

Written Testimony of Ellen Harnick
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Before the Colorado Senate Committee on Education
On Regulating the Practices of the Student Loan Industry

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Chair Todd, Senators Winter and Fenberg, and members of the committee, thank you for allowing me to submit this testimony in support of SB19-002, to protect Coloradans from abusive practices by student education loan servicers.

The Center for Responsible Lending (CRL) is a nonprofit, nonpartisan research and policy organization which is dedicated to protecting homeownership and family assets by working to eliminate abusive financial practices. We strive to promote responsible lending and access to fair terms of credit for low-wealth families. CRL is an affiliate of Self-Help Credit Union, which is the nation's largest community development financial institution with a mission of helping underserved people and communities build wealth and assets.

To that end, over the past few years we have worked on student lending issues around the country. This written testimony will focus on three key areas of concern: 1) abuses by student loan servicers prolong and deepen the problem of student loan debt; 2) For-profit schools disproportionately drive student loan debt nationally and in Colorado; and 3) the federal rollback of existing protections bolsters the need for state action.

1. Abuses by student loan servicers prolong and deepen the problem of student loan debt.

In the last decade, student loan debt has exploded, directly impacting the lives of millions of Americans and leaving its mark on the entire economy. More than 733,000 student loan borrowers in Colorado alone owe over \$25 billion.¹ With the cost of higher education continuing to rise at alarming rates and college education becoming a requirement for more and more jobs, many more will soon be joining their ranks. Many students must take out loans to cover the high cost of living in Colorado while they pursue their academic careers.

¹ U.S. Department of Education, Federal Student Loan Portfolio by Borrower Location, <https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/Portfolio-by-Location.xls> (Reflecting totals through the end of June 2018); Consumer Financial Protection Bureau, 50 State Snapshot of Student Loans, Aug. 2017, https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_studentloans_50-state-snapshot_complaints.pdf

Burdened by extraordinary student loan debt and stagnant wages, a generation of Americans are delaying or forgoing opportunities to build wealth, such as purchasing their first homes or starting their own businesses.² These trends exacerbate the already wide racial wealth gap. Student loan debt is also hampering older Americans' ability to retire with adequate financial support.

Unfortunately, while pursuing a higher education is widely-accepted as a pathway to higher incomes and better opportunities, most students have no choice but to borrow for college. With the continual increase in college tuition, few college students have the ability to pay rising costs in cash. In this state, 52% of 4-year degree college students left school with debt in 2017, carrying an average of nearly \$26,530.³

Further, many Coloradans are finding their student loan payments unaffordable. In fact, more than one in eight student loan borrowers in Colorado have a student loan debt in collections.⁴ Delinquency and default can have serious, long-term effects on borrowers.⁵ Defaulting on a student loan harms a borrower's credit score, making it more difficult to access jobs and housing, as employers and landlords routinely conduct credit checks when assessing applicants. For seniors, it could mean garnishment of their Social Security income, locking them into a lifetime of poverty.

Clearly, Colorado residents' lives and potential for economic prosperity is inextricably tied to how the state chooses to address this crisis.

While conversations continue in Colorado and nationally about how to address affordability in higher education in the future, the \$1.53 trillion in outstanding national student loan debt is and will continue to be collected by companies known as servicers. One of the many lessons learned from the foreclosure crisis following the Great Recession is the importance of protecting against abusive servicer practices. For federal student loan borrowers, student loan servicers are a critical link between borrowers and the repayment of their loans. Servicers are charged with evaluating borrowers for income-driven repayment programs, discharges, and other plans that can help them manage their monthly payments. Failure to properly serve borrowers, however, has led to delinquencies, defaults, and even an increase in outstanding student loan debt nationally.⁶ When servicers do not do their job, students cannot reasonably repay their loans.

² National Association of Realtors, Student Loan Debt and Housing Report (2017), <https://www.nar.realtor/research-and-statistics/research-reports/student-loan-debt-and-housing-report>

³ The Institute for College Access & Success, Student Debt and the Class of 2017 (2018), https://ticas.org/sites/default/files/pub_files/classof2017.pdf.

⁴ Urban Institute, Debt Collection in America: Student Loan Debt (May 2018), <https://apps.urban.org/features/debt-interactive-map/>.

⁵ The Institute for College Access & Success, The Self-Defeating Consequences of Student Loan Default (2018), https://ticas.org/sites/default/files/pub_files/ticas_default_issue_brief.pdf.

