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January 4, 2023

The Honorable Michael D. Hurley, Senate Clerk
Office of the Clerk of the Senate
State House, Room 335
Boston, MA 02133

The Honorable Steven T. James, House Clerk
Office of the Clerk of the House
State House, Room 145
Boston, MA 02133

Re: Fiscal Year 2022 Report of the Massachusetts Attorney General's Student Loan Ombudsman Pursuant to G.L. c. 12, § 35

Dear Clerks Hurley and James:

Pursuant to G.L. c. 12, § 35, we hereby submit this report to the General Court on behalf of the Attorney General's Office ("AGO").

Millions of people in Massachusetts and across the nation are stuck in a quagmire of student loan debt. As of October 2022, student loan debt totaled $1.768 trillion nationwide.[1] Most of this debt is federal. The federal loan program includes over $1.4 trillion in Direct Loans, nearly $208 billion in loans issued under the Federal Family Education Loan ("FFEL") Program, and $3.9 billion in Perkins Loans.[2] Direct Loans are owned by the U.S. Department of Education, whereas FFEL and Perkins Loans can be owned by either the Department or private lenders. Over 900,000 Massachusetts borrowers cumulatively carry $31.7 billion in federal student loan debt.[3] Private loans, which are issued by banks, credit unions, state-sponsored agencies, and other nonbank lenders, are estimated to total $133 billion nationwide.[4]

Federal loan borrowers must navigate a complicated repayment system, often with inadequate information and support from the private companies hired to service their loans. The programs that Congress created to help provide an affordable path out of student loan debt,

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[1] "G19 Consumer Credit Series." *Federal Reserve*, http://www.federalreserve.gov/releases/g19/current/default.htm
[2] "Federal Student Aid Portfolio Summary." *Office of Federal Student Aid*, https://studentaid.gov/data-center/student/portfolio
[3] "Portfolio by Location." *Office of Federal Student Aid*, https://studentaid.gov/data-center/student/portfolio
[4] Estimate of total private loan debt calculated as the difference between the Federal Reserve's estimate of total student loan debt ($1.768 trillion) and the current value of the U.S. Department of Education's loan portfolio ($1.635 trillion).

including income-driven repayment ("IDR") and Public Service Loan Forgiveness ("PSLF"), have proven ineffective due to their complexity, poor design, faulty administration, and the failure of servicers to provide borrowers with appropriate assistance:

- IDR plans enable borrowers to make payments based on their income and family size and offer the possibility of loan forgiveness after 20 or 25 years. Servicers have often steered borrowers into costly forbearances rather than going through the comparatively time-consuming process of helping borrowers enroll in IDR. Although IDR has existed for over 25 years, in 2021 the U.S. Department of Education reported that only 32 borrowers had ever qualified for IDR forgiveness.[5]
- The PSLF Program forgives the remaining balance on federal Direct Loans after borrowers have made 120 qualifying payments under a qualifying repayment plan while working full-time for the government or certain types of non-profit employers. Due to the PSLF Program's complexity and poor servicing, millions of public service workers have been unable to access loan forgiveness and denial rates have been as high as 99%.[6]

Struggling federal borrowers who cannot access debt relief programs like IDR and PSLF (or who find the programs unaffordable) are at risk of defaulting on their loans. As of March 2022, over 7.5 million federal loan borrowers were in default.[7] Federal loans default after 270 days of delinquency. The consequences of default are severe, and include wage garnishment, tax refund interception, and Social Security offset. Compounding this, many federal loan borrowers also have private loans, for which there are few repayment options.

The Ombudsman's Student Loan Assistance Unit[8] works on the frontlines of the student debt crisis, helping borrowers to:

- obtain information about their loans;
- explore repayment options;
- learn about, apply for, maintain, and pursue forgiveness under IDR plans;
- pursue forgiveness under PSLF and Temporary Expanded PSLF ("TEPSLF");
- consolidate loans made under the FFEL Program into the Direct Loan Program;
- avoid default or get loans out of default;
- end wage garnishments, tax refund interceptions, or Social Security offsets;
- resolve disputes with loan servicers;
- stop harassing debt collection calls; and
- apply in certain circumstances for loan discharges.

[5] "Education Department's Decades-Old Debt Trap: How the Mismanagement of Income-Driven Repayment Locked Millions in Debt." *National Consumer Law Center and Student Borrower Protection Center*, 2021, https://www.nclc.org/wp-content/uploads/2022/08/IB_IDR-1.pdf

[6] "Pre-March 2019 PSLF Report FSA." *Office of Federal Student Aid*, https://studentaid.gov/sites/default/files/pslf-report.xls

[7] "Electronic Announcement ID: General 22-43. *Office of Federal Student Aid*, July 13, 2022, https://fsapartners.ed.gov/knowledge-center/library/resource-type/Electronic%20Announcements

[8] The Student Loan Ombudsman was established within the AGO by Chapter 358 of the Acts of 2020. The position became effective on July 1, 2021. The AGO's Student Loan Assistance Unit, created in 2015, operates within the Insurance and Financial Services Division under the management of the Ombudsman and Deputy Ombudsman.

Based on this work, we have concluded that the student loan system is fundamentally broken and taking a devastating toll on millions of Americans. It is a system that has enabled for-profit schools to deceive and defraud vulnerable students who were seeking a better life. It is a system that disproportionately burdens women and minorities. It is a system that has recklessly saddled parent borrowers with loans they cannot possibly repay. It is a system that has failed to deliver on the programs that Congress created to provide a more affordable path out of student loan debt. And it is a system that has hollowed out the futures of millions of young people and left them with a lifetime of insurmountable debt.

To address this crisis, the Biden-Harris Administration has created historic debt relief opportunities for federal loan borrowers. In addition to $10,000-$20,000 in One-Time Student Loan Debt Relief, which is now paused due to legal challenges, the Administration has announced several remedial programs to address long standing servicing failures and the inability of borrowers to access vital programs like IDR and PSLF. These remedial programs include the One-Time Adjustment, the Limited PSLF Waiver, and the Fresh Start initiative.

- The One-Time Adjustment will give borrowers with U.S. Department of Education-owned loans qualifying months toward loan forgiveness under IDR plans—even if they have never enrolled in IDR. Through the adjustment, borrowers can receive credit toward IDR loan forgiveness for all the months their loans have been in repayment since 1994 and for certain forbearance and deferment periods.[9] If borrowers have loans that are not owned by the U.S. Department of Education, they must consolidate those loans into the Direct Loan Program by May 1, 2023 to receive the adjustment. The One-Time Adjustment will also provide public service workers with credit toward PSLF if they consolidate non-Direct Loans into the Direct Loan Program by May 1, 2023 and certify their employment.
- The Limited PSLF Waiver temporarily relaxed the PSLF Program's rules and enabled borrowers to get credit toward forgiveness for past repayment periods that would not otherwise qualify for PSLF. However, to benefit, borrowers needed to take specific actions by October 31, 2022, including consolidating non-Direct Loans into the Direct Loan Program and filing employment certifications. Although the Limited PSLF Waiver has ended, many of its benefits are continuing through the One-Time Adjustment.
- The Fresh Start initiative will enable borrowers with defaulted loans to reenter repayment in good standing and permanently eliminate the credit impact of delinquency and default. Borrowers will need to opt into Fresh Start in 2023.

Some borrowers will have their balances forgiven through the Biden-Harris Administration's debt relief initiatives. Others will need to engage with the complex federal loan repayment system and enroll in IDR to continue working toward forgiveness after the federal portfolio resumes repayment, which is expected to occur in 2023. Many borrowers will be doing so with a new servicer given the large number of recent servicing transfers.

[9] Borrowers will be able to see how many credits they have accrued toward IDR loan forgiveness through the One-Time Adjustment in their federal student aid accounts starting in July 2023.

Certain borrowers are at risk of missing out on debt relief opportunities entirely. For example, privately owned FFEL and Perkins Loans, which are presently locked out of the $10,000-$20,000 in One-Time Student Loan Debt Relief, are also at risk of missing out on the Administration's remedial programs if they are not consolidated into the Direct Loan Program within the coming months. Meanwhile, many of the companies that service these privately owned federal loans are disincentivized to instruct borrowers to consolidate.

