STUDENT BORROWER PROTECTION CENTER

A Union of Professionals

THE MOHELA PAPERS

The Rise of a Student Loan Servicing Giant and the Fall of the Student Loan System

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PROTECTBORROWERS.ORG

About the Student Borrower Protection Center

The Student Borrower Protection Center (SBPC) is a nonprofit organization focused on eliminating the burden of student debt for millions of Americans. We engage in advocacy, policymaking, and litigation strategy to rein in industry abuses, protect borrowers' rights, and advance racial and economic justice.

About the American Federation of Teachers

The American Federation of Teachers represents more than 1.7 million educators, school professionals, government employees and healthcare professionals. The AFT has more than 3,000 affiliates nationwide and advocates across the country for high-quality public education, healthcare and public services for students, families and communities.

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Executive Summary

The Higher Education Loan Authority of the State of Missouri—better known as 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. Despite its legal independence, MOHELA is arguably most infamous for its central role in *Biden v. Nebraska*, in which the U.S. 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.

But MOHELA's role in the $1.7 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. It now services the accounts of federal student loan borrowers in every state and is the sole servicer for borrowers seeking Public Service Loan Forgiveness (PSLF).

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 98 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 $56 billion for more than 793,000 borrowers working in public service. In total, executive actions by the Biden Administration have delivered more than $138 billion in relief to nearly four million people—an extraordinary achievement won in the face of staunch opposition by reactionary courts and right-wing politicians in Congress.

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

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 servicing failures have affected more than four in ten of its customers. 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—even though many servicing functions can *only* be performed by a customer service representative. 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 over 800,000 unprocessed forms;
- MOHELA provided borrowers with incorrect payment counts; and
- MOHELA is denying PSLF credit to public service workers with eligible employment.

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. Evidence showed that:

- MOHELA borrowers were unable to reach customer service representatives to address errors;
- MOHELA miscalculated borrowers’ payment amounts;
- MOHELA lost borrowers’ payments, refunds, and records; and
- MOHELA misinformed borrowers about their options.

In all, nearly 3.5 million student loan borrowers serviced by MOHELA have experienced a documented servicing failure since loan payments resumed in September 2023 after a three-and-a-half-year-long pause on bills and interest charges.

The following investigation shows that the errors and abuses outlined in this report can be directly attributed to choices made by MOHELA. While the U.S. Department of Education (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.

We must do more.

We also need leaders at all levels of government to step up to protect borrowers. Congress must hold hearings to ensure MOHELA's executives are held accountable. And the Consumer Financial Protection Bureau and state Attorneys General must use their enforcement authority to enforce student loan borrowers' basic consumer protection rights.

The need for government oversight and enforcement is all the more dire because, having been awarded a multi-year government contract, MOHELA is not going anywhere anytime soon.

While it is true that the restarting payments for tens of millions of student loan borrowers presented ED and its servicers with an unprecedented challenge, the fact that servicing is complicated is neither a valid excuse for failing to provide quality servicing, nor a legal defense for the harm to borrowers that it causes. MOHELA voluntarily entered federal student loan servicing knowing the demands, scale, and severity of the issue of student debt in America, and the public history of the servicing industry. An undeniable aspect of their job is to provide accurate information to student loan borrowers about their loans and existing programs, and to ensure borrowers have access to timely assistance as needed. As this report lays out, however, MOHELA's servicing fails to meet this standard and millions of borrowers are paying the price.

MOHELA must be held to account and borrowers must be made whole. The return to federal student loan repayment has exposed the cracks in the federal student loan servicing system. Now is the opportunity for federal, state, and private partners to center the wellbeing of borrowers and to demand more from its servicers like MOHELA.

About This Report

The Public Service Loan Forgiveness (PSLF) program was created in 2007 as part of the bipartisan College Cost Reduction and Access Act to support America's public service workers facing financial struggles stemming from student loan debt and the communities they serve.[1] The PSLF program is premised on the notion that public service workers with student debt should be entitled to student loan forgiveness in exchange for a decade of public service work.[2] This loan forgiveness is necessary because, while public service is a vital public good, workers are not compensated commensurately to their private sector counterparts.[3] Loan forgiveness can help ensure the economic pressures of student debt do not deter or delay these borrowers from achieving other life milestones, such as purchasing a home, buying a car, retiring, or starting a family. PSLF was designed to support people working in a wide range of high-demand public service careers, from servicemembers and teachers to social workers and nurses.[4] Communities, particularly low-income communities and communities of color, benefit when they can be served by people from their own communities.

This report is informed by a joint investigation conducted by the American Federation of Teachers (AFT) and the Student Borrower Protection Center (SBPC). This report is the latest in a series of publications examining the administration of the PSLF program by the government and its contractors since the program's inception, in an effort to expose the widespread mismanagement and abuse that has denied or delayed millions of public service workers' access to this critical protection.[5]

The following analysis and commentary are informed by public records, borrower accounts, and thousands of pages of documents and records produced by the Higher Education Loan Authority of the State of Missouri, 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 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.

Introduction

The Higher Education Loan Authority of the State of Missouri—better known as 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.[6] Though created by the state of Missouri, it is considered a "quasi-governmental entity," as the law empowers MOHELA to act independently of the State.[7] Despite its legal independence, MOHELA is arguably most infamous for its central role in *Biden v. Nebraska*, in which the U.S. Supreme Court determined that the State of Missouri had standing to challenge President Biden's debt relief plan because of potential harm to MOHELA, although the company itself was not a party to the challenge, leading to the denial of critical debt relief to 40 million federal student loan borrowers.[8]

But MOHELA's role in the $1.7 trillion federal student loan market goes beyond depriving borrowers of one-time debt relief. No longer a small Missouri-based company, MOHELA is now one of the largest federal student loan servicers, servicing the accounts of federal student borrowers in every state and the sole servicer for borrowers seeking Public Service Loan Forgiveness. As the results of this investigation reveal, MOHELA's actions as the three-and-a-half-year COVID-19 payment pause ends are cause for alarm. Without immediate intervention and action by federal and state regulators, the actions of MOHELA will have long-standing consequences for millions of borrowers.

MOHELA’s Meteoric Rise Within the Federal Student Loan System

MOHELA’s Ascent From Small Not-For-Profit Servicer to its Take-Over of the PSLF Portfolio

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.[9] The FFEL program ceased to originate new loans in July 2010, but MOHELA continues to service loans in this legacy portfolio.[10] Following the end of FFEL origination, the U.S. Department of Education (ED or Department) 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.[11] 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.[12]

MOHELA’s meteoric rise in notoriety began during the three-and-a-half years in which federal student loan payments were paused due to the COVID-19 pandemic.[13] This federal payment pause drew back the curtain, laying the student loan servicing system bare for all to see.

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 March 2020 through September 2023.[14] 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[15] and PHEAA,[16] in addition to a number of NFP servicers.[17] This mass departure of servicers led to MOHELA’s rapid growth and subsequent take-over of the entire PSLF portfolio.[18]

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 10 years (120 payments) while working for a qualifying employer (e.g. government or certain non-profit organizations).[19] 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, 10 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.[20] Investigations revealed the then-PSLF servicer, PHEAA, was routinely engaging in practices that resulted in borrowers being denied the benefits of PSLF:[21] it pushed borrowers into PSLF-ineligible payment plans, miscalculated payments, lost records, and improperly rejected borrowers' employment certification.[22] In 2021, U.S. Senator Elizabeth Warren highlighted that of 225,000 borrowers who hit the ten-year mark and applied for PSLF, 98 percent of them were rejected.[23]

When President Biden was elected, he and his administration committed to overhauling the severely broken PSLF program.[24] In 2021, 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.[25] At the same time, PHEAA ended its contract with ED and the PSLF portfolio was transferred to MOHELA.[26]

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.[27]

MOHELA's Central Role in Ripping Debt Relief From Millions of Borrowers

Just as MOHELA's role in the federal student loan market was growing, so too was its notoriety. In 2022, MOHELA was involuntarily thrust into the center of the lawsuit which ultimately ended President Biden's plan to cancel up to $20,000 in federal student debt for 40 million borrowers.[28] Missouri's Attorney General, along with five other states, claimed that as a result of President Biden's debt relief plan, MOHELA would lose loan volume and that its potential loss of revenue would cause harm to the state of Missouri.