⁶ Press Release, Consumer Financial Protection Bureau, "CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment: Navient, Formerly Part of Sallie Mae, Illegally Cheated Borrowers Out of Repayment Rights Through Shortcuts and Deception", (January 2017) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

One Colorado resident, who has Navient as a student loan servicer, made the following complaint to the Consumer Financial Protection Bureau (CFPB) recently that is emblematic of common problems borrowers experience with their servicers:

In XXXX of this year I applied for the IBR and had not received a response on approval. I was offered forbearance and felt forced to take it as a result of not being able to get a hold of Navient. Despite [harassment] almost every other day with them filling up my inbox they never called or sent a physical letter until last week threatening action with wage garnishment or tax penalty and so on. I did attempt to reply to the email and it was not responded to. This has [affected] my credit score drastically and it's become damaging to the point where it is impossible for me to rebound back from. I have never had an issue before and I was always able to renew my IBR yearly. I was told I needed spousal signature but we never able to log in. Either times it was submitted. [Even] after I have gotten a ton of emails saying I owe more and more.⁷

Another Colorado resident, a military servicemember, submitted the following complaint about the same servicer:

As of XX/XX/XXXX, the total balance due for my student loan, then held by XXXX, was {\$6700.00}. A check was sent to pay the full balance of the 2 loans held by them. They sold to XXXX, then was sold to XXXX and finally to Navient, Loan When logging into my account today at Navient, their records show that they didn't even show the payment sent to XXXX in XX/XX/XXXX, as being applied in XX/XX/XXXX. I can no longer log into my XXXX account, to even try to go back to my documents that are supposed to be secure online. I was told that all of my loans had been consolidated when XXXX took them over. I only have screenshots of my account. I do have my last paper statement from XXXX XX/XX/XXXX, before my loan was sold, and it clearly shows there was one loan with a loan type of CON (consolidated), with a balance of {\$10000.00} at an interest rate of XXXX. I want to know how paying a loan off in full in XX/XX/XXXX, led to an additional balance of \$ XXXX. I emailed them to explain that the loan has already been paid in full. After repeated emails and calls telling me they would not correspond via email, I finally called Navient today. After arguing with the agent " XXXX " from Navient, and not getting anywhere, I paid the balance in full online. This is just one more example of how Americans are being abused by these loan service companies, with no one to represent us.⁸

These are just two of the 200 complaints against the nation's largest student loan servicer filed with the CFPB by Colorado residents in the last three years alone.⁹ According to a lawsuit filed

⁷ Consumer Financial Protection Bureau, Complaint Database: <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/2945550>.

⁸ Consumer Financial Protection Bureau, Complaint Database: <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3083773>.

⁹ Consumer Financial Protection Bureau, Complaint Database, <https://data.consumerfinance.gov/dataset/Consumer-Complaints/s6ew-h6mp#column-menu> (last accessed February 6, 2019); Consumer Financial Protection Bureau, Complaint Database, Consumer Narratives, <https://www.consumerfinance.gov/data-research/consumer->

by the CFPB against Navient, the company failed every type of borrower at every level of repayment. One of the key abuses the CFPB alleges is that Navient placed borrowers into forbearance even though the borrowers were eligible for income-driven repayment plans, which would have tied their monthly payments to their incomes. In forbearance, a borrower pays nothing for a set number of months – while the interest on their loans continues to compound. While this solution is appropriate for a borrower who needs a few months to get back on their feet, it is not a solution for borrowers who need long term help. Indeed, by placing borrowers in forbearance after forbearance, Navient added an additional \$4 billion in compounded interest to the loan debt of 500,000 students.¹⁰ A recently released Department of Education audit of Navient supports the complaints and CFPB lawsuit in finding that Navient representatives failed to offer struggling borrowers options other than forbearance in about 1 out of every 10 calls audited.¹¹

Significantly, borrowers are not able to select who services their federal student loans; the U.S. Department of Education does. As a result, servicers are not incentivized by market forces to provide quality customer service and otherwise engage in fair practices. In fact, Navient, in the CFPB enforcement action, acknowledged as such: “The servicer acts in the lender’s interest... and there is no expectation that the servicer will ‘act in the interest of the consumer.’”¹² Navient followed up on this statement in court, telling a federal judge in Pennsylvania that any reference it made to helping borrowers successfully pay their loans “[is] friendly talk, it’s puffery, but it is not the stuff of a legal obligation to now become your financial counselor.”¹³ Without consumer choice or effective regulatory mechanisms, student loan servicers have been left to operate without meaningful accountability to the detriment of borrowers.