Further, the interplay between certain debt relief initiatives is quite complex. For example, although consolidation into the Direct Loan Program is necessary for the Limited PSLF Waiver and One-Time Adjustment, consolidating privately owned loans and federally owned loans together can result in disqualification for the $10,000-$20,000 in One-Time Student Loan Debt Relief.

There are also significant hurdles to accessing relief. For example, most borrowers are unaware of what types of federal loans they have or who owns them, and some do not understand whether they have federal or private loans. Obtaining this information is not simple. Borrowers' personal information must be verified through a multiday process before they can gain access to their federal student aid accounts. Once logged in, they must navigate to separate screens to identify their loan types and loan ownership.[10] If borrowers identify that they have loans that need to be consolidated to access debt relief, some are reluctant to do so as the benefits of programs like the Limited PSLF Waiver and One-Time Adjustment are not easily quantifiable. Many are concerned that consolidation will change their interest rates, extend their loan terms, or cause them to lose qualifying months toward PSLF or IDR.[11] Additionally, the loan repayment estimator that borrowers see as part of the consolidation process doesn't take the recent debt relief programs into consideration and provides inaccurate estimates of total time in repayment, projected forgiveness amounts, and total loan costs. Even when borrowers decide to move forward with consolidation, married borrowers must go through the added step of getting their spouses to set up federal student aid accounts to consent to the release of joint tax returns for IDR enrollment. Adding to these difficulties, the federal student aid website has been plagued by technological glitches that often require borrowers to repeatedly restart these time-consuming processes.

Borrowers have also struggled to get the help and information they need to access the recent debt relief initiatives from their loan servicers. If borrowers do find out that consolidation is necessary to access relief, their servicers generally do not help them to complete the process. PSLF borrowers have reported experiencing call hold times exceeding two hours in trying to speak with PSLF servicers. In fact, during the Limited PSLF Waiver, the U.S. Department of Education asked borrowers to limit their calls to the Department: "Please let us focus on helping you. Give us time and try not to flood our phone lines."[12] PSLF borrowers have also experienced significant servicer delays in processing consolidations and employment certifications. Further, in some cases, servicers have provided borrowers with false or misleading information. This includes informing borrowers that consolidation will restart the

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[10] Instructions can be found at www.mass.gov/ago/aremyloansdirect and www.mass.gov/ago/whoownsmyloans.
[11] While traditionally, consolidation would restart the clock on loan forgiveness for both IDR and PSLF, under the remedial programs, consolidation is often necessary and will not result in the loss of credit toward forgiveness.
[12] Letter from Richard Cordray, Chief Operating Operator, U.S. Department of Education, February 7, 2022, https://studentaid.gov/sites/default/files/pslf-coo-message-2022-02-07.pdf

clock on loan forgiveness and misleading borrowers into believing that they cannot access debt relief programs.

Given the challenges associated with understanding and accessing the debt relief initiatives, many borrowers will need individualized guidance and assistance from government agencies and non-profit advocates to avoid missing out on these historic opportunities. The Ombudsman's Student Loan Assistance Unit is endeavoring to meet these demands and ensure that Massachusetts borrowers can both access and maximize debt relief.

Massachusetts borrowers can contact the Ombudsman to file a complaint or help request at www.mass.gov/ago/studentloans.[13] This website also provides information and resources on topics including PSLF and the Limited PSLF Waiver, IDR plans, the One-Time Adjustment, how to identify federal loan types, the ongoing federal loan payment pause and eventual return to repayment, the Fresh Start initiative, student loan "debt relief" scams, and the AGO's settlements with student loan servicers. The Ombudsman's Limited PSLF Waiver webpage, which includes a video tutorial, has been visited nearly 10,000 times. The page maintained on the AGO's settlement with Navient Corporation ("Navient") received over 150,000 visits.

The work of the Student Loan Assistance Unit not only helps individual borrowers but also informs the AGO's investigations and advocacy on policy issues. Further, working directly with borrowers enables the Ombudsman to identify important issues that may not be as readily apparent to policy makers at the U.S. Department of Education. The Ombudsman regularly provides the Department with valued input on its implementation of debt relief initiatives. In collaboration with other state Attorneys General and Ombudspersons, the Ombudsman also authors and contributes to multistate letters on student loan matters.

1. Complaint and Help Request Volume

Since March 13, 2020, most federal loans have been subject to a pandemic payment pause and 0% interest rate. Notwithstanding this pause, the Ombudsman received an unprecedented number of complaints and help requests in the past fiscal year. Between July 1, 2021 and June 30, 2022, Massachusetts student loan borrowers filed a total of 1,207 complaints and/or help requests,[14] which are categorized as follows:

<u>Complaints</u>

- 480 against student loan servicers
- 136 relating to for-profit schools and associated debt
- 34 relating to non-profit and/or public colleges and universities
- 23 against student loan "debt relief" companies

<u>Help Requests</u>

- 444 borrowers sought help exploring student loan repayment options
- 423 borrowers sought help getting information on their student loans

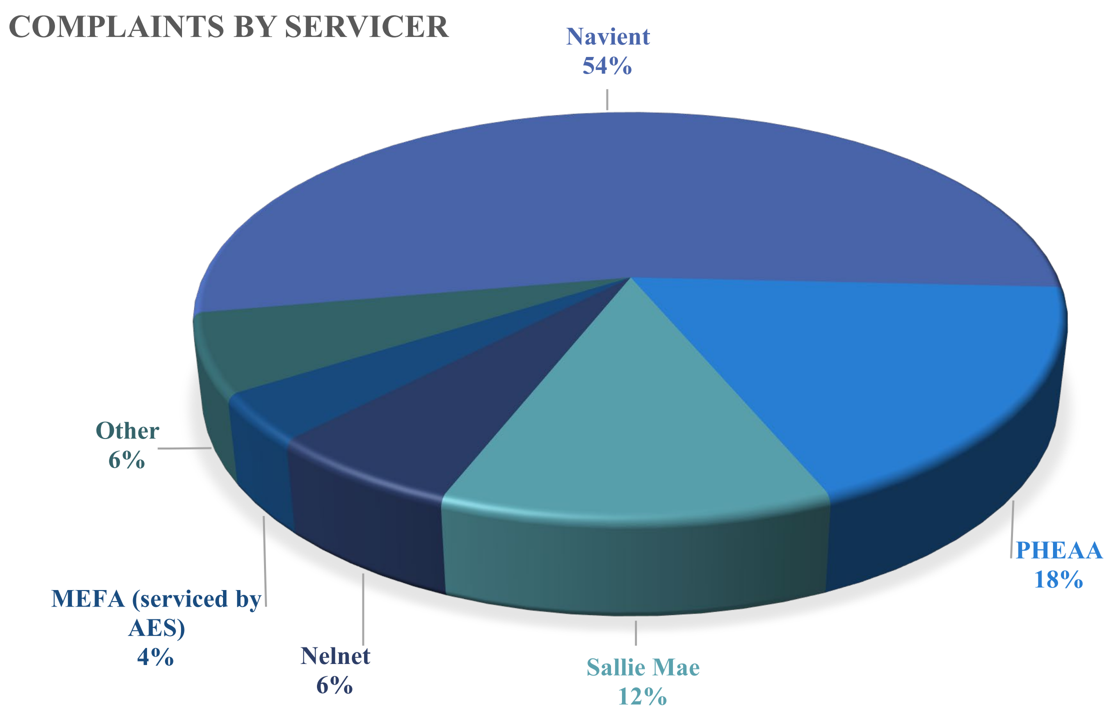
[13] Pursuant to regulations promulgated by the Massachusetts Division of Banks, which became effective in September 2021, contact information for the Massachusetts Ombudsman is listed on all bills and notices sent to Massachusetts student loan borrowers.
[14] In some cases, borrowers had multiple complaints and/or requested multiple types of help.