The district court judge initially dismissed the suit[29] and legal scholars questioned whether the State of Missouri had standing to bring the case given that MOHELA was established as an independent entity and was not a plaintiff itself.[30] Internal emails from MOHELA indicate that even MOHELA's own employees doubted Missouri's legal standing to bring the suit on the company's behalf and opposed the lawsuit.[31] One employee poignantly asked, "Are we the bad guys?"[32]

The Supreme Court found that MOHELA's potential loss of servicing volume did give the State of Missouri standing to challenge President Biden's debt relief plan, and it ultimately invalidated the plan.[33] The immediate result of this case meant that tens of millions of borrowers were denied President Biden's student debt cancellation promise. The long-term consequence of this plan means that so long as MOHELA services ED's portfolio of loans, the Missouri Attorney General has virtual veto power over the Administration's student debt policies. Nonetheless, in April 2023, ED renewed its contract with MOHELA for at least the next five years.[34]

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. Early indications are not good. 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.[35] 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. 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)—equivalent to extending the student loan payment pause—until the problem is resolved.[36] This news followed reports from borrowers who had been experiencing these issues and more.[37]

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.[38] Of those complaints, over 1,400 (53 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.[39]

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.[40]

Although, servicing representatives often blame poor performance on a lack of funding, as CFPB Director Rohit Chopra recently affirmed, "[b]udget cuts are never a rationale for breaking the law."[41]

In this report, we have analyzed ED's contracts with MOHELA, financial documents, reports, and borrower accounts and found that MOHELA is already failing at its job, and borrowers are getting hurt as a result. This report will recommend actions that a number of parties can take to assist and protect borrowers, and hold MOHELA accountable.

Observations and Findings

An analysis of borrower complaints,[42] hundreds of pages of financial disclosures,[43] and never-before-seen private communications acquired through Missouri's Sunshine Law, as well as a review of contracts and other records uncovered through Freedom of Information Act (FOIA) requests to ED reveals that hundreds of thousands of student loan borrowers were harmed by MOHELA.[44]

The following sections of this report detail how MOHELA has harmed borrowers, and more broadly how it is failing at its job as a federal student loan servicer. An examination of documents related to MOHELA's servicing of the PSLF portfolio show that public service workers pursuing PSLF have been left stranded, denied promised relief, left with no information, or misinformation, causing years-long setbacks. Beyond PSLF, MOHELA's broader servicing failures prevent borrowers from accessing their rights and getting critical information. These problems are interrelated and compound the issue for borrowers—like one domino toppling another. For example, borrowers who receive incorrect account information or wait months with no word of their PSLF determination likely tried to call MOHELA to remedy the issues, only to be stuck on hold for hours. In fact, the Federal Reserve Bank of Philadelphia found that at least 40 percent of borrowers did not make their October 2023 monthly payment (not including those in administrative forbearance due to servicer error), and of those 40 percent, roughly one-in-four reported they did not make a payment because of servicer errors.[45] These errors can result in overpayments, delinquency, unauthorized bank draws, and hours of time wasted on hold trying to get help and affect an estimated three million borrowers—more than four in ten MOHELA borrowers in repayment.[46] These findings demonstrate the urgent need for both forward and backward-looking actions by both federal and state government actors to address these harms.

MOHELA's Processing of PSLF has Prevented Hundreds of Thousands of Borrowers From Progressing Towards Relief

Since 2022, MOHELA has served as the specialty servicer responsible for handling the loans of borrowers working towards cancellation through the PSLF program. As described in greater detail in this section, MOHELA's handling of these borrowers' accounts is denying public service workers Congress's promise of debt relief.

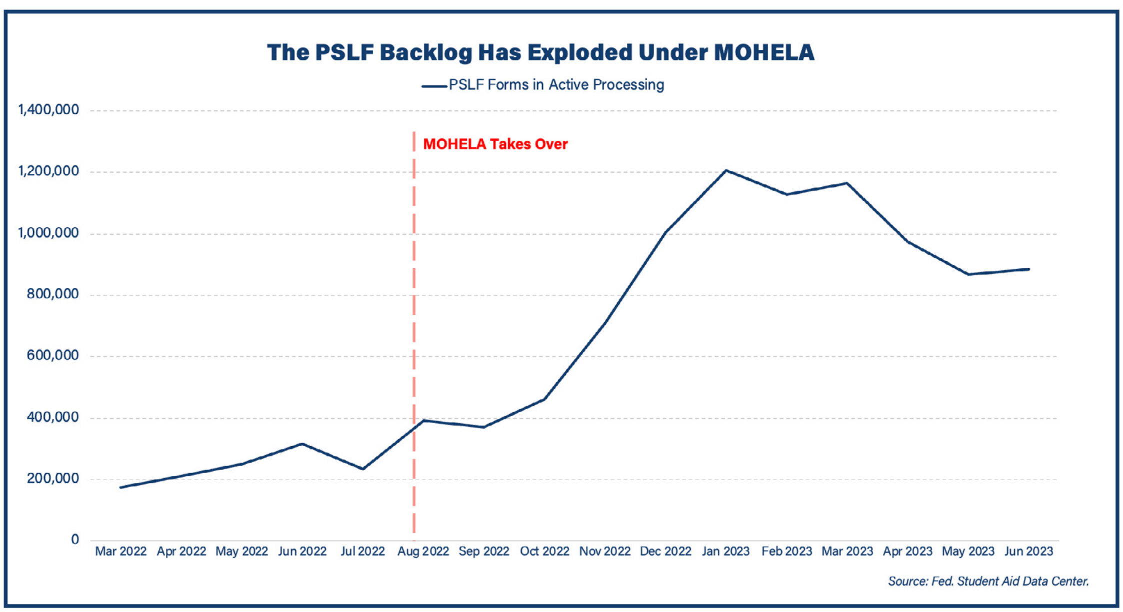
PSLF Backlog has Exploded Under MOHELA

As of the date of this report, MOHELA has a backlog of over 800,000 unprocessed PSLF forms submitted by public service workers.[47] Many of these public service workers have made their 120 payments, and fulfilled their end of the deal, but are often left waiting more than six months for the loan relief that they have been promised.[48] Others are attempting to do their due diligence and certify their employment regularly, as they have been instructed, only for their forms to be stuck in the backlog, resulting in uncertainty surrounding the relief they are working towards. Now that the payment pause has ended, these borrowers are receiving bills and being told to make payments. This means that thousands of borrowers whose debts should be cancelled are being forced to make payments or face the consequences of not paying, which can be severe.[49]

This causes both immediate and long-term harm.[50] These borrowers who received bills may have made payments on debt that should no longer exist. Especially for low-income borrowers, MOHELA's processing failure may therefore jeopardize their abilities to make ends meet. Borrowers may make loan payments to avoid delinquency but without any guarantee that overpayments will be refunded.

Federal data show that the backlog has grown under MOHELA.[51] When MOHELA took over as the sole PSLF servicer in July 2022, there were roughly 250,000 unprocessed forms. Since then, the backlog peaked at more than one million forms and has remained at roughly 800,000. In fact, the most recent available data indicate that nearly one-in-three PSLF borrowers are trapped in this backlog.[52] 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.

Figure A: The number of PSLF forms in active processing from March 2022 through June 2023.



MOHELA Reported Incorrect Payment Counts to Borrowers

Evidence shows that MOHELA has been incorrectly calculating the number of qualifying payments borrowers have made towards PSLF. Borrowers pursuing PSLF are encouraged to submit PSLF forms annually and when changing employers.[53] These forms were previously called Employer Certification Forms (ECFs), and are now known as the "Public Service Loan Forgiveness (PSLF) and Temporary Expanded PSLF (TEPSLF) Certification and Application," or PSLF form. 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.[54] These problems have plagued the PSLF program for years. For example, in the fall of 2022, the federal agency announced that its examiners found "both wrongful denials and approvals of applications or ECFs," which resulted in borrowers receiving inaccurate and inconsistent information about their progress toward cancellation through the PSLF program."[55]

A new appeals process shows that inaccurate payment counts account for a large percentage of PSLF problems. Prior to April 2022, if a borrower believed they had received an incorrect payment count from their servicer, they had no official path for recourse. In April 2022, ED announced the PSLF Reconsideration application, which a borrower could submit to MOHELA to signify their disagreement with the payment count.[56] In the first seven months of the reconsideration application being available, over 18,000 requests were submitted.[57] Of those, 70 percent were seeking payment reconsiderations.

