



July 13, 2015

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

RE: Docket No. CFPB-2015-0021

Dear Ms. Jackson:

Loan servicers may be seen as agencies that perform the purely administrative tasks of collecting payments, answering questions, or helping borrowers navigate the various repayment options available. In reality, however, loan servicers facilitate the last hurdle of completing higher education: repaying student loans. This process generally takes considerably longer than completing the academic program, and may cause more stress than studying for final exams.

Over the last two years, NASFAA convened four task forces that discussed issues related to student loan servicing. Each task force contained financial aid administrators from across the country and various institutional types. We reference their work throughout our comments, but provide the full published reports containing their recommendations below:

- [NASFAA Loan Servicing Issues Task Force](#)
- [NASFAA Reauthorization of the Higher Education Act Task Force](#)
- [NASFAA Task Force on Student Loan Indebtedness](#)
- [NASFAA Task Force on Consumer Information](#)

Our comments focus on the Direct Loan servicing processes, based on our expertise with Title IV student aid programs. As many students also must borrow private loans for educational expenses, we encourage the Consumer Financial Protection Bureau (CFPB) to consider which recommendations could apply to private loans as well.

The request for information (RFI) asked for resolution issues regarding specific segments of the student loan population. While we agree with the importance of ensuring those students most at-risk of defaulting receive additional assistance, we first need global identification and resolution of issues for borrowers as a whole.

This is a subject of deep importance to NASFAA and we look forward to further conversation. Please contact Mandy Sponholtz (sponholtzm@nasfaa.org) if you have any follow-up questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Draeger". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Justin Draeger
President and CEO, NASFAA

RFI Inquiry

Part One: General Questions on Common Industry Practices Related to Student Loan Repayment

NASFAA Response

Servicing Contract Allocation

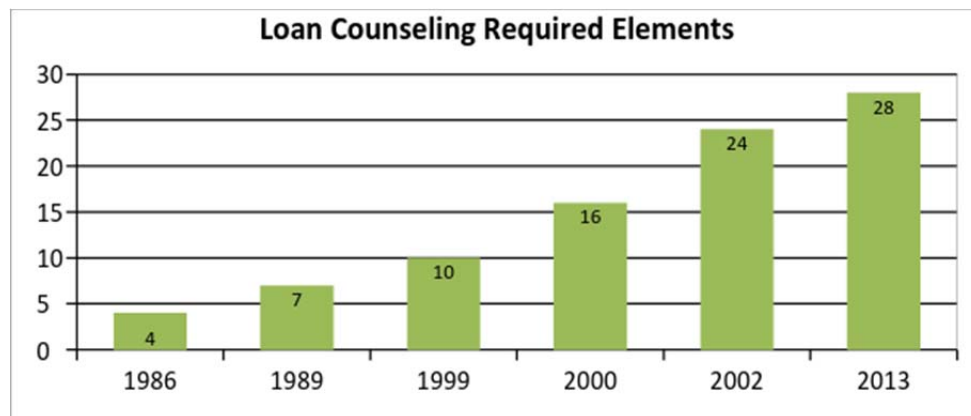
Recommendation: Establish a new allocation mechanism for low-performing servicers.

For the four primary servicers, the current allocation formula measures five performance areas, and each of the servicers receives points based on its ranking in the performance surveys. The best servicer receives a “4” for each ranking and the worst receives a “1.” Therefore, the lowest possible score is a “5.” Once the Department divided that result by 50 (the total number of points allowed for all servicers), the resulting figure is 10 percent.¹ Therefore, even the worst performing servicer may receive an additional 10 percent of new volume. What mechanism is in place to ensure that the worst loan servicers, who may be failing borrowers entirely, receive a lower allocation of additional loan volume, if any at all?

Borrower Disclosures

Recommendation: Simplify, refine and consolidate all consumer information requirements, including those for student and parent loan borrowers.

The CFPB’s RFI highlights a number of areas in which borrowers find themselves confused about their loans or repayment options. It is quite likely that the source of the confusion lies in the consumer information disclosures required by the Higher Education Act (HEA) of 1965, as amended. The required disclosures for student loan borrowers are vast and detailed, and continually increasing. As one example of the significant expansion of loan disclosure information, the chart below outlines the required number of counseling elements since the inception of loan counseling in 1986, until the most recent requirements were added in 2013:²



¹ Explanation of Allocation and Customer Service Performance Measure Methodology Attachment to September 2014 Electronic Announcement. Available online at: <http://ifap.ed.gov/eannouncements/attachments/LSIExplanAllocationAndCustServMethod091114.pdf>.