- 210 borrowers sought help getting out of default and avoiding wage garnishment and tax refund interception
- 107 borrowers sought help applying for a total and permanent disability discharge

2. Student Loan Servicing Complaints

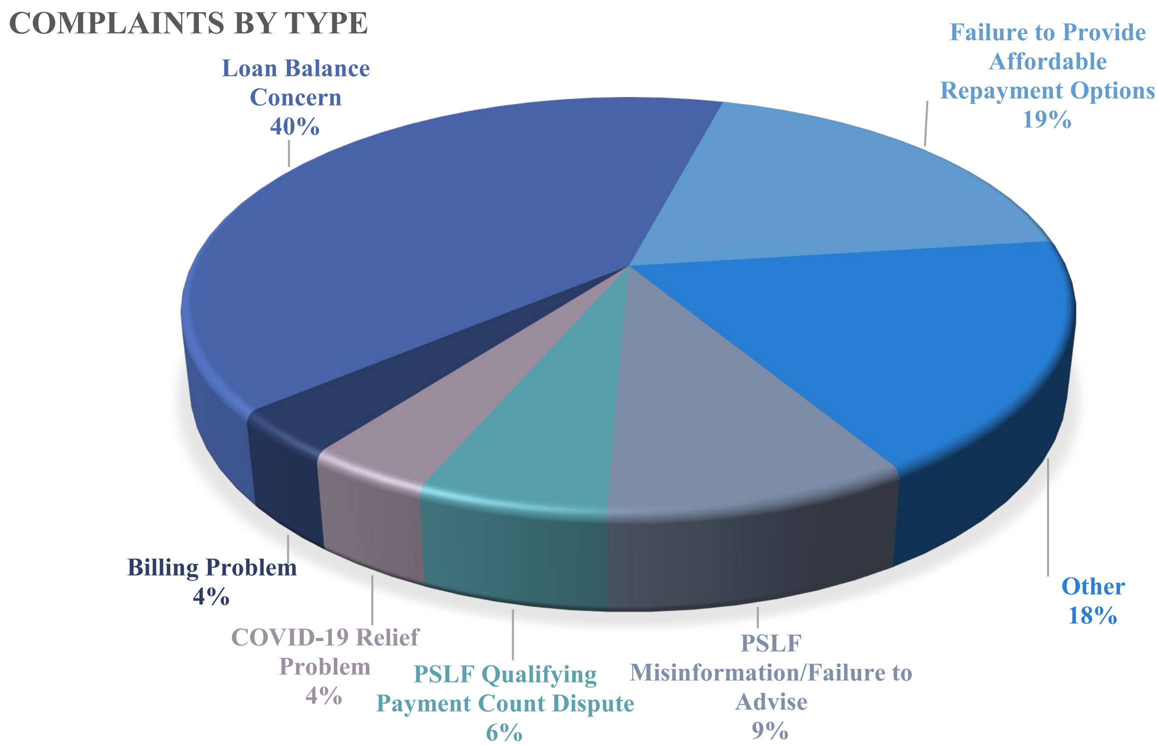
Navient was subject to the largest number of complaints, followed by The Pennsylvania Higher Education Assistance Agency ("PHEAA"), and SLM Corporation ("Sallie Mae").

Both Navient and PHEAA have withdrawn from servicing loans owned by the U.S. Department of Education.[15] Along with the exit of two smaller servicers, these withdrawals have required the largest transfer of student loans in the history of the federal loan portfolio. Navient and PHEAA both continue to service privately owned loans made under the FFEL Program as well as private loans. Sallie Mae, which received the third largest number of complaints, almost exclusively services private loans.



[15] On October 20, 2021, Navient novated its contract to service loans owned by the U.S. Department of Education to Maximus Federal Services, Inc., which now operates Navient's servicing platform under the name Aidvantage. PHEAA, which was the exclusive servicer for the PSLF Program, is expected to end all servicing of U.S. Department of Education-owned loans after December 2022, though nearly all of its loans have already been transferred. PSLF borrowers serviced by PHEAA were transferred to the Missouri Higher Education Loan Authority (MOHELA) this past summer.

The most common complaint topics included loan balance concerns, failures to provide affordable repayment options, and misinformation or failures to advise about PSLF.



a. Most Common Complaint: Loan Balance Concerns

Concerns about loan balances was the largest complaint category. Nearly half of the borrowers who expressed these concerns indicated that time spent in forbearance had added to their loan balance and many reported that their loans had been in repayment for nearly 20 or more years. Often, these borrowers alleged that they had been steered into forbearance by loan servicers instead of being offered more affordable IDR plans. Below are some illustrative examples from complaints.

- *I have been paying my student loans for over 20 years. I have been in forbearance with Navient several times and no one at the agency ever spoke to me about income driven repayment plans.*
- *Navient pressured me into going into forbearance in 2015 without telling me I could have done an income-driven repayment plan.*
- *I have not been able to pay on my loans. The payments have been too high and have been in and out of forbearance for the better part of 10 years. Navient has been no help, and I have called them numerous times over the years.*
- *Without the ability to pay, I contacted Navient several times. Each time they placed my loan into deferment allowing my interest to increase exponentially without explaining any income driven payment plans. Several times my loans went into default status. After several years of this back and forth with Navient - I was advised (by someone other than Navient) that I should attempt at consolidating my loans. At the time, I had started a job at a public service agency as an Asst. District Attorney. FedLoan Services consolidated*

my loans. However, the interest that had accumulated increased my loan threefold. My student loan debt is now well over $400K all from accumulated interest, penalties, and fees.

- *Over the years, Navient has been unfair and deceptive in servicing and collection practices…. I was steered into costly long-term forbearances pushing me deeper into debt and owing so much more than I borrowed.*

- *I am a single grandmother of 11. I am currently retired since 2016. I have frequently lagged behind and often offered forbearance which I accepted until I realize it was just another way to owe Navient more money.*

Forbearance steering by federal loan servicers has been widely acknowledged and the subject of state and federal lawsuits against Navient. To address forbearance steering and the failures of loan servicers to counsel borrowers about IDR, the U.S. Department of Education plans to provide borrowers with credit toward IDR forgiveness through the One-Time Adjustment.

b. Second Most Common Complaint: Failure to Offer Affordable Repayment Options

Failures by servicers to offer affordable repayment options was the second largest complaint category. Often, these complaints related to private loans, which offer significantly less repayment flexibility than federal loans. When private loan servicers do offer alternative repayment options, they are often difficult to access and ultimately add to the overall debt burden.[16] For example, while the Massachusetts Educational Financing Authority ("MEFA") will allow a distressed borrower to temporarily make reduced payments through a "modified payment term" plan, at the plan's end, the borrower's payments are recalculated under the original loan term, resulting in higher payments than when the borrower initially entered the plan. While this plan helps borrowers facing short term financial difficulties avoid delinquency, it does not help borrowers with long term financial hardships avoid default. Below are some examples of complaints concerning the difficulties private loan borrowers experience trying to access affordable repayment options and avoid credit harm.

- *I am currently working two jobs just to afford bills, gas, food etc. On top of this my student loans are extremely high monthly payments that I cannot afford. The loan servicing company refuses to help me lower the monthly payments no matter how much I try. There are days I can barely afford lunch because I have to save it pay the loans and other bills.*
- *There are very limited repayment options with Sallie Mae and I have even tried to get it refinanced when I had a full-time job but even the banks state I do not have enough income. Now that my cosigner is disabled and I am taking care of my cosigner as well as working part-time, trying to finish school, it is very difficult.*
- *I lost a well paying job in 2018…. I currently make $2400 a month after taxes and with my current student loan payments I won't have enough to eat let alone to pay for housing. My monthly payments with MEFA were already hard to make when they were at $786*

[16] Private lenders may offer forbearances under which interest accrues and is typically added to the loan principal (*i.e.,* capitalized). While some offer extensions of payment terms or opportunities to make interest-only payments, these programs similarly add to interest charges.

before the pandemic now at over a thousand a month they are impossible and when MEFA is contacted they only offer to lower the payments for a short amount of time which makes the payments even bigger at the end. I have been paying these student loans since I graduated in 2012 but these balances just keep increasing…. I don't know what to do and no one seems to be able to help. I am scared that I am going to become homeless.

