans she and her husband took out for their daughters:

> Carl & I have been paying off Parent Plus Loans & a private loan for our 2 daughters' college educations since 1999. Due to three hospitalizations (Carl), we had to take forebearances, which wiped out the progress made on paying down the principle of the loans. We now owe MORE than we initially borrowed because of accruing interest during the periods of forebearance. Carl is nearing retirement (he is 62) & I have been on disability for over 10 years. We know that we will not be able to afford the loan payments once Carl retires. **Currently, we struggle month-to-month to pay all of our bills, including the student loan payments. We both have medical conditions that require frequent doctor visits & medications. We took out a second mortgage on our house to pay down debt & have borrowed against our life insurance policies to**

help make ends meet. I know we aren't students but, we have over $ 80,000 in student loan debt. Who is going to help us?

These poignant and often heartbreaking stories are a mere snapshot of the stressful situations so many people face when trying to repay their loans. The Bureau's efforts to improve servicing practices are more important now than ever.

The Bureau Has Broad Authority to Regulate Education Loan Servicers

Dodd-Frank Section 1024 grants the Bureau the authority to supervise and examine certain non-banks that provide consumer financial products and services.[7] Section 1024 expressly grants this authority for: residential mortgage origination, brokerage and servicing; private education loans; and payday loans.[8] For all other markets, the Bureau must determine, by its own rule, the scope of its supervisory authority over "larger participants" in markets for other consumer financial products or services.

In 2013, the Bureau issued a rule to define larger participants in the market for student loan servicing.[9] The rule covers servicers of both federal and private education loans. Through its supervision program for these servicers, the Bureau has uncovered myriad problems: for example, servicers applying partial payments in a manner that maximizes fees; misrepresenting required minimum payments; charging improper late fees; making harassing telephone calls; and providing inaccurate tax information.[10] In its recent review of complaints related to private loans, the Bureau also uncovered problems related to co-signers, including servicers routinely rejecting borrowers' requests to remove co-signers from their loans and servicers automatically placing loans into default due to the death or bankruptcy of a co-signer.[11] Additional complaints revealed borrowers' problems getting accurate payoff or other account information, payment processing issues, and hurdles to refinancing, among other things.[12]

The Bureau's supervision activities are essential for rooting out potential violations of consumer financial laws.[13] Furthermore, the Bureau has authority to write rules that declare certain practices unfair, deceptive or abusive with respect to consumer financial products or services.[14] Such rules "may include requirements for the purpose of preventing such acts or practices."[15] For these reasons, the Bureau has clear authority to write rules of the road for education loan servicing to prevent unfair, deceptive or abusive practices.

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[7] 12 U.S.C. § 5514(b) (2012 & Supp. III).
[8] §§ 5514(a)(1)(A), (D), (E).
[9] Defining Larger Participants of the Student Loan Servicing Market, 78 Fed. Reg. 73383 (Dec. 6, 2013) (codified at 12 C.F.R. § 1090.106).
[10] CONSUMER FIN. PROTECTION BUREAU, SUPERVISORY HIGHLIGHTS 15-16 (2014), *available at* http://files.consumerfinance.gov/f/201410_cfpb_supervisory-highlights_fall-2014.pdf.
[11] CONSUMER FIN. PROTECTION BUREAU, MID-YEAR UPDATE ON STUDENT LOAN COMPLAINTS 10-13, 14-17 (2015), *available at* http://files.consumerfinance.gov/f/201506_cfpb_mid-year-update-on-student-loan-complaints.pdf.
[12] *Id.* at 13-22.
[13] *See* 12 U.S.C. § 5514(b)(1) (general requirements for supervision programs).
[14] 12 U.S.C. § 5531(b).
[15] *Id.*

Lessons Learned from Mortgage and Credit Card Reform

The Bureau rightly notes that other kinds of consumer debt come with protections related to repayment and servicing. By contrast, for people who took out loans to get an education, there are fewer protections and the system is often tough to navigate – as a result, these borrowers may be at the mercy of their servicers.

