

December 20, 2013

Secretary Arne Duncan
United States Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Secretary Duncan:

We are writing to express our concerns regarding poor servicing and collection practices of Sallie Mae, and urge the Department of Education to complete a comprehensive review of the Department's loan servicing contracts and its process for overseeing them.

We are particularly alarmed by the Department's failure to exercise its enforcement authority over Sallie Mae, which has been found in violation of its contract with the Department based on reports and investigations currently in process by the following: the Office of Inspector General, for failing to report verbal complaints received from federal student borrowers; the Consumer Financial Protection Bureau, for payment-processing issues; the Department of Justice, for compliance with consumer protection law; and the Federal Deposit Insurance Corporation, for violation of the Equal Credit Opportunity Act and potential violation of the Servicemembers Civil Relief Act. Sallie Mae's actions are now directly affecting both private and federal student loan borrowers and require immediate disciplinary action from the department, especially in relation to protecting federal borrowers.

The outlook for many federal student loan borrowers is bleak. According to federal data released by your department this year, the number of defaults on federal loans has reached a two decade high, with one in seven borrowers defaulting within three years of entering repaymentⁱ. More than 600,000 federal student loan borrowers who began repaying their debts in 2010 defaulted on their loans by 2012ⁱⁱ. Many of these borrowers were likely eligible for programs like Income Based Repayment or Income Contingent Repaymentⁱⁱⁱ, which can reduce payments and help struggling borrowers stay out of default.

But for many borrowers, economic hardship is just one of the hurdles standing in the way of paying back their federal student loans. Borrowers also have to contend with inept, subpar and potentially illegal conduct on behalf of the loan servicing and debt collection contractors that are selected and supervised by the Department. Borrowers have repeatedly reported that these servicers and debt collectors offer abysmal service quality, inaccurate and damaging guidance on available repayment options, and error-ridden record management, yet have seen little-to-no effort made by the Department to address these issues or hold servicers accountable to the terms of their contracts. We believe that these detrimental and misleading practices will not only continue to harm borrowers, but that continued inaction by your Department will damage its credibility in overseeing these contracts. It is simply unacceptable that the Department of Education continues to allow loan servicers to routinely break the rules of these servicing and debt collection contracts and go completely unpunished by your office.

As an example, Sallie Mae's account administration errors have created a huge challenge for many borrowers making good faith efforts to pay back their loans. As noted in Federal Student Aid's December 9, 2013 response to Senator Elizabeth Warren regarding investigations into Sallie Mae: "[The Department] has identified the following issues: defects in conversion to a repayment, incomplete adjustments to borrower accounts when transferred from a previous servicer, incorrect calculation of adjusted gross income for Income Based Repayment payment, and failure to include spousal income when calculating Income Contingent Repayment eligibility" and "incorrect billings submitted to the Department, failure to report origination fees, unpaid consolidation loan rebate fees, and general management and reporting deficiencies." Your department has identified these issues and yet has done nothing to hold Sallie Mae accountable for resolving them.

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Borrowers are desperately looking to the Department of Education for help. In 2012, nearly 35,000 borrowers filed an assistance request to the department regarding issues with their servicer. The most basic protections Americans enjoy with regard to other consumer credit transactions — expectations that account balances are properly tracked, payments are credited correctly, and complaints and corrections are handled expeditiously— are somehow unavailable to student loan borrowers. In fact, borrowers disputing account balance, interest accrual or fees have been the quickest growing complaint submitted to the Department, more than doubling from 2009 to 2012^{iv}.

The Department has stated its desire to ensure student loan debt remains manageable for the millions of Americans pursuing a postsecondary education, and with that goal in mind, we request that the Department take the following actions:

1. Utilize the department's ability to re-allocate Sallie Mae (and its affiliates) loan servicing to another servicer until Sallie Mae has been found to be in compliance with all existing regulations, as stated in in Attachment A-4 of the Department's contract with Sallie Mae.
2. Require all servicers to promote cost-saving programs, such as Income Based Repayment and Income Contingent Repayment, as stated under Section 433(b) of HEA.
3. Immediately conduct a program review of Sallie Mae's servicing and collection practices, focused on the company's compliance with their "assurances of future performance" to the Office of the Inspector General, which includes timely public updates on progress and findings.

Sincerely,

American Association of State Colleges and Universities
American Federation of Teachers
Colorado Jobs With Justice
I Am Not A Loan
Jobs With Justice
Massachusetts Jobs With Justice
National Education Association
Portland Jobs With Justice
San Francisco Jobs With Justice
United States Student Association

CC: Rohit Chopra, Consumer Financial Protection Bureau
Senator Michael Bennet
Senator Barbara Boxer
Senator Dianne Feinstein
Senator Ed Markey
Senator Jeff Merkley
Senator Elizabeth Warren
Senator Ron Wyden

ⁱ <http://www2.ed.gov/offices/OSFAP/defaultmanagement/cdr.html>

ⁱⁱ http://www.ticas.org/files/pub//CDR_2013_NR.pdf

ⁱⁱⁱ <http://news.yahoo.com/consumer-bureau-too-few-loan-forgiveness-200415669.html>

^{iv} <http://www2.ed.gov/about/reports/annual/2012report/fsa-report.pdf>