Jack Remondi
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November 9, 2019

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

Major General Mark A. Brown, USAF (Ret.)
Chief Operating Officer
Office of Federal Student Aid
U.S. Department of Education
830 First Street NE
Washington, DC 20002

Dear Secretary DeVos and General Brown:

On October 17, 2019, Senators Warren and Blumenthal publicized an October 11, 2019, letter to you—a letter that is built on false and meritless statements, misrepresents the public record, and discourages borrowers from engaging with their servicers. I write to ensure you understand the facts about Navient's very positive record servicing federal student loans.

Sadly, the letter recycles disproven Consumer Financial Protection Bureau allegations. Even after nearly six years of investigation and false claims, the CFPB has not identified even one borrower to support claims of "steering" away from an income-driven repayment (IDR) plan into forbearance. That is because there was no policy and no practice to do so.

Our goal is to provide a high level of service to student borrowers and we deliver. For example, an analysis of Department of Education data shows that Navient leads the industry with the lowest default rates and the highest enrollment in alternative repayment programs. Navient-serviced borrowers are 37 percent less likely to default than borrowers serviced by our peers. Approximately half of Direct Loan volume serviced by Navient is enrolled in IDR programs—more than any comparable servicer.

On behalf of my fellow Navient team members who are working on the frontlines with student borrowers to help deliver these results, it is my duty to correct some of the most egregious falsehoods in the letter. Here are three examples of facts about Navient's positive servicing record you should know:

1. **Navient's policies, practices, and training are designed to use forbearance as a last resort for borrowers. The recently released 2010 internal memo that the Warren/Blumenthal letter cites actually proves this fact – that Navient raises forbearance after it is clear that borrowers do not qualify for other repayment options.**

   The letter cherry picks an excerpt out of context to contort the truth. After the memo's phrase excerpted in the letter, the *very next sentence* states that Navient uses forbearance "once it is determined that a borrower cannot pay cash or utilize other entitlement programs." Income-driven

repayment is one such entitlement program. When read in its entirety as it was meant to be, it is clear that the intent of the 2010 memorandum was to lay out Navient's borrower education strategy to increase the use of income-driven repayment plans.

2. **Navient conducts a strong and robust internal compliance program that includes senior leaders listening to randomly selected phone calls to ensure compliance and customer success. I implemented this policy many years ago to provide firsthand exposure to how we assist customers.**

   Nonetheless, the letter tries to flip reality on its head and misrepresent our compliance program as problematic because senior leadership sought insight into customers interactions. Executive call listening is one part of our rigorous call monitoring program designed to improve compliance and customer satisfaction. In their letter, the senators conveniently omit the assessment of the call and any action taken, if necessary, to improve future performance. This program is exactly what you should expect of your vendors and partners.

3. **In 2014, the Department of Justice made false and baseless allegations related to the Servicemembers Civil Relief Act (SCRA). It did so to try to create an entirely new standard that neither Congress nor ED had established. Rather than endure the costly and protracted litigation that we would have had to incur to disprove the allegations, we chose to settle the case and give money directly to servicemembers rather than prolong the case and spend money on lawyers and accountants. We complied fully with the law, there was never any determination that we did otherwise, and there was no "fine."**

   At issue were differing views between what statute required, what the Department of Education also required and what the Department of Justice wanted instead. ED itself noted this: "In its review of Navient's actions, DOJ applied requirements that were different than those used by the Department. We have since updated our standards to be in line with those used by DOJ..." This was further confirmed by the waiver ED issued to Navient so it could implement DOJ's new requirements.

   After Navient's voluntary settlement with DOJ, the federal government conducted an additional 16 audits, including six by outside independent auditors. Each of those audits found that during the timeframe covered by the settlement and since Navient complied fully with SCRA and ED's rules. The latest, and largest, found that "[i]n our opinion, Navient complied, in all material respects, with the requirements of SCRA…." The senators have continuously ignored the findings of these audits.

There are other errors and distortions in the letter, and I would be happy to discuss further and answer any questions you may have. Because the senators took steps to publicize their letter, I believe it is responsible to make this response publicly available.

Navient is pleased to support the investments students make in college working on behalf of the Department of Education. We look forward to continuing to support student loan borrower success.

Sincerely,

Jack Remondi

Enclosure

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Fact Checker on October 2019 Senators' Letter

An October 2019 letter from Senators Warren and Blumenthal promotes a false narrative about Navient's record of helping student borrowers. Learn the facts here.

