Student Loan Ombuds Annual Report

July 2023

Department of Consumer and Business Services

Department of Consumer and Business Services (report submitted pursuant to ORS 725A.530(3))

About DCBS:
The Department of Consumer and Business Services (DCBS) is Oregon's largest consumer protection and business regulatory agency. For more information, visit https://www.oregon.gov/dcbs/pages/index.aspx.

About Oregon DFR:
The Division of Financial Regulation (DFR) protects consumers and regulates insurance, depository institutions, trust companies, securities, and consumer financial products and services, and is part of DCBS. Visit dfr.oregon.gov.

About the Student Loan Servicing Program:
Oregon's Student Loan Servicing Program provides support for Oregonians with student loans through outreach, education, and advocacy. Visit https://dfr.oregon.gov/help/student-loan-help/Pages/index.aspx. We encourage borrowers struggling with their student loan debt to contact the student loan ombuds at DFR.bankingproducthelp@dcbs.oregon.gov or 888-877-4894.

Additional report information:
This report is based on data submitted to DFR through June 1, 2023.

This report was completed before the U.S. Supreme Court issued its opinions in *Biden v. Nebraska* and *Department of Education v. Brown* on June 30, 2023. It will take additional time to analyze the impact of these decisions.

Acknowledgments

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Table of contents

Introduction

This annual report to the Oregon Legislature describes the activities of the student loan ombuds with recommendations for legislative changes to increase financial capability among borrowers, decrease defaults, and resolve complex program issues.

This report includes information about the landscape, trends, and effects of student loan servicing, both federal and private, on Oregonians in the following sections:

- Background on student loans and student loan servicing
- Implementation of student loan servicing statutes
- Policy recommendations to the Legislature

Executive summary

The complexity of the student loan landscape – varied and intersecting loans types, repayment plans, cancellation opportunities, and discharges – means that more local support is needed for America's 43 million student loan borrowers. The large and changing group of debt collectors, debt management service providers, and U.S. Department of Education (ED) contracted servicers make the area nebulous and difficult for borrowers to navigate.

With the goal of addressing some of these challenges, the Oregon student loan servicing statute, codified in 2022, was implemented over the past 12 months.[1] As of June 1, 2023, the program has licensed 53 entities and examined seven. The student loan ombuds received 34 complaints and 104 contacts from the public.

Public policy changes at the federal level were major topics of concern to Oregon borrowers who contacted the student loan ombuds. Borrowers asked about the federal pause on interest accrual and collection of payments, announced – but yet undelivered – student loan relief and cancellation, and long-term changes to the federal loan program. Potential cancellation through a one-time account adjustment, a newly revived Public Service Loan Forgiveness program, and two pending U.S. Supreme Court opinions mean many unknowns for student loan borrowers.

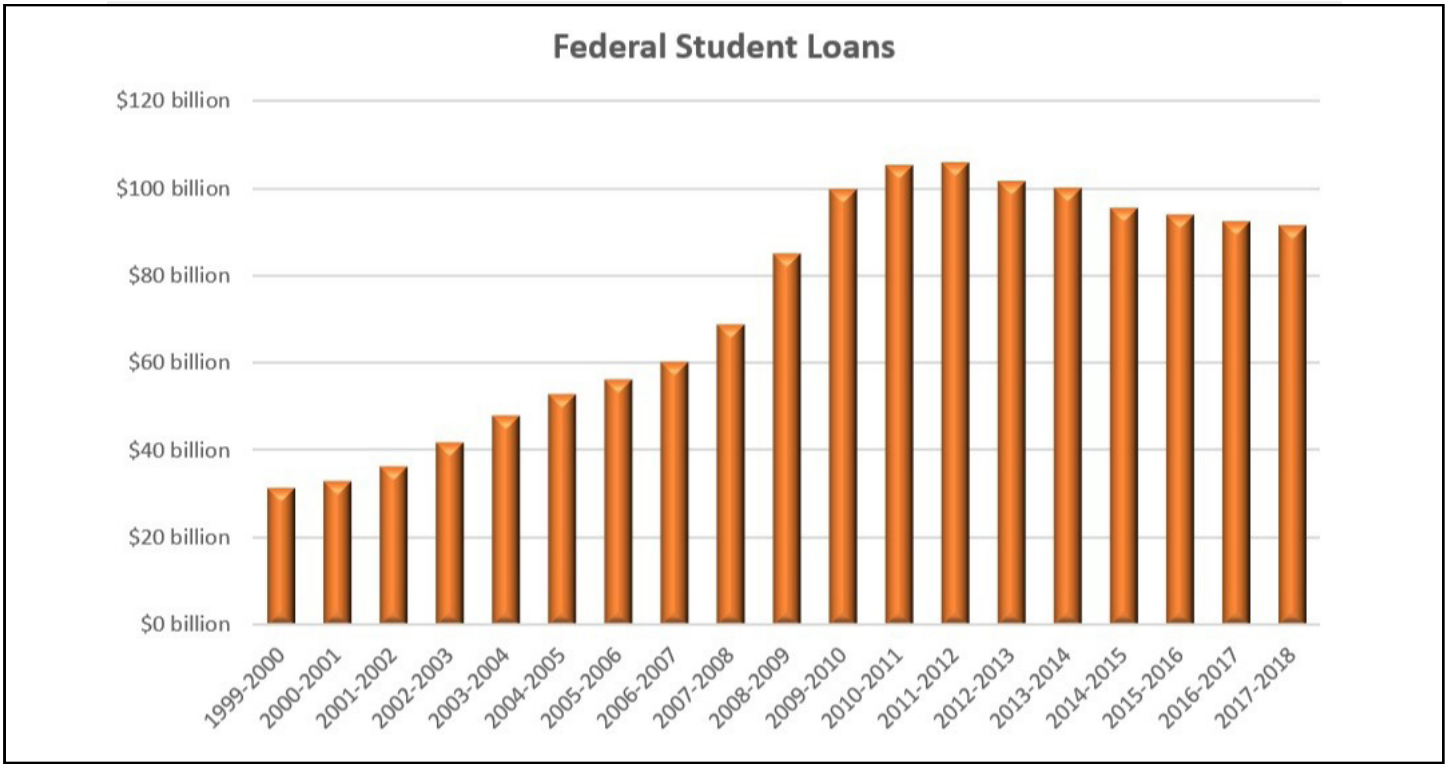
[1] "Chapter 725A – short-term loans and student loan servicing." Oregon revised statutes. https://www.oregonlegislature.gov/bills_laws/ors/ors725a.html.

Background on student loans and student loan servicing

ED owns $1.48 trillion in debt (84.5 percent of the total market), and guarantees an additional $143 billion of Federal Family Education Loan Program (FFELP) and Perkins loans.[2] Altogether, loans authorized by Title IV of the Higher Education Act make up 93 percent of outstanding student loan balances.[3] The federal student loan portfolio has grown more than 300 percent since 2007, due to rising higher education costs, increased borrowing limits, and increased Parent and Grad PLUS Borrowing. While Direct, FFELP, and Perkins loans are undergraduate loan types, Parent PLUS loans are made to parents of current students, and Grad PLUS loans are available only to graduate students. These loan types are unique within ED's portfolio because they require a credit score or co-signer, and are often used to fill gaps in funding. Annual Grad PLUS origination volume has more than quadrupled in that time, expanding from $2.1 billion to an estimated $11.6 billion during the 2020-21 academic year.

The charts below illustrate these trends in federal and private student loan borrowing respectively. Both loan types hit their highest point in the early 2010s, when private loan borrowing fell precipitously. The recent decrease in private student loan borrowing could be attributed to the increased availability of Parent Plus and Grad Plus loans.

