

# United States Senate

WASHINGTON, DC 20510

July 28, 2024

The Honorable Miguel Cardona  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Secretary Cardona,

We write regarding Federal Student Aid's (FSA) transition to the Unified Servicing and Data Solution (USDS) system and the U.S. Department of Education's longer term plans to move towards a centralized FSA servicing platform for all federal student loans.<sup>1</sup> While we applaud the Biden Administration's efforts to modernize and improve student loan servicing,<sup>2</sup> a preliminary review of publicly available information on this transition suggests that this new system lacks transparency. As a result, it will be difficult for borrowers and the federal government to hold servicers and contractors accountable, including the Business Process Operations (BPO) vendors that support account servicers.<sup>3</sup>

In particular, we are concerned about the implications of the co-branding<sup>4</sup> of student loan servicing under USDS and the use of "white labeled"<sup>5</sup> BPOs to support specialized servicing functions, and the eventual transition of servicing to a "single FSA brand."<sup>6</sup>

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<sup>1</sup> Department of Education, "U.S. Department of Education's Office of Federal Student Aid Awards New Contracts to Five Companies to Serve Borrowers, Reduce Delinquency, and Improve Accountability," press release, April 24, 2023, <https://www.ed.gov/news/press-releases/us-department-educations-office-federal-student-aid-awards-new-contracts-five-companies-serve-borrowers-reduce-delinquency-and-improve-accountability>; Federal Student Aid, "Next Generation of Loan Servicing," <https://studentaid.gov/data-center/business-info/next-gen/next-gen-loan-servicing>

<sup>2</sup> Federal Student Aid, "Updates to Borrowers' Federal Student Loan and Grant Web Experience," press release, Updated July 3, 2024, <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2024-04-02/updates-borrowers-federal-student-loan-and-grant-web-experience-updated-july-3-2024>.

<sup>3</sup> Student Borrower Protection Center, "Critical Questions for U.S. Department of Education Following Its Announcement That Specialty Student Loan Servicers Will Take Over Aspects of the Student Loan System," Winston Berkman-Breen, April 3, 2024, <https://protectborrowers.org/announcement-of-specialty-servicers-processing-pslf-blog/>.

<sup>4</sup> Federal Student Aid, "The Next Generation of Loan Servicing," fact sheet, p. 2, <https://studentaid.gov/sites/default/files/usds-fact-sheet.pdf>.

<sup>5</sup> Student Borrower Protection Center, "Critical Questions for U.S. Department of Education Following Its Announcement That Specialty Student Loan Servicers Will Take Over Aspects of the Student Loan System," Winston Berkman-Breen, April 3, 2024, <https://protectborrowers.org/announcement-of-specialty-servicers-processing-pslf-blog/>.

<sup>6</sup> Federal Student Aid, "The Next Generation of Loan Servicing," fact sheet, p. 3, <https://studentaid.gov/sites/default/files/usds-fact-sheet.pdf>.

During the current phase of this transition, ED has explained that the “specialized servicing” functions for programs, including the Public Service Loan Forgiveness Program (PSLF), are split up among BPO vendors, meaning borrowers may be routed to different BPO contractors to do different tasks, while these contractors’ roles, moving forward, appear to be “behind the scenes.”<sup>7</sup> So “even while a borrower is receiving specialty PSLF servicing from a BPO vendor, their assigned servicer will do things such as sending bills and receiving payments, applying forbearances to borrowers’ accounts, reporting loan information to [the National Student Loan Data System], and updating borrowers’ accounts based on the information received from the BPO vendors, including updated PSLF eligible payment determination.”<sup>8</sup> Moreover, while the publicly available BPO contracts provide for the BPOs to carry out several different servicing functions,<sup>9</sup> it is unclear which functions are currently being performed by BPOs.