Claims in the Warren/Blumenthal letter	Facts
CLAIM: "New Evidence of Navient Misbehavior" *"These documents, released on September 18, 2019 in a legal brief filed by the CFPB, confirmed what evidence has pointed to for years: Navient systematically steered thousands of borrowers who were having difficulty paying their loans into plans that were worse for the borrower."*	False and misleading. These documents make it clear that forbearance is used as a last resort. There is no evidence to support this accusation. • FACT: Navient leads comparable servicers in enrolling borrowers in affordable payment plans. Approximately half of Direct Loan volume serviced by Navient is enrolled in income-driven repayment plans—more than any comparable servicer.[1] • FACT: After nearly six years of investigation, the CFPB has not identified even one borrower who was "steered" away from an income-driven repayment plan into forbearance. That is because there is no policy and no practice to do this and never was. • FACT: The so-called "new evidence" takes a single sentence from a memo, written in 2010 (shortly after Income-Based Repayment became available) that discusses the importance of borrower education and of using forbearance only when the borrower isn't able to utilize other programs.
CLAIM: "Specifically, the documents indicate that, rather than working with borrowers who were in trouble to identify the 'Income-Drive Repayment' (IDR) or other plans that were in the borrower's best interest, Navient had a policy of cutting servicing costs by driving borrowers into 'forbearance' – an option where borrowers can temporarily suspend payment of their loans, although interest	False and misleading. It is not in a servicers' economic interest to place a borrower in a forbearance over an IDR plan. • FACT: The full documents make clear that there are no policies, written or otherwise, that support this accusation. Indeed, the documents and Navient performance show the opposite.

[1] https://studentaid.ed.gov/sa/about/data-center/student/portfolio

continues to accumulate – meaning that they end up owing more on their loans."	• FACT: Servicers are paid 60% less for a borrower in forbearance compared to a borrower who is current in an IDR plan, and thus have no financial incentive to place borrowers in forbearance rather than IDR.[2] • FACT: A review of actual outcomes shows that Navient forbearance usage is in line with or lower than other major servicers,[3] while Navient's enrollment in IDR is higher than comparable servicers. • FACT: While some IDR plans subsidize interest for some loan types for a limited time period, for most loans, interest accrues under income-driven repayment plans just like it does in forbearance.
CLAIM: "Navient's aggressive use of forbearance added nearly $4 billion in unnecessary interest charges for more than 1.5 million borrowers between 2010 and 2015."	False and misleading. This is a bogus figure that misconstrues federal student loan program rules. • FACT: Even the CFPB has never made this claim. • FACT: The letter falsely assumes that forbearance is never appropriate, that all loans would be eligible for income-driven repayment, and once there do not accrue interest. • FACT: Interest accrues on most borrowers' loans whether the borrower is in standard repayment, forbearance, IDR or another repayment program. • FACT: For borrowers during this period, there were only a small subset of loans that were eligible for income-driven repayment interest subsidies in the first few years of repayment. For the vast majority of loans, interest accrued regardless of whether the borrower was in an IDR or other repayment plan or in forbearance.

[2] https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing

[3] https://studentaid.ed.gov/sa/about/data-center/student/portfolio

CLAIM: "One internal memo, dated June 2010 and sent from a senior manager to Navient executives, urged, 'Our battle cry remains forbear them, forebear them. Make them relinquish the ball'… The memo makes clear that this was part of an explicit business strategy to prioritize borrower's needs only to the extent that they align with Navient's financial interests, noting, 'We need to point [borrowers] to the optimal solution based on their unique circumstances (optimal solution for the student and the firm).'"	False and misleading. This cherry-picked phrase deliberately twists the 2010 memo's meaning. • FACT: The very next sentence in the memo states that Navient uses forbearance "once it is determined that a borrower cannot pay cash or utilize other entitlement programs." (IDR plans are entitlements.) • FACT: The opening lines of the same memo state, "We view Borrower Education as another key component of our mission. There are numerous programs in addition to [forbearance] that allow students to resolve their delinquency." • FACT: Contrary to assertions, servicer and borrower incentives are well aligned. Servicers are paid most when they help borrowers stay current whether in an income-driven repayment or other repayment plan. They are paid 60% less for borrowers in forbearance (compared to a current loan in an IDR or other repayment plan), debunking claims that servicers have an incentive to place borrowers in forbearance rather than IDR.
CLAIM: "In another internal document made public for the first time as part of the lawsuit, a training document for customer service agents inaccurately communicated that IDR plans were only an option for borrowers who could afford to make payments, despite that fact that virtually all low-income student borrowers with federal loans are entitled to make a zero-dollar monthly payment under one or more IDR plans. …in a deposition, a manager of multiple call centers claimed not to know that zero-dollar IDR payments were an option until 2012, a full three years after the program was created."	False and misleading. Navient has worked to educate borrowers about IDR programs since they first became available. • FACT: The training document includes a prominent admonition in bold, red font stating: "**Forbearance should not be considered until all other options have been exhausted**." • FACT: An actual review of the deposition reveals that the employee in question never made that statement. • FACT: The CFPB has been given our policies and training documents, and they clearly show that Navient has supported and continues to support borrower education about IDR options.