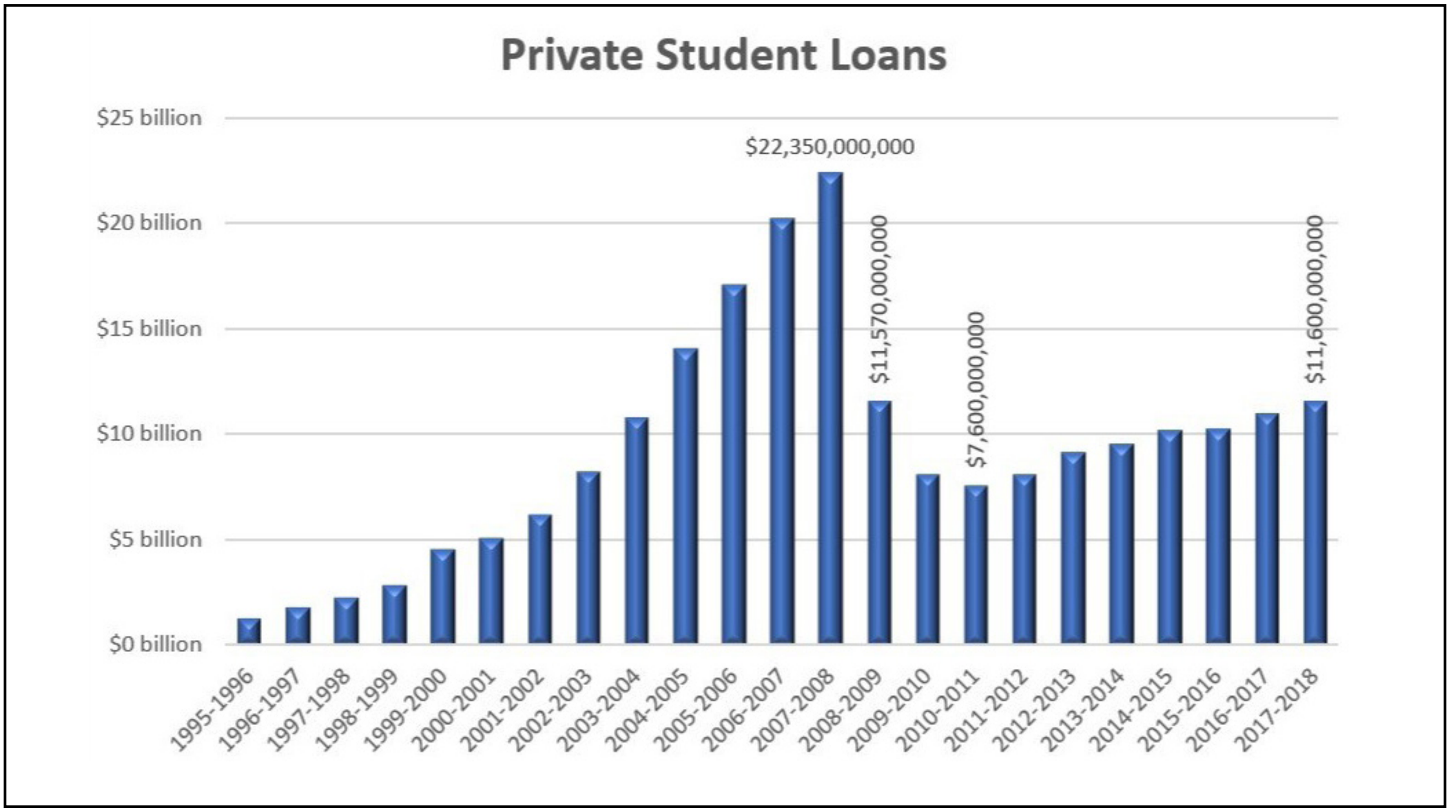
Figure 1: Annual federal student loan volume



Source: Saving for College[4]

[2] "Federal Student Loan Portfolio." Federal Student Aid. https://studentaid.gov/data-center/student/portfolio.
[3] "Supervisory Highlights Student Loan Servicing Special Edition." Consumer Financial Protection Bureau, September 2022. https://files.consumerfinance.gov/f/documents/cfpb_student-loan-servicing-supervisory-highlights-special-edition_report_2022-09.pdf.
[4] Kantrowitz, Mark. "Total U.S. Student Loan Debt Outstanding," July 23, 2020. Saving for College. https://www.savingforcollege.com/article/total-us-student-loan-debt-outstanding.

Figure 2: Annual private student loan volume



Source: Saving for College[5]

Parent PLUS volume peaked at $12.8 billion (in current dollars) in loans originated in the 2018-19 academic year. Combined, Parent and Grad Plus products accounted for 26 percent of all Title IV originations in the most recent academic year.

So-called new products and private student loans make up the rest of the student debt market. The new products category includes instruments such as income share agreements (ISAs), training repayment arrangement provisions (TRAPs), and similar "buy now, pay later" forms of credit. These products come out of the decentralized financial technology (or "fintech") world. ISAs, for example, are usually framed not as a loan, but as a contract or agreement for a future transaction. Often made by nontraditional lenders – including nonprofits, private investors, and schools – ISAs allow students to pay for school without interacting with a bank or the federal government to obtain financing. TRAPs, ISAs, and other new products are generally used at online or trade schools, or in workplaces. While the intention behind building these products may be innovation, the effect is often the same or less favorable for student finances than traditional private student loans.[6] Because new products currently have less regulatory oversight, they often include relatively high repayment caps (i.e., significantly more than borrowed). Also included in the fine print of many ISA and TRAP contracts are stringent penalties for default that can result in significant judgements and credit damage. Private student loans function like any

[5] Ibid.

[6] "Credit By Any Other Name: How Federal Consumer Financial Law Governs Income Share Agreements." Student Borrower Protection Center. https://protectborrowers.org/credit-by-any-other-name-how-federal-consumer-financial-law-governs-income-share-agreements.

other personal loan; eligibility and interest rates are determined by credit score, and none of the federal student loan benefits – including income-based repayment and loan forgiveness – apply.

About 44 million Americans currently have student loan balances. This is an increase from 28 million in 2007. Currently, the age group of student loan holders that has the largest average dollar amount of debt per borrower is 50- to 61-year-olds ($45,138), closely followed by those ages 35 to 49, who hold an average of $43,438. Nevertheless, the 35- to 49-year-old age group owes the most total debt – more than $634 billion all together. Borrowers aged 24 and younger owe the least debt, possibly due to declining enrollments.[7] Borrowers age 62 and older are the fastest-growing age segment of student loan borrowers. Today, 1 in 5 borrowers are over the age of 50.[8] Between 2004 and 2018, student loan balances for borrowers over 50 increased by 512 percent. Borrowers over 65 default at the highest rates.

As of 2021 (the most recent data available), more than 427,000 undocumented students were pursuing higher education in the United States – about 2 percent of all university students. Of those, 181,000 hold, or were eligible for, Deferred Action for Childhood Arrivals (DACA) status.[9] Many of these undocumented students and their families pay into the U.S. tax system through a mechanism known as an Individual Taxpayer Identification Number (ITIN), but ITIN holders are not eligible to apply for the Free Application for Student Aid (FAFSA), which requires a Social Security number.[10] As populations of refugees and undocumented students continue to increase, so will the need for loans and grants for these harder-to-reach populations. State programs, private donors, and other nonprofit groups are attempting to fill the gaps. Other populations that are eligible but have a hard time accessing the FAFSA include unhoused, formerly incarcerated, and Indigenous students. Increased access to the application for aid would benefit these borrowers.

Student loan debt disproportionately affects women and people of color. People from mostly Black neighborhoods are almost twice as likely to default on their student loans as borrowers from majority white neighborhoods.[11] Women and people of color are more likely to take out student loans and tend to earn less than their white male peers.[12] In this way, student debt contributes to increasing wealth stratification.

There are an estimated 552,000 student loan borrowers living in Oregon with an average debt load of about $37,900 (according to the Oregon Financial Wellness Scorecard and the Federal Reserve Bank of New York's Credit Council Panel).[13]

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[7] Williams, Ward. "Student Loan Debt by Age." Investopedia, Jan. 13, 2023. https://www.investopedia.com/student-loan-debt-by-age-5200927.

[8] Schirmer, Eleni. "The Aging Student Debtors of America." (par. 4) The New Yorker, July 27, 2022. https://www.newyorker.com/news/us-journal/the-aging-student-debtors-of-america.

[9] "Undocumented Students in Higher Education: How Many Students are in U.S. Colleges and Universities, and Who Are They?" Presidents' Alliance on Higher Education and Immigration, March 2021. https://www.presidentsalliance.org/wp-content/uploads/2021/03/Undocumented-Students-in-Higher-Education-Updated-March-2021.pdf.

[10] "Financial Aid and Undocumented Students: Questions and Answers." Federal Student Aid, June 2022. https://studentaid.gov/sites/default/files/financial-aid-and-undocumented-students.pdf.

[11] "Report on the Economic Well-Being of U.S. Households in 2018 – May 2019." Board of Governors of the Federal Reserve System. https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-student-loans-and-other-education-debt.htm.

[12] Kent, Ana Hernández and Addo, Fenaba R. "Gender and Racial Disparities in Student Loan Debt." Federal Reserve Bank of St. Louis, Nov. 10, 2022. https://www.stlouisfed.org/publications/economic-equity-insights/gender-racial-disparities-student-loan-debt.

[13] "Oregon Financial Wellness Scorecard: Financial Empowerment Initiative 2023." Oregon State Treasury. https://www.oregon.gov/treasury/financial-empowerment/Documents/Annual-reports/230201-FINAL-Oregon-Financial-Wellness-Scorecard.pdf.

National trends and patterns

The student loan servicing market has shifted significantly over the past three years. The COVID-19 pandemic led to financial and operational disruptions at servicers. At the same time, the federal loan payment pause brought meaningful relief to borrowers. Recently, several federal contractors left the market, and, as a result, 9 million federal student loan accounts transferred from one servicer to another.[14] Additionally, ED introduced specific programs to broaden access to the Public Service Loan Forgiveness (PSLF) program and loan discharge through income-driven repayment (IDR) plans. Postsecondary schools, including for-profit and nonprofit colleges, continued to offer institutional loans. Institutional loans are often exempt from statutes of limitations (if they are made by state schools), are not eligible for the benefits associated with federal student loans, and have low requirements for transparency that can negatively affect borrowers. Recent class action settlements also continue to affect borrowers.[15]

Federal student loan payment pause

Due to the federal emergency declared for COVID-19, ED has placed a pause on federal student loan repayment, interest, and collections since March of 2020.[16] During this pause, the federal student loan portfolio was not accruing interest. This extended pause on loan repayment has resulted in an estimated $195 billion in forgone revenue during the three years since.[17] The pause on accrual of interest ends on Sept. 1, 2023, with first payments due in October.