MOHELA is Denying Credit to Public Service Workers with Eligible Employment

Since MOHELA took over the PSLF portfolio, many public service workers were denied PSLF. Borrowers submit PSLF Forms for two reasons: to document past or current employment that should be credited toward PSLF's 120 qualifying payment requirement, and when they have accrued the 120 payments needed for cancellation. In 2022, the CFPB found that servicers improperly denied borrowers such as public school workers relief. Specifically, it found occurrences where "ECFs were wrongfully denied when representatives erroneously determined the forms had invalid employment dates, were missing an employer EIN (Employer Identification Number), or were otherwise incomplete—when in fact they were not."[58] These improper denials have the effect of postponing when otherwise eligible borrowers receive cancellation.

Through a Sunshine Law request, SBPC uncovered that MOHELA continues to deny public service workers with qualifying 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.[59] Hold status is not defined nor is any further explanation provided publicly by either MOHELA or Federal Student Aid (FSA).[60]

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. Departments of State, Interior, Veterans Affairs, Human Services, Homeland Security, and Defense.

Other denials were due to minor paperwork mix-ups, such as "improperly formatting the date."[61] Another reason MOHELA listed for denial was that the borrower used an expired version of the application form. Other denial codes include: missing borrower date of birth, missing borrower signature, and missing signature date.

In the data provided, MOHELA has redacted the column that shows *why* borrowers working for these qualifying employers were denied. This column is the key to understanding how and where MOHELA made denials in error. SBPC requested this information on August 11, 2023, but MOHELA has yet to produce it.

"Consolidated from FedLoan to MOHELA. Had 119 qualifying payments on one loan before consolidation. Should be eligible for PSLF forgiveness at this for all loans time based on new regulations. MOHELA has reviewed my PSLF information and has now determined none of my employers were eligible for PSLF even though all of them have been. MOHELA now states I have 0 qualifying payments made. Been on hold on the phone with them for hours multiple times without being able to speak with anyone to help. I see many other stories online similar to mine. Would like to support the efforts to ensure MOHELA is upholding their end of the PSLF promise as they are clearly, either willfully or negligently, making it more difficult than it should be to have student loans forgiven under the PSLF." **- A borrower from California**

Regardless of whether the denial was due to glaring errors or minor mistakes, wrongful denials can cause borrowers lasting and long-term problems. Being denied PSLF extends the time that borrowers remain in debt and face potential default, credit score implications, mortgages at a higher interest rate, or the inability to secure other forms of credit at all. As the CFPB elaborated, "[w]rongful approvals and denials and incorrect PSLF eligibility information resulted in a substantial injury because the availability of PSLF can substantially impact borrowers' careers, financial situation, and life choices."[62]

MOHELA Financially Benefits From Improper PSLF Denials as Borrowers Are Harmed

Under its contract with the Department, improper denials can turn out to be quite lucrative for MOHELA because the servicer gets paid for both the denial and for the PSLF approval form it processes. This means if they deny an application and the borrower resubmits forms or applies for reconsideration, the company is paid an additional $8.17.[63]

Figure B: An excerpt from a Change Request ED issued to MOHELA defines the price per service.[64]

PSLF Pricing Exhibit for CLIN 2007:

Exhibit Lines	Status	Unit	Unit Measure	Unit Rate
	Public Service Loan Forgiveness (PSLF)[1]			
D019	Approved Employment Certification Form (CR5536)	1+	EA	$5.25
D022	Denied Application (CR5536)	1+	EA	$8.17
D024	PSLF Email received/routed to E-PSLF@MyFedLoan.org in accordance with CR 4639 (Per Email)	1+	EA	$4.50
D025	PSLF Call received/routed to 1-855-265-4038 in accordance with CR 4639 (Per Call)	1+	EA	$2.00
D026	Temporary Expanded PSLF Initial Reconsideration Review in accordance with CR 4640	1+	EA	$4.67
D027	Temporary Expanded PSLF IDR Payment Calculation in accordance with CR 4640 (CR5536)	1+	EA	$15.17
D028	Temporary Expanded PSLF Detailed Payment Review in accordance with CR 4640 (CR5536)	1+	EA	$52.50
D029	PSLF Transfers Limited to at least 96 months Qualified per review in accordance with CR 4687[3]	1+	EA	$35.00
D030	PSLF Help Tool Calls to 1-8555-375-2983 in accordance with CR 4875 (per call)	1+	EA	$9.33
D031	Operational effort in accordance with CR 4782 (per record)	1+	EA	$5.83
D032	ECF/PSLF App placed on Hold in accordance with CR 5044 (per borrower)	1+	EA	$5.25
D033	Process Approval Form- Forgiveness CR 5536	1+	EA	$29.07

Status
Process Approval Form- Forgiveness CR 5536

Unit Rate
$29.07

This both rewards MOHELA for making improper determinations during its first review and creates a perverse incentive for it to improperly deny borrowers in order to collect payment for a second review.

MOHELA's Poor Customer Service Made Everything Worse

Compounding public service workers' loan issues, when PSLF borrowers attempted to call MOHELA to address these issues, they faced a litany of servicing problems which often fail to resolve the underlying issue, or in some cases, create their own issues worsening borrowers' loan situation.

The problems identified in the following section demonstrate that MOHELA was unprepared and ill-equipped to deal with the servicing of the PSLF Waiver and the return to repayment. The company was unprepared even when it had foreknowledge of ED's plans and upcoming deadlines and announcements, increased activity, and other factors that would cause an increase in call center activity and borrower requests. For example, emails show that prior to sending out notices to borrowers about Biden's debt relief plan, ED explicitly warned the servicers of this influx in writing and to be prepared accordingly.[65]

MOHELA Borrowers Unable to Reach Customer Service Representatives to Address Errors

Borrowers saddled with MOHELA have experienced hours-long call center wait times. In 2022, public service workers were sent into a panic as the October 31 deadline for the PSLF Waiver approached and they could not get information or responses from MOHELA.[66] Response to an open records request reveals that on November 19, 2022, FSA emailed federal student loan servicers to warn them about the impending increased borrower activity due to borrower outreach, new ED programs, and debt cancellation news.[67] Yet MOHELA's call centers were understaffed and unequipped to properly service the accounts.[68] Through both its experience with the PSLF Waiver and ED's directive, MOHELA should have been prepared for payments to resume and the foreseeable increase in borrowers seeking customer assistance, but it was not.

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 on hold with the company for a full nine hours.[69] Other borrowers also reported waiting for hours on end at this time, during which MOHELA had an average call wait time of two hours.[70]

Upon the return to repayment, we see long wait times continue. In 2023, NPR reported seeing "unpublished federal data showing multiple servicers have had call wait times so long that more than half of borrowers gave up before getting through on the phone."[71] A CFPB January 2024 report found that these long waits were not the exception, or occurring only during peak periods, but were found to be consistent across call center operating hours.[72] In an October 2023 response to Senator Warren, MOHELA reported a 35 minute call wait time, not including the time it takes to navigate through the mandatory self-service menu at the start of every call.[73] But borrowers have been reporting much longer call wait times during the same period.[74] This raises questions about how MOHELA arrived at this estimate.

In advance of payments resuming, MOHELA adopted minor changes to its customer service options, but seemingly with minimal effect.[75] It is one of the servicers that offers a call-back feature, so borrowers do not have to wait on hold but can hang up and request a call from a representative when it is their "turn" in line. Yet borrowers reported this feature failing, and never receiving a call back at all.[76] Regulators have determined that when a servicer's call centers are understaffed for an extended period of time resulting in consistently and excessively long call wait times, the servicer is engaging in a prohibited practice.[77] This is because, as a result, borrowers are left without an adequate avenue to timely resolve disputes by phone for an extended period, which is an unfair act or practice.[78] By denying borrowers access to a MOHELA representative, MOHELA is preventing borrowers from accessing their rights and likely engaging in that very prohibited practice.