After countless consumers experienced harmful and abusive treatment in the previous decade related to mortgages and credit cards, Congress and the Bureau took steps to rein in bad practices and set rules of the road. The Bureau can and should do the same here, to stop unfair, deceptive and abusive practices in the market for education loan servicing.

<u>Mortgages</u>

In the context of mortgage servicing, several important reforms have gone into effect that rein in some of the worst abuses that mortgage loan servicers perpetrated against homeowners, particularly during the recent mortgage and foreclosure crisis. In 2013, the Bureau implemented new mortgage servicing rules under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) that provide important baseline protections.

RESPA regulations (12 C.F.R § 1024)

The Bureau's regulations under RESPA provide important notice and loss mitigation protections for homeowners. For example, mortgage servicers have to conduct active outreach to delinquent borrowers - they must contact the homeowner after a payment is 36 days overdue,[16] and must follow up with a written notice after 45 days' delinquency,[17] to inform the homeowner about loss mitigation options and to encourage the homeowner to work with the servicer to resolve the problem.

The RESPA regulations also require servicers to ensure "continuity of contact" by assigning specific personnel to a homeowner who is delinquent.[18] These personnel must remain available to the homeowner until the homeowner has made at least two payments without incurring a late fee.[19]

If homeowners are to be transferred to a different servicer, they must receive notice 15 days prior to the transfer, and again 15 days after the effective transfer date.[20] In addition, servicers must maintain policies and procedures for retaining key documents and information about mortgage loans for a certain period of time,[21] as well as reasonable procedures for transferring documents to new servicers.[22] Servicers must capture and retain all credit and debit transactions posted to the account, any notes from

[16] 12 C.F.R. § 1024.39(a) (2015).
[17] 12 C.F.R. § 1024.39(b).
[18] 12 C.F.R. § 1024.40(a).
[19] 12 C.F.R. § 1024.40(a)(2).
[20] 12 C.F.R. § 1024.33(b).
[21] 12 C.F.R. § 1024.38(c)(1).
[22] 12 C.F.R. §§ 1024.38(a), (b)(4).

communications with the homeowner, and copies of any documents the homeowner has submitted to the servicer to fix a problem or apply for loss mitigation plans.[23]

Servicers are also prohibited from "dual-tracking," or the practice of starting a foreclosure proceeding while the homeowner is still trying to work out a loan modification.[24] Furthermore, homeowners have the right to notice and appeal if their application for a loan modification is denied.[25] They have a private right of action and can sue for damages if the servicer does not follow the law.[26]

If homeowners encounter an overcharge or other error, they can contest it in writing – and the servicer must respond within five days of receiving the communication.[27] Servicers must promptly notify homeowners either that the error has been corrected, or that the servicer has conducted a reasonable investigation and determined that no error occurred.[28]

TILA Regulations (12 C.F.R. § 1026)

The Bureau's regulations under TILA require servicers to provide important information to homeowners, including notices at least 60 days prior to a change in interest rates on certain types of mortgages.[29] When processing payments, the TILA regulations require servicers to credit payments on the day that they are received.[30]

What the Bureau Should Do

The Bureau should issue rules requiring servicers to actively work people who start to fall behind on payments, to prevent them from sliding unnecessarily into default on federal or private education loans. Servicers should also be required to ensure continuity of contact.

Servicers should be required to notify borrowers about income-driven repayment plans, as applicable, and assist them in enrolling in those options. Servicers should be required to prioritize options that keep people in repayment, instead of offering forbearances as the first option. If a person with federal loans reports a disability, public service employee status, closed school or other important information that could trigger special rights, servicers should be required to retain that information in their records and provide relevant information about applicable benefits the borrower may be entitled to receive.

Private education loans should also come with more flexible options. Servicers should be required to consider loss mitigation when dealing with borrowers struggling to make payments, and refrain from transferring an account to collections while considering a loss mitigation plan.