- *I am drowning under my private loans. Sallie Mae is a predatory lending company. My cosigner (my grandmother who never went to college) and I did not know what we were getting ourselves into when I took out loans to go to college. I had no idea that my monthly payments would be so exorbitantly high, nor did I know that I would be graduating right before a global pandemic that made earning money and continuing to do work in my field very difficult. Frankly, it is absolutely insane that I am $200,000 in private loan debt for a BA program at a public state university. I expected to be paying back loans for most of my life but I did not realize they would expect more than my income from me monthly. I deeply value my educational experience and do not regret it at all, though the crushing weight of my debt has caused immense stress in my life and my family's life.*
- *I am the first child in my blue collar family to go to college because they couldn't afford to, when I graduated I accumulated 100K in debt and the school was closed, my student loan payments were $1000+ a month and I owed them $6K at one point where I had to FIGHT for a long few months to have them temporarily reduced to what they are now at $530/month. With this payment each month, $600 car payments, $875 rent, $60 phone bill, groceries, gas and basic living necessities…. I am unable to make the $1K payments they will soon return to. This could force me to not be able to afford rent, my car or other things I use to keep my job and keep my bills paid. I do not make enough money to support myself or even consider having a family…. We as students go to school to get the degrees and the careers, but we get lied to that loan payments are manageable and they are NOT. Sallie Mae and Discover care only about your money and never take your life or your living circumstances into consideration.*

c. Third Most Common Complaint: Servicer Failures to Provide Accurate Information and Advice about PSLF

Servicer failures to provide accurate information and advice about PSLF was the third largest complaint category. Student loan servicers have contributed to the PSLF Program's high denial rates by failing to explain the program's requirements and telling borrowers they were on track for forgiveness even when borrowers had the wrong loan type or were in a non-qualifying repayment plan. Below are some examples that illustrate borrowers' struggles with PSLF.

- *I have worked in the nonprofit world for over 16 years, but when I applied for Public Service Forgiveness, I was rejected because at the time, my Federal loans were under the FFELP program, not the Direct Loan Program. This was not clear, and was shocking, as I had timely paid for over 10 years, had a signed certification by my then nonprofit employer that I was employed during that time, etc.*
- *I have been employed full time by the Commonwealth of MA since 2014, and prior to that I worked for a non-profit Human Service agency. I was prepared to apply for the program in 2020 only to learn that I was not eligible based on the type of repayment plan I was in.*

- *Originally, Sallie Mae was my loan servicer. I've been teaching at a qualified public school since 2000. It was my understanding that I had been placed into the proper loan for student loan forgiveness. Later, they transferred me to Navient as my loan servicer and they failed to properly support me as a borrower. Approximately in 2011, I was called by Navient on the telephone telling me I could be put into a better program. They did not explain that this would take me out of any loan forgiveness programs. I believed that they advised me to do something against my own best interest.*
- *Ten years ago, I contacted Navient about being eligible for PSLF as I had worked for a non profit for over ten years, making me eligible for forgiveness. I was told I had the wrong type of loans but was never advised to consolidate or told having Direct Federal Loans would make me eligible.*
- *I applied for consolidation on 12/3/2015 with PHEAA and acknowledged my loans in grace would be in repayment immediately. PHEAA ignored this and never added the loans in the consolidation. I am now 30 payments short towards PSLF on two of my four loans since they never consolidated them.*

To address the failure of the PSLF Program, the U.S. Department of Education implemented the Limited PSLF Waiver, which provided borrowers credit for repayment periods that would not otherwise count toward PSLF. Although the waiver ended on October 31, 2022, most of its benefits are still available through the One-Time Adjustment.

d. Other Notable Complaints

Some struggling private loan borrowers indicated that their debts are associated with predatory for-profit schools. In the last decade, state and federal investigations have shown that numerous for-profit schools lured students into unaffordable debt by making false and misleading claims about job placement rates, starting salaries, and other indicia of success. Below is an example of one such complaint.

- *[Student name] attended the NEIA, which was sued by the MA Attorney General for predatory lending practices and inflating job placement, amongst other wrongdoings. I am pretty sure they put through a Parents PLUS loan that I did not sign for.*

  The judge found for the plaintiff and ordered restitution back in October of 2019. Since then, we have been patiently awaiting the dissolution of our federal and private loans. We submitted Borrower's Defense to Repayment applications in 2015 and 2017, which have fallen on deaf ears.

  As for the private loans, PNC washed their hands of us and sent us to a debt collector at the end of last year. Sallie Mae continues to hound and harass us for payment. They contacted relatives and friends to find a better contact address for us. Both agencies have reported us to the credit bureau, which has tanked our scores.

  …NEIA was a predatory school, which steered us toward predatory lenders. The school is now defunct. Tell me how we would repay 4 private loans @ 10% interest and I will sell you the Brooklyn Bridge.

Federal loan borrowers can assert "borrower defense to repayment" claims and apply for discharges of their loans. In the last two years, the U.S. Department of Education issued billions of dollars in discharges to federal loan borrowers who were victimized by predatory for-profit schools. Despite significant evidence of fraud and abuse, including findings by state and federal agencies, many private loan servicers remain reluctant to acknowledge school misconduct and continue to collect on debts associated with these schools. Even when borrowers cite state and federal findings in seeking to stop collection on their private loans, complaints suggest that servicers do not meaningfully acknowledge borrowers' claims and defenses.

Another notable complaint category involved the inability of borrowers to access the federal loan payment pause and zero percent interest rate. As described above, some federal loans are owned by the U.S. Department of Education while others are owned by private lenders. Borrowers with privately owned federal loans are eligible for the payment pause and zero percent interest rate but must first consolidate into the Direct Loan Program. Borrowers reported being told that they were ineligible for the payment pause or receiving incomplete or misleading explanations from loan servicers. Some borrowers came away from these conversations believing incorrectly that they did not have federal loans. Below are some illustrative examples.

- *Navient told me I don't qualify for the student loan moratorium that's happened due to Covid. I just want to know if that's accurate. I have FFELP consolidated loans, they were originally Stafford loans with Sallie Mae but after years of paying, I defaulted, I think it was in 2017 and was given to Navient. I have a little less than $10K left and that includes recent fees and interest, as I was laid off from my job DUE to Covid.*
- *When Covid-19 hit, I went to apply for the forbearance that President Biden issued for Federal Student Loans. I was told by Navient that my loans were private. The loans I applied for were all federal loans.... I did not know that when Navient took over as the loan servicer that my Federal Loans converted to private loans. I was not eligible to stop paying my loans under the recovery act that was issued due to Covid. Navient did offer a 4 month stop payment, however, interest was still accruing. I need to know what help I am eligible for from the government regarding reducing my student debt.*
- *I was disabled and unable to work for long periods of time beginning 2012 until 2020. I'm unsure Navient properly advised me of my options. They also recently told me last year I am not eligible to take advantage of the Covid 19 payment pause because my loans are not government loans. I don't understand this as I never got any kinds of loans that were not from the government. Never took out a private loan.*
- *Navient started calling me 2 weeks ago. I spoke to someone who said my loans are not included in President Bidens pause. Why is that? They want me to get back on the Income Based Repayment and not make any progress towards paying off my loans like before. Please help me. I'm very, very confused.*

These complaints exemplify the difficulties that borrowers with privately owned federal loans encounter when trying to understand their loan types and eligibility for the payment pause and zero percent interest rate. The companies that service privately owned federal loans are often disincentivized to provide information that would lead borrowers to consolidate. Some servicers seem to only provide repayment options for borrowers' *existing* loan types, rather than advising them on the benefits of consolidating into the Direct Loan Program. This is a troubling issue and an ominous indicator for borrowers with privately owned federal loans, who must consolidate to access other debt relief initiatives. For example, borrowers with privately owned FFEL Program loans, who could receive more than a decade of credit toward loan forgiveness through the One-Time Adjustment, are at risk of missing out due to servicers' misrepresentations and failures to advise.

3. Student Loan Servicer Complaint Resolutions

Resolutions to servicing complaints received by the Ombudsman commonly involved:

- Helping borrowers retrieve information about their loans, including identifying their federal loan types.
- Providing counseling on the PSLF/TEPSLF Program, including how to access and maximize benefits under the Limited PSLF Waiver.
- Providing information about IDR plans, including help using the U.S. Department of Education's Loan Simulator tool.
- Assisting borrowers in determining whether it is necessary to consolidate privately owned federal loans into the Direct Loan Program to access the federal loan payment pause and One-Time Adjustment.
- Reviewing PSLF qualifying payment trackers and assisting borrowers in securing corrections of PSLF qualifying payment counts.
- Obtaining payment histories identifying interest capitalizations, allocations of payments to principal and interest, forbearance/deferment periods, and repayment plans.
- Helping borrowers explore alternative repayment options for private loans.
- Explaining default resolution options for federal loans, including rehabilitation, consolidation, and the Fresh Start initiative.
- Providing information about or assisting with discharge applications, including Borrower Defense to Repayment Discharge and Total and Permanent Disability Discharge.