Specific metrics on call abandon rates are not available for MOHELA, however, servicers as a whole are struggling to deliver minimum customer service. Even before the return to repayment, federal student loan servicers industry wide were failing to meet ED's performance metrics known as Abandon Rate and Average Speed to Answer (ASA).[79] In 2022, servicers had an average Abandon Rate and Speed to Answer over five times higher than their target goal.[80] The CFPB's January 2024 report found that across all servicers, from August through October 2023, servicers' call abandon rates reached levels as high as 50 percent.[81]

Long call wait times and high abandonment rates are more than just an annoyance—they block borrowers from receiving timely answers and resolutions to issues involving their loans, and can be very costly for some of the most vulnerable borrowers. For many, such as those without regular Internet access, older borrowers, and borrowers with some disabilities, calling MOHELA may be the *only* way for them to get information about their loans. This is disproportionately felt by low-income borrowers. For borrowers on prepaid phone plans, for example, long wait times mean wasted minutes. For other borrowers, long wait times may mean missing work or using valuable sick leave or vacation time, if they have it. Notably, MOHELA does not offer weekend call center hours.[82] These calls therefore not only serve as a barrier for borrowers to resolve specific issues related to their loans, but they also create their own separate financial burdens. MOHELA also seems to have chosen this high-activity time during return to repayment to transition to a new platform, all but ensuring many more technical issues to come for the borrowers redirected to its website.[83]

One borrower, a teacher from New York, shared that he was forced to leave his cell phone on all day while teaching because he had literally no other option; this was the only way he could hope to get through to a MOHELA representative. The teacher was experiencing a number of issues with his loans while pursuing PSLF and tried to contact MOHELA to get them to resolve the issues, but instead was stuck on hold for hours while teaching.

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.[84] In October 2023, it was revealed that more than 400,000 federal student loan borrowers were quoted an incorrect monthly bill amount.[85] Eighty of those, 280,000 borrowers received incorrect bills because MOHELA calculated borrowers' payments utilizing the poverty guidelines from the wrong year.[86] 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.[87] SAVE is intended to increase the amount of protected income and lower borrowers' monthly payments.[88]

MOHELA's payment calculation errors not only affect PSLF borrowers, but low-income and other borrowers, as they resulted in some making higher payments than what they should have owed. Some borrowers received a bill in error for upwards of $10,000 and $100,000 a month due to the servicers accidentally setting repayment terms at one or two months, instead of 120 to 240 months.[89] It was later announced that refunds would be offered, but for those counting on every dollar to make ends meet each week, the harm was already done.[90]

In the case of one borrower, MOHELA auto-debited more than $2,000 from her bank account in September 2023 despite the fact that she was enrolled in IDR and had a $0 monthly IDR payment.[91] MOHELA charged her according to a standard repayment plan, rather than her IDR plan, jeopardizing her ability to afford her mortgage payment. After two weeks and no refund, she called MOHELA and spent three hours on hold, and was told MOHELA had cancelled her refund request. It ultimately took MOHELA a month to refund the money.

While some borrowers received bills demanding more money than they owed, on the other extreme, ED also found that MOHELA failed to send timely bills to 2.5 million borrowers.[92] More than a million of these borrowers received bills less than 21 days from the due date, as required, and some never received a bill at all.[93] As a result, more than 800,000 borrowers' loans fell into delinquency.[94]

"I started repaying Federal student loans in 2001. In 2009, MOHELA took over my account from another service provider, which was outside of my control. Apparently they never imported any records of my payments between 2001-2008. I am on an income-based repayment program and required to submit a certain number of payments before my loans are forgiven. MOHELA lost 8 years of my repayment history. I've spent over a year trying to get account info. from them before they finally admitted they couldn't find my information. I then reached out to the Consumer Finance Protection Bureau but they couldn't help. I then reached out to the Federal Student Aid Information Center and it's been months and I haven't received a resolution to my inquiry about my payment history. I don't know where to go or who to turn to for help. I've been trying to get this information for over a year now."
- A borrower from Washington, D.C.

Furthering the confusion surrounding this poor billing, although ED instructed MOHELA to put many borrowers' loans into forbearance while it took corrective action,[95] the servicer failed to accurately communicate to borrowers the cause and implications of the forbearance.[96] Thousands of borrowers may have even requested the forbearance be removed, not having understood why it was put into place at all. SBPC found that, on more than one occasion in the week following ED's October 30 announcement, borrowers who called MOHELA reached customer service representatives who had not heard about the news, or the zero-interest forbearance for these 2.5 million borrowers.[97]

MOHELA Lost Borrowers' Payments, Refunds, and Records

Student loan servicers' core function is handling loan payments. However, MOHELA borrowers have reported making payments, not seeing the payment reflected in their account, and contacting the company, to be told there is no record of the payment.[98] 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.[99] Others reported submitting their annual IDR recertification or PSLF forms, and MOHELA subsequently claiming to have never received them.[100] 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.[101]

For borrowers who are never able to get these issues resolved and spend years waiting, it means a life saddled with debt they should no longer have, thousands in additional payments made to avoid default, or the domino-effect of ramifications of falling delinquent.[102] While especially harmful to PSLF borrowers working towards the 120-payment finish line, this also affects non-PSLF borrowers working towards IDR relief or attempting to pay off their entire balance as quickly as possible.

More generally, the entire student loan system relies on accurate records. Borrowers' outstanding balances should reflect the interest and fees that have accrued on their original principal balance, less the amount of payments that have been made and applied. To address any potential inaccuracies, servicers must maintain records of every accrual and every deduction. These records also underpin several of the Biden Administration's major borrower relief programs, including the IDR Account Adjustment and the PSLF Waiver;[103] inaccurate or missing records could result in borrowers receiving less benefit under these programs than they are due.

"Requested a refund and was told by a MOHELA rep it would auto credit to my checking acct that was used for monthly auto payments. Should be 30- 60 days. Emailed MOHELA for status update. Did not reply for months and when they did they did not address the issue but used canned language 'hope your issue has been resolved.' Was told by MOHELA rep that MOHELA erred and sent the overpayment to [another loan servicer]. I did not have an account with [that servicer]. MOHELA would not resolve and said I would have to get the funds from [that servicer] I have not heard from MOHELA."[104]

- A borrower from Missouri

MOHELA Misinformed Borrowers About Their Options

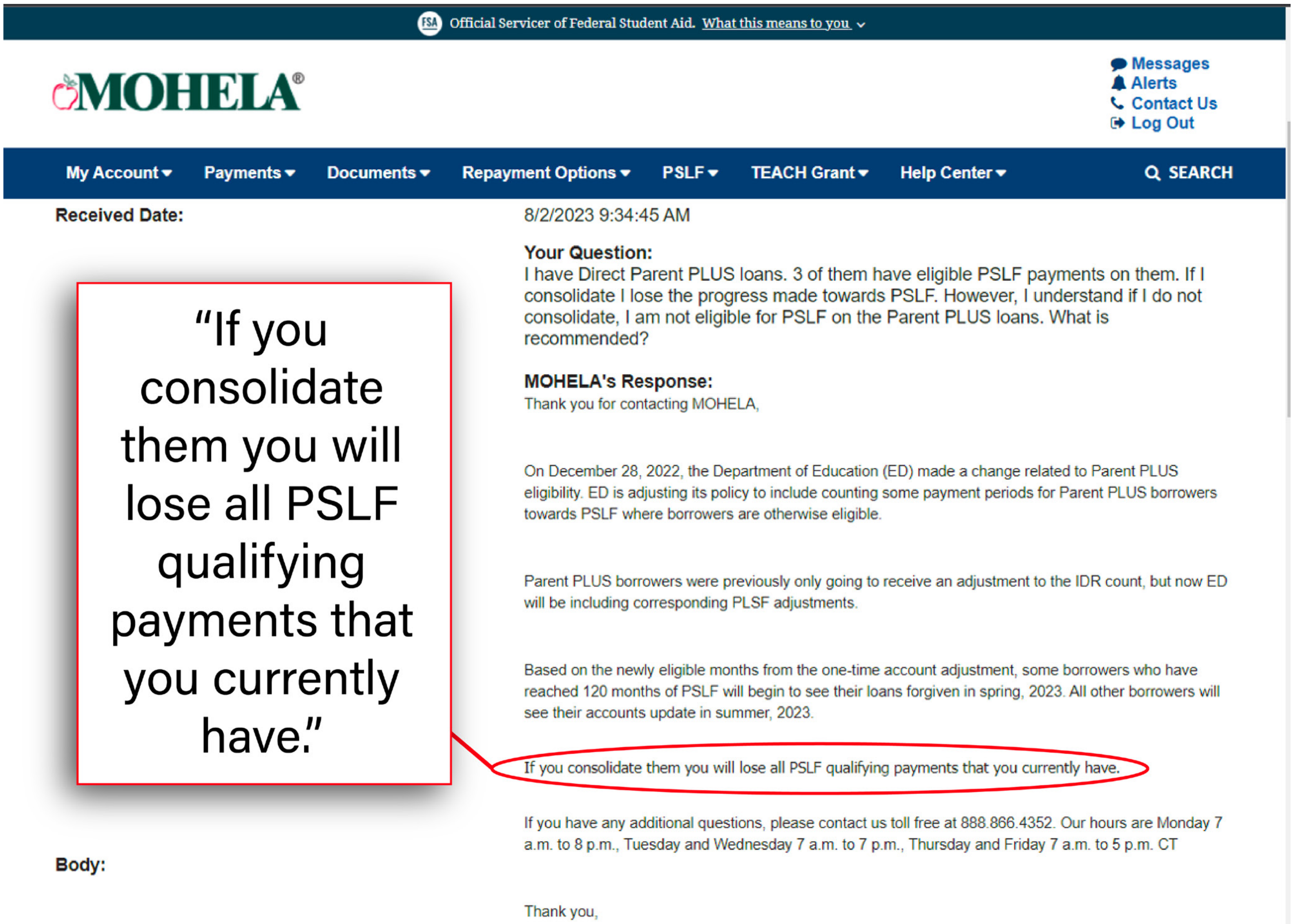
Borrowers call their servicers seeking information about payment plans, paths to relief, and other FSA policies or deadlines that may affect their loans. But MOHELA has been recorded giving borrowers incorrect information about program eligibility and time-sensitive actions borrowers should and should not take when it comes to their loans.