Recent reports indicate that student loan delinquency and default are more serious problems than previously thought. Data suggest that for students who entered school in 2004, nearly 40 percent may default on their loans within 20 years of starting.¹⁴ Students/borrowers of color face additional barriers in repaying their student debt due to structural inequalities in family wealth, education, and employment. Not only are these high debt loads and defaults due in part to the

[complaints/search/?company=Navient%20Solutions%2C%20LLC.&from=0&has_narrative=true&searchField=all&searchText=&size=25&sort=created_date_desc&state=NY](https://www.consumerfinance.gov/complaints/search/?company=Navient%20Solutions%2C%20LLC.&from=0&has_narrative=true&searchField=all&searchText=&size=25&sort=created_date_desc&state=NY) (last accessed February 15, 2018).

¹⁰ Press Release, Consumer Financial Protection Bureau, “CFPB Sues Nation’s Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment: Navient, Formerly Part of Sallie Mae, Illegally Cheated Borrowers Out of Repayment Rights Through Shortcuts and Deception”, (Jan. 2017) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

¹¹ Ken Sweet, AP Exclusive: Audit points to deceptive practices by Navient (Nov. 20, 2018), <https://apnews.com/eeebf667026a420c9893220215e542cb>.

¹² Shahein Nasiripour, “Student Debt Giant Navient to Borrowers: You’re on Your Own: The servicer says publicly it wants to help you pay debt. In a government lawsuit, it has a different message,” Bloomberg, (Apr. 3, 2017), <https://www.bloomberg.com/news/articles/2017-04-03/student-debt-giant-navient-to-borrowers-you-re-on-your-own>.

¹³ Stacy Cowley, “How a Potential \$1 Billion Student Loan Settlement Collapsed After Trump Won,” New York Times (Oct. 7, 2018), <https://www.nytimes.com/2018/10/07/business/student-loans-navient.html>.

¹⁴ Judith Scott-Clayton, “The looming student loan default crisis is worse than we thought,” Brookings Institute, Evidence Speaks Reports, Vol. 2, #34 (2018), <https://www.brookings.edu/wp-content/uploads/2018/01/scot-clayton-report.pdf>.

racial wealth gap, but they also prevent progress in closing the racial wealth gap. They hamper opportunities for homeownership, starting a business, and saving for retirement. These factors have produced “[d]ebt and default among black college students [that] is at crisis levels... black BA graduates default at five times the rate of white BA graduates (21% versus 4%) and are more likely to default than white dropouts.”¹⁵ In Colorado, 17% of borrowers who live in communities of color have student loan debt in collections, as compared with 10% of those who live in predominately white neighborhoods.¹⁶ As noted above, having debt in collections leads to a cascade of other harms that exacerbate the structural inequities that put borrowers of color in this position in the first place.

Student loan debt is also a real and growing problem for older Americans.¹⁷ From 2005 to 2015, the number of senior citizens affected quadrupled from 700,000 to 2.8 million nationally. The average debt owed by older borrowers also doubled during this time period from \$12,000 to \$23,500. In Colorado, the number of residents age 60 and older saddled with student loan debt increased 54% from 2012 to 2017, from just over 36,500 to more than 56,000 residents.¹⁸ These Colorado seniors hold more than \$1.9 billion in student loan debt, an increase of 89% from 2012.¹⁹

Since 2015, nearly 40 percent of federal student loan borrowers aged 65 or older were in default nationwide, which can result in the garnishment of social security benefits.²⁰ For senior citizens already teetering on the edge of financial security, a social security “offset” by the federal government to repay student loan debt can mean there is no money left over to pay for basic needs, like rent or groceries. Older consumers with outstanding student loans are more likely than those without outstanding student loans to report that they have skipped necessary health care needs such as prescription medicines, doctors’ visits, and dental care because they could not afford it. In 2014, for example, 39 percent of consumers age 60 and older with a student loan said that they skipped such care compared to 25 percent of older consumers without a student loan.²¹

It does not have to be this way. An array of options is available to federal student loan borrowers – from income driven repayment plans to discharges for disability or fraudulent school activity. Unfortunately, both federal rollbacks of protections for students and student borrowers and failure by student loan servicers in assisting borrowers in successfully obtaining those benefits

¹⁵ Id.

¹⁶ Urban Institute, Debt Collection in America: Student Loan Debt (May 2018), <https://apps.urban.org/features/debt-interactive-map/>.