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[23] 12 C.F.R. § 1024.38(c)(2).
[24] 12 C.F.R. §§ 1024.41(f), (g).
[25] 12 C.F.R. § 1024.41(h).
[26] 12 C.F.R. § 1024.41(a).
[27] 12 C.F.R. §§ 1035(a), (b), (d).
[28] 12 C.F.R. § 1035(e).
[29] 12 C.F.R. § 1026.20(c).
[30] 12 C.F.R. § 1026.36(c)(1)(i).

The Bureau should require servicers to follow robust error resolution procedures similar to the RESPA requirements above, to ensure that they handle complaints promptly and borrowers are not improperly overcharged or denied other important rights applicable to their loans.

In addition, the Bureau should issue rules that improve disclosure and document retention standards. Servicers should be required to give 30 days' notice before transferring someone to a new servicer, and at least 60 days' notice before an interest rate adjustment (on private loans) or other important change is applied to their loans. Servicers should be required to maintain key documents, including but not limited to payment histories, payoff statements, communications with borrowers, and any supplemental materials the borrowers have submitted in relation to a complaint or request. If the loan is to be transferred, all such documents should be transferred to the new servicer before borrowers are required to submit their first payment to the new servicer.

The Bureau should also consider creating model disclosures that will help borrowers understand the nature of their loans and important terms related to the repayment plans they are using.

Credit Cards

The current legal framework for credit cards also provides instructive precedent for how education loan servicers could better serve borrowers with respect to notices, payment processing and interest rate changes.

The CARD Act

In 2009, Congress passed the CARD Act to provide credit cardholders with better protections against a range of abusive practices that had grown common in the previous decade.[31] The CARD Act requires credit card companies to give cardholders 45 days prior notice before hiking fixed interest rates or making other significant changes.[32] The Act requires credit card companies to credit all payments by 5pm on the day they are received.[33] It also requires companies to send billing statements at least 21 days before they are due.[34] If a consumer pays more than the minimum payment, the Act requires companies to allocate prepayments to higher-interest balances first, to help pay them down faster.[35]

The CARD Act also requires credit card companies to do periodic "lookback" reviews to determine whether a previous APR increase should be reduced, in light of changed circumstances with respect to consumer behavior or broader market conditions.[36]

[31] Pub. L. No. 111-24, 124 Stat. 1378 (2009) (codified in scattered sections of 12 U.S.C.).
[32] 15 U.S.C. § 1637(i) (2012 & Supp. III).
[33] 15 U.S.C. § 1666c(a).
[34] 15 U.S.C. § 1666b(a).
[35] 15 U.S.C. § 1666c(b)(1).
[36] 15 U.S.C. § 1665c.

What the Bureau Should Do

The Bureau should issue rules that require education loan servicers to adopt fairer payment practices, including 21 days' prior notice before a payment is due as well as prompt crediting of the payment on the day it is received. Servicers should also be required to allocate prepayments to higher-interest loan balances first. For private loans, the Bureau should require servicers to conduct periodic reviews to determine whether a rate reduction may be appropriate.

Additional Areas for Reform

The Bureau should address other problems that are common to private education loans in particular, such as the poor treatment of those with co-signers. The death or bankruptcy of a co-signer should not trigger an automatic default – this is an especially unfair practice, in light of the fact that it bears no relation to whether or not the borrower of record is actually making payments. Servicers should also establish clear, reasonable procedures that enable borrowers to release their co-signers.

In addition, the Bureau should prohibit practices involving partial payments that would maximize late fees. The Bureau has received complaints from borrowers who were unable to pay their monthly bill in full but nonetheless sent in a partial payment – only to find that their servicers applied the payment pro rata across all of their loans so that none would be current.[37] This practice adds significant costs, and unfairly frustrates a borrower's good faith efforts to meet their obligations as best they can. Mortgage servicers are required to hold partial payments until the homeowner submits sufficient additional funds, at which time the payment is applied as a full periodic payment.[38] However, given that people with education loans typically have several outstanding loans at once, we believe a better approach in this context is to apply partial payments in a manner that maximizes the chances of some loans remaining current.