² Informed or Overwhelmed? A Legislative History of Student Loan Counseling with a Literature Review on the Efficacy of Loan Counseling, Feb. 2015. Available online at: <http://www.tgslc.org/pdf/Informed-or-Overwhelmed.pdf> Pages 12-13.

Research indicates that “consumers’ decision-making effectiveness decreases with increases in the quantity or redundancy of information that is available.”³ Schools, the Department of Education (“the Department”), loan servicers, and even the CFPB all provide loan information to students in various formats and times throughout the student’s borrowing life cycle. The table below outlines a few sample loan-related disclosures and the method of disclosure.

What information is disclosed?	Who discloses it?	Where is it disclosed?	Citation
Description of federal financial aid programs and the student and institutional rights and responsibilities associated with those programs.	School	Annual notice	20 U.S.C. 1092(a)
	Department of Education	www.studentaid.gov	20 U.S.C. 1092(d)
	Department of Education	Financial Awareness Counseling ⁴	20 U.S.C. 1092(d)
	CFPB	www.consumerfinance.gov/paying-for-college/	N/A
Student’s repayment obligation. Describe consequences of default. Right to prepay loan without penalty.	Department of Education	Direct Loan Master Promissory Note and loan disclosure statement ⁵	20 U.S.C. 1087e(i)
	School	Entrance counseling	20 U.S.C. 1092(l)
	Schools	Pre-disbursement disclosure	U.S.C. 1087e(p), 1083(a)(1).
	School	Exit counseling	20 U.S.C. 1092(b)
	School or Loan Servicer	Pre-repayment disclosure	U.S.C. 1087e(p), 1083(a)(1).
	Department of Education	Financial Awareness Counseling	N/A
Terms and conditions for Title IV loans students receive.	School	Annual notice	20 U.S.C. 1092(a)
	School	Entrance counseling	20 U.S.C. 1092(a)
	Department of Education	Direct Loan Master Promissory Note and loan disclosure statement ⁶	20 U.S.C. 1087e(i)
	Department of Education	Financial Awareness Counseling	N/A
	CFPB	www.consumerfinance.gov/paying-for-college/	N/A

Note that this table represents only a small sample of the required loan disclosures that students receive, and contains egregious duplication of efforts among schools, the Department, loan servicers, the CFPB, and countless other points of information not evaluated here. President Obama signed a Presidential Memorandum – the Student Aid Bill of Rights – on March 20, 2015,⁷ directing the

³ College Information Design and Delivery – Insights from the Cognitive Information Processing Literature. May 2015. Available online at <http://younginvincibles.org/wp-content/uploads/2015/06/college-information-design-5.28.2015-FINAL.pdf>. Page 8.

⁴ Available online at <https://studentloans.gov/myDirectLoan/financialAwarenessCounseling.action?execution=e2s1>.

⁵ Available online at <http://direct.ed.gov/pubs/dlmpn.pdf> and <https://www2.ed.gov/offices/OSFAP/DirectLoan/pubs/plusmpnnolabel.pdf>.

⁶ Available online at <http://direct.ed.gov/pubs/dlmpn.pdf> and <https://www2.ed.gov/offices/OSFAP/DirectLoan/pubs/plusmpnnolabel.pdf>.

⁷ Student Aid Bill of Rights, March 10, 2015. Available online at <https://www.whitehouse.gov/the-press-office/2015/03/10/presidential-memorandum-student-aid-bill-rights>.

Department to require Direct Loan servicers to provide “enhanced disclosures to borrowers” by January 1, 2016. As evidenced above, “enhanced” should not automatically mean “increased.”

NASFAA advocates^{8 9} instead for making the consumption of the disclosures more efficient and user-friendly by simplifying, refining, and consolidating all consumer information requirements, including those for student and parent loan borrowers.

- **Simplify:** The Department (or another federal government entity) should provide all consumer information to students in a web-based format, using data that institutions report to the Department. Centralizing the consumer information to one agency and one host allows a standard presentation of the information that consumers could use to effectively compare criteria.
- **Refine:** The CFPB should conduct a study to review the effectiveness of current consumer information requirements in terms of content, volume, delivery, timing, and responsible parties.
- **Consolidate:** The Department should reduce duplicative and no longer useful information from consumer information requirements, when warranted by the results of the study.

