

United States Senate  
WASHINGTON, DC 20510

November 22, 2021

Bruce L. Caswell  
Chief Executive Officer and President  
Maximus Federal Services, Inc.  
3120 Fairview Park Drive  
Suite 400  
Falls Church, VA 22042

Dear Mr. Caswell:

We are writing to seek assurances that borrowers will receive appropriate services and protection during Maximus' assumption of Navient's portfolio of 5.6 million student loans<sup>1</sup> when Navient leaves the student loan program at the end of this year. Maximus, which has never serviced pre-default loans, already has a checkered history as a Department of Education (ED) contractor handling the loans of over 1.7 million borrowers in default since 2019.<sup>2</sup> The company's assumption of Navient's loan portfolio will result in Maximus managing a total of \$449 billion of debt, held by nearly 13 million borrowers,<sup>3</sup> many of whom are struggling to make ends meet while carrying the burden of their student debt. It is critically important that your company perform at a high bar and with increased transparency to provide the best possible service to borrowers and end a history of loan servicer abuses.

Over the past 8 years, Maximus has received more than \$800 million from ED for the management of student loan accounts for borrowers in default.<sup>4</sup> This role includes the management of ED's servicing platform and call center for borrowers in default.<sup>5</sup> Your track

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<sup>1</sup> The Washington Post, "Navient to Exit Federal Student Loan Servicing," Danielle Douglas-Gabriel, September 28, 2021, <https://www.washingtonpost.com/education/2021/09/28/navient-exits-federal-student-loan-servicing/>.

<sup>2</sup> 3 Calculations by TICAS using data from the U.S. Department of Education, Federal Student Aid Data Center, "Direct Loans Entering Default," Accessed November 2, 2021, [on file with The Office of Elizabeth Warren]; Student Borrower Protection Center, "Court Rules that the Federal Government's Largest Student Loan Contractor Is Not Above the Law," press release, October 25, 2021, <https://protectborrowers.org/court-rules-that-the-federal-governments-largest-student-loan-contractor-is-not-above-the-law/>.

<sup>3</sup> Politico, "Education Department Negotiates Navient's Exit from Federal Student Loan Program," Michael Stratford, September 28, 2021, <https://www.politico.com/news/2021/09/28/education-department-navient-exit-student-loan-program-514595>; Forbes, "Navient Ends Student Loan Contract — Here's What It Means For Your Student Loans," Zack Friedman, September 28, 2021, <https://www.forbes.com/sites/zackfriedman/2021/09/28/navient-to-end-federal-student-loan-servicing---heres-what-it-means-for-your-student-loans/?sh=3fe8393c6cc4>.

<sup>4</sup> Student Borrower Protection Center, "A New Debt Collection Lawsuit Gives us a Glimpse at the Future of Student Loan Servicing for Tens of Millions of Borrowers," Mike Pierce, February 12 2020, <https://protectborrowers.org/a-new-debt-collection-lawsuit-gives-us-a-glimpse-at-the-future-of-student-loan-servicing-for-tens-of-millions-of-borrowers/>.

<sup>5</sup> Student Borrower Protection Center, "Court Rules that the Federal Government's Largest Student Loan Contractor Is Not Above the Law," press release, October 25, 2021, <https://protectborrowers.org/court-rules-that-the-federal-governments-largest-student-loan-contractor-is-not-above-the-law/>.

record as a contractor raises concerns that borrowers may be subject to poor service and abusive practices. In 2015, an audit conducted by ED’s Office of the Inspector General audit revealed that Maximus had failed to address deficiencies and needed modifications to the defaulted loan servicing platform that it manages, the Default Management Collections System 2.<sup>6</sup> These failures resulted in ED paying inaccurate commissions and bonuses to Private Collections Agencies.<sup>7</sup> In 2019, a federal judge found ED in contempt of court and fined it \$100,000 for defying a court order to stop collection from protected borrowers who were defrauded by a for-profit college.<sup>8</sup> Maximus manages the servicing platform for all student loan borrowers in default, and its mismanagement of the government’s student loan debt collection system led to the judge’s action.<sup>9</sup> This resulted in thousands of borrowers who were eligible for borrower defense to repayment, the primary mechanism for relief for student loan borrowers who are defrauded by their school, having their loan entered into default, and their tax refunds inappropriately seized or their wages garnished.<sup>10</sup> Maximus has also taken the position in court that it has immunity because of its status as a government contractor.<sup>11</sup> This effort to evade accountability is no longer allowed under ED’s newly announced contracts with its loan servicers.<sup>12</sup> As Maximus takes on the responsibility of managing the loans of millions of more borrowers and managing pre-default loans for the first time, it must meet a higher bar of accountability and demonstrate its commitment to working in service of borrowers.