The implementation of the pause was not as smooth as may have been expected. According to a report completed by the Student Borrower Protection Center, ED garnished paychecks for many borrowers well into the payment pause.[18] The report also contained a memo circulated within ED about its decision to include expanded COVID-19 unemployment payments as part of IDR calculations, which could lead to higher monthly payments for unemployed borrowers.

Federal student loan forgiveness

The Biden administration announced in August 2022 the federal government planned to cancel up to $20,000 in student debt for Pell Grant recipients earning under $125,000 a year, and up to $10,000 for other federal borrowers below that income level. There are two cases currently before the U.S. Supreme Court seeking to permanently block the plan from taking effect. As of the publication of this report, it is still uncertain how the outcome of these cases will affect borrowers.[19]

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[14] "Supervisory Highlights." https://files.consumerfinance.gov/f/documents/cfpb_student-loan-servicing-supervisory-highlights-special-edition_report_2022-09.pdf#page=2.

[15] "*Sweet v. Cardona* Settlement." Federal Student Aid. https://studentaid.gov/announcements-events/sweet-settlement; "Navient Multi-state Settlement." https://www.navientagsettlement.com/.

[16] "COVID-19 Loan Payment Pause and 0% Interest." Federal Student Aid. https://studentaid.gov/announcements-events/covid-19/payment-pause-zero-interest.

[17] "Student Loan Pause Could Cost $275 Billion." Committee for a Responsible Federal Budget, Nov. 22, 2022. https://www.crfb.org/blogs/student-loan-pause-could-cost-275-billion.

[18] "Uncovered Documents Expose the Government's Stunning Failure to Control its Student Loan Collection Machine During the COVID-19 Pandemic." Student Borrower Protection Center, Dec. 15, 2022. https://protectborrowers.org/uncovered-documents-expose-the-governments-stunning-failure-to-control-its-student-loan-collection-machine-during-the-covid-19-pandemic.

[19] *U.S. Department of Education v. Myra Brown* (U.S. Supreme Court), https://www.supremecourt.gov/DocketPDF/22/22A489/249005/20221202145905767_Brown%20Stay%20Application.pdf; and Nebraska v. Biden (U.S. Supreme Court), https://ago.nebraska.gov/sites/ago.nebraska.gov/files/doc/1.%20Complaint%20-%20Neb.%20v.%20Biden.pdf.

Sweet v. Cardona settlement

Sweet v. Cardona was a long-running class action lawsuit between thousands of federal student loan borrowers and ED.[20] Borrowers claimed the department had stalled processing student loan discharge applications under the borrower defense to repayment (BDR), federal protection that can provide student loan cancellation and other debt relief for borrowers defrauded by their schools through misrepresentations and other illegal conduct. The class of federal student loan borrowers also claimed that ED arbitrarily denied thousands of borrower defense applications with little or no meaningful review.[21] Under the terms of the *Sweet v. Cardona* settlement, which was granted final approval on Nov. 16, 2022, ED will approve around $6 billion in debt forgiveness, and the 200,000 borrowers eligible for relief will get full cancellation of their debt, refunds of amounts paid, and repairs to their credit.[22]

Group discharges under BDR – ITT Tech, Corinthian, Westwood, Kaplan, Marinello

In March 2021, ED granted $1 billion in relief to 72,000 borrowers with approved BDR claims related to Corinthian Colleges and ITT Technical Institute (ITT Tech).[23] Subsequently, ED announced an additional $500 million in relief for 18,000 borrowers with approved borrower defense claims related to ITT Tech.[24]

In July 2021, ED approved another 1,800 BDR claims for borrowers who attended Westwood College, Marinello Schools of Beauty, and the Court Reporting Institute. These borrowers received 100 percent loan discharges, resulting in about $55.6 million in relief. This brings total loan cancellation based on borrower defense claims during the Biden administration to more than $14.5 billion for nearly 92,000 borrowers.[25] These group discharges acknowledge wide-spread misrepresentations by these schools, including misleading graduation and hiring rates, and advertisements aimed at vulnerable populations.

ED also suspended requests for earnings documentation from borrowers who had received a total and permanent disability discharge; this action reinstated discharges for 41,000 borrowers and will help protect another 190,000 borrowers from the risk of losing their discharges for this reason.[26]

[20] "*Sweet v. Cardona* Settlement." Federal Student Aid. https://studentaid.gov/announcements-events/sweet-settlement.
[21] "*Sweet v. Cardona*." The Project on Predatory Student Lending. https://www.ppsl.org/cases/sweet-v-cardona.
[22] "*Sweet v. Cardona* Settlement."Federal Student Aid. https://studentaid.gov/announcements-events/sweet-settlement.
[23] Gibson, Kate. " U.S. to erase $1 billion in debt for students scammed by for-profit colleges." CBS News.com, March 18, 2021. https://www.cbsnews.com/news/student-debt-for-profit-college-forgiveness-1-billion.
[24] "Education Department approves $3.9 billion group discharge for 208,000 borrower who attended ITT technical institute." U.S. Department of Education. https://www.ed.gov/news/press-releases/education-department-approves-39-billion-group-discharge-208000-borrowers-who-attended-itt-technical-institute.
[25] "Biden Administrations Has Approved $14.5 billion in student loan forgiveness for defrauded borrowers." Forbes. https://www.forbes.com/sites/adamminsky/2022/12/21/biden-administration-has-approved-145-billion-in-student-loan-forgiveness-for-defrauded-borrowers/?sh=6fea84122ee7.
[26] "Issue Paper #1: Total and Permanent Disability REVISED 9/30/21." United States Department of Education. https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/tpdissuepaperrev.pdf.

New federal loan rules

In 2021, ED convened a committee to amend the regulations of seven areas related to student loans. [27] The seven areas included BDR, limits on arbitration, total and permanent disability discharge, closed school discharge, false certification, eliminating negative amortization, and the PSLF program. The goal of this rulemaking was to reduce costs to taxpayers, increase automation for eligible discharges, and improve access and eligibility for discharges.

Two areas that were discussed by the committee but were not included in the 2021 proposed rules due to lack of consensus, included eligibility for Pell Grants for incarcerated borrowers and changes to the IDR program.[28] A second notice of proposed rulemaking was published by ED on Jan. 11, 2023. One of the proposed changes in this more recent rulemaking was automating IDR enrollment for defaulted borrowers. Servicers are currently not required to place borrowers into an IDR plan as soon as they are 30 days delinquent, but under the new rules they would be. The fact that this is not common practice by servicers has contributed to the large number of defaulted borrowers, many of whom would have received a $0 minimum monthly payment had they applied.

The proposed changes to IDR plans would increase the protected income and decrease the percentage of income required for monthly payments. The changes would also allow for IDR discharge after 10 years for some borrowers. Combined with the changes to negative amortization in the first rulemaking, these changes could have a positive effect on many student loan borrowers.

In early 2023, ED announced plans to move to a unified servicing and data solution (USDS). The goal of a single platform solution is to improve transparency and accountability for servicers and ED. By using one interface and one contract for all student borrowing and repayment, ED hopes to streamline the federal aid process. The servicing contract that will be part of the new USDS system includes incentives for keeping borrowers out of default, as well as a more streamlined IDR application.[29] These rule changes to the IDR program are likely to affect borrowers positively. The new single platform system is expected to go live in spring 2024. The implementation date for the changes to the IDR program has yet to be announced.

One-time IDR account adjustment

In 2022, it was estimated that as many as 4.4 million borrowers had been paying on their student loans for at least 20 years.[30] The standard repayment for federal student loans is 10 years (120 months.) Some nonstandard options, including IDR, generally offer longer repayment terms, with a guarantee to cancel the debt after 20 or 25 years. While the IDR discharge process is lengthy and burdensome, it is a light at the end of the tunnel for many low-income borrowers. In 2021, a total of only 157 people had their loans canceled through IDR cancellation.[31] The reason eligible and discharged borrowers were in such

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[27] Department of Education. July 13, 2022. [Notice of proposed rulemaking] https://public-inspection.federalregister.gov/2022-14631.pdf.

[28] "Improving Income-Driven Repayment for the William D. Ford Federal Direct Loan Program." Federal Register, Jan. 11, 2023. https://www.federalregister.gov/documents/2023/01/11/2022-28605/improving-income-driven-repayment-for-the-william-d-ford-federal-direct-loan-program.

[29] "The Next Generation of Loan Servicing." Federal Student Aid. [Fact sheet] https://studentaid.gov/sites/default/files/usds-fact-sheet.pdf.

[30] Student Borrower Protection Center, et al. IDR Waiver Coalition Letter to U.S. Department of Education Secretary Miguel Cardona, Feb. 9, 2022. https://protectborrowers.org/wp-content/uploads/2022/02/Final-IDR-Waiver-Coalition-Letter-2_9_2022.pdf.