CLAIM: "According to newly released statements from former employees, "The company fostered a culture within the call center that prioritized speed in resolving borrower calls. The company imposed a requirement that employees maintain an average call time of approximately seven minutes."	False and misleading. Navient policies do not set limits on call times. • FACT: We train employees to serve customers thoroughly, efficiently, and with empathy. • FACT: The letter (and the CFPB reply brief) deceptively ignore testimony of a Navient supervisor who stated that supervisors listen to calls that are too long (over 10 to 15 minutes) *and* they listen to calls that are too short to check for quality and compliance: "…the low talk time report. So if somebody comes up on that for, you know, going under a certain amount of time in resolving an account, we're going to listen to that call… we do it as like a check to make sure they're doing everything correctly."
CLAIM: "Executives at all levels of the company appear to have been aware of Navient's aggressive push for forbearance at the expense of IDR and did nothing to change it. On at least five occasions, Navient CEO Jack Remondi was provided with examples of calls in which borrowers who were good candidates for IDR were placed in forbearance without the option of IDR ever being discussed." *[…]* *"These examples show that Navient supervisors and the most senior leadership were aware of a clear pattern of customers being provided with incomplete and misleading information, but took no action to change their employees' practices."*	False and misleading. It is the height of dishonesty to take a strong compliance program – involving regular call monitoring at the highest levels of the company for these very issues – and twist that as a negative. • FACT: Navient has a rigorous call monitoring and testing program, specifically to ensure customer service specialists provide good service and follow policies and procedures. Navient CEO and other senior management regularly listen to customer calls as part of this program. These calls are randomly selected. • FACT: Executives listen to calls that represent good customer service and those that can be improved. Calls that fall short of quality standards receive follow-up calls from a supervisor and corrective action will be taken for the employee as appropriate.
CLAIM: "In 2007, Sallie Mae (now known as Navient) agreed to a multi-million dollar settlement with the New York Attorney General's office to resolve claims relating to the improper marketing of federal student loans."	Misleading. Sallie Mae cooperated with the AG and was one of the first in the industry to voluntarily adopt new standards. • FACT: In 2007, the New York Attorney General examined services that banks and other financial institutions provided to colleges. As a result, multiple companies

	including Sallie Mae agreed to adopt new standards on school partnerships. They also made voluntary contributions to a financial literacy program for high school students.
CLAIM: "In 2008, the Treasury Department's Inspector General reviewed 36 separate cases and found that Sallie Mae's debt collection arm, Pioneer Credit Recovery, Inc., had violated its contractual obligations in each case through transgressions such as failure to adequately document its debt collection process and failure to inform consumers of their rights and obligations under debt compromises."	Misleading. Pioneer readily accommodated the new guidance just as the other agencies did. • FACT: Inspectors General of government agencies routinely evaluate government processes (including those of their contractors) and make recommendations for improvement, such as this example from 11 years ago. There was no fine nor punitive action taken. • The Treasury Department asked each of its five private collection agencies to implement the IG's recommendations, and each of them including Pioneer did so.
CLAIM: "In 2009, the Education Department's Inspector General found that Sallie Mae overcharged the federal government by $22.3 million by abusing a program for small lenders. These taxpayer dollars still have not been repaid."	False and misleading. Navient practices were consistent with ED guidance and regulations. • FACT: This matter is unrelated to servicing and deals with a subsidiary financing issued in 1993 and retired more than 10 years ago. These practices were consistent with ED guidance and regulations. The company continues to stand behind those billing practices as proper. • FACT: Navient has been following the permitted appeals process and awaits a final determination.
CLAIM: "In 2013, the Education Department's Inspector General found that Sallie Mae had violated contractual terms by failing to report complaints the company had received from federal student loan borrowers."	Misleading. Pioneer readily accommodated the new guidance just as the other agencies did. • FACT: As a result of this 2013 Education Department Inspector General's report, several private collection agencies, including Pioneer, were instructed to report verbal complaints to the Department of Education. Previously, the agencies had reported only written complaints. Pioneer quickly implemented this instruction.