Furthermore, servicers should not charge abusive fees for processing payments, placing forbearances, performing loan modifications, or conducting other tasks that are essential to keeping people from falling behind on payments. Any fees should be reasonable and proportional to the level of service provided. Servicers should not profit off of struggling borrowers' attempts to remain in good standing on their loans.

We Need More Data

At present, the Department of Education releases general data on its various loan portfolios that break out the dollar volume of loans by repayment status and loan type.[39] However, it does not release more granular information about the people holding those loans. Furthermore, because the Department does not gather data on private education loans, the public knows very little about private loan repayment beyond whatever data the Bureau has been able to produce through its new supervision and complaint-handling activities.

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[37] CONSUMER FIN. PROTECTION BUREAU, *supra* note 10, at 15.
[38] 12 C.F.R. § 1026.36(c)(1)(ii).
[39] *See* U.S. Dep't of Educ., Federal Student Loan Portfolio, https://studentaid.ed.gov/sa/about/data-center/student/portfolio.

It is crucial for the federal government – and, ultimately, the public – to have access to key information about repayment, various stages of delinquency, and default rates on both federal and private education loans. Furthermore, these trends must be analyzed across demographic types, school types, loan types and servicers to get a full picture of which factors may be contributing to a person's success or struggle with loan repayment.

For federal loans, it is also very important to gather better information about IDR enrollment and recertification rates – and additional behavioral data on those who do not recertify on time, including whether they recertify after a certain amount of time, take a forbearance or deferment, or simply stop paying altogether. This information will inform efforts to improve successful repayment under IDR plans.

We urge the Bureau to work with the Department to ensure that both agencies collect, aggregate and analyze such important information. To the extent possible, information on federal and private education loan repayment outcomes should be made available to the public. These more robust data points should factor into the Department's evaluation of federal loan servicer performance and subsequent portfolio assignments. They are also essential for the Bureau's supervision of all student loan servicers.

Continue Interagency Work to Improve the Servicing System

Finally, the Bureau should work closely with the Department of Education to ensure proper implementation of the changes proposed above, as well as other changes already underway. Pursuant to the Presidential Memorandum of March 10, 2015, the Department has been charged with improving several aspects of the federal loan servicing system, such as developing a single portal for all borrower queries, a robust complaints system, and a central database for tracking loan performance and other crucial data.[40] The Department must develop its plans in consultation with the Bureau, as well as the Treasury Department.

In addition, the Department just announced a proposal for a new income-driven repayment plan, called REPAYE, which will be available to all Direct Loan borrowers (and FFEL borrowers who consolidate their loans).[41] The Department's proposal also includes new procedures for FFEL loan servicers working with people who may qualify for interest rate reductions under the Servicemembers Civil Relief Act.[42]

With so many changes imminent, it is all the more important that the Bureau work with the Department to implement system-wide standards now. Interagency sharing of key data, as well as integration of both agencies' respective complaint systems, will also be essential. We urge both agencies to establish procedures that enable coordinated oversight of the entire education loan servicing system.

[40] Presidential Memorandum – Student Aid Bill of Rights (Mar. 10, 2015), *available at* https://www.whitehouse.gov/the-press-office/2015/03/10/presidential-memorandum-student-aid-bill-rights.
[41] Student Assistance General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program, 80 Fed. Reg. 39608 (proposed July 9, 2015).
[42] *Id.*

Conclusion

Students and families are struggling to pay for college, and the financial burdens they face from education debt pose serious long-term threats to their well-being. Our leaders have failed to prioritize education as a basic right; rather, they have inflated college costs and passed the risk onto the rest of us.

Whether Direct or FFEL, federal or private, students and families who have paid for college using education loans deserve better treatment from their servicers – and they truly need change now. We cannot allow the repercussions of our current system to continue unabated. The Bureau has the power to champion the rights of students and families by setting strong rules of the road for student loan servicers without delay.

We applaud the Bureau's interest in addressing these issues, and look forward to working with you on next steps for servicing reform.

Sincerely,

Suzanne Martindale
Staff Attorney