# FACT SHEET on Legal Action

*Student loans are a reality for many millions of Americans, and as a servicer, Navient's goal is to help consumers successfully manage their loan repayment. Navient welcomes clear and well-designed guidelines that all parties can follow, have been developed and benefited from public comment, and support the best interest of borrowers. We will continue to advocate for enhancements to the student loan program, such as streamlined repayment options, easier income-driven repayment plan enrollment, credit bureau flexibility, and bankruptcy reform.*

**Background**

In January 2017, the Consumer Financial Protection Bureau filed legal claims against Navient, followed by three state attorneys general (Illinois, Washington and Pennsylvania). The allegations made in the claims are unfounded. The suits improperly seek to impose penalties on Navient based on unannounced servicing standards applied retroactively and only against one servicer. The cases have not yet been ruled upon. We will vigorously defend our record in court, and are confident we will prevail following an impartial review of the facts. In the meantime, we will continue to provide industry-leading service to our customers.

**Below are the facts.**

***Allegation:*** *Navient didn't do enough to get borrowers into income-driven repayment (IDR) plans and steered borrowers into forbearance instead.*

## Fact: Navient is a leader in enrolling eligible borrowers into income-driven repayment programs. We promote repayment options, including IDR, in 154 million communications annually.

- 53 percent of student loan balances serviced by Navient for the government are enrolled in income-driven repayment programs—more than any comparable servicer.[1]
- Forbearance[2] is often a required tool to help people enroll in IDR plans—in fact nearly 70 percent of IDR borrowers needed forbearance for one of two reasons:
    - First, past-due borrowers cannot enroll in IDR unless they bring their account current. A borrower who has missed payments either needs to pay the total past due balance or, more typically, needs forbearance to cure the delinquency.
    - Second, borrowers may need forbearance to enroll in IDR to give them payment

*Navient conducts its businesses through various members of the Navient family of companies.*

[1] Source: FSA Data Center as of June 2017 and Navient data as of September 2017 (excluding Parent Plus loans which are not eligible for IDR). By dollar volume, loans serviced by Navient are the most likely of any government servicer to be enrolled in IDR except for the servicer assigned all Public Service Loan Forgiveness loans which, by definition, are enrolled in IDR.

[2] Forbearance is a benefit that allows federal student loan borrowers, upon request, to postpone their payments during times of temporary financial challenges. Navient provides forbearance in short-term increments to ensure that borrowers remain connected during times of temporary financial challenges.

relief and time to complete the 12-page government-mandated application without becoming further past due.

- Servicers are paid up to 60 percent less[3] for borrowers in forbearance, debunking claims that servicers have an incentive to place borrowers in forbearance rather than IDR.
- Navient forbearance usage is in line with or lower than other major servicers.[4]
- Navient has publicly called for the simplification of the IDR process, including immediate online or phone enrollment, but so far no reforms have been made.[5]
- Despite being offered income-driven or other alternative repayment plans, some borrowers chose forbearance.
- Higher education experts have criticized the complexity of enrollment and recognize the importance of forbearance in keeping borrowers out of default. For example, one expert on student debt said: "…actually the way the program is set up, the best option for borrowers is forbearance because it doesn't require any paperwork and it immediately cures the loan, and doesn't require the borrower to do anything… here we have all the advocacy groups and the press out there saying 'these terrible servicers!,' but meanwhile, there's no criticism of the design of these policies and the policymakers making them."[6]
- Navient-serviced borrowers are 37 percent less likely to default[7] than borrowers serviced by our peers and, we believe they have been well-served by our practices.

***Allegation:*** *Navient didn't do enough to help borrowers to complete reenrollment so they could stay enrolled in income-driven repayment plans.*

## Fact: Navient goes above and beyond Department of Education mandated disclosure requirements.

- Under Department of Education regulations, borrowers must reenroll annually in income-driven repayment by submitting updated information about their income and family size. This is not Navient's requirement.
- Navient sends multiple notices and communications to borrowers to help them complete reenrollment on time, meeting or exceeding all federal requirements.
- Navient has pioneered supplemental approaches to support borrowers to reenroll on time. The approaches—evaluated and enhanced over time—go well beyond what is required by federal regulation or contract and have increased reenrollment rates.
- Navient has also advocated for a streamlined process with policymakers, the Department of Education, Department of Treasury, and the CFPB, including a multi-year enrollment income-driven repayment solution. Numerous consumer advocates have joined in this call for a simpler process.[8]

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[3] Source: https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing. Servicers are paid $2.85 per month for accounts in IDR or any repayment plan when on time but only $1.05 per month for a loan in forbearance.

[4] FSA Data Center Servicer Portfolio by Loan Status, data as of December 31, 2016.

[5] Washington Post, "Navient chief: There are 56 options for repaying federal student loans. It's time to simplify," Aug. 26, 2016.

[6] Excerpts from remarks made by Jason Delisle at a Pew Charitable Trusts forum on student debt, October 2016.