¹⁷ Consumer Financial Protection Bureau, Snapshot of older consumers and student loan debt (2017), http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf.

¹⁸ Consumer Financial Protection Bureau, Older consumers and student loan debt, by state (2017), https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_older-consumers-and-student-loan-debt-by-state.pdf

¹⁹ Id.

²⁰ Consumer Financial Protection Bureau, Snapshot of older consumers and student loan debt (2017), http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf.

²¹ Id.

mean that student borrowers are often on the hook for high cost payment plans that are doomed to fail.

2. For-profit schools disproportionately drive student loan debt nationally and in Colorado.

For-profit, post-secondary institutions are more expensive than other schools and typically leave students with a mountain of debt that is nearly impossible to repay. The vast majority of revenue for for-profit schools comes from federal student loans made to their enrolled students, but very little is used for educational purposes. A 2012 Congressional investigation into the nation's largest 30 for-profit schools showed that these school spent, on average, just 17% of all revenues on instruction.²²

For-profit colleges have a long history of aggressive and deceptive marketing, often aimed at low-income students, women, and people of color. Because of the schools' low quality – and often fraudulent – offerings, students are typically unable to obtain employment that will enable them to repay their loans when they leave.

In Colorado, undergraduate enrollment at four-year for-profit colleges are more likely to be students that are low-income (54.7%), African-American (21.9%), and women (63.9%) compared to enrollment at Colorado's public and private nonprofit four-year institutions.²³ For-profit students in Colorado are also more likely to have higher debt loads, lower graduation rates, and higher default rates than other students in the state.²⁴ Unfortunately, this means that an inordinate number of low-income students and students of color are left with large loans that they cannot repay, and very little to no educational benefit in return.

3. The federal rollback of existing protections bolsters need for state action.

Despite the numerous problems and concerns with student loan servicers and for-profit colleges, the U.S. Department of Education is currently taking steps to roll back existing protections against student loan servicing abuses. In April 2017, the Department withdrew the policy directives created by the previous Administration, which put in place safeguards against companies with a history of fraudulent and illegal practices.²⁵ For the past two years, the Department has also engaged in multiple efforts to undo or rollback federal regulations that protect students from predatory for-profit colleges.²⁶

²² For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success, Senate HELP Committee (2012), https://www.help.senate.gov/imo/media/for_profit_report/PartI-PartIIISelectedAppendixes.pdf.

²³ Center for Responsible Lending, State of For-Profit Colleges: Colorado, <https://www.responsiblelending.org/map/pdf/co.pdf>.

²⁴ Id.

²⁵ Andrew Kreighbaum, "U.S. Alters Rules for Picking Student Loan Servicers," Inside Higher Ed, (Apr. 12, 2017), <https://www.insidehighered.com/news/2017/04/12/devos-withdraws-consumer-protections-servicing-contractprocess>.

²⁶ Andrew Kreighbaum, "Winners and Losers from DeVos Approach," Inside Higher Ed, (Aug. 7, 2018), <https://www.insidehighered.com/news/2018/08/07/devos-regulatory-framework-means-less-pressure-colleges-tougher-standard-student>.

In light of the federal government's failure to meet its obligation to protect students, states must and can take action to fill the void. As a bipartisan group of thirty state Attorneys General, co-led by the Colorado Attorney General's Office, wrote to Secretary of Education DeVos last year:

Given the states' experience and history in protecting their residents from all manner of fraudulent and unfair conduct, they play an essential role in consumer protection in student loans and education. States are uniquely situated to hear of, understand, confront, and ultimately, resolve the abuses their residents face in consumer marketplace. Abuses in connection with schools or student loans are no different. As with other issues facing their citizens, state regulators bring a specialized focus to, and appreciation for, the daily challenges experienced by students and borrowers. Far from interfering with the Department and other federal efforts to rein in abuses, the record overwhelmingly demonstrates that state laws and state enforcement complement and amplify this important work.²⁷

For these reasons, the Center for Responsible Lending strongly supports SB19-002, which will protect Colorado's student loan borrowers against abusive student loan servicing practices.

For additional information or if you have any questions, please contact Ellen Harnick, Western Office Director, at 510-379-5510 or ellen.harnick@responsiblelending.org.

²⁷ Letter from Eric T. Schneiderman, Cynthia H. Coffman, et al. to The Honorable Betsy DeVos (March 15, 2018), https://ag.ny.gov/sites/default/files/ag_letter_student_loan_preemption.pdf.