"Mohela became the servicer for my loans at the end of XXXX... I had paid a substantial amount during covid, over XXXX dollars. After debt relief was announced I requested a refund. Still no refund, but my loan balance has returned to the original amount. Mohelas website provides XXXX information about the transactions/refund. I didn't request a refund for the full amount. I only requested a refund for a certain transaction made during that time. I've not received a check or a deposit."[105] **- A borrower from Missouri**

The message depicted below in Figure C was received by a borrower in Missouri; it illustrates the bad information that many borrowers are receiving from MOHELA. 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.

A New York-based student loan borrower was incorrectly informed she did not qualify for PSLF: "I have a Parent Plus Loan in the amount of $125,000 for my daughter's education at Skidmore College. I work in a non-profit organization serving XXXXXXXXXXX Clients in a Halfway House for Men in XXXXXXX, NJ. I am in my 60s and face paying this Parent Plus Loan until I'm in my 80s! the interest it accrued while I had it in forbearance is astronomical amounting to $25,000 on a $100,000 loan! I have applied for Public Service Loan Forgiveness but have been informed I don't qualify because the loan was for my daughter's education not mine. Needless to say, for the valuable work I do, I don't make a lot of money. Qualifying for PSLF would be life changing for me...I really don't want to work in my 80s!"

Figure C: Response to a borrower's inquiry about the effects of consolidation on her credit toward Public Service Loan Forgiveness cancellation, incorrectly informing the borrower that consolidating would eliminate all accrued credit.



Official Servicer of Federal Student Aid. What this means to you

MOHELA®

Messages
Alerts
Contact Us
Log Out

My Account | Payments | Documents | Repayment Options | PSLF | TEACH Grant | Help Center | SEARCH

Received Date: 8/2/2023 9:34:45 AM

Your Question:
I have Direct Parent PLUS loans. 3 of them have eligible PSLF payments on them. If I consolidate I lose the progress made towards PSLF. However, I understand if I do not consolidate, I am not eligible for PSLF on the Parent PLUS loans. What is recommended?

MOHELA's Response:
Thank you for contacting MOHELA,

On December 28, 2022, the Department of Education (ED) made a change related to Parent PLUS eligibility. ED is adjusting its policy to include counting some payment periods for Parent PLUS borrowers towards PSLF where borrowers are otherwise eligible.

Parent PLUS borrowers were previously only going to receive an adjustment to the IDR count, but now ED will be including corresponding PLSF adjustments.

Based on the newly eligible months from the one-time account adjustment, some borrowers who have reached 120 months of PSLF will begin to see their loans forgiven in spring, 2023. All other borrowers will see their accounts update in summer, 2023.

If you consolidate them you will lose all PSLF qualifying payments that you currently have.

If you have any additional questions, please contact us toll free at 888.866.4352. Our hours are Monday 7 a.m. to 8 p.m., Tuesday and Wednesday 7 a.m. to 7 p.m., Thursday and Friday 7 a.m. to 5 p.m. CT

Body:

Thank you,

Because of the misinformation being disseminated, borrowers are more likely to get off-track, ultimately moving them farther away from relief promised by PSLF and IDR. This misinformation is all the more concerning given its source: student loan servicers are often borrowers' sole point of contact for their loans, and operate as an agent of the federal government. Borrowers reasonably believe that they can trust what their servicers tell them.

MOHELA's Actions Are Keeping Borrowers From the Benefits of the SAVE Plan

As payments resume, not being able to get through to ask MOHELA about affordable payments and other delays result in interest racking up which would have been waived under the SAVE plan.[106] Across all servicers, the CFPB found an IDR backlog of over 1.25 million pending applications as of late October 2023.[107] This wasn't an overnight phenomenon; the CFPB found the number had risen consistently since August of that year and that nearly 40 percent of the October total had been pending with a servicer for more than 30 days.[108] For a low-income borrower, the cost of delaying getting on an IDR plan is significant. As the following graphs show, depending on the duration of the delay, an administrative forbearance can cost low-income borrowers hundreds, if not thousands of additional dollars.

Figure D. Balances overtime for a borrower with a $10,000, $20,000, or $50,000 principal balance and a 6 percent interest rate in an administrative forbearance compared to the amount they would owe if they qualified for a $0 payment under SAVE.

Borrower Balances on Administrative Forbearance vs. on the SAVE Plan

	Borrower 1		Borrower 2		Borrower 3	
	Admin. Forb.	SAVE	Admin. Forb.	SAVE	Admin. Forb.	SAVE
Oct 2023	$10,000	$10,000	$20,000	$20,000	$50,000	$50,000
Nov 2023	$10,050	$10,000	$20,100	$20,000	$50,250	$50,000
Dec 2023	$10,100	$10,000	$20,200	$20,000	$50,500	$50,000
Jan 2024	$10,150	$10,000	$20,300	$20,000	$50,750	$50,000
Feb 2024	$10,200	$10,000	$20,400	$20,000	$51,000	$50,000
March 2024	$10,250	$10,000	$20,500	$20,000	$51,250	$50,000
April 2024	$10,300	$10,000	$20,600	$20,000	$51,500	$50,000
May 2024	$10,350	$10,000	$20,700	$20,000	$51,750	$50,000
June 2024	$10,400	$10,000	$20,800	$20,000	$52,000	$50,000
July 2024	$10,450	$10,000	$20,900	$20,000	$52,250	$50,000
Aug 2024	$10,500	$10,000	$21,000	$20,000	$52,500	$50,000
Sep 2024	$10,550	$10,000	$21,100	$20,000	$52,750	$50,000
Oct 2024	**$10,600**	**$10,000**	**$21,200**	**$20,000**	**$53,000**	**$50,000**

Figure D1. Balances over time for a borrower with a $10,000 principal balance and a 6 percent interest rate in an administrative forbearance compared to the amount they would owe if they qualified for a $0 payment under SAVE.