Borrower Communication

Recommendations:

- *Allow servicers the flexibility to disseminate certain disclosures together and make their own determination of the best point in time for the information to be distributed.*
- *Permit the use of technology to experiment with targeted communication processes and approaches to prevent delinquency and default.*

Numerous organizations, including the CFPB, cite borrower frustration and confusion surrounding communications from schools, the Department, and loan servicers. For example, in some cases, borrowers fail to open or read the communications, or receive them at ineffective times.

Currently, servicers must comply with prescriptive due diligence requirements that can stifle innovation and experimentation with the most effective ways in which to reach borrowers, and at what point in time. For example, servicers are required to send borrowers a delinquency notice between 1-15 days of delinquency status. However, servicers can identify borrower repayment habits through their data analytics, and in some cases can determine that a borrower is a “slow payer” and will always pay on a certain day later in the month. In such instances, it would be more useful for the servicer to put time, resources, and efforts into borrowers identified as truly being at-risk of default.¹⁰

⁸ Preliminary Report of the NASFAA Reauthorization Task Force, *ibid.*

⁹ Consumer Information Task Force Report, *ibid.*

¹⁰ Servicing Issues Task Force Report, *ibid.*

Current Minimum Due Diligence Requirements

For loans with monthly repayment obligations; requirements apply when servicer has a valid address and telephone number.

1-15 days delinquent	16-180 days delinquent	181-270 days delinquent
At least one written notice or collection letter.	Make at least four diligent efforts (each consisting of one successful contact or at least two attempts) to contact the borrower by phone. Must make at least one effort prior to 90 days and another after 90 days.	No gap in collection activity of greater than 45 days.
	Send the borrower at least four written notices or collection letters.	
		<p style="text-align: center;">241 or more days delinquent</p> <p>Final demand letter, allowing at least 30 days for the borrower to respond and bring the loan out of default.</p>

Adapted from the Common Manual: Unified Student Loan Policy.

The Obama Administration’s Student Aid Bill of Rights¹¹ requires the Department to pilot communication methods for student borrowers who are at least 140 days delinquent, but have not defaulted on their loans. The Department must submit a final report for the pilot by January 1, 2016. Within the following year, the Student Aid Bill of Rights specifies that the Department must develop and implement “at least five behaviorally designed pilot programs to communicate with borrowers to maximize successful borrower repayment and help reduce delinquency and default.”

NASFAA advocates that student loan servicing activities should be tested, developed, and executed because they have been proven successful in supporting repayment, as required by the Student Aid Bill of Rights pilot programs. In addition to the implementation of the pilots, we encourage allowing servicer flexibility from the current prescriptive disclosure requirements. Such flexibility would allow servicers to provide borrowers with the right information at the right time, and in the right amount. By reducing potentially ineffective communication strategies, servicers would gain additional time to focus on helping the most at-risk borrowers. This change would also benefit the borrower by receiving the same disclosure information, but in a more timely fashion. For example, this would include allowing servicers to disseminate certain disclosures together and make their own determination of the best point in time for the information to be distributed.¹²

Borrowers have individual and unique needs, and the current “one-size-fits-all” model does not work well when it comes to counseling and servicing borrowers. We recommend exploring the possibility of “specialized” servicing, whereby servicers can dedicate more efforts (and not be disincentivized financially to do so) to service borrowers determined to be at-risk for delinquency or default. Just as schools can apply and receive permission to become an “experimental site” with the express goal of finding creative, innovative approaches to improve the process and delivery of financial aid, federal servicers should be permitted reasonable authority to utilize technology to experiment with more targeted processes and approaches to prevent delinquency and default.¹³ The Department could

¹¹ Student Aid Bill of Rights, *ibid.*

¹² Servicing Issues Task Force Report, *ibid.*

¹³ *Ibid.*

implement this recommendation through an across-the-board change, or via an “experimental site” initiative.

While the Student Aid Bill of Rights requirements will assist with delinquent student borrower communication, we must recommend that the Department perform the same efforts for parent loan borrowers as well.

RFI Inquiry

Part One: Practices Related to Student Loan Repayment

NASFAA Response

Standardized Servicing Policies and Procedures

Recommendation: Develop a policies and procedures manual for servicers in order to standardize processing, especially in areas where borrowers could suffer a financial impact or risk.

