

United States Senate

WASHINGTON, DC 20510

March 3, 2016

John B. King, Jr.
Acting Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Acting Secretary King:

Earlier this week, the Department of Education Inspector General completed a report on the Department of Education's reviews of whether federal loan servicers provided all eligible active duty servicemembers the six percent interest rate cap on student loans they are entitled to under the Servicemember Civil Relief Act (SCRA).

The results of the Inspector General's report are unequivocal. It found that the reviews conducted by the Department were designed incorrectly and are so statistically flawed that they offer little or no useful information. As a result, the Department's public statements last May that loan servicers generally complied with the SCRA are "unsupported and inaccurate." Moreover, the Department "did not attempt to identify whether [the servicers] had information in their own servicing systems that it could have used to identify a complete universe of military borrowers who had requested the SCRA benefit, which may have allowed for a better estimate of the extent of compliance." The men and women in uniform who were overcharged on their student loans while serving our country deserve better.

The Department's Office of Federal Student Aid (FSA) undertook the reviews in response to the May 2014 Department of Justice settlement with Navient (formerly Sallie Mae), the largest servicer of federal student loans at the time. As a result of the settlement, more than 69,000 servicemembers with federal student loans received \$12.6 million in compensation for interest payments that they never should have been required to pay. The settlement provided an additional \$47.4 million in compensation to 33,000 servicemembers who also held private student loans serviced by Navient for which they did not receive the SCRA mandated six percent interest rate cap.

Eligible servicemembers whose loans happened to be serviced by a servicer other than Navient have not received any compensation for the interest they were unlawfully charged above six percent while on active duty. For almost two years we have repeatedly sought assurances that the Department would conduct thorough reviews of all federal student loan servicers to identify both how many servicemembers requested and did not receive the SCRA benefit and how many borrowers were eligible for and did not receive the SCRA benefit.

Instead, on May 26, 2015, FSA issued reviews of the three largest loan servicers Great Lakes, PHEAA and Nelnet, in addition to another, unnecessary review of Navient. Amazingly,

although the DOJ investigation had already determined that Navient had failed to give the interest rate cap to more than 77,000 eligible borrowers, including at least 69,000 borrowers with federal student loans, FSA's press release concluded that "in less than 1 percent of cases, borrowers were incorrectly denied the 6 percent interest rate cap required by the laws" and that the servicers complied with the SCRA "in the vast majority of cases."

The Inspector General report found that, in fact, the Department's conclusions were unsupported and inaccurate for a number of reasons including:

- FSA never consulted with a statistician to ensure the sample design used was accurate and meaningful;
- The methodology used by FSA was not designed to form statistical estimates for the percentage of borrowers incorrectly denied the benefit;
- The sample included many borrowers who were eligible for, but had not requested the benefit, and thus the sample was too small to allow conclusions to be drawn about the adequacy of the servicing;
- There were sampling errors in each of the four reviews including:
 - Bias toward the selection of borrowers with multiple military deferments;
 - Inclusion of borrowers whose interest rates were already below six percent; and
 - Inclusion of borrowers who were contacted by servicers after the July 2014 change in policy by the Department requiring servicers to match borrowers with the DMDC database.

Ultimately, the Inspector General concluded that the reviews provide no useful information about how many servicemembers were unlawfully overcharged interest while on active duty.

We appreciate the steps that the Department has taken to require loan servicers to match all borrowers against the Defense Manpower Data Center (DMDC) list to identify all military members eligible for SCRA benefits, and thus ensure that going forward all eligible servicemembers receive the SCRA interest rate cap. In fact, since the Department took this action the number of servicemembers receiving the interest rate cap has expanded by about 300,000 individuals, more than ten times the number previously receiving the benefit.

However, FSA has not yet taken the necessary steps to identify and refund all military borrowers who were charged more than six percent interest on any federal student loan between 2009 and July 2014. It is unfair and unacceptable for servicemembers whose loans were not covered by the Department of Justice settlement to be denied the same financial relief simply because of which loan servicer held their loan. The Department has the ability to correct this injustice and ensure that each servicemember is refunded interest rate overcharges for federal student loans incurred while they were on active duty.

Additionally, the Department has yet to undertake methodologically sound reviews that examine how often servicers failed to grant the interest rate cap when it was requested. The failures outlined in the Inspector General's report also raise serious questions about the Department's ability to conduct necessary oversight not just of the SCRA but of the servicing and collection of all federal student loans. We believe it is critical that you make enhanced oversight a priority of your tenure as Secretary.

To this end, we request that you immediately take the following actions:

1. Rescind the FSA reviews of Navient, Nelnet, Great Lakes and PHEELA that the Inspector General has determined are methodologically flawed.
2. Ensure that a full review occurs to determine the number of servicemembers who were eligible for the SCRA interest rate cap at any point between 2005 and 2014 but did not receive the cap together with the amount of the refund to which they are entitled.
3. Report to the Senate HELP Committee and Senate Veteran's Affairs Committees the following information:
 - a. The total number of military borrowers who were eligible for the SCRA benefit between 2009 and July 2014 by servicer;
 - b. The total number of borrowers who requested the benefit between 2009 and July 2014 by servicer;
 - c. The total number of borrowers who received the SCRA interest cap between 2009 and July 2014 by servicer;
 - d. The total amount of interest in excess of six percent charged to borrowers who were eligible for the SCRA benefit between 2009 and July 2014; and
 - e. A plan for refunding interest to all borrowers eligible for the benefit between 2009 and July 2014, including borrowers not currently on active duty and borrowers who may have completed payment of federal student loans between 2009 and July 2014.

When men and women in uniform serve our country, they should not have to worry about our government holding up its end of the bargain. We look forward to working together to better ensure that the Department protects student borrowers, both military borrowers and others, and ensures that their complaints are heard and addressed in the fair and transparent manner.

Sincerely,



Patty Murray
U.S. Senator



Elizabeth Warren
U.S. Senator



Richard J. Durbin
U.S. Senator



Richard Blumenthal
U.S. Senator