We are concerned that the breaking up of functions among servicers who are operating under the same label may create confusion and make it harder for borrowers to resolve issues. For example, when a borrower encounters servicing issues, such as an incorrect qualified payment count, they may not know to whom they should address that disagreement if they do not know which servicer is responsible for performing the particular function. Likewise, when a borrower submits a complaint about their student loan servicer, but the complaint implicates functions performed by a BPO, it remains unclear how such a complaint would be routed. These concerns are magnified for the Department’s “target state,” in which all student loan servicers will be consolidated under one FSA brand.<sup>10</sup>

This practice of labeling work performed by individual private companies as coming from FSA is known as “white labeling.”<sup>11</sup> As the Student Borrower Protection Center explains, “white labeling interferes with regulators and individual borrowers’ ability to hold these companies accountable for servicing failures. When contracted companies perform low-quality services, because their actions are labeled as those of government agencies, their responsibility is obfuscated and blame is deflected to the agency.”<sup>12</sup> Thus, when borrowers do submit complaints to the Federal Student Aid Ombudsman or the Consumer Financial Protection Bureau (CFPB), it is possible that the current “white labeling” of specialized servicing functions and the eventual “single branding” of all types of servicers under one FSA umbrella will make it much more difficult to hold individual servicers accountable.

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<sup>7</sup> Student Borrower Protection Center, “Critical Questions for U.S. Department of Education Following Its Announcement That Specialty Student Loan Servicers Will Take Over Aspects of the Student Loan System,” Winston Berkman-Breen, April 3, 2024, <https://protectborrowers.org/announcement-of-speciality-servicers-processing-pslf-blog/>.

<sup>8</sup> National Consumer Law Center, “NEW FEDERAL STUDENT LOAN SERVICING CONTRACTS, NEW PROMISES,” February 2024, p. 9, [https://www.nclc.org/wp-content/uploads/2024/02/202402\\_Report\\_New-Federal-Student-Loan-Servicing-Contracts-New.pdf](https://www.nclc.org/wp-content/uploads/2024/02/202402_Report_New-Federal-Student-Loan-Servicing-Contracts-New.pdf).

<sup>9</sup> *Id.*

<sup>10</sup> Federal Student Aid, “The Next Generation of Loan Servicing,” fact sheet, pp. 3-4, <https://studentaid.gov/sites/default/files/usds-fact-sheet.pdf>.

<sup>11</sup> Student Borrower Protection Center, “Critical Questions for U.S. Department of Education Following Its Announcement That Specialty Student Loan Servicers Will Take Over Aspects of the Student Loan System,” Winston Berkman-Breen, April 3, 2024, <https://protectborrowers.org/announcement-of-speciality-servicers-processing-pslf-blog/>.

<sup>12</sup> *Id.*

For all these reasons, we are concerned that the transition to USDS may pose barriers to identifying and reporting wrongdoing through channels such as the CFPB. In the past, when borrowers experienced servicing failures, they were able to submit a complaint to the CFPB.<sup>13</sup> Between September 1, 2022, through August 31, 2023, the CFPB received 9,284 student loan complaints.<sup>14</sup> These complaints are vital to making sure contractors are held accountable for the harm they have incurred on borrowers—in the past, ED has withheld payments to student loan servicers that commit errors (revealed through CFPB reports) such as failing to send timely billing statements to hundreds of thousands of borrowers.<sup>15</sup> With the eventual “decommissioning”<sup>16</sup> of individual servicer websites and consolidating all servicing under one umbrella, borrowers may not know who is servicing their loan – or may not know which BPO is responsible for a specific servicing function – making it difficult or impossible for borrowers to determine which entity is at fault in a complaint to CFPB.

Millions of borrowers across the country deserve transparency and accountability from student loan servicers. Overall, the new USDS servicing environment promises significant improvement to the loan servicing environment. But co-branding or single-branding loan servicers with FSA and allowing BPO vendors to operate in silence without being identified as individual companies threatens to create confusion for borrowers and could lead to a lack of oversight and accountability for servicers’ errors. FSA must incorporate strong transparency features that enable borrowers to identify the servicer responsible for their loan and hold that entity accountable. CFPB complaints are one of the main ways thousands of borrowers each year have held student loan servicers accountable.<sup>17</sup> Thus, ED must move forward with caution to ensure that servicers are still held accountable for servicing failures that are commonly reported to the CFPB.