[31] Schirmer, Eleni. (par. 13)

ballooning balances. In an attempt to correct-course on this issue, ED announced in 2022 that it would be reviewing every loan in its portfolio and crediting periods toward loan cancellation that had previously been deemed ineligible or gone uncounted. The time it plans to credit includes all months in repayment, as well as many months in forbearance status. The adjustment had originally been planned for 2022.[33]

As of the date of this report, ED has pushed back the cancellation review until sometime in 2024.[34] ED estimates that 3.6 million borrowers will have at least three years of credit toward loan forgiveness. They have also committed to including a payment count for borrowers who are eligible for IDR and PSLF credit to be reflected on borrowers' profiles on studentaid.gov. This change is expected to occur as a result of ED moving to USDS.

disproportion has many causes, including multiple transfers and consolidations per borrower, poor recordkeeping by some servicers, and the long-standing issue of forbearance steering.[32]

Borrowers who contacted their student loan servicer while struggling to make payments were often pushed into forbearance, rather than introduced to the IDR options available to them. For many, this resulted in interest capitalizing at the end of each year, ultimately increasing their loan balances over time. The effect is that many borrowers who would have had their remaining balances canceled at month 240 or 300 (depending on a few factors) are instead facing unknown repayment periods and

Giving a "Fresh Start" to 7 million borrowers in default

In April 2022, ED announced "Fresh Start," an executive action to pull 7 million struggling student loan borrowers out of default – a direct response to more than two years of advocacy by the Student Borrower Protection Center and its partners.[35] This relief is critically important for people living in, or close to, poverty. It will enable millions of borrowers to regain eligibility for Pell Grants and improve their credit scores, and ensure

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[32] "Department of Education Announces Actions to Fix Longstanding Failures in the Student Loan Programs." U.S. Department of Education, April 19, 2022. https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs.

[33] Ibid.

[34] "Payment Count Adjustments Toward Income-Driven Repayment and Public Service Loan Forgiveness Programs." Federal Student Aid. https://studentaid.gov/announcements-events/idr-account-adjustment.

[35] "Get out of Default with Fresh Start." Federal Student Aid. https://studentaid.gov/announcements-events/default-fresh-start.

that borrowers do not lose vital resources such as wages, Social Security benefits, and tax refunds (especially the Earned Income Tax Credit) for up to an additional year after the payment pause ends. These actions will especially benefit borrowers of color, who have been disproportionately burdened by decades of structural inequalities and the disparate effects of prior student loan policies.

Federal Student Loan Literacy Act

This bill would create a federal funding source for community organizations to apply toward their work with student loan borrowers.[36] If passed, ED would administer a program providing technical assistance and funding to community organizations looking to establish or build capacity for consumer support programs. The complexity, competing priorities, and potential risks involved in the federal student loan program have created the need for additional financial coaching, and community organizations struggle to fund this work. If passed, the fund could help support student loan ombuds work across the country. Servicers are not incentivized to, nor do they have enough information to, provide the resources, answers, and strategies available to borrowers. Similar to how housing counseling came about as home loan products became more complex, there is a long-standing need to fund education and counseling for student loan borrowers. This act was introduced in 2022 and supported by many advocacy groups across the country, but it did not receive a vote.[37] If it is reintroduced in 2023, the state student loan ombuds group may write an advocacy letter in support. Oregon's Student Loan Servicing Act mandates borrower education and allows the state to enter into third-party contracts for some of that work. Funding from the Federal Student Loan Literacy Act, if passed, could support the Oregon student loan ombuds, and/or interested community organizations in providing that education.

[36] H.R.8643 - Student Loan Literacy Act of 2022 - Congress.gov, Aug. 2, 2022. https://www.congress.gov/bill/117th-congress/house-bill/8643?s=1&r=1.

[37] "Advocates Send Letter of Support Urging Congress to pass a New Bill to Help Student-Borrowers." Community Service Society press release, August 16, 2022. https://www.cssny.org/news/entry/advocates-send-letter-of-support-urging-congress-to-pass-new-bill-to-help-s.

Oregon's first student loan ombuds started work on June 21, 2022, and has worked collaboratively with internal and external stakeholders to build out the program mandated in ORS 725A.500. Below is a breakdown of the ombuds program build-out and future goals, including analysis of public contacts, complaints and outreach events. This section also details the progress of Oregon's student loan servicer licensing requirements.

Summary of student loan inquiries

As of June 1, 2023, DCBS received approximately 104 discrete contacts from the public, 43 of which were in 2022 and 61 as of June 1, 2023. Of those, 51 were phone calls and 53 were emails. Oregonians interacting with the program have expressed appreciation for having a dedicated resource at DFR available to respond to their inquiries with empathy and the technical expertise to help borrowers navigate the complex student loan landscape.

Status of borrower relief programs

The status of the various federal student loan relief programs has been the source of numerous inquiries. The number of new programs, changes to existing programs, and range of forgiveness opportunities have people confused. The Biden administration's debt relief announcement, and subsequent many monthslong injunction,[38] only added to this confusion. The ombuds received questions about a few large class action lawsuits as well, including *Sweet v. Cardona* and the multistate Navient settlement.[39]

Borrowers most commonly asked the ombuds about the PSLF program's expansion, waiver, and permanent rule changes. The ombuds anticipates that PSLF will continue to be a topic of interest, as new rules are enacted in July 2023 in an attempt to streamline and improve the program.

Federal versus private loans

Another subject of many inquiries with the ombuds concerns the differences between federal and private loans. Borrowers are unclear about which type of loans they have. This is more prevalent for borrowers with both federal and private loans. It appears that the common naming convention (student loans) belies the large underlying differences between the products. Borrowers who have private loans tend to have questions about high and variable interest rates, recordkeeping and payment application, fees, and bankruptcy. Many private loan borrowers believe that their private student debt should have been, or was, discharged in bankruptcy, and contact the ombuds to ask why the loans are still being collected. People who were not included in the Sweet, or Navient multistate settlements often feel they should have been, and the ombuds has invested time and energy in helping them understand what criteria they did not meet for inclusion.[40] In most cases, the settlements include specific criteria for inclusion in the class – for example, only borrowers in default as of a certain date – and those nuanced attributes can be difficult for the public to navigate.

New products

The other issue that many contacts brought up were questions about new products. For example, "buy now, pay later" financial instruments are not well understood yet by borrowers. ISAs, where borrowers commit to sending a portion of their

[38] *Biden v. Nebraska; Department of Education v. Brown*. Supreme Court Docket. https://www.supremecourt.gov/DocketPDF/22/22-506/251435/20230104222942852_22-506tsUnitedStates.pdf.
[39] Navient Multi-State Settlement, 2022. https://www.navientagsettlement.com.
[40] Ibid.

future income in exchange for having their training funded, are possibly the most common examples of this. These products are often targeted to older students, people of color, low-income students, and women, and offered as part of an online education program. Based on inquiries, the addition of these new products to the market have caused additional confusion for borrowers.

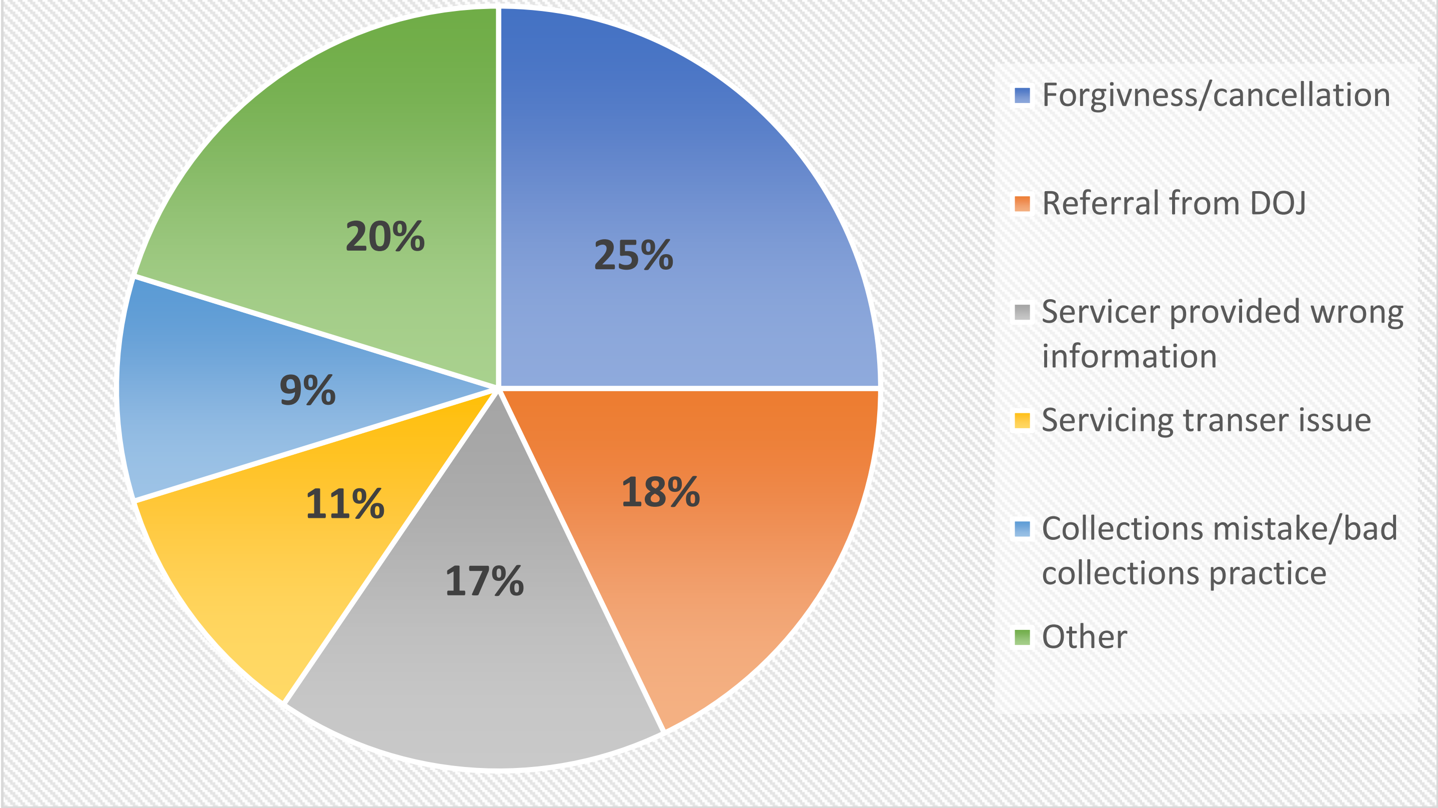
Establishing a complaints process

The ombuds collects and processes complaints using a database. DFR's Consumer Advocacy and Outreach manager has worked with the ombuds and DCBS Communications staff to develop a complaint form to be used for student loan servicing complaints. The form was also developed to be used for banking and credit union complaints. The ombuds has received complaints directly in electronic and hard copy format, as well as indirectly as referrals from the Oregon Department of Justice (DOJ's) complaint staff. The student loan ombuds has also established a process for referring violations of the student loan servicing statutes to DFR's Enforcement unit.

