

United States Senate
WASHINGTON, DC 20510

October 3, 2017

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, D.C. 20202

Dear Secretary DeVos:

We write to raise serious concerns with the Pennsylvania Higher Education Assistance Agency's (FedLoan's) loan servicing practices impacting borrowers enrolled in the Public Service Loan Forgiveness (PSLF) and TEACH Grant programs, as well as allegations that FedLoan overcharged borrowers enrolled in income-driven repayment plans. FedLoan's alleged misconduct¹ may have cost military servicemembers, first responders, teachers, and other public servants thousands of dollars in unnecessary payments and months of delays in loan forgiveness. The Department of Education is responsible for oversight and supervision of designated federal loan servicers, and the exercise of this authority is critical to ensuring that federal student loan servicers meet their legal obligations to borrowers, taxpayers, and the federal government.

As you know, PSLF provides federal student loan forgiveness to borrowers that work in public service fields after ten years of qualifying on-time monthly payments. From military servicemembers and first responders to teachers and public health workers, these public servants have dedicated their lives to bettering their communities and their country, often for lower pay than they could receive for work in the private sector. PSLF provides an important incentive that allows highly qualified individuals to pursue public service careers which may otherwise be economically infeasible due to the rising cost of higher education and mounting student debt.

FedLoan has obtained an exclusive contract with the federal government to administer the PSLF program and associated income-driven repayment plans. However, a recent lawsuit filed by the State of Massachusetts alleges that FedLoan has failed to process PSLF applications and recertifications in a timely manner. For those borrower accounts subject to lengthy servicing delays, FedLoan has often placed accounts into forbearance and prevented borrowers from making qualifying payments that count towards loan forgiveness.² This unfair practice prolongs

¹ See e.g., Suffolk County Superior Court. *Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency*. 23 Aug. 2017. <http://www.mass.gov/ago/docs/consumer/com-of-ma-v-pheaa-complaint-8-23-17.pdf>, and Consumer Financial Protection Bureau. "Staying on Track While Giving Back," 21. June 2017. http://files.consumerfinance.gov/f/documents/201706_cfpb_PSLF-midyear-report.pdf.

² Suffolk County Superior Court. *Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency*. 23 Aug. 2017. <http://www.mass.gov/ago/docs/consumer/com-of-ma-v-pheaa-complaint-8-23-17.pdf>.

borrowers' indebtedness and imposes significant costs on a group of student loan borrowers who typically earn less than \$50,000 per year.³

These concerns are also highlighted in the Consumer Financial Protection Bureau's (CFPB) June 2017 report on student loans and the PSLF program, which states that current loan servicing practices "may inhibit borrowers seeking to exercise their rights under federal law to a range of different benefits and consumer protections, including programs designed to protect active duty servicemembers, veterans, teachers, nurses, first responders, and other student loan borrowers working in public service."⁴

Allegations of FedLoan's misconduct are not limited to the PSLF program. TEACH grants provide funding to students looking to pursue a career in teaching, provided that they teach in a high-need field, at a school or district that serves low-income students, and for at least four of the eight years after degree completion. If grant recipients fail to meet these conditions, the grants are converted to loans that must be repaid. Because of FedLoan's alleged failures and delays in processing applications and recertifications, teachers who satisfied all of the requirements of the TEACH grant program are now being forced to repay their grants as loans.⁵ If true, this abhorrent practice results in teachers who were promised grants if they met their obligations under the contract being forced to repay loans that they never borrowed causing substantial undue financial hardship. This would constitute an unconscionable bait and switch on ambitious graduates entering one of the most important professions to the future of our nation.

In addition to the aforementioned issues with the PSLF and TEACH programs, the State of Massachusetts alleges that logic errors in FedLoan's billing system has led to the servicer overcharging thousands of borrowers and sending bills and collection notices to borrowers when no balance was due.⁶ Despite FedLoan's knowledge of their error, they have not offered refunds to impacted borrowers. Instead FedLoan chose to retain the money and apply it towards borrowers' accounts without receiving consent. If these borrowers were overcharged due to systemic errors on the part of FedLoan, then they should be promptly notified and provided the option of receiving refunds or having the money applied towards their accounts.

We find reports of these problems particularly concerning in light of the Administration's request to eliminate the PSLF program, the Department's recent decision to terminate its relationship with the CFPB in connection with the oversight of federal student loans⁷, and your rescission of memoranda establishing more stringent consumer protection and accountability standards through the procurement process for federal loan servicers.

³ Consumer Financial Protection Bureau. "Staying on Track While Giving Back," 21. June 2017. http://files.consumerfinance.gov/f/documents/201706_cfpb_PSLF-midyear-report.pdf.

⁴ *ibid.*

⁵ Suffolk County Superior Court. *Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency*. 23 Aug. 2017. <http://www.mass.gov/ago/docs/consumer/com-of-ma-v-pheaa-complaint-8-23-17.pdf>.