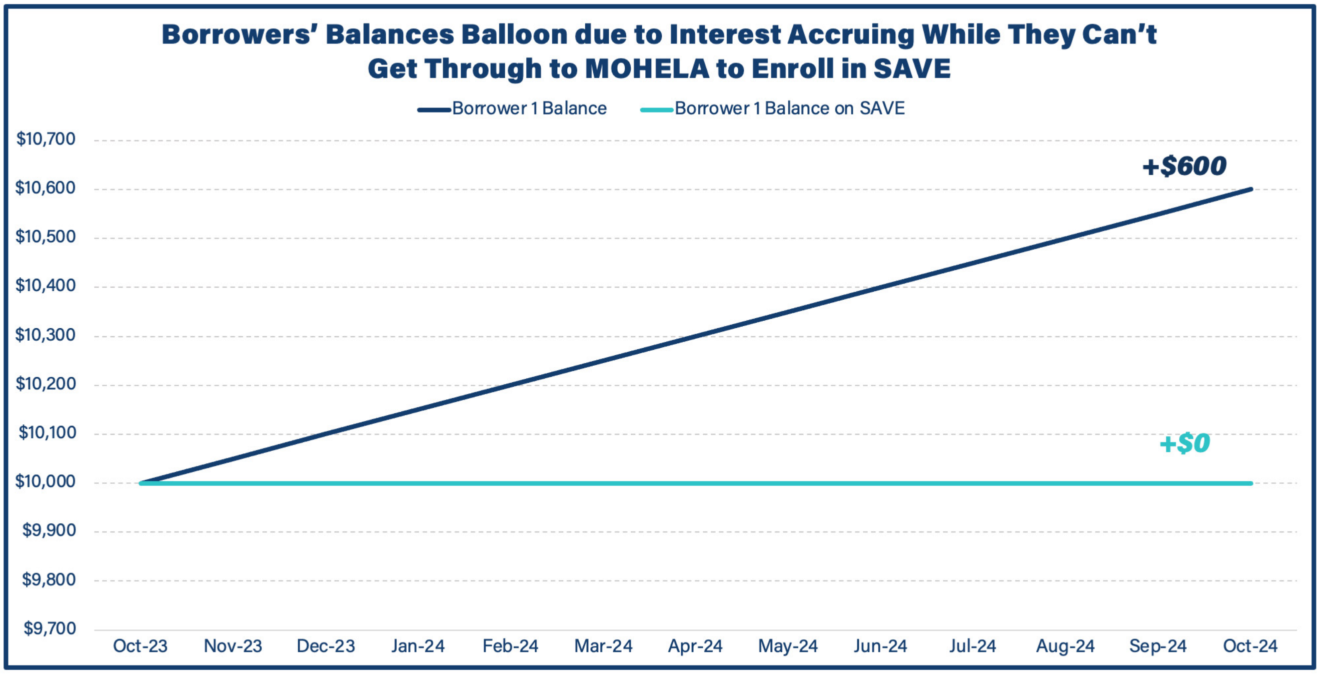


Figure D2. Balances over time for a borrower with a $20,000 principal balance and a 6 percent interest rate in an administrative forbearance compared to the amount they would owe if they qualified for a $0 payment under SAVE.

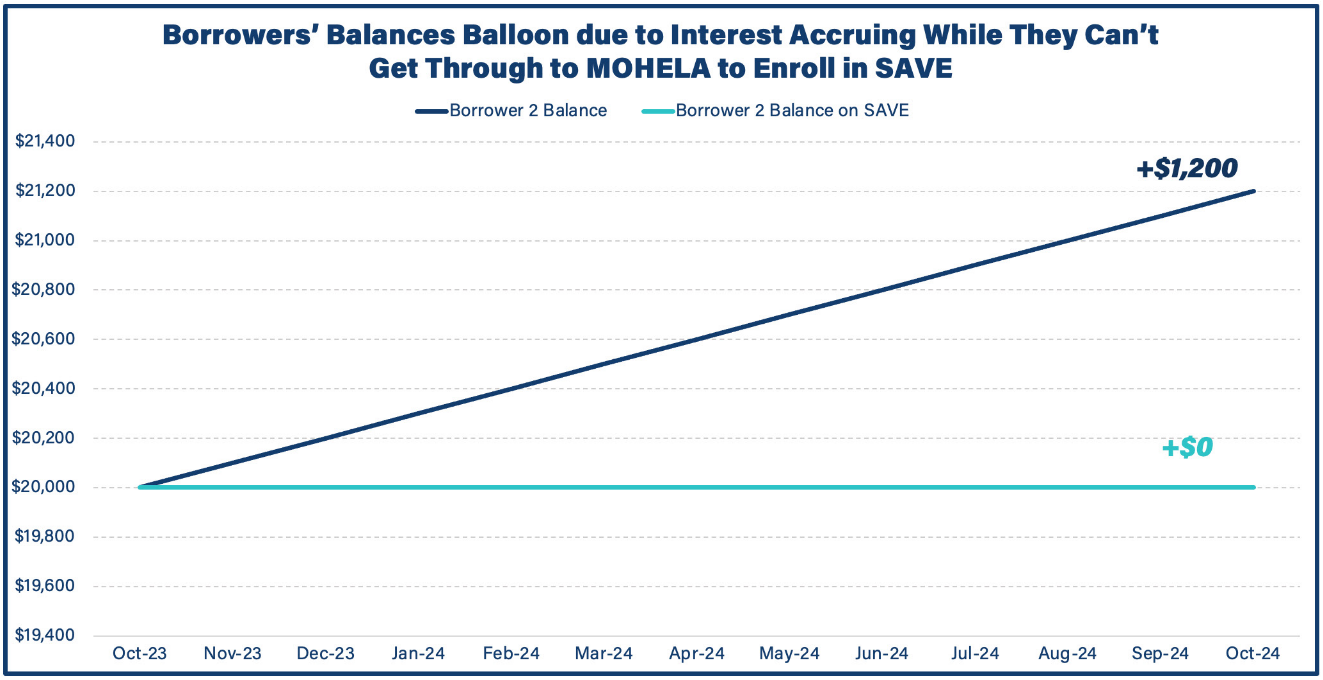
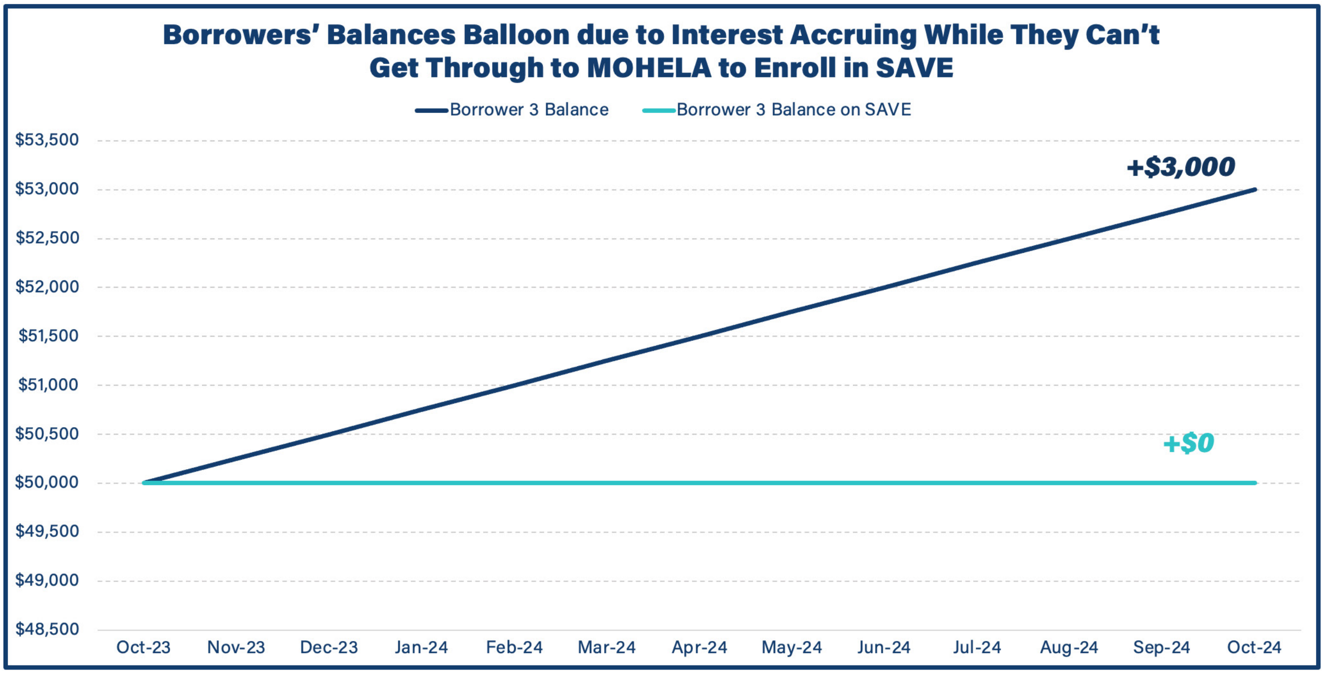


Figure D3. Balances over time for a borrower with a $50,000 principal balance and a 6 percent interest rate in an administrative forbearance compared to the amount they would owe if they qualified for a $0 payment under SAVE.