This transition will occur at a critical and difficult time, during the resumption of student loan payments for millions of borrowers whose payments were paused during the COVID pandemic. Furthermore, it is no secret that Navient, whose portfolio you will be taking over, has a disturbing history of abuse and misbehavior towards borrowers,<sup>13</sup> which will take significant

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<sup>6</sup> The United States Department of Education, Office of the Inspector General, “Report: Review of Debt Management Collection System 2 (DMCS2) Implementation,” August 2015, <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2015/a04n0004.pdf>.

<sup>7</sup> The United States Department of Education, Office of the Inspector General, “Federal Student Aid Paid Private Collection Agencies Based on Estimates, report,” August 2013, <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2013/102n0002.pdf>.

<sup>8</sup> NPR, “DeVos Held in Contempt Of Court for Enforcing Loans on Defrauded College Students,” Elisa Nadworny, Anya Kamenetz, October 25 2019, <https://www.npr.org/2019/10/25/773334681/devos-held-in-contempt-of-court-ed-department-fined-100-000-in-student-loan-case>.

<sup>9</sup> Student Borrower Protection Center, “Court Rules that the Federal Government’s Largest Student Loan Contractor Is Not Above the Law,” press release, October 25, 2021, <https://protectborrowers.org/court-rules-that-the-federal-governments-largest-student-loan-contractor-is-not-above-the-law/>.

<sup>10</sup> NPR, “DeVos Held in Contempt Of Court for Enforcing Loans on Defrauded College Students”, Elisa Nadworthy, Anya Kamenetz, October 2019, <https://www.npr.org/2019/10/25/773334681/devos-held-in-contempt-of-court-ed-department-fined-100-000-in-student-loan-case>.

<sup>11</sup> *Bodor v. Maximus Federal Services, Inc.*, 5:19-cv-05787-EGS (2019).

<sup>12</sup> U.S. Department of Education, “U.S. Department of Education Increases Servicer Performance, Transparency, and Accountability Before Loan Payments Restart,” press release, October 15, 2021, <https://www.ed.gov/news/press-releases/us-department-education-increases-servicer-performance-transparency-and-accountability-loan-payments-restart>.

<sup>13</sup> Consumer Financial Protection Bureau, “CFPB Sues Nation’s Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment,” press release, January 18, 2017, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>; Office of Senator Elizabeth Warren, “Warren Questions CEO of Navient on Its Long Record of Profiting Off Broken Student Loan System,” press release, April 13, 2021, <https://www.warren.senate.gov/newsroom/press-releases/warren-questions-ceo-of-navient-on-its-long-record-of-profiting-off-broken-student-loan-system>.

work to repair. Navient has been repeatedly cited by a state Attorney General, the Department of Justice, the Consumer Financial Protection Bureau (CFPB), and ED for failing to report and address borrower complaints while overcharging borrowers, servicemembers, and the federal government.<sup>14</sup> To overcome the damaged trust between borrowers and their servicer, Maximus will need to take borrower feedback seriously, including by transparently correcting complaints submitted to ED and the CFPB. It is crucial that these borrowers receive accurate and timely information and excellent support with enrollment and navigation of these payment plans to be able to take advantage of relief programs and avoid similar problems in the future.

We are also concerned about the potential conflict of interest presented by Maximus' continued role as the servicer for all student loans currently in default, and its new role as a servicer for 5.6 million borrowers currently repaying their loans. Though the compensation schedule for loan servicers pays a higher rate for loans that are maintained in active repayment,<sup>15</sup> Maximus also has an opportunity to profit on loans in default through its existing contract to manage defaulted loans. This arrangement has the potential to weaken the incentive to keep borrowers current on their loans, and potentially to create an adverse incentive to allow borrowers to slip into default. It is therefore essential that Maximus create a clear separation between these two operations.