[7] Source: analysis of 2014 federal fiscal year 2014 Cohort Default Rate, released by U.S. Department of Education, September 2017.

[8] On Jan. 17, 2017, the Departments of Treasury and Education announced that they have signed a Memorandum of

- It is not in Navient's financial or reputational interest for borrowers to fail to reenroll in IDR as those borrowers have higher rates of delinquency. In fact, servicers are paid less for past-due borrowers and higher delinquency rates are reflected in Direct Loan servicer performance measures.

***Allegation:*** *Navient does not have adequate processing and procedures in place to sufficiently address errors in payment processing.*

## Fact: Navient processes more than 90 million payments per year and does so with a high degree of timeliness and accuracy.

- In federal fiscal year 2016, 123 customers who requested assistance through the CFPB portal asked about the allocation of their payments.
- In most instances, no payment instructions were supplied to Navient by the customer, or the customer sent the payment to an incorrect payment address. Regardless, upon receipt of the customers' inquiry through the CFPB portal, Navient reapplied payments based on the customer's new request.
- Navient was the first major student loan servicer to offer borrowers an online option to allocate payments to specific loans, including for overpayments or underpayments. All extra payments are applied immediately and the customer can specify whether the payment should count for future payments due.
- Navient provides borrowers with same day processing. Payments received by 11:59 p.m. Eastern, including weekends and holidays, are posted effective that day, not the common practice of the payment being effective the next business day.

***Allegation:*** *Navient reported some loans incorrectly to the consumer credit bureaus*

## Fact: Navient's credit bureau reporting practices are consistent with Consumer Data Industry Association guidance.

- CFPB oversees credit reporting agencies and the procedures that they use for accurate credit reporting. Credit bureau reporting is also governed by the Fair Credit Reporting Act and guidelines established by the Consumer Data Industry Association (CDIA).
- Lenders and servicers are required by law to report accurately to credit bureaus, and rely on the CDIA for the guidance to report consistently and accurately.
- Data "furnishers" such as student loan servicers don't calculate credit scores and do not have access to proprietary credit scoring methodology used by FICO or the credit bureaus.
- Navient did not report disabled veterans in default.
- If we learn that reporting codes we are using may be interpreted negatively or in unintended ways by the credit bureaus, we stop using those codes and retroactively remove them.

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Understanding establishing a framework for electronically sharing tax data over multiple years, which when implemented will simplify IDR plans for borrowers by eliminating the need to send in income information on an annual basis, as is currently required.

***Allegation:*** *Navient misled borrowers with defaulted loans into participating in the rehabilitation program.*

## Fact: Navient has helped federal loan borrowers in default reestablish a record of repayment to rehabilitate their loans and begin to reestablish their credit.

- Since 2012, Navient helped nearly 250,000 borrowers successfully rehabilitate their loans—that is, make nine out of 10 on-time payments, thus reestablishing the loan at a regular servicer and removing the record of default from their credit history.
- For most defaulted federal loan borrowers, loan rehabilitation is the best plan; it establishes regular repayment and, if successful, removes the record of default from the borrower's credit record and, in some cases, wipes out nearly all collection costs charged by the government.
- Because rehabilitation helps borrowers, federal policy encourages rehabilitation over other options such as consolidation. Federal policy does this through, among other things, capping the percent of defaulted loans that can be consolidated, and making the benefits of rehabilitation more favorable to borrowers.[9]
- CFPB's website highlights the benefits of rehabilitation over other plans using nearly identical language regulators said was misleading for consumers when Navient used it. The CFPB site also warns borrowers about the benefits they will forgo if they use consolidation instead of rehabilitation.[10]
- The allegation is based on no data or evidence of harm.

***Allegation:*** *Navient made private education loans to borrowers who it should have known were not able to repay them.*

## Fact: Private education loans were made available to students attending schools also eligible for federal grants and student loans and who otherwise would not be able attend college.

- Many years ago, loans were made to students attending schools that were eligible for federal student loans (and, in many cases, remain so today).
- All student loans, federal and private, are made with the expectation that borrowers will graduate and obtain employment. Navient bore the risk whenever borrowers could not repay their private education loans.
- Consumer credit default rates skyrocketed during the recession as a result of high unemployment and macroeconomic conditions. Federal and private loans were no different.
- Navient does not originate private education loans.[11]

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[9] The Deficit Reduction Act of 2006 amended the Higher Education Act, Section 428(c)(2) to limit the use by guarantors of consolidation loans to resolve defaults.

[10] For example: https://www.consumerfinance.gov/askcfpb/657/what-are-main-advantages-rehabilitation-option-when-dealing-collection-agency.html

https://www.consumerfinance.gov/askcfpb/655/what-are-my-options-when-dealing-debt-collection-agency-working-us-department-education.html

[11] Navient spun off from Sallie Mae Bank in 2014. Sallie Mae Bank continues to originate private education loans, but Navient does not.