Although ED has taken some steps to address MOHELA's servicing failures, they are insufficient to remedy all the harms that borrowers are facing. In its October 2023 statement, as it revealed that it was withholding $7.2 million in payments from MOHELA in response to its failure to send borrowers bills, ED announced it would direct servicers to place affected borrowers in administrative forbearances that would not accrue interest and that would count toward PSLF and IDR.[109] However, not all of the servicing failures identified in this report qualify for the zero-interest forbearance and there is already evidence that borrowers who should have been placed in this zero-interest forbearance are instead in an interest-accruing forbearance.

One New York-based borrower wrote to SBPC that MOHELA never sent her a bill, then overcharged her October 2023 auto-debit payment by $340. In response to this borrower, MOHELA suggested she unenroll from the Auto Debit Program and make the proper payments going forward manually, as it could take them several months to fix the underlying issue. She chose to remain in autopay so as to retain the 0.25 percent interest benefit that it provides, and was placed in an interest-accruing forbearance instead, despite being part of the class of borrowers who ED said should receive non-interest bearing forbearance. Upon discovering ED's announcement and that she should not have been accruing interest while MOHELA fixes its mistake, she called the company on November 1, 2023. After the call, she told SBPC that "Mohela has no idea that this has happened or that they have been instructed to place borrowers in forbearance. . . . as it stands my loans are still accruing interest."[110]

MOHELA's improper implementation of the SAVE plan has cascading repercussions for borrowers. It results in inaccurate payments and that requires borrowers to seek customer assistance from an overwhelmed system. The purported solution is poorly applied, which itself requires additional touchpoints from borrowers, wasting their time and further clogging the system. Without these fixes in place, borrowers lose out on qualifying time toward PSLF and IDR. Finally, it undermines the Biden Administration's efforts to reform the student loan system, calling into question MOHELA's ability to fulfill its contractual obligations to the government.

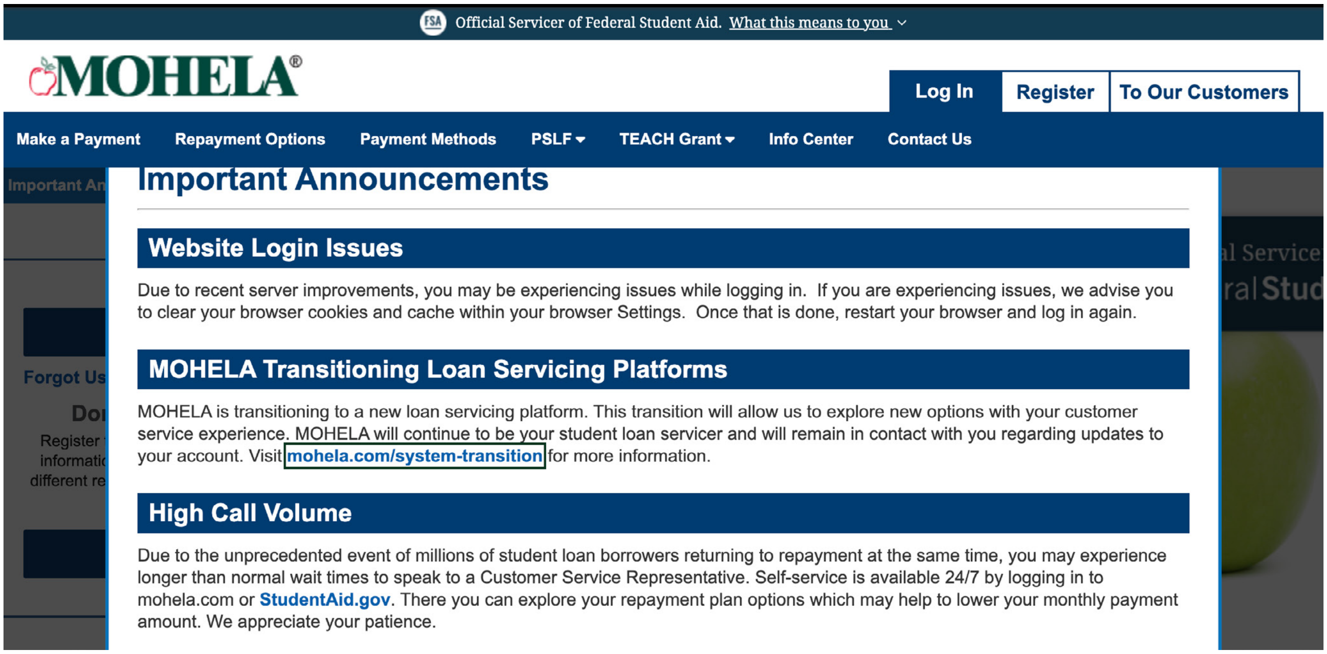
MOHELA's Call Deflection Scheme Ensures Servicing Failures Go Unresolved

New documents revealed MOHELA's Return to Repayment "Playbook" which 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.[111] **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.[112]

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."[113] In internal correspondence, MOHELA's General Counsel expressed concern over the potential public backlash should evidence of MOHELA's "call deflection" strategy become public.[114]

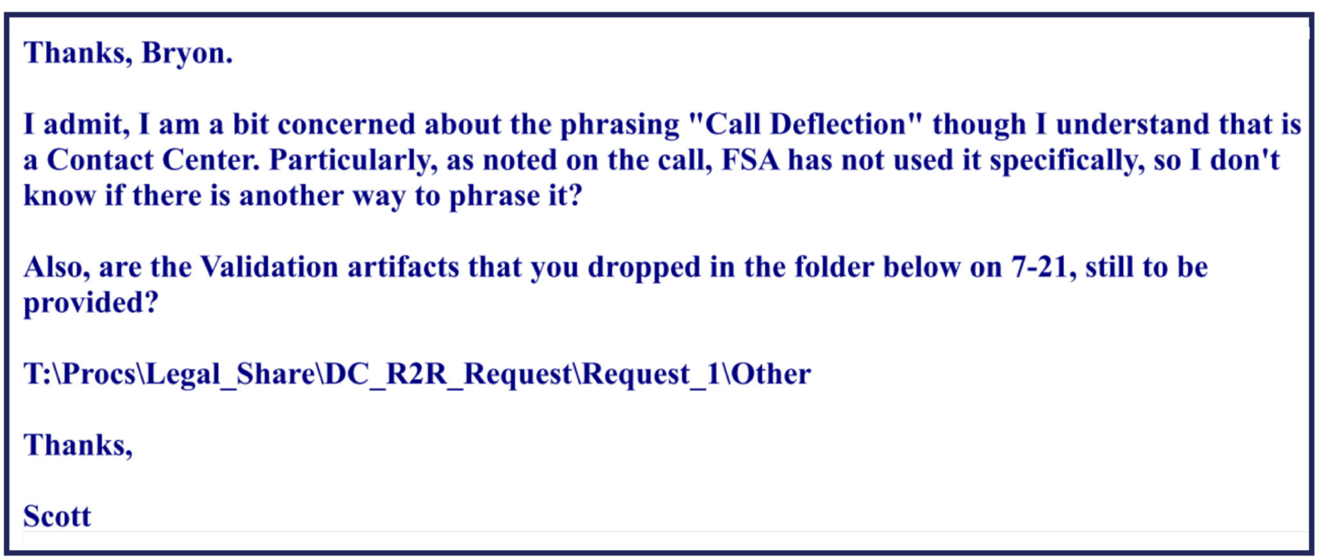
However, MOHELA is "deflecting" borrowers to incomplete resources. For example, a borrower cannot get all the information they need about their loans on FSA's website alone, such as detailed payment history. And MOHELA's website is missing huge swaths of information about programs and options available 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."[115] In fact, from November 15 to December 12, 2023, MOHELA warned borrowers visiting its website, stating "you may be experiencing issues while logging in."[116]

Figure E: Screenshot of a pop-up that appeared on mohela.com from November 15 through December 12, 2023, indicating possible login issues.



Further, MOHELA's own documents show that many borrower questions simply cannot be deflected.[117] For example, questions about the IDR Account Adjustment are specific to individual borrower circumstances, yet MOHELA's Return to Repayment Communications Playbook created specific messaging to deflect borrowers with questions about the adjustment.[118]

Figure F: A note from MOHELA's counsel to a senior manager of digital customer care and communications advising them to use another phrase when referring to "call deflection" (Archive C at 519).



Thanks, Bryon.

I admit, I am a bit concerned about the phrasing "Call Deflection" though I understand that is a Contact Center. Particularly, as noted on the call, FSA has not used it specifically, so I don't know if there is another way to phrase it?