The Direct Loan program intended students to have one lender and one servicer with standardized processes. However, the government is parceling out loans to various servicers and some borrowers are confused because not all servicers handle standard issues in the same manner. Borrowers cannot choose or switch their loan servicer, so they are subject to varying administrative procedures without any recourse. The lack of standardization also hinders financial aid administrators’ and third-party servicers’ efforts to accurately counsel students on what they can expect when they enter repayment. To alleviate confusion and differential treatment, we recommend that the Direct Loan program implement standardized repayment processes, communications, and forms, regardless of the servicer.¹⁴
¹⁵ ¹⁶

The CFPB points out in the RFI that “...there is no existing, comprehensive federal statutory or regulatory framework providing uniform standards for the servicing of all student loans.”¹⁷ While this is true, the Federal Family Education Loan (FFEL) industry, operating in the same legislative and regulatory vacuum, published the *Common Manual: Unified Student Loan Policy*¹⁸ nearly 20 years ago. To this day, FFEL program guarantors continue to comply with the agreed-upon provisions in the document, which trickles down to FFEL lenders and servicers due to their participation and insurance agreements with FFEL guarantors. Consequently, the FFEL industry has a standardized set of practices related to student loan repayment.



Guarantors copyright the information contained in the *Common Manual*, but make it publically available. They provide numerous checks and balances within the FFEL community to ensure accuracy and assist with partner compliance. The Department could use a similar model to develop the servicing policies and procedures:

¹⁴ Preliminary Report of the NASFAA Reauthorization Task Force, *ibid*.

¹⁵ Servicing Issues Task Force Report, *ibid*.

¹⁶ Student Loan Indebtedness Task Force Report, *ibid*.

¹⁷ Request for Information Regarding Student Loan Servicing. Docket No. CFPB-2015-0021. Available online at <http://www.consumerfinance.gov/students/request-for-information-on-student-loan-servicing/>. Page 10.

¹⁸ Available online at <http://www.commonmanual.org>.

- Make the resource public so schools and outside agencies can adequately advise borrowers on how servicers will handle various repayment situations, such as interest capitalization or applying prepayments.
- Invite all servicers – including the state not-for-profits – to be involved in developing the document.

According to the Student Aid Bill of Rights,¹⁹ the Department must require all Direct Loan servicers to apply prepayments to loans with the highest interest rate, unless the borrower specifies otherwise. While this particular requirement will go into effect as soon as practicable, it serves as one example of the administration’s support of standardized loan servicing processes. The development and use of a standardizing servicing manual can further the administration’s goal.

While NASFAA understands the competitive nature of the servicer contracts, a policies and procedures manual for servicers would offer standardization in areas where borrowers could suffer a financial impact or risk. A standard manual also could assist servicers and schools with counseling their students and graduates in debt management and default prevention efforts, and would result in consistent training, communication, and processes regardless of the servicer. This valuable resource would benefit students, schools, and servicers, and provide consistency while still encouraging competition.

Central Loan Portal

Recommendation: Implement a single loan portal where students and parents may access information on federal, institutional, and private education loans.

Borrowers need an accessible “one-stop-shop” where they can manage their loans. Many borrowers have multiple loans with different loan holders or servicers that may be in various stages of repayment. Having a central website where borrowers could access information about all of their loans would significantly help them manage their borrowing and repayment. Under such a scenario, all borrowers would have access to their entire debt portfolio in real time, enabling them to calculate a more accurate monthly repayment amount based on a variety of potential circumstances.

The Student Aid Bill of Rights affirms our recommendation by directing the Department to “establish a centralized point of access for all Federal student loan borrowers in repayment, including a central location for account information and payment process for all Federal student loan servicing, regardless of the specific servicer.”²⁰

While we applaud the administration’s effort, the portal needs to go further. The portal, according to the Presidential Memorandum, would include only federal loans, and possibly only those authorized by Title IV of the Higher Education Act (HEA) of 1965, as amended. The anticipated included loans would be:

- Direct and FFEL subsidized loans.
- Direct and FFEL unsubsidized loans.
- Direct and FFEL PLUS loans for graduate and professional students.
- Perkins Loans.

¹⁹ Student Aid Bill of Rights, *ibid*

²⁰ *Ibid.*

NASFAA recommends the development of a single student loan portal where students can easily access information about all of their student loans.^{21 22 23} It is critical that borrowers be able to obtain and monitor all of their loan information in one central database, regardless of their loan's origination, rather than having to pull information together in a piecemeal fashion. We advocate that the portal include all federal educational loans, including those from the Department of Health and Human Services (HHS), as well as private and institutional loans. Educational loan information from the federal government, loan servicers, private lenders, and colleges and universities could be reported to one central database to create the portal.