Supporting our nation's student borrowers as they manage significant and often debilitating debt is one of the most pressing issues facing ED and its contractors. As a servicer with a now expanded caseload of loans, it is important for Maximus to also do its part in this effort. In order to better understand how your company plans to ensure a smooth transition for the new loans it will be servicing, we ask you to provide answers to the following questions no later than December 8, 2021:

1. Please describe your staffing plan to handle the new student loans caseload and provide a timeframe for hiring.
  - a. Does Maximus plan to retain some Navient employees? If so, based on what criteria? How many do you plan to retain?
2. Please describe your new employee training, specifically with regard to supporting borrowers once repayments resume and enrolling struggling borrowers in appropriate repayment plans such as income-driven-repayment (IDR).
3. Please describe whether, to what extent, and how Maximus plans to retain borrower records and documents from Navient to ensure that payment histories and credit toward key loan forgiveness programs are not lost.


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<sup>14</sup> Mother Jones, "For a Decade, Elizabeth Warren Waged War against a Student Debt," Hannah Levintova, October 29, 2021, <https://www.motherjones.com/politics/2021/10/elizabeth-warren-navient-student-loans-debt-cordray-chopra-maximus/>.

<sup>15</sup> Federal Reserve Bank of Philadelphia, "Federal Student Loan Servicing Accountability and Incentives in Contracts," October 2020, <https://www.philadelphiafed.org/-/media/frbp/assets/consumer-finance/discussion-papers/dp20-05.pdf>.

4. Please describe your plan to avoid errors during the servicing transition that would negatively harm borrowers and explain how borrowers who experience problems or errors during the transition may correct these problems in a timely manner and receive appropriate financial relief.
  - a. The moratorium on student loan payments put in place during the COVID-19 pandemic expires in January 2022.<sup>16</sup> How will Maximus proactively communicate with borrowers to ensure a smooth transition to resuming repayment?
  - b. What processes are in place to integrate consumer concerns and feedback, including data from consumer satisfaction surveys, into your servicing practices?
5. On October 6, 2021, ED announced a major overhaul of the Public Service Loan Forgiveness (PSLF) program, intended to right the wrongs that thousands of public servants have faced in trying to obtain debt relief.<sup>17</sup> Many borrowers will now be eligible until October 2022, with new waivers that will allow many prior payments to help borrowers obtain PSLF eligibility.<sup>18</sup> How will Maximus ensure that borrowers are aware of and can take advantage of these new provisions so that they get the PSLF forgiveness that they deserve?
6. What safeguards are in place to avoid potential conflict of interest issues between Maximus' business units within ED's Federal Student Aid office and across the federal government given the many functions Maximus performs across the student loan system?
  - a. Under what circumstances will Maximus be responsible for fielding or adjudicating inquiries or complaints from borrowers about functions it performs on behalf of the ED, and about servicing or collections functions performed by its competitors?
7. To what extent has Maximus investigated Navient's servicing practices and how will Maximus avoid committing the same errors and abuses as Navient in servicing student loan borrowers?

Sincerely,

  
Elizabeth Warren  
United States Senator

/s/  
Sherrod Brown  
United States Senator

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<sup>16</sup> Federal Student Aid, "COVID-19 Emergency Relief and Federal Student Aid," <https://studentaid.gov/announcements-events/covid-19>.

<sup>17</sup> U.S. Department of Education, "Fact Sheet: Public Service Loan Forgiveness (PSLF) Program Overhaul," press release, October 6, 2021, <https://www.ed.gov/news/press-releases/fact-sheet-public-service-loan-forgiveness-pslf-program-overhaul>.

<sup>18</sup> U.S. Department of Education, "U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness," press release, October 6, 2021, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/pslfoverhaulpressrel.pdf>.

/s/  
Richard Blumenthal  
United States Senator

/s/  
Tina Smith  
United States Senator

/s/  
Chris Van Hollen  
United States Senator