Also, are the Validation artifacts that you dropped in the folder below on 7-21, still to be provided?

T:\Procs\Legal_Share\DC_R2R_Request\Request_1\Other

Thanks,

Scott

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.[119] Moreover, the "deflection strategies" do 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.

Conclusion and Recommendations

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 find those programs to be elusive. As this report describes, MOHELA borrowers have experienced long call wait times, extreme delays in processing PSLF and IDR applications, and miscommunications that result in billing and account errors. The results of these practices can be extremely costly for borrowers and affect an estimated three million borrowers—approximately four in ten borrowers in repayment serviced by MOHELA.[120]

The evidence shows that borrowers are paying the price for deliberate choices made by MOHELA with regards to staffing decisions and ensuring quality control over its communications and accounts. 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.

ED has already 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. But these actions may be subject to MOHELA's own implementation errors and do not hold the company's executives accountable; more should be done to provide a full and adequate remedy to borrowers who have been harmed.

The errors and abuses outlined in this report can be directly attributed to choices made by MOHELA. **Congress must hold hearings to ensure MOHELA's executives are held accountable.**

Moreover, MOHELA's practices laid out in this report (e.g. "excessively delayed processing student loan program forms" and "failing to provide, for an extended period, an adequate avenue for consumers to timely resolve disputes or inquiries by phone") are, by CFPB's own definition, unfair and abusive acts and practices.[121] The CFPB, state attorneys general, and financial regulators have a variety of tools that they can use in response to servicer misconduct, including unfair or deceptive acts or practices laws and 19 state laws that regulate servicers specifically.[122] **The CFPB and state Attorneys General must use their enforcement authority to enforce student loan borrowers' basic consumer protection rights.**

The need for enforcement and further investigations is all the more dire because MOHELA recently signed a new multi-year federal servicing contract under the Unified Servicing and Data Solutions program.[123]

ED can also do more. For one, it must ensure that borrowers are made whole for past, present, and future servicing errors. The IDR Account Adjustment and PSLF Waiver are significant remedial programs, but are both undermined by the very servicers whose earlier misconduct necessitated these policy interventions. In addition to placing borrowers who experienced certain types of servicing errors into zero-interest forbearances, the Secretary should delegate authority to the FSA Ombudsman to extend this relief to borrowers who complain to FSA about a variety of servicer and account issues, as well as to correct accounts as necessary. This will reduce the instances of affected borrowers falling between the cracks.

Moreover, ED's accountability framework[124] is an admirable start but does not address all of the identified borrowers' harms. There should also be real ramifications for servicers who fail to meet FSA's own standards; servicers should not be able to consistently fail to meet expectations and continue raking in federal dollars year after year. Metrics for individual servicers should also be published, and to the extent ED cannot itself engage in punitive measures, law enforcement and private litigators can use these data to support civil actions.

In addition to improving its oversight and accountability frameworks, ED should also support ongoing consumer protection efforts with respect to its contracted student loan servicers. ED can proactively and liberally share data about its servicers and provide technical assistance about student loan servicing and its contracts, as needed. For too long, servicers have been allowed to hide much of their operations, performance data, and finances in the shadows; regulators must shine a light here to help make total transparency the standard for federal servicers.

It is true that the restarting payments for tens of millions of student loan borrowers presented federal servicers with an unprecedented challenge. The fact that servicing is complicated is neither a valid excuse for failing to provide quality servicing, nor a legal defense for the harm to borrowers that it causes. MOHELA voluntarily entered federal student loan servicing, knowing the demands, scale, and severity of the issue of student debt in America, and the public history of the servicing industry. An undeniable aspect of their job is to provide accurate information to student loan borrowers about their loans and existing programs, and to ensure borrowers have access to timely assistance as needed. As this report lays out, however, MOHELA's servicing fails to meet this standard, and millions of borrowers are paying the price.

MOHELA must be held to account and borrowers must be made whole. The return to federal student loan repayment has exposed the cracks in the federal student loan servicing system. Now is the opportunity for federal, state, and private partners to center the wellbeing of borrowers and to demand more from its servicers like MOHELA.

Endnotes

1 *See* College Cost Reduction and Access Act, Pub. L. No. 110-84 (2007); *see also* 20 U.S.C. § 1087e(m).

2 *See e.g.*, Keith A. Bender & John S. Heywood, *Out of Balance? Comparing Public and Private Sector Compensation over 20 Years*, Nat'l Inst. On Ret. Sec. (Apr. 2010), available at www.slge.org/wpcontent/uploads/2011/12/Out-ofBalance_FINAL-REPORT_10-183.pdf (finding that on average, public sector jobs require much more education than those in the private sector, and wages and salaries of state and local employees are lower than those for private sector workers with comparable earnings determinants); *Memorandum on Level of Comparability Payments for January 2018 and Other Matters Pertaining to the Locality Pay Program*, Fed. Salary Council (Dec. 14, 2016), available at https://www. opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/federal-salary-council/recommendation16.pdf.

3 *See Public Service and Student Debt*, Consumer Fin. Prot. Bureau (Aug. 2013), https://files. consumerfinance. gov/f/201308_cfpb_public-service-and-student-debt.pdf; *Staying on track while giving back: The cost of student loan servicing breakdowns for people serving their communities*, Consumer Fin. Prot. Bureau (June 2017), https://files. consumerfinance.gov/f/documents/201706_cfpb_PSLF-midyear-report.pdf.

4 *See* 153 Cong. Rec. S9536 (daily ed. July 19, 2007), available at https://www.congress.gov/crec/2007/07/19/CREC2007-07-19-pt1-PgS9534.pdf ("Mr. Kennedy: . . . . So we have made this as wide as we could in terms of trying to respond to that sense that is out there in our schools and colleges, in all parts of our country, urban areas and rural areas, to say: Look, if you want to give something back, we are going to make it possible. We are going to give you a greater opportunity for you to go to college, particularly if you are from working families and low-income. We are going to give you a better opportunity to do that."); *see also*, e.g., Dep't of Def. Info. Paper, HR4508, the Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER Act), U.S. Dep't of Def. (Jan. 2018), available at https:// www.insidehighered.com/sites/default/server_files/media/Department-of-Defense-on-PROSPER-Act.pdf.

5 *See generally*, What We Do: Investigations, Student Borrower Prot. Ctr. https://protectborrowers.org/our-projects/investigations-2/.

6 Mo. Rev. Stat. § 173.360 (1981).

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114 *See* Archive C at 519.

115 *Id*.

116 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/].

117 *See* Archive C at 382.

118 *See* Archive H at 7.

119 *See* Archive C at 382.

120 Public Service Loan Forgiveness Data, *supra* note 46.

121 Consumer Fin. Prot. Bureau, Issue Spotlight, *supra* note 72.

122 *See* Cal. Civ. Code § 1788.100 et seq; Colo. Rev. Stat. § 5-20-100 et seq.; Conn. Gen. Stat. § 36a-846 et seq.; D.C. Official Code §31-101 et seq.; 110 Ill. Comp. Stat. Ann. 992 et seq.; Ky. Rev. Stat. § 286.12-005 et seq.; La. Rev. Stat. § 6:1401 et seq.; Me. Rev. Stat. Title 9-A, Art. 14; Md. Educ. D. IV, Title 26, Subt. 6; Ma. G.B.L. c. 93L; Minn. Stat. Ch. 58B; 2023 Bill Text NV A.B. 332; N.J. Stat. § 17:16ZZ; N.Y. Banking Law Art. 14-A; Okla. Stat. tit. 24, § 170 et seq.; Or. Laws 2021, ch. 651, secs 1-11; R.I. Gen. Laws § 19-33; Va. Code Ann. Title 6.2, Subt. IV, Ch. 26; Wash. Rev. Code Ann. § 31.04.400 et seq.

123 Amber Saddler & Ella Azoulay, *Meet the New Servicers, Same as the Old Servicers*,Student Borrower Protection Ctr. (June 2, 2023), https://protectborrowers.org/meet-the-new-servicers-same-as-the-old-servicers/.

124 Press Release, U.S. Dep't of Educ., Biden-Harris Administration Announces Framework for Student Loan Servicer Accountability To Protect Borrowers Nationwide (Nov. 9, 2023), https://www.ed.gov/news/press-releases/biden-harris-administration-announces-framework-student-loan-servicer-accountability-protect-borrowers-nationwide.