The Student Aid Bill of Rights²⁴ directs the Department to create only a student loan portal, but parent borrowers face similar challenges with respect to repayment questions and servicing confusion. Parents also must be able to use a portal to perform the same functions outlined above for their own parental loans through federal, private, and institutional sources.

Remove Servicer Branding

Recommendation: Brand all borrower communications with only the seal, icons, or logos from the U.S. Department of Education.

In order to provide the most clear, unambiguous information to borrowers, NASFAA recommends that the only branding on communication to the borrower should be from the Department.²⁵ Currently, loan servicers co-brand all correspondence with students with their own logo, as well as the Department's logo. This leads to considerable confusion among borrowers about who actually holds and services their loans. Perhaps most troubling, it can also lead to students being unsure about the legitimacy of the communication.

This effort works best when coupled with a non-branded central student loan portal, as outlined in our prior recommendation. The federal government already utilizes many other contracted organizations to provide web-based services, such as the Internal Revenue Service (IRS) or the Free Application for Federal Student Aid (FAFSA). In these instances schools, students, and tax filers are not aware of the contractor's information, they simply see the agency's own branding. The Department should follow suit for loan servicing.

If all borrower communication bore only the Department's branding, borrowers could then be directed to the student loan servicer to whom loans are assigned – still without branding – with a single phone number advertised by the Department and the schools. Mailed payments could be made to P.O. Boxes – again, only addressed to the Department – but managed by the individual loan servicers.

From a broader perspective, removing branding would represent a paradigm shift that will be essential to support borrower repayment success: the Department's ownership of the entire servicing process and be accountable for the outcomes. There needs to be an understanding that the ultimate responsibility for the servicing of federal loans lies with the Department, and not with the servicers.

²¹ Preliminary Report of the NASFAA Reauthorization Task Force, *ibid.*

²² Servicing Issues Task Force Report, *ibid.*

²³ Student Loan Indebtedness Task Force Report, *ibid.*

²⁴ Student Aid Bill of Rights, *ibid.*

²⁵ Servicing Issues Task Force Report, *ibid.*

Data Mining

Recommendation: Prohibit servicers from marketing products and services to borrowers based solely on data obtained from the federal servicing relationship.

NASFAA wants to ensure that all federal loan servicers are prohibited from using contact information from their Department-assigned portfolios to market other products or services, such as private loans. We found that among the four major servicers, only one clearly states in its privacy policy that it does not sell or use federal data to market other services.²⁶ Federal servicers must act on behalf of the federal government and protect the integrity of the data entrusted by not marketing any of their own products or services to borrowers based on the servicing contract relationship. If the company obtains the student's information through other means, then it may use that data to market other products or services.

Borrower Complaint Process

Recommendation: Provide due process for complaints before making them public.

The Student Aid Bill of Rights outlines the development and implementation of a borrower complaint process "pertaining to lenders, loan servicers, private collection agencies, and institutions of higher education." While we agree a single complaint portal and process will reduce administrative burden for borrowers, we advocate for the inclusion of due process for the school or servicer before publishing a complaint publically. We want to ensure that schools and servicers are protected from unfounded negative comments published by the federal government on the public record. If it does not do so already, we encourage the CFPB to include in their existing complaint process a similar examination process before publishing the database of complaint information.²⁷

Use of Default Prevention Services

Recommendation: Ensure federal loan servicers perform enhanced default prevention activities or contract or partner with default prevention agencies to perform additional default prevention efforts.

The four major federal loan servicers provide separate websites (or separate sections of the same site) dedicated to borrower and school functions. Generally, servicers provide the following school support and delinquency efforts:

- Assistance creating default prevention plans.
- Free software to access servicer data.
- Communication with borrowers via phone, email, letters, and/or text messages.
- Assist schools with additional communication efforts.
- Web chat support.

All four servicers provide suggestions and resources for the school to create and implement a default prevention plan, but that may not be enough to affect significant changes to a school's cohort default

²⁶ Privacy policies available online at: <http://www.pheaa.org/about/privacy-policy.shtml>, <https://home.mygreatlakes.org/web/about/gl/PrivacyPolicy>, <https://www.navient.com/about/legal/privacy-ed/default.aspx>, <http://nelnetloanservicing.com/privacy-security/>.

²⁷ <http://www.consumerfinance.gov/complaint/>

rate. Based on our research, the four major servicers do not sell additional default prevention products or services to schools. No servicer should be permitted to sell to schools enhanced service for which taxpayers are already paying.