Summary of complaints and patterns

As of June 1, 2023, the student loan ombuds has processed 34 complaints. Of those, 13 are open and 21 are closed.

Figure 3: Complaints received by the student loan ombuds grouped by keyword



Note: Complaints can have more than one keyword associated with them.
Source: State Based Systems (SBS)[41]

[41] National Association of Insurance Commissioners. "State Based Systems (SBS)." https://sbs.naic.org/.

Nine of the 34 complaints mentioned a student loan transfer as contributing to the complaint. Loan transfers continue to be a frequent occurrence in the student loan industry, with contracts ending with several servicers, and new servicers being brought on. Confusion and concern about the effects of these loan transfers abound.

Twenty-one of the 34 complaints were keyworded with forgiveness/cancellation issues (refer to Figure 3). Almost all of these were concerns about the PSLF program. An indirect effect of the PSLF waiver was a large increase in applications and a corresponding increase in processing errors. To add to this problem, the original PSLF servicer, the Pennsylvania Higher Education Assistance Agency (PHEAA), transferred all of their accounts to a different servicer, the Missouri Higher Education Loan Authority (MOHELA) during, and soon after, the waiver period. Form letters from both PHEAA and MOHELA were worded in an unclear way, leading many applicants to believe that their application had been rejected, when the actual status was that the applications were "processing still in process." DFR has been working with vendor services at Federal Student Aid to discuss these issues and to identify possible solutions for avoiding this type of confusion in the future.

Three of the 34 complaints involved credit reporting disputes. Generally, these complaints have to do with loans being reported differently from one servicer to another and/or double reporting.

Of the 21 closed complaints, the ombuds has had varying success with resolution. The 10 favorably resolved complaints concerned long delays for eligibility reviews and correcting errors on accounts. These are some areas where the ombuds' role has proven most useful. Several complainants had their PSLF-eligible month count updated (and even loan balances forgiven), mistakes in credit reporting corrected, and incorrectly applied fees reversed. Of the remaining nine closed complaints, the ombuds received responses from servicers, reviewed them thoroughly, and did her best to make sense of the pertinent provisions, statutes, and laws for the borrowers.

Some of the complaints that the student loan ombuds received were about entities operating in the student loan space and involved other types of licenses. Some complaints related to offers to modify or renegotiate student loan debt. Entities that conduct this type of activity in Oregon must register as a debt management service provider with DFR. Similarly, originating a student loan may involve the Oregon Consumer Finance Act.[42] ISAs, TRAPs, and other "buy now, pay later" products intended for education and job training may also fall under consumer finance statutes. The student loan ombuds predicts that these loan products will continue to proliferate.

The ombuds has uncovered some instances of unlicensed student loan servicing activities. Those instances have been sufficiently remedied and have not yet warranted enforcement action. The ombuds has identified other areas of potential noncompliance, many of which are reflected in the policy recommendations below. Some of these concerns are expected to be addressed by upcoming ED rule changes and by the move to USDS.

Borrower education and outreach (internal and external)

The Oregon ombuds undertook a PSLF waiver awareness campaign. As of March 31, 2023, (the most recent available data) 8,770 Oregonians had been forgiven of more than $557 million in student loan debt. This is up from $216 million for 3,480 Oregonians just nine months earlier, on June 30, 2022. This increase illustrates a pattern of borrowers submitting their PSLF waiver applications near or on the expiration of the waiver on Oct. 31, 2022. The student loan ombuds worked on a statewide communication strategy, using social media, nonprofit, and local government direct outreach channels to promote the PSLF waiver deadline and increase engagement with the opportunity.[43]

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[42] Oregon Revised Statutes 2021, chapter 725, sections 10-270. (Oregon Consumer Finance Act.) https://www.oregonlegislature.gov/bills_laws/ors/ors725.html.

[43] Department of Consumer and Business Services. "Student Loan Ombuds Annual Report, July 2023." (Appendix, Exhibit 1)

The Oregon Department of Administrative Services is working on a plan, in collaboration with ED, to automate PSLF employer certification for all full-time state employees. This would take the form of a quarterly data transfer, certifying employment eligibility for qualifying state employees. It would be an opt-out system, and personal identifying information would be treated in a confidential and secure manner.

Around the same time, the student loan ombuds collaborated on a press release announcing the creation of her position and publicizing her availability. Once ED announced the relief plan (cancellation of up to $20,000), many student loan forgiveness scams started to pop up. The ombuds worked with the outreach team at the Oregon Department of Justice (DOJ), and within DCBS' Communications section, to create scam alerts on this topic. The press release and scam alerts were sent to news organizations, posted on social media (Facebook and Instagram), and were sent directly to staff members at various public and nonprofit organizations.[44] Over the last year, the ombuds has reached out to, and met with, staff members from 23 organizations, including nonprofits, colleges, congressional field offices, and other state agencies.

The ombuds developed content for a student loan help page to add to DFR's website.[45] The student loan help page is made up of a news section, ombuds contact information, a student loan borrower's rights section, external resources, frequently asked questions, a glossary, tips to avoid scams, and a link to DFR's complaint form. The ombuds used their experience with student loan coaching, as well as a deep review of other websites and resources to design and fill the page. The news section of the webpage is updated regularly, usually once per month. By compiling frequently requested resources and information, the webpage serves as a tool for borrower education.[46]

The student loan ombuds also produced a printed brochure and has distributed about 250 of these brochures to universities, community colleges, and nonprofits. The brochure is comprised of the topics the ombuds sees as most pertinent to student loan borrowers – from starting repayment through forgiveness.[47] In addition to the webpage and brochure, the student loan ombuds' availability is posted on the 211 Financial Wellness site.[48]

The student loan ombuds has conducted several borrower-education workshops for various government, academic, and community organizations. The two most requested topics are what is a student loan ombuds and an introduction to PSLF. The ombuds has made presentations to Oregon State University staff members, Nixyáawii Community Financial Services employees, Economic Development and Community Services State-Tribal Cluster meeting participants, Oregon DOJ complaint staff members, and Willamette Education Service District's community engagement specialists.

The ombuds worked with DCBS Communications and DFR Outreach teams to write, record, and publish radio and television ads in English and Spanish. These ads ran in March and April 2023 and significantly helped increase engagement. At the same time, DCBS ran a Google Search Console campaign for the student loan help webpage. The campaign generated 4,764 link clicks and 30,771 impressions, represented in the charts below. Impressions represent how many times the ad was shown, while position reflects how far down the list of search results the site was on average, each time it was shown. CTR is the percentage of impressions that resulted in a click.

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[44] "Division of Financial Regulation warns student loan borrowers about scams." Oregon Division of Financial Regulation. https://dfr.oregon.gov/news/news2022/Pages/20220929-student-loan-scams-warning.aspx; "Beware of Scammers Trying to Capitalize on Student Loan Forgiveness." Oregon Department of Justice.

[45] "Student Loan Help." Oregon Division of Financial Regulation. https://dfr.oregon.gov/news/news2022/Pages/20220929-student-loan-scams-warning.aspx.

[46] "Student loan help." Division of Financial Regulation. https://dfr.oregon.gov/help/student-loan-help/Pages/index.aspx.

[47] Department of Financial Regulation (2022). "Student Loan Help: What you should know about your rights and responsibilities as a borrower." [Brochure]

[48] "Financial Wellness." 211info. https://www.211info.org/financial-wellness.