Examples of favorable resolutions are as follows:

- After a public service worker was told that two years of payments did not count toward PSLF because she was in part-time positions, the Ombudsman's Student Loan Assistance Unit explained the actual employment requirements, and helped the borrower to recertify both part-time jobs, resulting in 24 additional qualifying payments toward loan forgiveness, which represents $36,200 in potential savings.
- After a public service worker was told she was still many years away from receiving forgiveness under the PSLF Program, the Ombudsman's Student Loan Assistance Unit identified that she had not been given credit for five years of payments made to a prior servicer, which enabled the borrower to secure $8,791 in forgiveness.
- After a borrower complained that he was receiving bills despite the federal loan payment pause, the Ombudsman's Student Loan Assistance Unit discovered his loans had accidently been removed from the pause and secured a refund of payments totaling $1,979.

- After receiving a complaint from a borrower who had been paying her loan since 1983, the Ombudsman's Student Loan Assistance Unit identified an improper interest accumulation on a subsidized federal loan, resulting in a $21,415 reduction in the borrower's loan balance.
- After receiving a complaint from a disabled borrower concerning harassing debt collection, the Ombudsman's Student Loan Assistance Unit helped the borrower secure a Total and Permanent Discharge for a $49,388 federal loan.
- After a schoolteacher of 23 years complained that she had been misadvised by a prior loan servicer concerning the requirements for PSLF, the Ombudsman's Student Loan Assistance Unit explained the Limited PSLF Waiver, helped her recertify necessary employment periods, and advised her to seek a refund of $13,831 in unnecessary payments that she had made since the start of the pandemic.

4. Student Loan Help Request Responses

Borrowers most frequently sought the Ombudsman's assistance exploring repayment options. In response, the Student Loan Assistance Unit typically explained how borrowers could benefit from federal debt relief programs like the One-Time Adjustment or the Limited PSLF Waiver and helped borrowers take the necessary steps to get closer to loan forgiveness through these programs. Often, this involved helping borrowers identify their loan types, assisting them in consolidating any non-Direct Loans into the Direct Loan Program, and counseling them about how to continue working toward loan forgiveness through IDR enrollment. The Unit helped federal loan borrowers evaluate different IDR plans and, in some cases, assisted borrowers to consolidate their FFEL Program Loans to access more favorable IDR plans. The Unit also informed borrowers with privately owned FFEL and Perkins Loans about their ability to consolidate into the Direct Loan Program to access the payment pause and zero percent interest rate. For private loan borrowers, the Unit provided information about refinancing and helped borrowers explore the limited repayment options offered by their lenders.

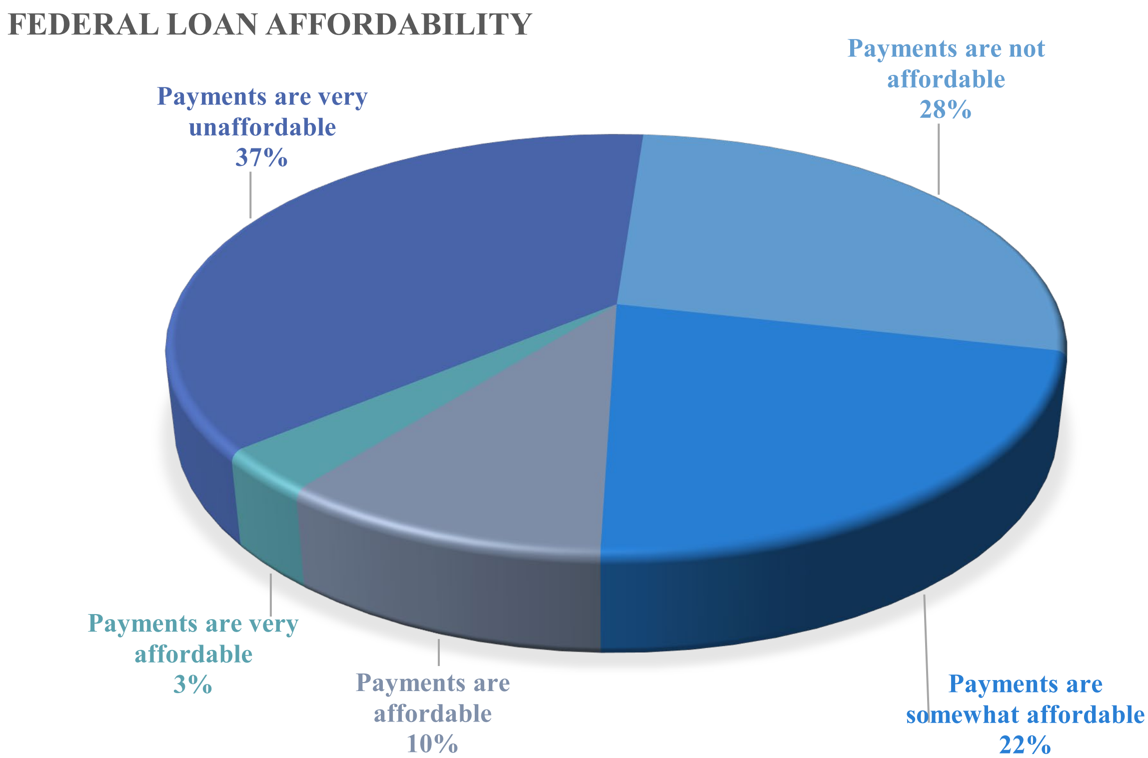
Borrowers who contacted the Ombudsman also commonly sought assistance getting information about their student loans. For many borrowers, getting help obtaining information about loan types and accessing their federal student aid account is a first and vital step towards understanding their debt burden, accessing debt relief opportunities, evaluating repayment options, enrolling in IDR, identifying and comparing default resolution options, or getting on track for PSLF.

5. Borrower Experiences Addressing Student Loan Debt

In submitting complaints and help requests to the Ombudsman, 977 borrowers provided information on their federal student loans and 386 reported on their private student loans. This information provides valuable insights into borrowers' experiences addressing their student loan debt, including their perception of how affordable their payments are, how frequently they miss or make late payments, and whether their loan balances have decreased over time.

a. Federal Loan Affordability

In answering questions about federal loan payment affordability, nearly two-thirds of borrowers reported that their payments are unaffordable. Specifically, 632 reported that their payments were either very unaffordable or not affordable, while only 131 stated their payments were either affordable or very affordable.



Federal loan borrowers can mitigate the cost of their monthly student loan payments by enrolling in IDR. Although complex, IDR plans offer the possibility of loan forgiveness after 20 or 25 years and may provide valuable interest subsidies. As a result, IDR plans are almost always a better option than forbearance and an important tool for avoiding the devastating consequences of federal loan default. However, enrolling in IDR can add to total loan costs (particularly for borrowers with low balances)[17] and in some cases, borrowers do not find the payments affordable.

The U.S. Department of Education currently offers four income-driven plans: Income-Based Repayment ("IBR"), Pay As You Earn ("PAYE"), Revised Pay As You Earn ("REPAYE") and Income-Contingent Repayment ("ICR"). These plans differ with respect to the required payment amount, treatment of spousal income, interest subsidies, maximum payment amount, forgiveness period, income eligibility, loan type eligibility, and interest capitalization. Some of these differences are difficult to understand or evaluate.

Under most IDR plans, student borrowers must pay 10-15% of their discretionary income, which is defined as income that exceeds 150% of the federal poverty line. For a single borrower in Massachusetts with an income of $40,000 per year, monthly payments are $245

[17] Borrowers with low balances are likely to repay their loans before receiving IDR forgiveness and may pay more interest under IDR than under the standard 10-year repayment plan.

under IBR[18] and $163 under REPAYE. For a married borrower without dependents and an income of $80,000 per year, payments are $657 under IBR and $438 under REPAYE.