We would like to point out, however, that hundreds (if not thousands) of schools across all sectors hire out their default prevention efforts to outside agencies because they may find the servicers' efforts insufficient. Schools may use such agencies because they do not have the staff and/or resources to do the work themselves; in fact, 64 percent of financial aid offices we surveyed reported that resource constraints resulted in decreased loan counseling activities, which could include default prevention.²⁸ One default prevention agency reported on its website that an average of 13 contacts was required to resolve a single borrower's delinquency for one school, which may be an indicator of the workload required.

These third-party agencies know the best practices – and regularly employ them – regarding borrower outreach and cohort default rate management. We found the following advertised statistics:

- Cohort default rate reduction of 67 percent.²⁹
- Single-year CDR drops of 6 percentage points for one school.³⁰
- Average 2010 CDR of 9.5 percent for all clients.³¹
- When contacted, resolve delinquent borrowers 90 percent of the time.³²

Despite financial aid administrators' diminishing staff and resources, schools with the means to do so are willing to pay for increased default prevention help. Unsolicited, one school told NASFAA it pays an annual fee of \$160,000 for default prevention services. Some services provided by third-party servicers include:

- Analyzing the school's portfolio, identifying the students most likely to default so the school gets the most "bang for their buck" on outreach efforts.
- Maintaining software for the school to monitor progress and/or perform additional default prevention activities, in conjunction with the agency.
- Downloading reports from NSLDS and the student loan servicers on the school's behalf.
- Projecting future CDRs.
- Providing default prevention training to clients and the public alike.

Schools who can afford to pay for default prevention services know first-hand the benefits they provide, but what about those schools who cannot afford it? Often the schools with the least resources also serve the highest numbers of at-risk students and those schools are left wondering why these enhanced efforts are not already included in the federal loan servicers contracts and requirements.

All schools should receive the benefit of strong default prevention efforts, not just those with the means to afford them. It benefits not only the school, but also the students and taxpayers. We encourage the Department to ensure that these efforts are included in future servicing contracts or to establish

²⁸ 2015 Administrative Burden Survey. Available online at <http://www.nasfaa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=23909>.

²⁹ <http://www.usafunds.org/USAFunds%20ResourceLibrary/BorrowerConnectCaseStudy-CenturaCollege.pdf>.

³⁰ <http://www.usafunds.org/USAFunds%20ResourceLibrary/BCCaseStudy-TruckeeMeadows.pdf>.

³¹ http://defaultprevention.com/pages/client_stats.htm. Did not specify if the rate was for a two- or three-year cohort. The national average for 2-year rates was 9.1 percent and for 3-year rates was 14.7 percent.

³² <http://www.higheredge.net/HigherEDGE-service-overview.cfm>.

contracts with existing default prevention agencies to perform additional, targeted activities on the loan servicers' behalf to help more borrowers stay out of default.

Identify Borrowers Who May Qualify for Total and Permanent Disability Discharge

Recommendation: Use existing data to ease the burden of applying for a Total and Permanent Disability discharge.

NASFAA supports the Student Aid Bill of Rights³³ requirement that a group of federal agencies jointly develop a plan to identify borrowers who may qualify for a Total and Permanent Disability (TPD) discharge. The entities involved were required to develop a plan no later than July 1, 2015, that specified the following:

- Identify federal student loan borrowers who receive Social Security Disability Insurance (SSDI);
- Determine whether the beneficiaries qualify for a TPD discharge;
- Develop a process for the Department to cease collection on federal loans for qualified borrowers; and
- Communicate with other SSDI recipients, who also have federal student loans, but do not qualify for a TPD discharge, about repayment options and assist those borrowers in entering those plans.

The president's directive provides assistance to borrowers whose SSDI payments are garnished to make required federal loan payments. However, the process does not account for information sharing between the Social Security Administration (SSA) and the Department, whereby available information regarding status as an SSDI recipient could be shared directly with the Department to ease the burden of applying for a TPD discharge. We recommend adding this step to enhance the directive outlined in the memorandum and reduce administrative burden to the borrower during a time of great difficulty.

For other SSDI recipients who have federal loans that are not subject to wage garnishment, we recommend retaining a borrower-initiated process in order to respect borrower privacy, but maximizing the use of information from the SSA to complete the TPD application process. We recommend the Department enhance communications to all borrowers regarding TPD discharge, specifically explaining that borrowers receiving SSDI may be eligible for discharge. Once the borrower initiates the TPD application, allow the borrower to release data from the SSA regarding SSDI benefits, rather than requiring the borrower to collect the documentation manually.

