Congress of the United States
Washington, DC 20510

March 5, 2019

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary DeVos:

We write to express significant concerns with the U.S. Department of Education's ("Department") oversight of student loan servicers. A recent Office of Inspector General's (OIG) audit found substantial and repeated failures by the Department to ensure federal student loan servicers are complying with legal requirements.[1] The OIG's findings are clear evidence that the Department has let student loan servicers off the hook to the detriment of borrowers and taxpayers alike. The Department must immediately address severe shortcomings in its oversight and appropriately enforce compliance requirements with all contractors that receive taxpayer funding for servicing activities.

For nearly 42 million borrowers with federally managed student loans, the financial consequences of bad servicing can drive borrowers and their families into delinquency and default. These oversight failures can lead to the incorrect application of payments to borrowers' accounts, inappropriate capitalization of loan interest, improper use of forbearance, and not providing borrowers with the opportunity to correctly enroll in income-driven repayment plans.

In contrast to the Department's claims that it provides "exemplary customer service" that protects borrowers from "substandard practices,"[2] the OIG found that noncompliance occurred at all nine federal student loan servicers and within 61 percent of reviews conducted by the Department within the review period. Additionally, in answers provided in 2018 to Congressional questions, the Department asserted that it works with the servicer to remediate borrowers' accounts when it becomes aware of errors in servicing.[3] In contrast, the OIG found that the Department had no system in place to remediate errors in an organized manner and instead "relied on the memories of the employees responsible for the oversight activities to recognize recurring instances of noncompliance."[4] The OIG notes that the Department "is not providing servicers with an incentive to take actions to mitigate the risk of continued noncompliance that harms students and their families." These findings suggest that the

[1] U.S. Department of Education, Office of Inspector General. Final Audit Report, "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," Control Number ED-OIG/A05Q0008. February 14, 2019. https://go.usa.gov/xEUeG

[2] U.S. Department of Education. Federal Preemption and State Regulation of the Department of Education's Federal Student Loan Programs and Federal Student Loan Servicers. March 12, 2018. https://go.usa.gov/xPFRJ

[3] https://www.govinfo.gov/content/pkg/CHRG-115shrg89104815/pdf/CHRG-115shrg89104815.pdf

[4] *Supra* see note 1, p. 9-10.

Department has created a lax environment where loan servicers consistently fail to live up to the terms of contracts, harming student borrowers in the process, but are nonetheless continuously rewarded for noncompliance with billions of taxpayer dollars.

The Department claims it has enhanced oversight procedures since the OIG completed this audit. For example, the Department states that more than $2 million has been recovered from contractors due to servicer noncompliance since the report was published. As the OIG explains, this amount is less than 0.12 percent of the amount budgeted for loan servicing contracts.[5] Additionally, given the lack of information on the Department's risk tolerance to compel enforcement action, questions abound about the policies and procedures used to recoup the $2 million due to servicer noncompliance.

The OIG's findings corroborate a pattern of actions that have undermined the interests of borrowers in favor of student loan companies and may have broken federal or state law. The OIG previously revealed that the Department misled the public and Congress about servicer compliance with the *Servicemembers Civil Relief Act,* forcing the Department to revise related reviews.[6] The Department has also falsely claimed that it has exclusive jurisdiction over federal student loans, despite the fact that multiple federal agencies, including the Federal Deposit Insurance Corporation, U.S. Department of Justice, Securities and Exchange Commission, and the Consumer Financial Protection Bureau all have some authority to oversee federal student loans and similar financial products.[7]

Oversight and compliance with student loan servicing is even more important in light of the Department's recent announcement to award a $577 million "Digital and Customer Care" contract to Accenture Federal Services, LLC for common, Department-branded digital platform for student loan interactions. While a consistent experience with a Department branded platform will simplify the process of managing repayment for borrowers, it may become increasingly difficult to hold individual contractors accountable, particularly through specific borrower complaints. Therefore, the Department must implement a robust compliance and oversight system to ensure that all contractors, including those providing any customer-facing websites or platforms, are held accountable.

Congress has actively tried to work with the Department to improve oversight of federal loan servicing for years. Unfortunately, there has been only a limited response. In the Fiscal Year 2019 appropriations bill, Congress required the Department to evaluate Next Generation Processing and Servicing System ("NextGen") contractors' "history of compliance" with consumer protection law, including regulations and agency guidelines.[8] Given the Department's lack of information to carry out this requirement, Members of Congress sent a letter in December

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[5] *Supra* see note 1, p. 3.

[6] U.S. Department of Education, Office of Inspector General. Letter to Senators Murray, Warren, and Blumenthal. February 29, 2016. https://www2.ed.gov/about/offices/list/oig/misc/scrareport02292016.pdf

[7] See, e.g., Lown, Christian. Navient Corporation. Commission File Number, ser. 001-36228, Navient Corporation; 50 U.S.C. app § 501 et. seq.; 15 U.S.C. § 78m-1; and 12 U.S.C. § 5531.

[8] Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019 (Public Law No: 115-245); Conference Report 115-952

2018 to inquire about the Department's plans.[9] We still have no answers to this letter. In light of the OIG's findings, receiving answers to oversight inquiries and Congressional directives about student loan servicing has become even more urgent.

The Department must implement the OIG's findings in a final corrective action plan within 30 days of the audit report—by March 14, 2019. We urge the Department to fully implement changes in accordance with the spirit of the audit's findings for current and future contractors in student loan servicing. As stewards of taxpayer dollars, the federal government owes all federal student loan borrowers a servicing system that makes repaying loans easier, not harder. The Department should provide high-quality customer service, consumer protection, consistent compliance, and a culture that puts students and borrowers first.

Sincerely,

Patty Murray

PATTY MURRAY
Ranking Member
U.S. Senate
Committee on Health, Education, Labor and Pensions

Susan A. Davis

SUSAN A. DAVIS
Chair
U.S. House of Representatives
Committee on Education and Labor,
Subcommittee on Higher Education and Workforce Investment

[9] Letter to Secretary of Education Betsy DeVos from Senator Patty Murray and colleagues. December 6, 2018. https://go.usa.gov/xEUMH