In order to learn more about the new loan servicing environment and ensure that servicers are held to the highest standards, we that you provide the following information by August 11, 2024:

1. What functions does each BPO perform currently? Does ED plan on rolling out additional functions and on what timeline?
2. Please describe the role of the BPO vendors in default collection after the end of the Fresh Start Initiative and the on-ramp period.
3. During USDS, will borrowers be assigned to a single BPO for PSLF purposes, or will multiple BPOs review the same accounts at various times?
4. Please provide their most recent Service Level Agreement Metrics (SLA Metrics) performance scores for each servicer, including all BPO vendors.

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<sup>13</sup> Consumer Financial Protection Bureau, “Report of the CFPB Education Loan Ombudsman,” October 2023, [https://files.consumerfinance.gov/f/documents/cfpb\\_annual-education-loan-ombudsman-report\\_2023.pdf](https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf).

<sup>14</sup> *Id.*, p. 2.

<sup>15</sup> CNBC, “Federal agency: Student loan company errors could ‘pose serious risks’ to borrowers, the economy,” Annie Nova, January 5, 2024, <https://www.cnbc.com/2024/01/05/student-loan-servicer-errors-pose-risks-to-borrowers-and-economy-cfpb.html>.

<sup>16</sup> Federal Student Aid, “The Next Generation of Loan Servicing,” fact sheet, p. 4, <https://studentaid.gov/sites/default/files/usds-fact-sheet.pdf>.

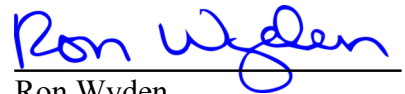
<sup>17</sup> Consumer Financial Protection Bureau, “Report of the CFPB Education Loan Ombudsman,” October 2023, p. 2, [https://files.consumerfinance.gov/f/documents/cfpb\\_annual-education-loan-ombudsman-report\\_2023.pdf](https://files.consumerfinance.gov/f/documents/cfpb_annual-education-loan-ombudsman-report_2023.pdf).

5. Please elaborate on the relationship among BPO servicers, account servicers, and borrowers in USDS.
  - a. Will BPOs communicate directly with borrowers?
  - b. Will BPOs communicate directly with account servicers?
  - c. Will account servicers communicate directly with borrowers?
  - d. For every contact point, will borrowers know the entity they are working with?
6. When a borrower submits a complaint about their student loan servicer, how will that complaint be routed?
  - a. When a borrower submits a complaint about their student loan servicer, but the complaint implicates functions performed by a BPO, how will that complaint be routed?
7. When a borrower submits a complaint about a function performed by a BPO, how will that complaint be routed?
8. Will Federal Student Aid (FSA) be tracking complaints by vendors? Will data on those complaints be shared with state/federal regulators? Will metrics on complaint volume be tracked and reported by the FSA Ombudsman?
9. How will you coordinate with other federal and state agencies (including the CFPB) to determine the full scope of borrower complaints as broken down by servicer and BPO?
10. Are BPOs expected to comply with federal and state consumer protection laws? Does the language included in the 2021 Servicer Extensions and the 2023 USDS contracts, stating that servicers “[s]hall comply with all Federal, State and local laws, rules and regulations applicable to its performance under this contract to the extent State and local laws, rules and regulations are not preempted by Federal law,” also appear in the current BPO contracts?<sup>18</sup>
11. What steps has ED taken towards its eventual vision of a “single FSA brand” and what does ED anticipate will be the functions of each BPO when loan servicers are consolidated under one single FSA brand?
12. The publicly available BPO contracts are set to expire in June 2026. What is the Department’s plan for the BPOs after the contract expires?
13. Please share the findings of reports—internally developed or otherwise—that concern recommendations to improve the new USDS servicing environment.

Sincerely,



Elizabeth Warren  
United States Senator



Ron Wyden  
United States Senator

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<sup>18</sup> 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>.

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Chris Van Hollen  
United States Senator

A handwritten signature in blue ink, appearing to read "Bernard Sanders", written in a cursive style.

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Bernard Sanders  
United States Senator