Alternately, the SSA could communicate to SSDI recipients information about potential TPD discharge eligibility. With the borrower's approval, the SSA could then facilitate the borrower's application to the Department, using the same proposed process outlined above.

Repayment Plan Options

Recommendations:

- *Develop a single income-driven repayment plan.*
- *Develop standardized documentation requirements for income-driven repayment applications.*
- *Auto-enroll delinquent students in an income-driven repayment plan.*
- *Allow borrowers to authorize the use of multiple years of IRS data for income-driven recertification purposes.*

³³ Student Aid Bill of Rights, *ibid.*

Provided they meet eligibility requirements, subsidized and unsubsidized loan borrowers may select from myriad of repayment plan options, four of which are income-driven.³⁴ The most recent round of negotiated rulemaking would add another plan to the options, if finalized.

Single Income-Driven Repayment Plan

Current provisions provide borrowers with multiple income-driven repayment plans, which all contain very similar provisions with very subtle differences, as outlined in the chart below:

	Income-Based Repayment	Pay As You Earn	Income-Contingent Repayment	Income-Sensitive Repayment
Available To	DL and FFEL.	DL and FFEL.	DL only.	FFEL only.
Payment Amount	Generally 15% of discretionary income.*	Generally 10% of discretionary income.	Lesser of: <ul style="list-style-type: none"> • 20% of discretionary income. • Fixed payment over 12 years, adjusted according to income. 	Based on monthly gross income.
Maximum Payment Amount	No more than 10-year standard repayment plan amount.	No more than 10-year standard repayment plan amount.	Based on income, and may exceed the 10-year standard repayment plan amount.	No more than three-times greater than any other installment.
Repayment Period	25 years.*	20 years.	25 years.	10 years.
Qualifications	Must have a partial financial hardship exceeding the 15% threshold.**	Must have a partial financial hardship exceeding the 10% threshold.** Must be a new borrower as of Oct. 1, 2007, who received a Direct Loan disbursement on or after Oct. 1, 2011.	No income eligibility requirements, but payments based on income and family size.	No income eligibility requirements, but payments based on income.

*New borrowers on or after July 1, 2014: 10% of discretionary income and 20-year repayment period.

**Partial financial hardship occurs when the annual amount as calculated under a 10-year standard repayment plan exceeds the difference between the borrower's AGI and 150% of the poverty level for the family size and location.

The Department issued a Notice of Proposed Rulemaking (NPRM) that proposes a new “Revised Pay As You Earn” repayment option³⁵, which according to a letter from a group of senators to the Secretary of Education, “would add unnecessary complexity, increase costs for responsible low- and middle-income borrowers, and result in the disparate treatment of graduate and undergraduate borrowers.”³⁶

It currently takes the Department 25 pages of questions and answers to explain the similarities and differences in the three income-driven repayment plans, which will only increase if regulations add yet

³⁴ Regulatory citation: 34 CFR 685.208(a)(2)(i), 682.209(a)(6)(iii) and 682.215.

³⁵ <https://www.federalregister.gov/articles/2015/07/09/2015-16623/student-assistance-general-provisions-federal-family-education-loan-program-and-william-d-ford>.

³⁶ <http://www.whitehouse.senate.gov/news/release/senators-to-dept-of-education-proposed-changes-to-student-loan-program-could-harm-borrowers>

another repayment plan option.³⁷ This web of repayment plans only serves to frustrate borrowers and may, in fact, deter them from applying for much-needed repayment relief.

NASFAA advocates for a single income-driven repayment plan to reduce duplication among the plans, confusion for borrowers, and administrative burden for schools, the Department, and FFEL and Direct Loan servicing agencies. By establishing a single income-driven repayment plan, the Department could also more easily implement a single application process for income-driven repayment.

Single Income-Driven Repayment Plan Application Process

While the Department provides a single application for multiple income-driven repayment plans, each servicer requires different supporting documentation to satisfy the application, even though many of the repayment plans require the same kinds of information. NASFAA found instances where a lack of coordination among loan servicers, led to borrowers having unnecessary late payments or default.³⁸ Employing a single application process for income-driven repayment would allow the implementation of an online tracking system so borrowers can see exactly where they are in the application process.

Additionally, the implementation of a single loan portal, as recommended above, could provide a centralized process for borrowers to apply for income-driven repayment, deferments, and mandatory forbearances (see recommendation “Central Loan Portal” above).