Figure 4: Student loan Google search webpage activity Sept. 4, 2022, through Feb. 28, 2023

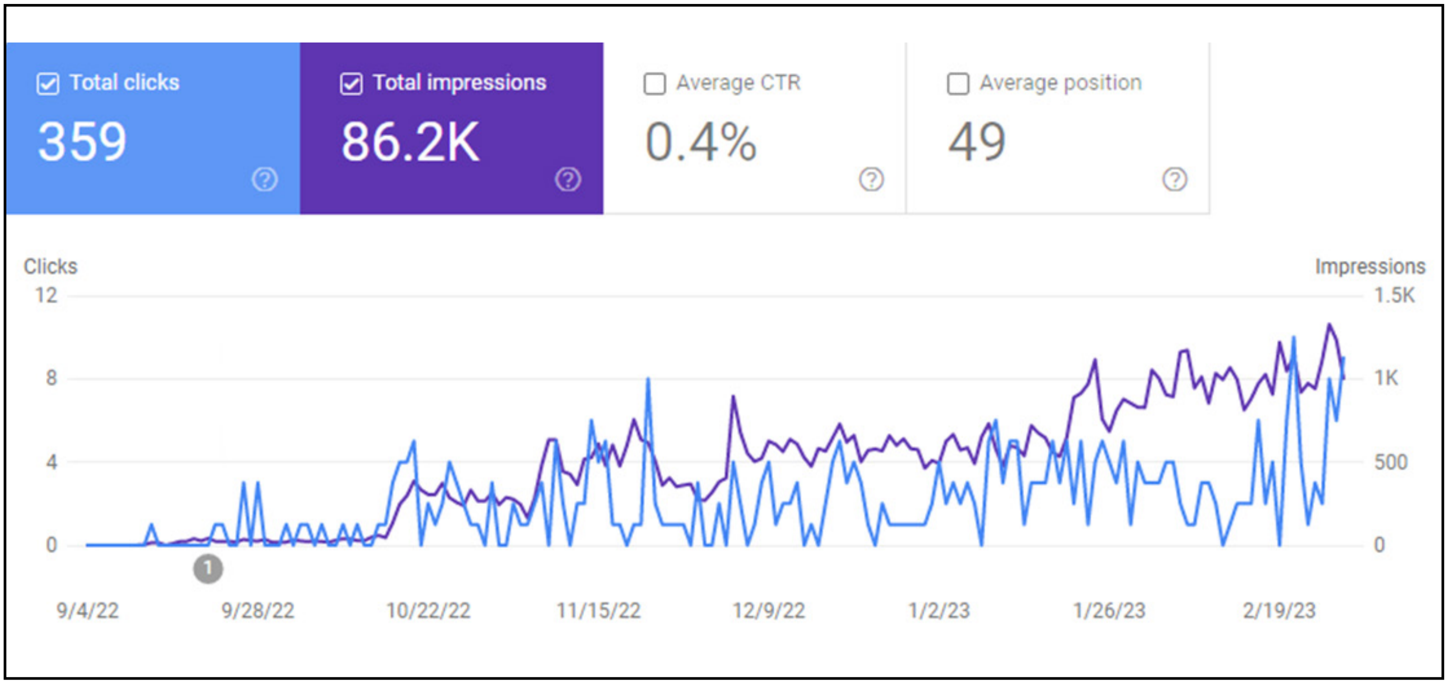
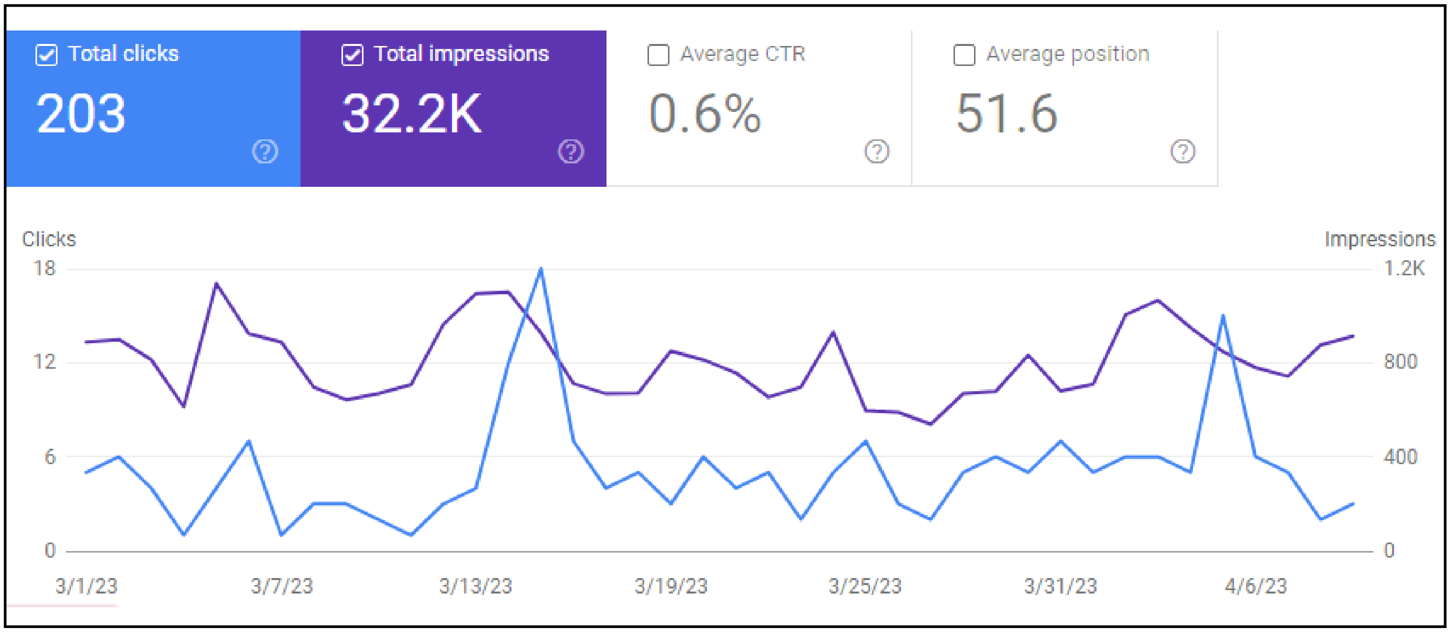


Figure 5: Student loan Google search webpage activity March 1 through April 9, 2023



In December of 2022. The Oregonian published a profile of the student loan ombuds that also helped increase the program's visibility.[49]

[49] Edge, Sami. "New Oregon ombuds advocates for student loan borrowers." The Oregonian/OregonLive, Dec. 19, 2022. https://www.oregonlive.com/education/2022/12/new-oregon-ombuds-advocates-for-student-loan-borrowers.html.

Lastly, the student loan ombuds coordinates with counterparts in other states on borrower education and engagement. There is an established group of state student loan ombuds and advocates that currently meet every other month. These online meetings include guest speakers, discussions on best practices, and ideas for advocacy. The Oregon student loan ombuds currently facilitates this group.

Summary of licensing implementation

Fifty-three servicers have been licensed with DFR since licensing requirements began on July 1, 2022. Licensing applications were initially reviewed within 11 days, on average. The average time from application to approval of the license is 32.6 days. There are occasional delays due to items needed from the applicant or the newness of the program in the state of Oregon.

Oregon's student loan rules allow for three categories of licensing for student loan servicers and require that all federal and private student loan servicers servicing loans for Oregon borrowers apply for at least one of these license types.[50] The first license type is for servicers who have contracts with ED; their application process is as simple as paying a fee and registering in the Nationwide Multistate Licensing System & Registry (NMLS). The second license type is for private student loan servicers, who have a bit more to complete as part of the application process. The third license type is a branch license, which is required for entities that plan to operate branch offices in Oregon or to specifically service loans for Oregonians. All applications are completed in NMLS. Consumers can look up the licensure status of a student loan servicer using the NMLS consumer access.[51] Applicants for student loan servicing licensure are required to pay a nonrefundable application fee of $1,000, plus a $500 fee for each branch location in Oregon. Renewals are required annually. In addition to the application fee, servicers are charged a pro-rated annual assessment. This amount is determined by the dollar amount required to run the student loan servicing program, divided by the number of licensed servicers. Financial institutions, bank holding companies, attorneys (in some circumstances), public bodies, universities, and colleges are exempt from the licensing requirements.

Figure 6: Oregon student loan servicer licensees by type and quarter

License	2022 Q2	2022 Q3	2022 Q4	2023 Q1	2023 Q2	Total
Oregon Student Loan Servicer License	7	15	5	3	1	31
Oregon Student Loan Servicer Branch License	7	4	1	1	1	14
Oregon Student Loan Servicer License – Federal Contract	4	3	1			8
Total	18	22	7	4	2	53

[50] Oregon Administrative Rules, chapter 441, division 895, rule 0005. (Student Loan Servicers - Application Requirements.) https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=291084.
[51] "NMLS Consumer Access." NMLS Resource Center. https://mortgage.nationwidelicensingsystem.org/about/Pages/NMLSConsumerAccess.aspx.

Examinations and findings

As with many other programs regulated by DFR, examinations are completed on student loan servicing licensees. As of May 3, 2023, two examinations have been completed and five are in progress.

All four of the examinations that have been completed, or progressed far enough to receive a final rating, have received high scores. While the work being done by the licensees to stay compliant with all statutes and regulations should not be discounted, the student loan examiner believes part of the reason for the high scores is that regulation in this area has not yet matured and regulators are still learning the best methods to examine these companies.