Parents who have taken loans for their children's education have limited access to IDR.[19] The only IDR plan available to parent PLUS loan borrowers is the ICR Plan, and only after consolidating into a Direct Consolidation Loan.[20] Monthly payments under ICR tend to be higher than either IBR or REPAYE. A single borrower with an income of $40,000 and a $60,000 Direct Consolidation Loan with an 8.5% interest rate,[21] would pay $440 per month under ICR—more than twice what a borrower with the same income and family size would pay under REPAYE.[22] A married borrower with the same loan, filing taxes jointly without dependents, and with an income of $80,000 per year, would have a $691 monthly ICR payment. Many of the parent PLUS Loan borrowers who contact the Ombudsman have had trouble affording ICR payments and are facing declining income or health. Some are concerned that their Social Security benefits will be offset after retirement.

While parent borrowers have the most expensive IDR payments, they are not alone in finding IDR unaffordable. This is partly attributable to Massachusetts' high cost of living and IDR's use of notoriously low federal poverty guidelines. Additionally, IDR plans typically consider both spouses' incomes, even if only one spouse has student loan debt, which presents difficulties for married borrowers—often women—who are taking time out of the workforce to raise children or provide care to ailing family members.[23] Further, in some instances, student borrowers with FFEL Program Loans, which are only eligible for IBR, have not been advised of the option to consolidate into the Direct Loan Program to access more affordable IDR plans like REPAYE.

Borrowers enrolled in IDR sometimes express concerns about their increasing loan balances and lengthy forgiveness terms and even come to view IDR as a scam. Under IDR, borrowers may make little or no progress paying down their loans, and because IDR payments may not cover accruing interest, some borrowers experience ballooning balances. Further, because borrowers do not receive any information about their qualifying payment counts, it is difficult to know where they stand with respect to the 20-to-25-year forgiveness term. Borrowers have also had trouble maintaining enrollment in IDR plans due to burdensome and poorly communicated annual recertification processes, which can lead to interest capitalization.

In August 2022, the U.S. Department of Education announced its intent to create a new more affordable IDR plan that will substantially reduce future monthly payments for lower- and

[18] This calculation presumes that the borrower had an outstanding federal loan balance before July 1, 2014. Under the IDR plan, borrowers who did not have an outstanding loan balance before July 1, 2014 pay 10% of income exceeding 150% of the federal poverty line rather than 15%.
[19] Parent PLUS Loan borrowers were also largely excluded from the Limited PSLF Waiver.
[20] Some parent PLUS Loan borrowers, particularly those with privately owned FFEL Program Loans, have not been advised of the need to consolidate.
[21] 8.5% is the statutory interest rate for parent PLUS Loans disbursed between July 1, 2006–June 30, 2010.
[22] Unlike undergraduate students, parent borrowers can borrow up to the full cost of attendance, so long as they do not have an adverse credit history. This has resulted in parents of limited means, but good credit, taking on debts that may exceed $100,000. These debts often balloon further when the parents are unable to pay.
[23] Filing taxes separately would shield a spouse's income for purposes of calculating payments for all plans except REPAYE.

middle-income borrowers.[24] However, since regulations have yet to be promulgated, the plan is unlikely to be available until late 2023 or 2024.

The newly proposed IDR plan remedies many of the current problems with IDR and would:

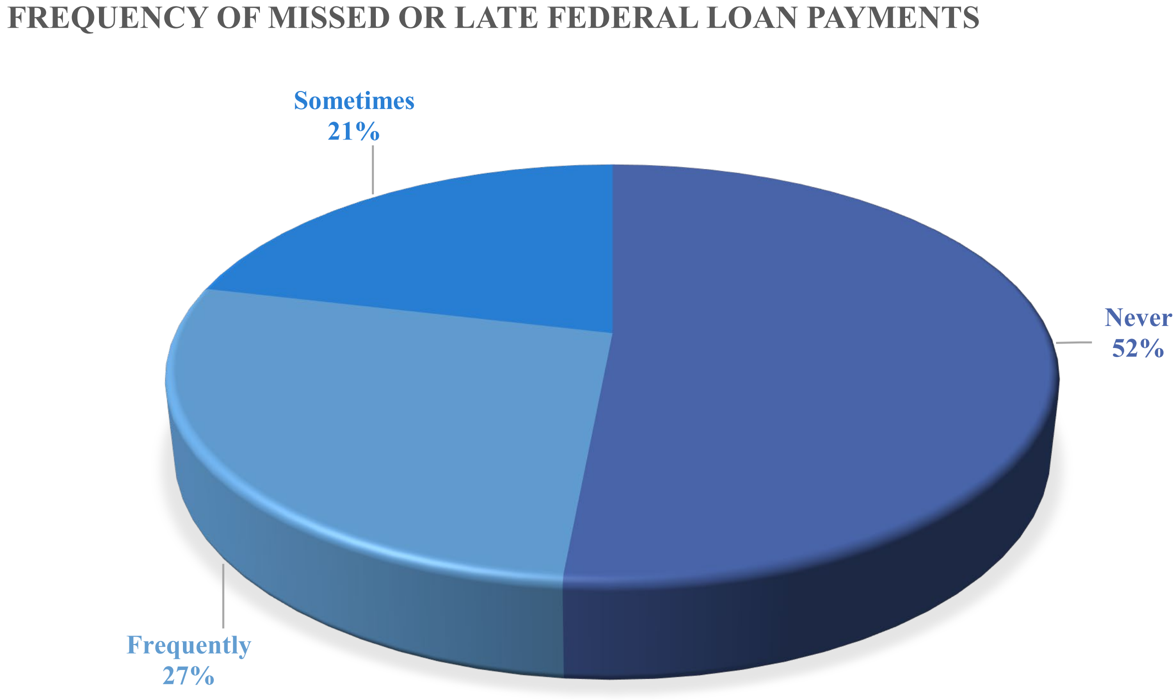
- Require borrowers to pay no more than 5% of their discretionary income on undergraduate loans—down from the 10% required by REPAYE.
- Protect more income from repayment by only requiring borrowers to make payments on income that exceeds 225% of the federal poverty line, instead of 150%. This will guarantee that a single borrower working full-time earning about $15 per hour will not have to make a monthly payment.
- Forgive loan balances after 10 years of payments, instead of 20 years, for borrowers with loan balances of $12,000 or less, making it much more cost effective for borrowers with low balances to use IDR.
- Cover unpaid monthly interest, so that unlike existing IDR plans, no borrower's loan balance will grow as long as they make their monthly payments—even when that monthly payment is $0 because their income is low.

In combination with crediting borrowers' past repayment periods toward IDR forgiveness through the One-Time Adjustment, implementing this new and improved IDR plan is a critical step toward providing borrowers with an affordable path out of federal student loan debt. However, ensuring that it is easy for borrowers to enroll and stay in the new plan will be of critical importance. Additionally, the plan should be made available to parent PLUS borrowers.

[24] It is unclear at this time whether the new IDR plan will be available for parent PLUS Loans.

b. Frequency of Missed or Late Federal Loan Payments

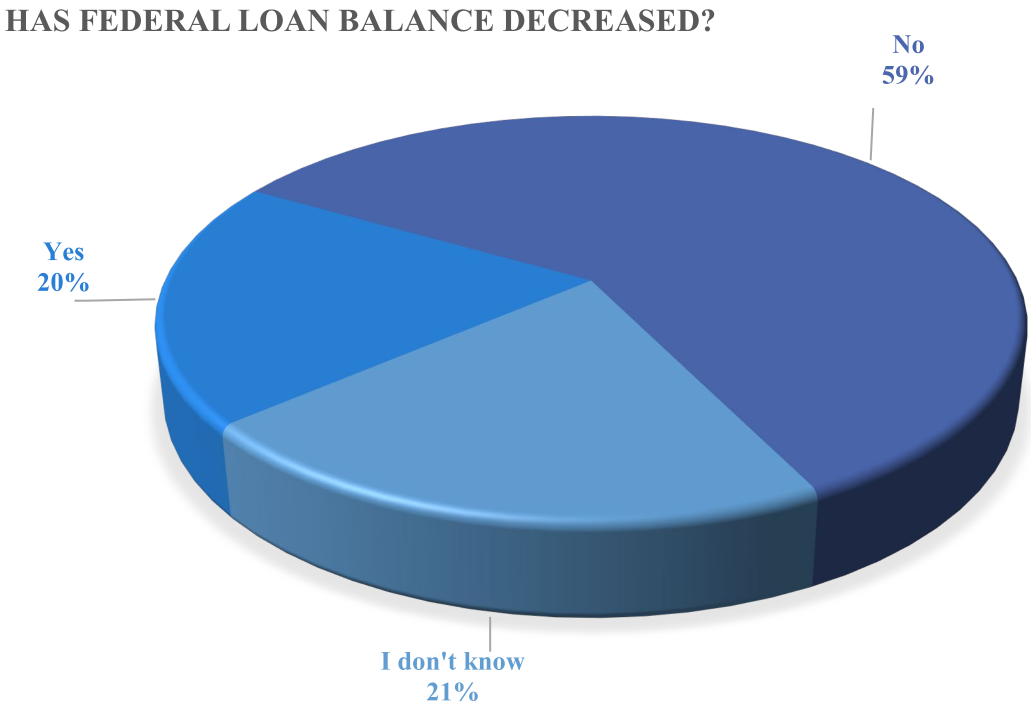
When asked how frequently federal loan borrowers missed or made late payments, 503 reported never missing or making late payments, 266 stated they frequently miss or make late payments, and 208 indicated they sometimes do.



