

United States Senate

WASHINGTON, DC 20510

May 21, 2015

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary Duncan:

We are writing to determine the status of the Department of Education's contracts with student loan giant Navient, and your review of federal student loan servicers' compliance with the Servicemembers Civil Relief Act (SCRA).

Last week marked the one year anniversary of the Department of Justice and Federal Deposit Insurance Corporation's settlements with Navient, formerly known as Sallie Mae, for charges of systematic violation of military families' rights under the SCRA. These federal investigations into Navient's activities were the result of referrals of servicemember complaints from the Consumer Financial Protection Bureau.¹ Under the settlements, Navient was ordered to pay nearly \$100 million in civil monetary penalties and restitution to those harmed by conduct that the Department of Justice described as "intentional, willful, and taken in disregard for the rights of servicemembers."²

When federal regulators publicly revealed Navient's alleged scheme against servicemembers, you pledged to take action, announcing a 120-day review of federal student loan servicers' compliance with the SCRA.³ You said "every option is on the table," including terminating Navient's contract with the Department of Education.⁴

But the Department of Education's actions suggest that the only option on the table was business as usual. One year later, the investigation into Navient's SCRA violations has not been completed, but Navient continues to draw down millions of dollars under its lucrative federal contracts. In fact, just one month after federal regulators announced that Navient had settled

¹ "Justice Department Reaches \$60 Million Settlement with Sallie Mae to Resolve Allegations of Charging Military Servicemembers Excessive Rates on Student Loans," available at <http://www.justice.gov/opa/pr/justice-department-reaches-60-million-settlement-sallie-mae-resolve-allegations-charging>; "FDIC Announces Settlement with Sallie Mae for Unfair and Deceptive Practices in Violation of the Servicemembers Civil Relief Act," available at <https://www.fdic.gov/news/news/press/2014/pr14033.html>.

² Nasiripour, S. & Reilly, R. (2014, May 13). "Sallie Mae, Navient to Pay \$139 Million Settling Probes into Cheating Troops on Student Loans," *Huffington Post*, available at http://www.huffingtonpost.com/2014/05/13/sallie-mae-student-loans-troops_n_5319323.html

³ Grasgreen, A. & Shah, N. (2014, May 13). "Sallie Mae Agrees to \$97M Settlement over Servicemembers' Student Loan Interest Rates," *Politico*, available at <http://www.politico.com/story/2014/05/sallie-mae-military-student-loan-interest-rates-106638.html>

⁴ *Id.*

claims of breaking federal law and violating its federal contracts, the Department of Education renewed Navient's student loan servicing contract.⁵

It took the Department of Education just one month after the announcement of a major federal settlement to decide that it should continue to award funds to Navient. But after more than a year, the Department of Education cannot determine whether Navient's actions that harmed our military families warrant any punishment at all under its contracts. And reports indicate that the Department of Education may be preparing to clear Navient and others of SCRA violations by applying its own standards for SCRA compliance instead of the standards used by the Department of Justice – despite the fact that the Department of Justice is charged with enforcing the SCRA.⁶ As the American Legion noted, your Department “seems more concerned about the interests of student loan companies than servicemembers.”⁷

Given the substantial delay in resolving your investigation of Navient and other student loan servicers' compliance with the SCRA, we would appreciate responses to the following by June 4:

(1) Given the Department of Justice and FDIC's findings, why did the Education Department seek to conduct its own review of Navient?

(2) Is the Department of Education applying the same standard as the Department of Justice to determine whether servicers violated the SCRA? If not, please explain the Department of Education's rationale for applying a different standard.

(3) Given the evidence collected by the Department of Justice and other federal regulators, what additional evidence does the Department of Education require to reach a finding on Navient's conduct?

(4) Did any Department of Education official make any representation to Navient about the continuation or renewal of its contracts in the event that other federal regulators found wrongdoing?

(5) How many Department of Education employees were tasked with conducting its review, and what is the nature of the review process? For example, what is the specific scope of the review, and the time period covered? How many recorded calls between Navient and military borrowers were examined?

⁵ Zibel, A. (2014, June 17). “U.S. Extends Navient Corp. Student Loan Contract,” *The Wall Street Journal*, available at <http://www.wsj.com/articles/u-s-extends-navient-corp-student-loan-contract-1403043388>.

⁶ Nasiripour, S. (2015, May 13). “Navient Likely to Be Cleared in Education Department Probe of Troop-Cheating” *Huffington Post*, available at http://www.huffingtonpost.com/2015/05/13/navient-education-department-servicemembers_n_7278626.html

⁷ Nasiripour, S. (2015, March 19). “American Legion Condemns Education Department over Student Loan Investigation,” *Huffington Post*, available at http://www.huffingtonpost.com/2015/03/19/american-legion-education-department_n_6906440.html

We are deeply concerned that Navient could have cheated our military families and broken the law, and yet somehow continue to feast off of our borrowers and our taxpayers. The other federal watchdogs have done their jobs, and it is past time for you to do yours.

Sincerely,



Elizabeth Warren
United States Senator




Richard J. Durbin
United States Senator



Sherrod Brown
United States Senator



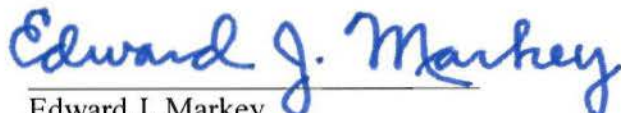
Al Franken
United States Senator



Tammy Baldwin
United States Senator



Mazie K. Hirono
United States Senator



Edward J. Markey
United States Senator