

May 10, 2016

James Runcie
Chief Operating Officer
Office of Federal Student Aid
US Department of Education

Dear Mr. Runcie:

I am writing regarding my concerns about a recent report of extravagant and increasing lobbying expenditures by the student loan servicer Navient (formerly known as Sallie Mae). According to this report, lobbyist “spending by Navient Solutions, Inc. ... jumped from \$410,000 to \$710,000, making it the biggest spender among education organizations and companies for the first quarter” of 2016.¹

My staff review confirmed these expenditures and revealed that in addition to the \$710,000 that Navient spent on lobbying directly in the first quarter of 2016, the company also paid outside companies an additional \$155,000 to lobby on its behalf.² Overall, since the beginning of 2015, Navient has spent a total of \$3.7 million on in-house and outside lobbying. Since 2010, the company (and its predecessor, Sallie Mae) has spent almost \$24 million in lobbying fees.

I am mystified by the scope of these expenditures. Navient should be focused on and investing in improving its abysmal student loan servicing operations, not lobbying Congress and the Administration in search of sweetheart deals.

A series of settlements and investigation by the Department of Justice, the Federal Deposit Insurance Corporation, the Consumer Financial Protection Bureau, and the Education Department’s own Inspector General over the past seven years have identified significant problems with Navient’s student loan servicing and instances of alleged unlawful activity by the company. Just this month, a group of 29 state attorneys general alleged that Navient has violated state consumer protection laws by paying call center workers based on how quickly they could get struggling student loan borrowers off the phone.³ But despite these problems, and despite the fact that violations of consumer protection laws constitute a breach of contract with the

¹ Maggie Severns, “Morning Education: Is it Perkins’ year?” *Politico* (April 22, 2016) (online at <http://www.politico.com/tipsheets/morning-education/2016/04/is-it-perkins-year-house-to-take-up-voucher-bill-first-quarter-lobbying-numbers-213915#ixzz46y6PlwpW>).

² According to Senate lobbying disclosures, these companies were Mercury (\$60,000 in payments), Nixon Peabody (\$50,000), VanScoyoc Associates (\$20,000), Empire Consulting Group (\$15,000), and the Kutler Group (\$10,000) (<http://soprweb.senate.gov/index.cfm?event=processSearchCriteria>).

³ Shahien Nasiripour, “America’s Largest Student Loan Firm Abused Borrowers and Broke the Law, Officials Say,” *Huffington Post* (May 2, 2016) (online at http://www.huffingtonpost.com/entry/state-prosecutors-navient-us_57214218e4b01a5ebde47a02).

Education Department, the Department in August 2014 extended Navient's student loan servicing contract – worth more than \$100 million annually – through 2019.⁴

And while the Education Department is paying Navient hundreds of millions of dollars to service student loans, the company continues to evade responsibility for past failures. More than six years ago, the Department of Education's Inspector General (IG) found that Sallie Mae's subsidiaries illegally overcharged the federal government for subsidies on government-guaranteed federal student loans.⁵ In September 2013 – more than four years after this audit – the Department of Education issued a final determination, agreeing that Sallie Mae had ripped off taxpayers, and instructed Sallie Mae to change its billing practices.⁶ In a December 2013 letter to me, you wrote that “the Department considered the overpayment amount of \$22.3 million, as calculated by the OIG, to be a reasonable estimate of the amount of special allowance overpaid as a result of the finding,” reiterating the Department's finding that Sallie Mae owed the government money and agreeing with the amount determined by the Inspector General.⁷

But these funds have still not been repaid; according to Navient's recent public SEC findings, “Navient remains in active discussions with ED on this matter.”⁸ Instead of moving to force Navient to repay these funds, the Department of Education has given extensions over and over again.⁹ In late 2015, the Department again extended the deadline for Sallie Mae to appeal, which was at least the third time since 2015 that the deadline had been extended.¹⁰ Navient's most recent disclosure to investors states that the deadline to appeal the payments “has not expired.”¹¹ These extensions raise the question of whether the Department ever expects the company to repay the money it owes taxpayers.

The \$24 million that Navient has spent on lobbying in the last six years is enough to repay the full \$22 million in overpayments – with almost \$2 million left over to provide additional relief to borrowers. But this has not happened. Instead, Navient has been allowed to spend these funds lobbying Congress and the Administration in search of additional perks.

⁴ Alan Zibel, “U.S. Extends Navient Corp Student Loan Contract,” *Wall Street Journal* (July 17, 2014) (online at <http://www.wsj.com/articles/u-s-extends-navient-corp-student-loan-contract-1403043388>).

⁵ Office of Inspector General, Department of Education, *Special Allowance Payments to Sallie Mae's Subsidiary, Nellie Mae, for loans Funded by Tax-Exempt Obligations*, Final Audit Report (August 2009) (online at <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2009/a03i0006.pdf>).

⁶ Shahien Nasiripour, “Education Department Slow To Recover Millions From Sallie Mae,” *Huffington Post* (December 5, 2013) (online at http://www.huffingtonpost.com/2013/12/05/education-department-sallie-mae_n_4393370.html).

⁷ James W. Runcie, Chief Operating Officer, Federal Student Aid, Letter to Senator Elizabeth Warren, December 9, 2013.

⁸ Navient Corporation, Form 10-K (Filed February 25, 2016) (online at <https://www.sec.gov/Archives/edgar/data/1593538/000119312516478393/d35213d10k.htm>).

⁹ Navient has disclosed to its investors that “[t]he last date to file an appeal in this matter has been extended by ED several times and is currently November 12, 2015.”

Navient, Form 10-Q, Quarterly Report, October 30, 2015 (<https://investor.shareholder.com/navi/secfiling.cfm?filingID=1193125-15-360320&CIK=1593538>).

¹⁰ *Id.*

¹¹ Navient, Form 10-Q, Quarterly Report, April 28, 2016 (<https://www.sec.gov/Archives/edgar/data/1593538/000119312516563741/d136015d10q.htm>).

This new lobbying disclosures by Navient raise important questions about the company and its relationship with the Education Department. In addition to the current multimillion dollar contract for student loan servicing and the ongoing questions about repaying the \$22.3 million in overpayments, Navient will have millions of dollars on the line as the Education Department currently considers new competitive bids on student loan servicing contracts.¹²

I am certain that as the Office of Federal Student Aid's contracting officers consider these issues, the Department and Congress will be under intense pressure from Navient and its army of lobbyists. I am writing this letter to remind you to keep the interests of students and their families – not Navient and its lobbyists – first and foremost as you make important contracting decisions regarding Navient and other student loan servicers.

Federal student loan borrowers deserve to have their loans serviced by companies that do not regularly flout the law, and the Department's contracting officers must consider the entire record of a company's behavior towards student loan borrowers in order to protect taxpayers, students and families.

Should you have any questions regarding this matter, please contact Josh Delaney or Brian Cohen on my staff at (202) 224-4543.

Sincerely,



Elizabeth Warren
United States Senator

¹² Department of Education, Forecast of ED Contracting Opportunities (2016)
(<http://www2.ed.gov/fund/contract/find/forecast.html>)