Missing payments and paying late increases loan costs. Student loans are simple daily interest loans, which means that interest accrues every day. Before any part of a borrower's payment can be applied to the principal balance, all of the interest that has accrued since their last payment must be paid. When borrowers pay late, there is more outstanding interest, so a greater portion of their payment is applied to accrued interest and a smaller portion is applied to principal. This slows repayment progress and consequently increases the loan's total finance charge. Many borrowers are unaware that making late or irregular payments hinders their efforts to pay down their loans. Borrowers frequently contact the Ombudsman with concerns that their loan balance is not decreasing despite making payments—sometimes over decades. Often, this is at least in part attributable to a pattern of late or irregular payments. Making late payments can also result in credit harm. Once a federal loan is 90 days past due, the delinquency is reported to the credit bureaus.

c. Decrease in Federal Loan Balance Over Time

When asked whether their federal student loan balance had decreased over time, 580 borrowers reported that it had not decreased, 205 did not know, and 192 stated they had made progress paying down their loans.

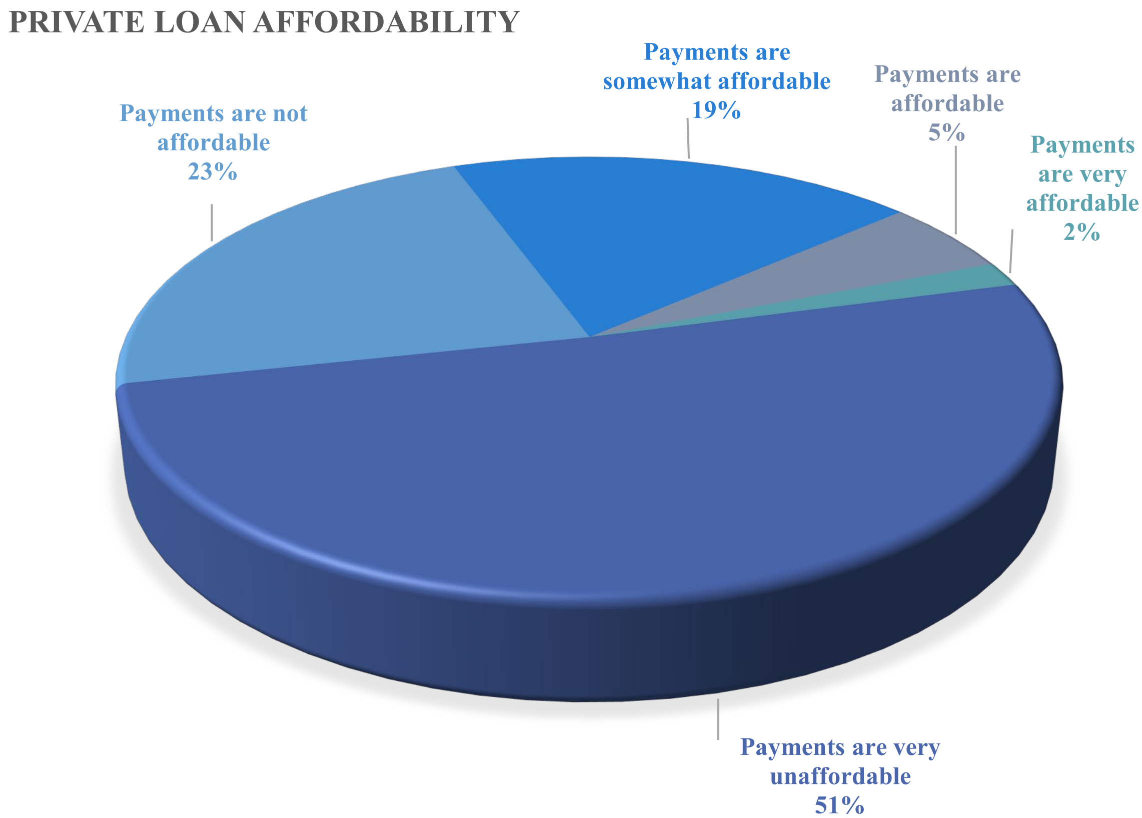


Federal loan balances may decrease slowly or fail to decrease for a variety of reasons. Many federal loan borrowers facing prolonged economic hardship have been placed in lengthy forbearances, which usually result in interest capitalization. Loan balances may also remain static or increase over time for federal loan borrowers in IDR plans if monthly payments are low compared to accruing interest.[25] Additionally, many borrowers repay their federal loans in standard, graduated, or extended repayment plans with 20-to-30-year repayment terms. These lengthy terms result in slow progress paying down loan principal. Compounding this, borrowers may consolidate their loans multiple times, thereby further extending their repayment terms and further slowing their repayment progress. As noted above, making late or irregular payments can also hinder repayment progress.

[25] In some cases, interest is subsidized under IDR plans. For example, for the borrower's first three consecutive years in IBR, interest on subsidized loans that exceeds the borrower's monthly payment amount is subsidized. REPAYE offers the most generous interest subsidies of all the income-driven plans. For the borrower's first three consecutive years in REPAYE, interest on subsidized loans that exceeds the borrower's monthly payment amount is subsidized. Additionally, on subsidized loans after these first three years and on unsubsidized loans during all periods, *half* the difference between the borrower's monthly payment amount and the interest that accrues is subsidized under REPAYE.

d. Private Loan Payment Affordability

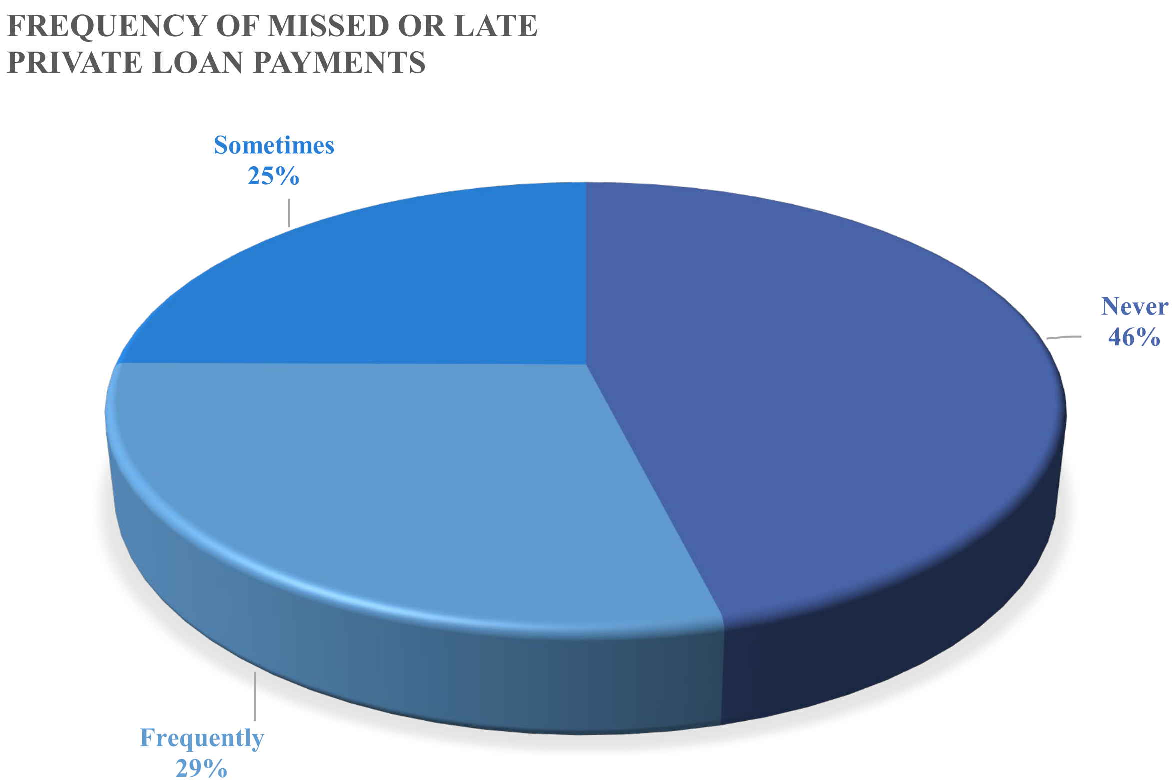
In submitting complaints and help requests to the Ombudsman, 32% of borrowers reported information on their private student loans. When asked about the affordability of these loans, 284 borrowers reported that their payments were either very unaffordable or not affordable, while only 28 stated their loan payments were either very affordable or affordable.