CLAIM: "In response to a [2013] letter Sen. Warren wrote to the Department requesting more information on the Department's relationship with Sallie Mae, the Department noted many of the ways in which Sallie Mae had failed its borrowers, including 'defects in conversion to repayment, incomplete adjustments to borrower accounts when transferred from a previous servicer, incorrect calculation of adjusted gross income for Income Based Repayment payment, and failure to include spousal income when calculating Income Contingent Repayment eligibility.' In an audit of Sallie Mae's FFEL Program portfolio, the Department identified 'incorrect billings submitted to the Department, failure to report origination fees, unpaid consolidation loan rebate fees, and general management and reporting deficiencies.'"	False and misleading. Navient delivers a high level of service to FSA and to borrowers. • FACT: In the same letter (dated 12/9/2013), the Federal Student Aid chief operating officer wrote to Senator Warren that the "Department is continuously working with its student loan servicers to provide exceptional service to borrowers and to serve as good stewards of taxpayer dollars." • FACT: And later FSA stated, "Compliance issues identified in the past through Department monitoring and oversight activities have not risen to the level where these penalties were considered appropriate, and they were resolved through the implementation of corrective action plans… In general, these issues have affected a very small percentage of individuals relative to the overall borrower population. The incidence of and responsiveness to issues of this kind by Sallie Mae has been consistent with our experience with other Federal loan servicers."
CLAIM: *"In 2014, DOJ and FDIC investigations found that Sallie Mae/Navient had engaged in 'intentional, willful' and systematic violations of service members' rights under the Servicemembers Civil Relief Act and had illegally overcharged service members for nearly a decade. The DOJ and FDIC investigation resulted in the two agencies requiring the company to pay a nearly $100 million fine. In 2016, we called on the Department to conduct a thorough accounting of this wrongdoing, after your own Inspector General found that ED's actions to identify affected borrowers were inadequate and statistically flawed."*	False and misleading. The government conducted 16 audits that found Navient complied fully with the Servicemembers Civil Relief Act (SCRA). • FACT: The latest, and largest audit, covering the same years as the settlement timeframe, concluded: "In our opinion, Navient complied, in all material respects, with the requirements of SCRA referred to above that are applicable to Title IV loans serviced on behalf of DoED-FSA."[4] • FACT: At issue were differing views between the Department of Education and the Department of Justice. Navient entered into a voluntary settlement to avoid lengthy and expensive litigation. There was no determination that there was a violation of law or rule by Navient or that any of the claims asserted had merit.

[4] https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/Navient-Compliance-Report.pdf

	• FACT: A Department of Education spokesperson acknowledged, "In its review of Navient's actions, DOJ applied requirements that were different than those used by the Department. We have since updated our standards to be in line with those used by DOJ..." Indeed, in order to complete the settlement, Navient had to obtain a waiver letter from the Department of Education to deviate from ED's standards. These documents and the full history are available at news.navient.com/scra-facts.
CLAIM: "In 2017, the CFPB filed a lawsuit that led to last month's disclosures, alleging that Navient violated federal laws by steering borrowers into forbearance, failing to provide clear deadlines and reminders to borrowers who were in long-term repayment plans that needed to be renewed annually, and falsely reporting to consumer reporting agencies that borrowers who had become disabled, including disabled veterans, had defaulted on their loans. The lawsuit also alleges that Navient repeatedly mishandled monthly payments by misallocating or misapplying payments across borrowers' accounts, resulting in improper late fees, increased interest rates, and inaccurate reports to consumer reporting agencies."	False and misleading. After six years of investigation, the CFPB has not identified accounts that support its claim of "steering." • FACT: In a court filing earlier this year, Navient demonstrated not only that the charge of systematic "steering" is false, but that the CFPB had failed to identify a single borrower harmed by any purported "steering." • FACT: The other claims are unfounded as well. Navient will fully respond when this matter is finally litigated. In the meantime, our response to all of these allegations is available at navient.com/legalfacts.
CLAIM: "In 2017, an FSA audit found that Navient call centers steered borrowers to inappropriate repayment plans. According to the audit, Navient offered only forbearance as an option for about 10% of student borrowers that the company spoke to on the phone, leaving them with incomplete information about their repayment options. This report's findings were confirmed by the newly released internal documents, which presented steering borrowers to forbearance as the company's explicit strategy."	False and misleading. The Department of Education said its review concluded that Navient was in compliance with program rules. • FACT: The Department's reviews of Navient have consistently rated Navient highly, including the review referred to here. A Department spokesman stated: "Nothing in the report indicates forbearances were applied inappropriately." • FACT: The Department further stated that "Navient's overall use of forbearance was consistent with that of other servicers, while the duration of forbearances for Navient borrowers was actually among the lowest of the Department's nine servicers."

