

February 8, 2016

The Honorable John King
Acting Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

RE: Docket ID: ED-2015-ICCD-0138

Dear Secretary King:

Thank you for working to create the state-of-the-art federal student aid complaint and feedback system envisioned in the March 2015 Presidential memorandum on a student aid bill of rights. We write in response to the Department of Education's request for comments on the proposed Enterprise Complaint System ("ECS"). As advocates for students, consumers, veterans, faculty and staff, civil rights and college access, we believe the systematic tracking and reporting of student and borrower complaints is essential to providing quality customer service, ensuring college and loan servicer and collector accountability, and preventing waste, fraud, and abuse of taxpayer dollars.

We applaud the Department for proposing a complaint tracking system that accepts complaints about loans, other aid, and institutions participating in the Title IV program. We are also glad that the Department plans to offer both English and Spanish in the system's online, phone, and chat functions. Lastly, we appreciate that the system will protect consumer privacy and ensure users who wish to remain anonymous can do so.

As the Department has acknowledged, "Currently, there is no single contact or system for the receipt of these types of student [or] borrower complaints to Federal Student Aid. Instead separate business units in FSA handle these types of complaints on an ad-hoc basis and there is no cross checks for duplication of effort."¹ To increase accountability and transparency, the President committed to providing all student loan borrowers with access to an efficient and responsive complaint and feedback system. The White House's explanation of the system's purpose is for "students and borrowers [to] be able to ensure that their complaints will be directed to the right party for timely resolution, and the Department of Education will be able to more quickly respond to issues and strengthen its efforts to protect the integrity of the student financial aid programs."² To fulfill the

¹ Supporting Statement Part A for Paperwork Reduction Act Submission on Enterprise Complaint System announced in the *Federal Register* on December 10, 2015, p 76678-9. Statement is available at <http://www.regulations.gov/#!docketDetail;D=ED-2015-ICCD-0138>.

²The White House Office of the Press Secretary, *FACTSHEET: A Student Aid Bill of Rights: Taking Action to Ensure Strong Consumer Protections for Student Loan Borrowers*, March 10, 2015, <https://www.whitehouse.gov/the-press-office/2015/03/10/fact-sheet-student-aid-bill-rights-taking-action-ensure-strong-consumer->

Administration's goal, we believe the complaints system needs to be public and searchable, connected to the complaint systems used by other federal and state agencies, and clearer and easier to use. Only then will the system be well suited to resolve complaints in a timely fashion, provide useful consumer information, and identify trends for the government's enforcement efforts. We detail these recommendations below.

Publicly Track Complaints and Link ECS With Existing Complaints Systems

The Department's complaint and feedback system must be public, searchable and connected to the systems at other agencies. As it stands, the Department's proposal appears to create an independent, private system. A private system does not provide the public with information on individual complaints or allow the public to search complaints by issue, contractor, institution, or other characteristic. A public system will help inform consumers, prompt contractors, schools, states, and accreditors to more rapidly address common problems, and enable the Department to better focus its staff time and resources. A public system will also increase public confidence in the Department's oversight and management of Title IV funds. In addition, making the system public is consistent with the Administration's commitment to the Open Government Initiative.³

We urge the Department to implement a public, linked complaints system that:

- **Is searchable, including optional consumer complaint narratives.** A searchable complaint tracking system is the best way to ensure it protects students and borrowers. Optional public complaint narratives, such as those now provided by the Consumer Financial Protection Bureau's ("CFPB") system, provide consumers with information to evaluate whether common complaints are applicable to them. These narratives are also valuable because they help provide context to complaints for users and others.
- **Is connected to the Federal Trade Commission's ("FTC") Consumer Sentinel Network** so federal and state agencies have immediate access to all complete complaints. This is critical because Consumer Sentinel is the only method by which state and federal law enforcement can gain timely access to complaints. Enforcement agencies use Consumer Sentinel to track trends, collect evidence, and identify bad actors. Integrating the Department's system with Consumer Sentinel will facilitate efficient resolution of issues and further increase accountability by providing an earlier warning and greater documentation of systemic issues and more quickly enable other agencies to use their enforcement powers where appropriate. It may also prevent users from having to submit their complaints twice.
- **Refers complaints directly to the relevant entity**, whether a contractor, guaranty agency, state, accreditor, or other federal agency. For instance, all private loan complaints should go directly to the CFPB's system. Complaints