For private loan borrowers experiencing financial hardship, payments are often unaffordable. Private lenders usually offer very little flexibility and the criteria for accessing alternative repayment options tend to be opaque and the enrollment processes challenging. Additionally, most alternative repayment plans for private loans are temporary and ultimately result in higher loan balances or monthly payments.

e. Frequency of Missed or Late Private Loan Payments

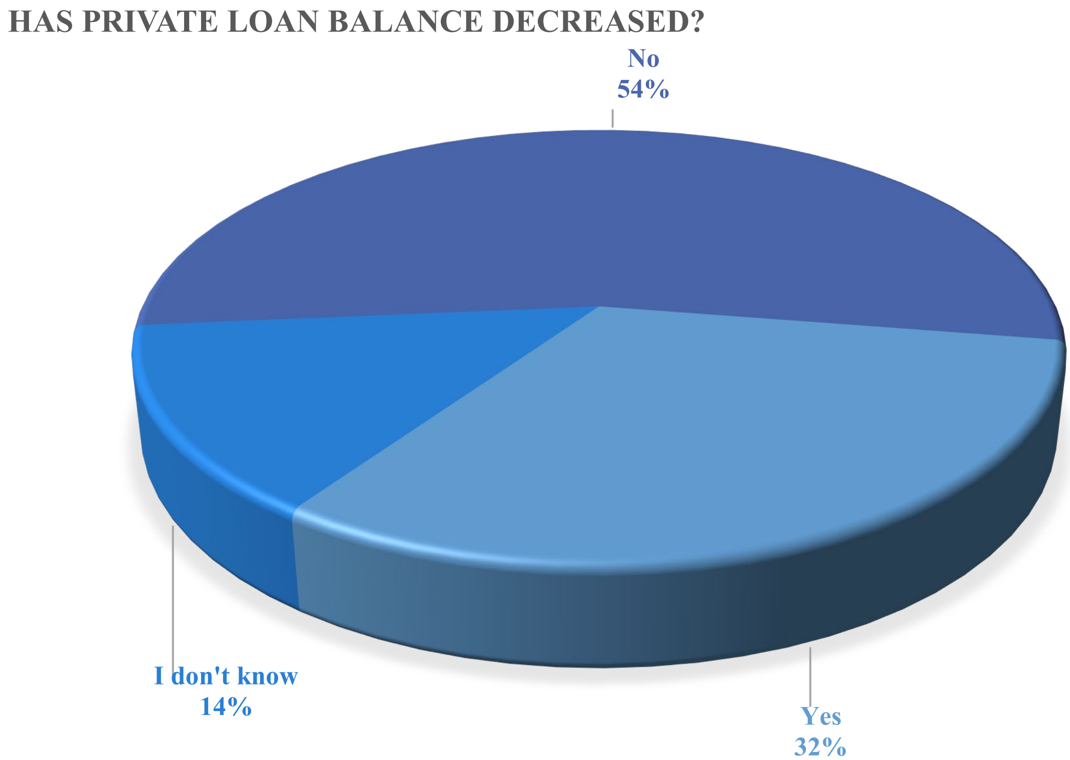
When asked how frequently private loan borrowers miss or make late payments, 208 reported that they frequently or sometimes miss payments or pay late, whereas 178 stated that they never do.



Like federal loans, private loans are simple daily interest loans. Making late or irregular payments on private loans thwarts repayment progress and negatively affects borrowers' credit scores.

f. Decrease in Private Loan Balance Over Time

When asked if their private loan balance had decreased over time, 208 borrowers reported it had not decreased, 124 reported that they had made progress paying down their loan, and 54 did not know whether their balance had decreased.



Borrowers commonly contact the Ombudsman questioning why their private loan balance has not decreased. Private loan balances can decrease slowly or fail to decrease for several reasons, including use of forbearance and, more rarely, modified repayment plans. However, often a pattern of late or irregular payments drives slow progress repaying private loans.

Private loans can have high interest rates, which result in rapidly growing balances when borrowers cannot afford to make regular monthly payments. Additionally, some private loans have variable interest rates that have increased since the Federal Reserve started raising rates in March 2022, making it harder for borrowers to afford payments.

6. Improving the Effectiveness of the Student Loan Ombudsman's Position

The Student Loan Ombudsman's efficacy could be improved with access to the National Student Loan Data System ("NSLDS"), which is the national database for federal loans and grants. NSLDS provides a centralized, integrated view of federal loans and grants during their complete life cycle. While all schools that participate in the federal loan program have access to this important database, the Student Loan Ombudsman does not, and must instead get NSLDS data from borrowers or servicers.

The Ombudsman relies on NSLDS data to discern how many loans a borrower has, when each loan was originated, what school(s) a borrower attended, what types of federal loans they have, who owns the loans, who services them, their repayment history and status, and other critical information needed to assist borrowers. Much of this information is only available from NSLDS. It is difficult for borrowers to download NSLDS data as it requires several steps. Borrowers must have an internet connection, create or remember their login information, log in to their federal student aid account, navigate to their personal "dashboard," find and click on the "download aid data" link, download the file as a ".txt" file and then email it to the Student Loan Assistance Unit. These steps are not possible on a smartphone and must be done on a computer, which can create a barrier for borrowers. Yet, this information is necessary to provide a borrower with individualized guidance. State student loan ombudspersons are in an ongoing conversation with the U.S. Department of Education about this priority.

7. Student Loan Assistance Trust Fund

The current balance of the Student Loan Assistance Trust Fund ("Trust Fund") is $49,561. The Trust Fund received $50,000 from the AGO's settlement with Navient, representing 2.69% of the settlement funds received by the state. Monies from the Trust Fund were used to pay for American Sign Language interpreters and Communication Access Realtime Translation services for the Ombudsman's Limited PSLF Waiver webinars (totaling $439). The rest of the Trust Fund's current balance is projected to be spent in the remainder of current fiscal year 2023 to promote debt relief initiatives and at least $25,000 in additional revenue is expected to be deposited into the fund. There is insufficient data at this point to make a projection for the revenue and expenditures in fiscal year 2024.

8. Conclusion

The existing federal loan repayment system is overly complex and plagued by servicing failures that have trapped borrowers in unaffordable debt. Even with federal IDR plans, borrowers often face long-term and costly debt burdens. However, there is new hope for federal loan borrowers. With the Biden-Harris Administration's debt relief initiatives, many federal loan borrowers have received or are poised to get closer to loan forgiveness, and with the new IDR plan, payments will become more affordable. While there will be challenges for borrowers in accessing relief, the Ombudsman's Student Loan Assistance Unit is working to ensure that Massachusetts borrowers have the information they need to take full advantage of these historic opportunities. We look forward to continuing our work on behalf of Massachusetts borrowers.

Thank you for your interest in this important issue. If you have any questions, please do not hesitate to contact us.

Sincerely,

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cc:
The Honorable Aaron Michlewitz, House Chair, Joint Committee on Ways & Means
The Honorable Michael J. Rodrigues, Senate Chair, Joint Committee on Ways & Means
The Honorable James Murphy, House Chair, Joint Committee on Financial Services
The Honorable Paul Feeney, Senate Chair, Joint Committee on Financial Services