	• FACT: Further information on this false allegation can be found at navient.com/legalfacts, including Navient CEO's response to Sen. Warren,[5] his letter to Navient shareholders,[6] and the Department of Education's statement on this review.[7]
CLAIM: "In 2018, a judge ruled that a class action bankruptcy lawsuit against Navient could proceed based on evidence that Navient disguised certain loans that may have been dischargeable in bankruptcy as non-dischargeable student loans and continued to collect on them."	False and misleading. Navient supports bankruptcy reform and follows bankruptcy rules. • FACT: Navient has long advocated for reform that would allow federal and private student loans to be dischargeable in bankruptcy for those who have made a good-faith effort to repay their student loans. • FACT: Recently, an appeals court found that, while these loans may in fact be dischargeable, the judge was wrong when he found that the plaintiffs had jurisdiction to bring these claims outside of the bankruptcy court that originally heard their bankruptcy case.
CLAIM: "And earlier this year, the Education Department Inspector General released an audit of the FSA's failure to hold student loan servicers accountable, the results of which directly contradicted the Department's previous statements that Navient had been complying with Department of Education requirements. The audit found that 'FSA's oversight activities regularly identified instances of servicers' not servicing federally held student loans in accordance with Federal requirements,' including a review of Navient calls that showed much higher rates of failure to provide callers with all their payment options than FSA's publicly released monthly reports indicated. However, 'FSA management rarely used available contract accountability provisions to hold servicers accountable for instances of noncompliance.'"	False and misleading. The Department of Education said its review concluded that Navient was in compliance with program rules. • FACT: The portion of the IG report referenced here misuses the same 2017 FSA review discussed above. • FACT: The IG report simply repeated the mistakes in the original FSA review that FSA later acknowledged after learning more information about the borrowers' situations. In fact, FSA requested to only review calls of five minutes or less, which meant the calls reviewed were not a fair representation of all calls. The IG later corrected its report to reflect that FSA only reviewed "short-duration" calls. • FACT: FSA concluded Navient counseled the borrowers appropriately. FSA's final statement on this matter reflected the full

[5] https://news.navient.com/static-files/2d908c37-30d1-4008-8d99-2e2ecf5fdf93

[6] https://news.navient.com/static-files/330bf3d0-489a-4798-8879-def5fd764e01

[7] https://news.navient.com/static-files/5afa1bd9-0a8a-4e4f-83e6-74a736c8b80d

	view of borrower accounts and shows that Navient was in compliance. • FACT: The Department of Education listens to thousands of calls every year by Navient team members for compliance with their requirements, including the appropriate discussion of income-driven repayment, and has found that Navient has a compliance rate of nearly 100% (99.5%).
CLAIM: "Navient declared in a 2017 court filing, 'there is no expectation that the servicer will act in the interest of the consumer,' and their actions make it clear that they have lived by this mantra, putting their corporate interests first at every opportunity."	False and misleading. Navient works to educate borrowers about their options so they can select the plan that is best for them. • Student loan servicers do not make decisions for borrowers or advise them on what is in their best interests. Only individual borrowers can determine that for themselves based on their own assessments about short- and long-term options, trade-offs, and expectations. • Several states have recently proposed new laws to require servicers to act in borrower's best interest. In recent hearings in the House Financial Services Committee, consumer advocates have argued in favor of enacting a fiduciary obligation on a federal level. Legislators could choose to enact a fiduciary standard but today that is not the legal standard. • Our job as a student loan servicer is to help borrowers understand the options available to them so that they can make an informed choice about what is best for them. We take this job seriously, which is why Navient-serviced borrowers are 37% less likely to default than those serviced elsewhere.