

United States Senate
WASHINGTON, DC 20510

February 8, 2022

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, D.C. 20202

Dear Secretary Cardona:

We are writing to urge you to ensure complete relief to federal student loan borrowers following the historic \$1.85 billion multi-state settlement against Navient for its decades-long record of cheating and misleading borrowers.¹ For years, Navient engaged in widespread unfair and deceptive student loan servicing practices and abuses in originating predatory student loans² while the Department of Education (ED) turned a blind eye.³ ED has a responsibility to all borrowers harmed by Navient's abusive practices and we urge you to move quickly to supplement the settlement against Navient with additional relief for borrowers.

While other student loan servicers have engaged in forbearance steering and other predatory practices,⁴ Navient has a particularly disturbing history of abuse and misbehavior.⁵ The settlement, which was secured by a bipartisan group of 39 state attorneys general, follows dozens of lawsuits alleging that Navient "deceptively steered distressed federal loan borrowers into costly long-term forbearances instead of informing them about the benefits of income-driven repayment plans," "made predatory subprime loans to students attending for-profit schools and colleges...even though it knew that borrowers would be unable to repay the loans," and "engaged in a variety of other unfair and deceptive servicing practices," including misallocating

¹ Mass.gov, "AG Healey Announces \$1.85 Billion Settlement With Student Loan Servicer Navient," press release, January 13, 2022, <https://www.mass.gov/news/ag-healey-announces-185-billion-settlement-with-student-loan-servicer-navient>.

² Mass.gov, "Frequently Asked Questions About the Navient Settlement," <https://www.mass.gov/info-details/frequently-asked-questions-about-the-navient-settlement#who-is-eligible-to-receive-restitution-relating-to-federal-loan-forbearance-steering?>

³ The Office of Senator Elizabeth Warren, "Senators Warren, Blumenthal to Education Department: Don't Renew Navient's Contract," press release, October 17, 2019, <https://www.warren.senate.gov/oversight/letters/senators-warren-blumenthal-to-education-department-dont-renew-navients-contract>; The Office of Senator Elizabeth Warren, "Warren Calls on Education Secretary DeVos to Recoup \$22.3 Million Owed by Student Loan Giant Navient," press release, January 29, 2020, <https://www.warren.senate.gov/oversight/letters/warren-calls-on-education-secretary-devos-to-recoup-223-million-owed-by-student-loan-giant-navient>.

⁴ People of the State of New York v. Pennsylvania Higher Education Assistance Agency, Fedloan Servicing, American Education Services, Case No. 19-cv-9155, pp. 53, https://ag.ny.gov/sites/default/files/pheaa_complaint_with_file_stamp.pdf.

⁵ The Office of Senator Elizabeth Warren, "Warren Questions CEO of Navient on Its Long Record of Profiting Off Broken Student Loan System," press release, April 13, 2021, <https://www.warren.senate.gov/newsroom/press-releases/warren-questions-ceo-of-navient-on-its-long-record-of-profiting-off-broken-student-loan-system>.

payments and “asking delinquent borrowers to pay more than the amount necessary to bring their accounts current.”⁶ Apart from being sued by the states, Navient has been cited by the Department of Justice, the Consumer Financial Protection Bureau, and other federal agencies for failing to report and address borrower complaints while overcharging borrowers, servicemembers, and the federal government.⁷

The settlement requires Navient to cancel \$1.7 billion in delinquent private student loan debts and pay \$95 million in restitution.⁸ While this agreement provides critical and long overdue relief to borrowers across the country, millions of Navient’s borrowers will not be eligible under the settlement terms, and those who are may not receive relief that provides appropriate compensation for the harms they suffered under Navient. Debt cancellation will primarily cover borrowers who hold subprime private student loans and meet additional eligibility requirements, including that the loans were disbursed between 2002 and 2014; have been delinquent for at least seven months; are within a statute of limitations period or still subject to credit reporting as of June 23, 2021; were used at certain for-profit institutions; that borrowers live in one of the 39 states that participated in the settlement; and have a mailing address on file with Navient as of June 30, 2021.⁹ In total, about 66,000 borrowers – 0.55% of all student loan borrowers whose loans were serviced by Navient – will be eligible for loan forgiveness under the terms of the settlement.¹⁰

To qualify for restitution, borrowers must have at least one loan eligible for income-driven repayment, must have been placed in a certain type of long-term forbearance, must have resided in a restitution-participating state as of January 2017, and meet several other eligibility requirements.¹¹ For the roughly 350,000 federal borrowers who are eligible for restitution, the average restitution payment will be \$260¹² – a pittance compared to the significant additional debt that many incurred as a result of Navient steering them into unnecessary months and years

⁶Mass.gov, “AG Healey Announces \$1.85 Billion Settlement With Student Loan Servicer Navient,” press release, January 13, 2022, <https://www.mass.gov/news/ag-healey-announces-185-billion-settlement-with-student-loan-servicer-navient>.

⁷ Mother Jones, “For a Decade, Elizabeth Warren Waged War against a Student Debt Goliath. She Finally Won,” Hannah Levintova, October 29, 2021, <https://www.motherjones.com/politics/2021/10/elizabeth-warren-navient-student-loans-debt-cordray-chopra-maximus/>.

⁸ The New York Times, “Navient agrees to cancel 66,000 student borrowers’ loans to settle claims of predatory lending,” Stacy Cowley and Tara Siegel Bernard, January 13, 2022, <https://www.nytimes.com/2022/01/13/business/navient-student-loans.html>.

⁹ Mass.gov, “Frequently Asked Questions About the Navient Settlement,” <https://www.mass.gov/info-details/frequently-asked-questions-about-the-navient-settlement#who-is-eligible-to-receive-restitution-relating-to-federal-loan-forbearance-steering?>.