Looking forward

The student loan ombuds is bolstered by the idea that the Native Student Grant, Oregon Promise, and Oregon Opportunity grants can decrease student debt loads for Oregonians. The ombuds collaborates with other financial professionals in Oregon to increase financial capability by serving as a technical adviser to the Oregon Treasury's Financial Empowerment Advisory Team. Having recently started in that advisory role, the ombuds looks forward to the potential reach of that group.[52]

Goals for the upcoming year

The ombuds' first goal for the upcoming year is to continue building out DFR's borrower education program. There is a significant need for additional information and resources for Oregon borrowers. The lack of funding sources for coaching leaves many borrowers not knowing where to turn. To further borrower education, the student loan ombuds is hoping to expand the range of available presentations, record short videos, and gather more information about what other types of education is most needed. The ombuds is doing this first by collaborating with the nonprofit organizations already engaged with DFR's Outreach and Advocacy team. The ombuds has met, or will meet, with each organization's point of contact to discuss what needs the student loan borrowers they work with have. For example, the webinars done for Nixyáawi Financial Services are the fruit of this work. Partner organizations have also provided ideas for topics of interest for the short online videos the ombuds plans to make, including how to access an IDR plan, how to read the national student data system report, and how to apply for PSLF. The ombuds intends to expand the group of nonprofits to include a range of geographical, racial, and age diversity.

The other goal the student loan ombuds will be working on this year is advancing the work done so far within the program. This will include additional training regarding the history and context of financial regulation and enforcement, how the consumer finance statutes interact with the student loan servicing statutes, and how to determine when enforcement action is appropriate in a new licensing regime. In addition to that training, the ombuds plans to test and update investigative and enforcement procedures internally and smooth out any bumps in the outreach, complaint, and data tracking processes.

Lastly, the student loan ombuds will continue to collaborate with other state student loan advocates and borrower advocates. This will take the form of ongoing meetings, potential advocacy letters, and roundtables with Federal Student Aid, the Consumer Financial Protection Bureau, and industry groups, such as the National Council of Higher Education Resources.

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[52] "Financial Empowerment Advisory Team." Oregon State Treasury. https://www.oregon.gov/treasury/financial-empowerment/Pages/Financial-Empowerment-Advisory-Team.aspx.

Policy recommendations

The following policy recommendations are intended to address challenges faced by student loan borrowers. These short-term (could be implemented within four years) and long-term (beyond four years) recommendations are organized in order of priority and impact on borrowers.

Short-term policy recommendations

Updates to student loan servicing laws:

It would be beneficial to add specific requirements to the student loan servicing laws to ensure licensees are servicing the loans in a manner that is safe and accurate. For example, the ombuds would recommend requiring:

- A transaction history be included in all billing statements showing funds posted and fees assessed since the prior statement,
- Acknowledgement letters be sent when complaints or information requests are received from borrowers, and
- Licensees to respond to requests for information from borrowers within 30 calendar days (similar to what is required for responses to complaints)

Explore creating caps and increasing floors on garnishments for defaulted loans:

Defaulted borrowers often belong to our most vulnerable communities. Any policy that can protect basic income from garnishments, or limit the interest rates and total amounts recouped by collection companies would benefit Oregon borrowers. Because federal student loans do not require a judgment for garnishment to begin, and are not subject to statutes of limitations, the ongoing effects of these collections can be particularly harmful.

Explore requiring all Public Service Loan Forgiveness eligible employers to notify their employees:

The PSLF program was designed as a benefit to incentivize college graduates to work in nonprofit or public service careers. The overall low rate of applications to the program could be due in part to workers not understanding that they are eligible. Since eligibility is based on where a borrower is employed, it would make sense for employers to take on some responsibility for promoting the program. Eligible employers should understand that they benefit by discussing the program – it may lead to longevity within the organization and the corresponding financial benefits of that retention is at no cost to the employer. Short of passing new legislation, creating promotional material for public schools and state universities on this topic could be a good start, either at the Higher Education Coordinating Commission (HECC) or at DFR.

Long-term policy recommendations

Explore increasing subsidies and state support for higher education tuitions and fees:

Ultimately, as long as debt is the No. 1 way that middle- and low-income Americans finance their higher education, many of the issues mentioned in this report will persist. College enrollment continues to decline,[53] with many citing the cost of college as the main factor.[54] If the U.S. hopes to produce workers who can compete on the world stage, we need to follow the models used in other developed countries and shift the responsibility of tuition from the individual to state and federal

[53] Kearney, Melissa S. and Pardue, Luke. "Too Many High School Seniors Are Turning Away from College Altogether." Time, May 4, 2023. https://time.com/6277318/high-school-seniors-are-turning-away-college.

[54] "Current Term Enrollment Estimates." National Student Clearinghouse Research Center, May 24, 2023. https://nscresearchcenter.org/current-term-enrollment-estimates.

governments. This model would be similar to how kindergarten through 12th grade is largely covered by funding from public bodies. The Oregon Opportunity Grant,[55] Oregon Promise,[56] and Oregon Tribal Student[57] grants are good examples of ways the state can support higher education finance.

Hold student loan servicers accountable for incorrect information furnished to credit reporting agencies:

Currently, there is no direct consequence for servicers who incorrectly report late payments or other derogatory information to the credit bureaus. This negative information can affect borrowers' ability to acquire housing, jobs, and insurance. If a credit reporting error is the fault of the servicer, they should be expected to do a swift and complete review and correction. One possible mechanism, that DFR is examining for this would be adding a requirement for accurate credit bureau reporting to the student loan servicing laws. Additional legal research is needed for a potential 2025 legislative concept.

Incentivize creation of peer advocates at universities:

The advocate would serve as a resource to answer student questions about their financial situation, before and after incurring student debt. Often, college students are better able to hear, identify with, and receive advice from people closer to their own age. The student loan ombuds could train peer advocates, which would also be a great chance for college students to learn more about working in state government. DFR could pay the peer advocate a stipend under ORS 725A.530 (h) which reads "the ombudsman may provide the (borrower education) program or may contract with a vendor to provide a program that meets the standards the ombudsman specifies." It is also worth exploring whether the Legislature or HECC would be interested in creating a requirement for such a role. That exploration in part makes this more of a long-term recommendation.

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[55] "Oregon Opportunity Grant." Oregon Student Aid. https://oregonstudentaid.gov/grants/oregon-opportunity-grant.
[56] "Oregon Promise Grant." Oregon Student Aid. https://oregonstudentaid.gov/grants/oregon-promise-grant.
[57] "Oregon Tribal Student Grant." Oregon Student Aid. https://oregonstudentaid.gov/grants/oregon-tribal-student-grant.