Auto-Enrolling Delinquent Borrowers in Income-Driven Repayment Plans

Proposed legislation in the Higher Education Affordability Act³⁹ would require the Department to enroll students in income-based repayment when they are at least 150 days delinquent on Direct Loan payments. Because default does not occur until at least 270 days of delinquency, implementing such legislation would provide a safeguard for borrowers to potentially maintain good standing on their loans. Keeping borrowers out of default obviously benefits the borrower, but it also allows the school to retain Title IV funding for current and future students and prevents the U.S. taxpayers from paying the borrower’s loan debt.

Implementing such a plan would have some challenges. First and foremost, the borrower must provide income documentation to determine the appropriate payment amount, and repeat that process annually if the borrower wishes to remain in the plan. The borrower may not understand all the plan’s rules and requirements. While these challenges may be mitigated through some of our recommendations outlined in this response, others may require additional consideration.

Use of IRS Data

NASFAA supports President Obama’s Student Aid Bill of Rights⁴⁰ directive for multiple agencies to work together to determine the “feasibility of developing a system to give borrowers the opportunity to authorize the Internal Revenue Service to release income information for multiple years for the purposes of automatically determining monthly payments under income-driven repayment plans.” This report must be complete by October 1, 2015.

³⁷ <https://studentaid.ed.gov/sa/sites/default/files/income-driven-repayment-q-and-a.pdf>.

³⁸ Servicing Issues Task Force Report, *ibid*.

³⁹ S. 2954. Available online at www.congress.gov.

⁴⁰ Student Aid Bill of Rights, *ibid*.

The income-driven application process already includes the use of transferring data from the IRS, and borrowers may use IRS data in the annual renewal process as well. The servicer sends the first recertification request approximately two months before the deadline. Despite the early notification and availability of IRS data, the Department reports that 57 percent of borrowers fail to meet the recertification deadline.⁴¹ By allowing borrowers to authorize the IRS to submit multiple years of income data to the loan servicers, the likelihood that the borrower will miss the annual renewal deadline is much lower.

RFI Inquiry

Part Two: Applicability of Consumer Protections from Other Markets

NASFAA Response

Recommendation: Provide appropriate consumer protections derived from other consumer markets, but remain mindful of the unique nature of student and parent educational loans.

We agree with the CFPB that the Department should provide standard consumer protections for student borrowers that are in line with other consumer financial products. That being said, we must caution against making a direct comparison between educational loans and, for example, mortgages. When put side by side, the differences between student loans and mortgages are readily apparent:

	Federal Education Loans	Mortgages
Terms and conditions based on credit score.	No	Yes
Terms and conditions based on ability to repay.	No	Yes
Require one-on-one counseling (e.g. entrance counseling or mortgage closing).	No	Yes
Results in a tangible asset that can be seized in default.	No	Yes

We encourage the implementation of additional and/or revised protections for student and parent loan borrowers, and while comparing mortgage and credit card laws and regulations to those of federal education loans can be helpful, please be mindful to adjust the recommendations to reflect the unique nature of federal education loans. The resulting protections must balance the needs of current and future borrowers with those of the federal taxpayers who fund the programs.

⁴¹Negotiated Rulemaking background material: <https://www2.ed.gov/policy/highered/reg/hearulemaking/2015/paye2-recertification.xls>

RFI Inquiry

Part Three: Impact of Limits on Availability of Data About Student Loan Servicing and Student Loan Repayment on Borrowers

NASFAA Response

Recommendations:

- *Find methods to update NSLDS in a more timely fashion.*
- *Publicize quarterly report results to the higher education community.*

The Student Aid Bill of Rights⁴² requires a group of agencies to examine the student loan portfolio on a quarterly basis, and we surmise that this data will come from the National Student Loan Data System, as it is the most readily accessible by the Department. Schools, lenders and loan servicers must report data to NSLDS on a regular basis, but the information may be as much as 60 to 90 days out of date. In order to make effective decisions based on a quarterly review of the data, we recommend that the Department develop a method to update NSLDS faster to make the data more relevant. While this action would benefit the task force, it would also benefit schools, student and parent borrowers, and third-party agencies who use the data as well.

Loan data directly from the servicers is the most up-to-date, as it does not need to go through the NSLDS updating process, so we encourage the task force to use servicer data as well. Furthermore, many of the third-party default prevention service providers have software to aggregate NSLDS and servicer data into a single database. These other agencies prove that this level of data aggregation is possible, and the Department needs to follow suit.

Finally, we recommend that the Department make the results of the quarterly report publically available.

⁴² Student Aid Bill of Rights, *ibid.*