⁶ *ibid.*

⁷ U.S. Department of Education. "Letter to CFPB Signed by Kathleen Smith and A. Wayne Johnson," Aug. 2017. Washington, D.C. https://edworkforce.house.gov/uploadedfiles/2017-09-01_signed_letter_to_cfpb.pdf.

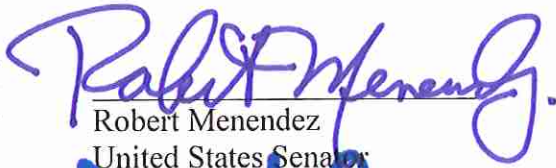
Borrowers enrolled in the PSLF program will begin submitting applications for loan forgiveness for the first time in October. The Department's recent actions and the alleged failures of federal loan servicers raise serious concerns that the Department is neither committed nor equipped to provide adequate resources and ensure appropriate oversight of the PSLF program. The proper administration of PSLF is especially critical as borrowers begin the loan forgiveness process and thousands more look to continue their participation in federal loan repayment programs serviced by FedLoan.

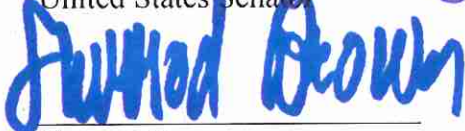
As such, we urge the Department of Education to promptly take the following steps to mitigate any harm caused to borrowers participating in federal loan repayment programs serviced by FedLoan and ensure that borrowers are adequately protected from this point forward:


- Conduct a thorough investigation of alleged failures at FedLoan and other federal student loan servicers;
- Should the Department identify improper or illegal conduct, take necessary enforcement actions in conjunction with the Department of Justice, the CFPB, and any other appropriate federal or state agencies;
- Reestablish a relationship with the CFPB to ensure that student loan borrowers are adequately protected by reversing the rescission of the Memoranda of Understanding with the CFPB dated October 11, 2011 and January 9, 2014;
- Provide a written explanation of how the Department plans to process complaints by borrowers enrolled in FedLoan programs;
- Ensure that borrowers who receive inaccurate information regarding prior eligibility for the PSLF program or are subject to recertification delays are credited for any on-time payments;
- Reissue previously rescinded memoranda that strengthened transparency, borrower protections, and accountability through the procurement process and clearly evaluated federal loan servicing applicants based on their history and ability to serve borrowers;
- Provide a written explanation of the Department's current efforts to protect borrowers through the procurement process following the withdrawal of its most recent proposal to award a contract to a single company to service all federal student loans.

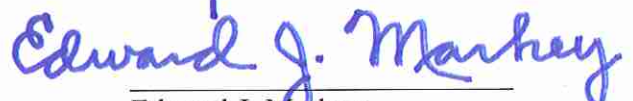
Thank you for your attention to this important matter, and we look forward to receiving a written response to our requests by October 19, 2017. We look forward to working with you to strengthen protections for federal student loan borrowers and grant recipients.

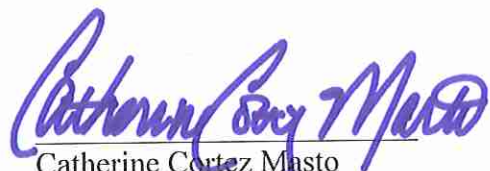
Sincerely,


Robert Menendez
United States Senator

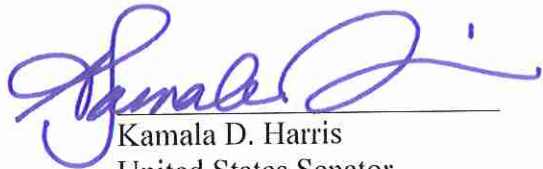

Sherrod Brown
United States Senator


Elizabeth Warren
United States Senator

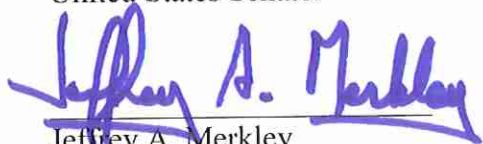

Edward J. Markey
United States Senator



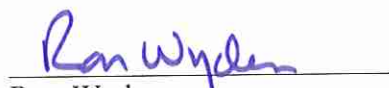
Catherine Cortez Masto
United States Senator



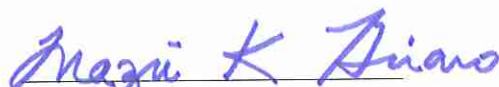
Kamala D. Harris
United States Senator



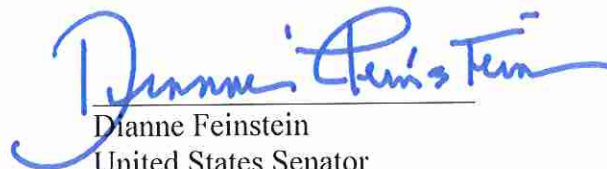
Jeffrey A. Merkley
United States Senator



Ron Wyden
United States Senator



Mazie Hirono
United States Senator



Dianne Feinstein
United States Senator



Cory A. Booker
United States Senator

CC: A. Wayne Johnson, Chief Operating Officer, Office of Federal Student Aid