¹⁰ Fortune, “Navient student loan forgiveness: Who does it cover—and who it doesn’t,” Sydney Lake, February 2, 2022, <https://fortune.com/education/business/articles/2022/02/02/heres-who-gets-student-loan-forgiveness-from-navient-and-who-doesnt/#:~:text=Navient%20has%20%E2%80%9Cmillions%E2%80%9D%20of%20federal,billion%20in%20student%20loans%20serviced.>

¹¹ Mass.gov, “Frequently Asked Questions About the Navient Settlement,” <https://www.mass.gov/info-details/frequently-asked-questions-about-the-navient-settlement#who-is-eligible-to-receive-restitution-relating-to-federal-loan-forbearance-steering?>.

¹² Forbes, “Don’t Qualify For The Navient Student Loan Settlement? Here Are Some Options,” Adam S. Minsky, January 18, 2022, <https://www.forbes.com/sites/adamminsky/2022/01/18/dont-qualify-for-the-navient-student-loan-settlement-here-are-some-options/?sh=5011113f691b>.

of forbearance. According to a GAO report, “a typical borrower with \$30,000 in loans who spends the first three years of repayment in forbearance would pay an additional \$6,742 in interest,” 17 percent more than they otherwise would.¹³

Given that this settlement will not fully compensate or remedy the harms inflicted by Navient on student borrowers, and in light of ED’s repeated failures to address Navient’s predatory practices, ED has the responsibility to use its tools to make things right for Navient’s victims, and the ability to do so. For example, ED should consider taking a page from its recent decision to provide a limited Public Service Loan Forgiveness (PSLF) waiver that will allow eligible borrowers’ prior payments to count toward loan forgiveness.¹⁴ This PSLF waiver will provide relief to more than 500,000 public servants across the country.¹⁵ ED can build off this decision and create a path to loan forgiveness for millions of other borrowers cheated by Navient by creating a similar income-driven repayment waiver.¹⁶

The Navient settlement comes at a critical time. While ED made the right decision to extend the student loan payment pause through May 1, 2022, about half of all federal student borrowers are at risk of falling behind on their loans once monthly payments resume.¹⁷ It is urgent that ED take action to redress Navient’s victims for the full scope of the financial injury they experienced. To ensure the Department does so on a timely basis, we are seeking information on ED’s plans to make these borrowers whole. We ask that you provide answers to the following questions no later than February 22, 2022:

1. How many student loan borrowers do you estimate will not receive any relief from the multi-state settlement against Navient? How many will not receive loan forgiveness? How many will not receive restitution? Please provide state-level estimates of the number and percent of all borrowers who will not receive forgiveness and the number and percent who will not receive restitution.
2. What actions will ED take to provide relief to student loan borrowers who were harmed by Navient? Please describe your plans in detail.
 - a. What actions will ED take to provide relief to borrowers who are not eligible to receive forgiveness or restitution from the Navient settlement?

¹³ U.S. Government Accountability Office, “Federal Student Loans: Actions Needed to Improve Oversight of Schools’ Default Rates,” April 26, 2018, <https://www.gao.gov/products/gao-18-163>.

¹⁴ U.S. Department of Education, “Fact Sheet: Public Service Loan Forgiveness (PSLF) Program Overhaul,” press release, October 6, 2021, <https://www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul>.

¹⁵ *Id.*

¹⁶ Center for Responsible Lending, Student Borrower Protection Center, and National Consumer Law Center, “Restoring the Promise of Income-Driven Repayment: An IDR Waiver Program Proposal,” January 2022, <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-sbpc-nclc-idr-waiver-proposal-jan2022.pdf>.


¹⁷ Federal Student Aid, “COVID-19 Loan Payment Pause and 0% Interest,” <https://studentaid.gov/announcements-events/covid-19/payment-pause-zero-interest>; U.S. Government Accountability Office, “COVID-19: Significant Improvements Are Needed for Overseeing Relief Funds and Leading Responses to Public Health Emergencies,” January 27, 2022, pp. 102, <https://files.gao.gov/reports/GAO-22-105291/index.html#appendix8>.

- b. For borrowers who are eligible for loan forgiveness or restitution under the Navient settlement, what actions will ED take to ensure that they are aware of and take advantage of this relief? Will ED take any actions to supplement the relief they receive?
3. According to the details of the settlement, borrowers who are eligible for restitution will be notified with a postcard in the mail from the settlement administration later this spring to be followed by an automatic payment. What steps will ED take to ensure that all eligible borrowers are notified and receive their payment?
4. The settlement also requires Navient to notify Federal Family Education Loan borrowers about ED's PSLF limited waiver opportunity, which offers millions of public service workers the chance to have previously non-qualifying repayment periods counted toward loan forgiveness.¹⁸ What steps will ED take to ensure that Navient complies with this requirement?
5. The settlement includes conduct reforms to ensure that Navient improves its servicing and debt collection operations going forward, including by "explaining the benefits of income-driven repayment plans" to its customers and "offering to estimate income-driven payment amounts before placing borrowers into optional forbearances"; "making additional attempts to notify borrowers of the need to annually recertify income and family size information" under their income-driven repayment plans; and "using default payment allocation methods that are favorable to borrowers."¹⁹ What steps will ED take to ensure that Navient is meeting each of these conduct reforms?

Sincerely,



Elizabeth Warren
United States Senator



Chris Van Hollen
United States Senator



Richard Blumenthal
United States Senator

¹⁸ Mass.gov, "Frequently Asked Questions About the Navient Settlement," <https://www.mass.gov/info-details/frequently-asked-questions-about-the-navient-settlement#who-is-eligible-to-receive-restitution-relating-to-federal-loan-forbearance-steering?>

¹⁹ *Id.*