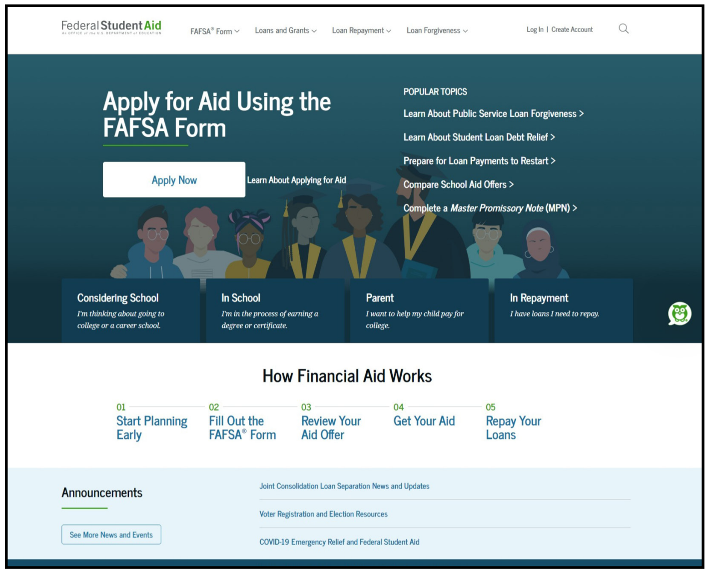
Conclusion

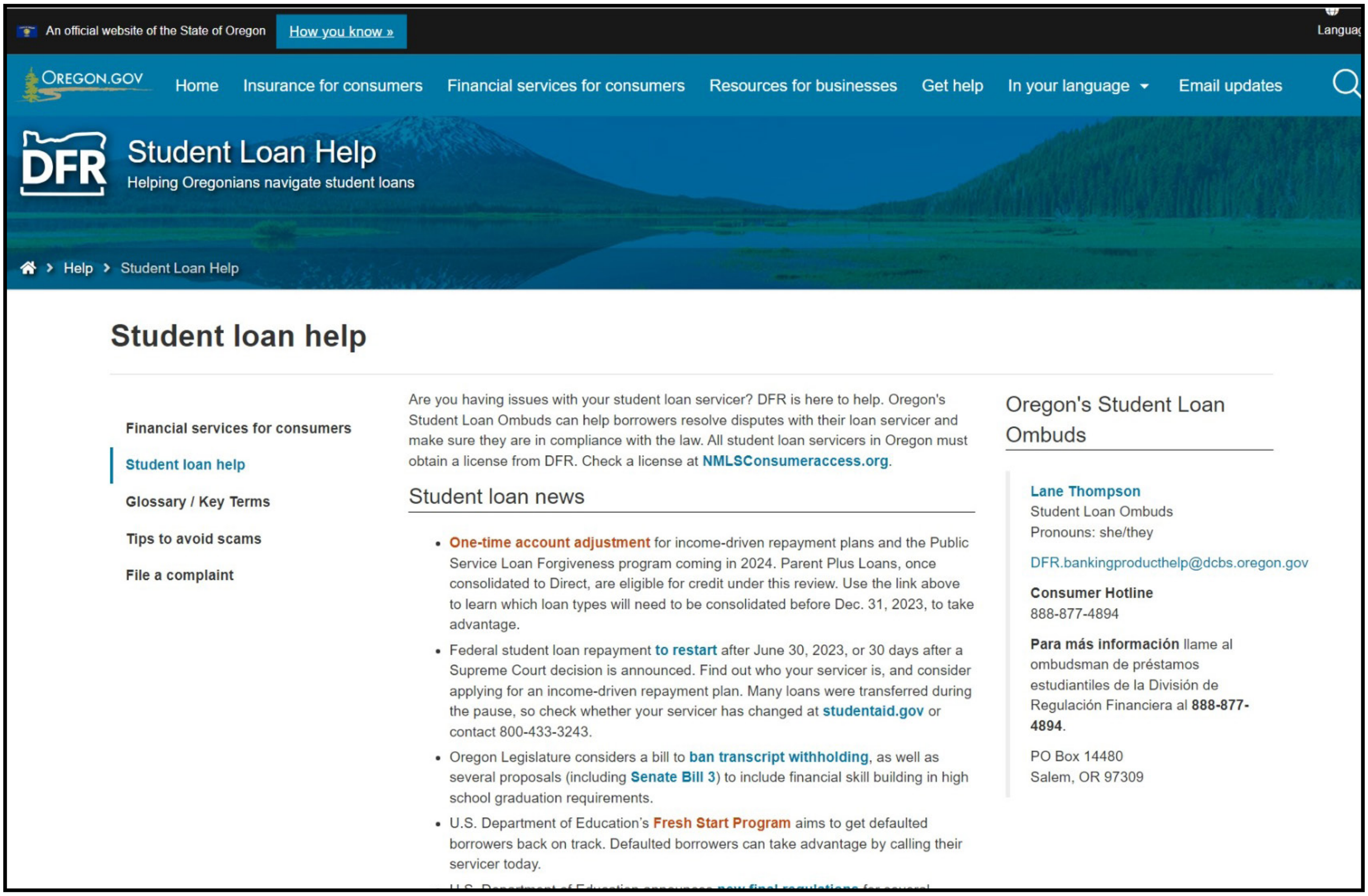
The student debt servicing landscape is large and complex. The Oregon Legislature's decision to create a student loan ombuds seems to be positively affecting Oregon consumers. While payments for the bulk of student loan repayments have been paused since the ombuds started, there continue to be questions, concerns, and complaints about the servicing of student loan debt. New products, changes to federal student loan rules, and the return to repayment are three looming topics of interest that will likely show up in this report in future years. Increasing college costs will continue to grow debt loads for borrowers, and government subsidies are the most likely solution to the disparate affects these loans have. Oregon's student loan ombuds is tracking these issues, and ready to take action regarding whatever issues Oregon's student borrowers are struggling with.

Resources

For more information about the Student Loan Servicing Program visit: https://dfr.oregon.gov/help/student-loan-help

Federal Student Aid: https://studentaid.gov





Appendix

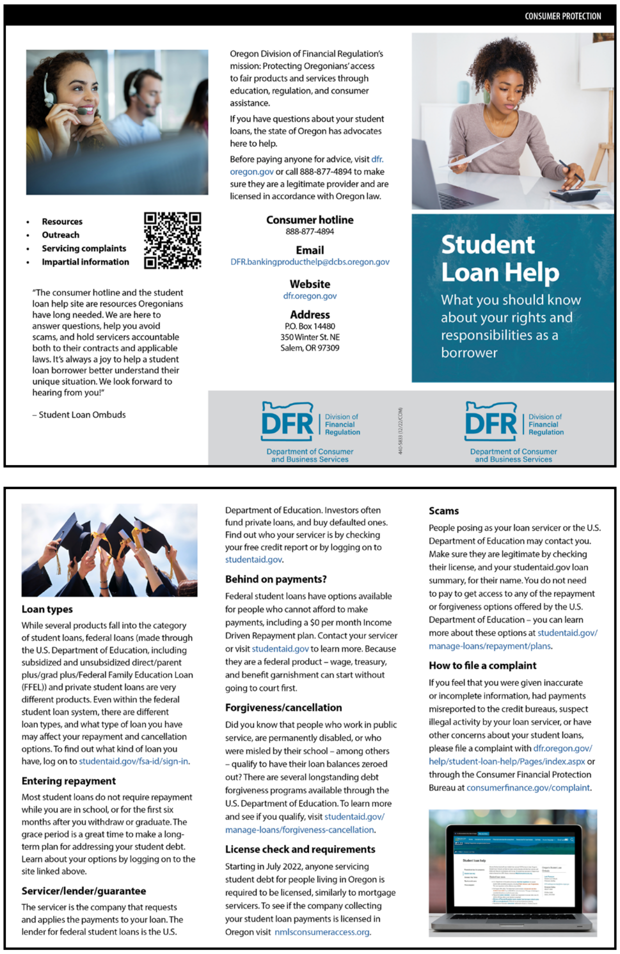
Exhibit 1: Social media post July 2022

The Public Service Loan Forgiveness temporary waiver (PSLF waiver) is offering borrowers the chance to receive credit for past periods of repayment. All state of Oregon employees meet the employment criteria – don't miss this opportunity while it lasts! Use the PSLF help tool at studentaid.gov/pslf/ to apply.

If you are currently, or have been, a nonprofit, city, state, county, or federal employee, you could have your student loans forgiven. Go to studentaid.gov/announcements-events/pslf-limited-waiver to learn about this opportunity through the PSLF. The cutoff to apply for the temporary waiver is Monday, Oct. 31.

#StudentLoans #StudentLoanDebt #OregonDFR #PSLF #StudentLoan #LimitedPSLFWaiver

Exhibit 2: Student loan brochure



CONSUMER PROTECTION

Oregon Division of Financial Regulation's mission: Protecting Oregonians' access to fair products and services through education, regulation, and consumer assistance.

If you have questions about your student loans, the state of Oregon has advocates here to help.

Before paying anyone for advice, visit dfr.oregon.gov or call 888-877-4894 to make sure they are a legitimate provider and are licensed in accordance with Oregon law.

- **Resources**
- **Outreach**
- **Servicing complaints**
- **Impartial information**

"The consumer hotline and the student loan help site are resources Oregonians have long needed. We are here to answer questions, help you avoid scams, and hold servicers accountable both to their contracts and applicable laws. It's always a joy to help a student loan borrower better understand their unique situation. We look forward to hearing from you!"

– Student Loan Ombuds

Consumer hotline
888-877-4894

Email
DFR.bankingproducthelp@dcbs.oregon.gov

Website
dfr.oregon.gov

Address
P.O. Box 14480
350 Winter St. NE
Salem, OR 97309

DFR Division of Financial Regulation
Department of Consumer and Business Services

440-5833 (12/22/COM)

Student Loan Help
What you should know about your rights and responsibilities as a borrower

DFR Division of Financial Regulation
Department of Consumer and Business Services

Loan types

While several products fall into the category of student loans, federal loans (made through the U.S. Department of Education, including subsidized and unsubsidized direct/parent plus/grad plus/Federal Family Education Loan (FFEL)) and private student loans are very different products. Even within the federal student loan system, there are different loan types, and what type of loan you have may affect your repayment and cancellation options. To find out what kind of loan you have, log on to studentaid.gov/fsa-id/sign-in.

Entering repayment

Most student loans do not require repayment while you are in school, or for the first six months after you withdraw or graduate. The grace period is a great time to make a long-term plan for addressing your student debt. Learn about your options by logging on to the site linked above.

Servicer/lender/guarantee

The servicer is the company that requests and applies the payments to your loan. The lender for federal student loans is the U.S. Department of Education. Investors often fund private loans, and buy defaulted ones. Find out who your servicer is by checking your free credit report or by logging on to studentaid.gov.

Behind on payments?

Federal student loans have options available for people who cannot afford to make payments, including a $0 per month Income Driven Repayment plan. Contact your servicer or visit studentaid.gov to learn more. Because they are a federal product – wage, treasury, and benefit garnishment can start without going to court first.

Forgiveness/cancellation

Did you know that people who work in public service, are permanently disabled, or who were misled by their school – among others – qualify to have their loan balances zeroed out? There are several longstanding debt forgiveness programs available through the U.S. Department of Education. To learn more and see if you qualify, visit studentaid.gov/manage-loans/forgiveness-cancellation.

License check and requirements

Starting in July 2022, anyone servicing student debt for people living in Oregon is required to be licensed, similarly to mortgage servicers. To see if the company collecting your student loan payments is licensed in Oregon visit nmlsconsumeraccess.org.

Scams

People posing as your loan servicer or the U.S. Department of Education may contact you. Make sure they are legitimate by checking their license, and your studentaid.gov loan summary, for their name. You do not need to pay to get access to any of the repayment or forgiveness options offered by the U.S. Department of Education – you can learn more about these options at studentaid.gov/manage-loans/repayment/plans.

How to file a complaint

If you feel that you were given inaccurate or incomplete information, had payments misreported to the credit bureaus, suspect illegal activity by your loan servicer, or have other concerns about your student loans, please file a complaint with dfr.oregon.gov/help/student-loan-help/Pages/index.aspx or through the Consumer Financial Protection Bureau at consumerfinance.gov/complaint.

Exhibit 3: Ad still