³ Executive Office of the President, Office of Management and Budget, *Memorandum for the Heads of Executive Departments and Agencies: Open Government Directive*, December 8, 2009, https://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf.

pertaining to state oversight issues should be referred to the proper state agency. If jurisdiction is shared or unclear, the system should accept the complaint and share or transfer it to the proper entity so that the user does not have to submit a complaint twice. For example, in cases where both the Department and CFPB have jurisdiction, such as with federal loan servicing or collection, both agencies should receive and track the complaint. In other words, the user should not have to decipher where their complaint should go or have to submit multiple complaints with different entities.

- **Includes deadlines for action and resolution.** The public needs to understand the Department's process and when it can expect an answer. For example, the CFPB's complaint system states "We'll forward your complaint to the company and work to get a response. After we forward your complaint, the company has 15 days to respond to you and the CFPB. Companies are expected to close all but the most complicated complaints within 60 days. You'll be able to review the response and give us feedback. If we find that another agency would be better able to assist, we will forward your complaint and let you know."
- **Asks the consumer if they are satisfied with the outcome and ensures agency staff reviews complaints where the consumer is not satisfied.** Complaints should stay in the system and remain open until they are resolved, and consumers should have a chance to state whether they are satisfied with the resolution. Under the Department's proposal, it's unclear how the Department's role differs from that of its contractors, likely leading Department staff to spend time on functions that contractors are already paid to perform. We recommend the system instead hold contractors accountable and ask the complainant if they are satisfied with the resolution so as to focus Department staff resources on resolving complaints where the consumer is not satisfied with the resolution, addressing systemic issues, and holding contractors, schools, and other entities accountable for their roles in the Title IV program. The role of the FSA ombudsman should be reexamined and clarified because it is unclear how the ombudsman interacts with the complaint system. For complaints transferred to another branch of the triad, such as a state agency or accreditor, the system should ask to be told when an issue is resolved so the system can ask whether the consumer is satisfied. This will facilitate prompt resolution, promote proper functioning of the triad, and alert the Department when a state or accreditor is receiving a large number of complaints in which the complainants do not get a response or are not satisfied with the outcome.

These changes are essential to efficiently using taxpayer resources and maximizing accountability for students and borrowers on the part of lenders, servicers, institutions, and contractors.

Increase Ease of Use for Students and Borrowers

The complaints system should be easy to use and utilize language that is clear to students and borrowers. We find some of the language and instructions in the ECS baseline unclear and are glad the Department plans to test the system this spring to collect

feedback before formally launching the system by July 1. To improve usability and effectiveness of the system, we recommend the following:

- Make it clear that the system accepts all types of complaints. It is not currently clear from the landing page that the system accepts all types of complaints, including about loan servicing and collection, grants, and schools that offer federal loans or grants.
- Replace the “report suspicious activity” function with a section specifically for whistleblowers, and consolidate all other complaints under “submit a complaint.” The user should not have to decide whether they are reporting “suspicious activity” or a “complaint.” The Department should inform whistleblowers of the special protections afforded to them and treat their complaints differently as a result.
- Request the consumer’s personal information *after* the complaint information, as in the FTC and CFPB’s systems, to encourage users to complete complaints.
- Make the text clearer and friendlier to consumers. For example, it should use plain language names and titles of servicers (e.g., “FedLoan” instead of Ed-PHEAA).

Thank you for making the coordinated tracking of consumer complaints a priority. We stand ready to assist you in improving and promoting such a system to ensure student and borrower complaints are systematically accepted, tracked, and reported to protect students, help them make informed decisions, and improve oversight and accountability.

Sincerely,

Air Force Sergeants Association
American Association of University Women (AAUW)
American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)
American Federation of Teachers, AFL-CIO
Americans for Financial Reform
Center for Public Interest Law
Center for Responsible Lending
Children's Advocacy Institute
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumers Union
Council for Opportunity in Education
Demos
The Education Trust
Empire Justice Center
Government Accountability Project
Higher Ed, Not Debt
Housing and Economic Rights Advocates
Initiative to Protect Student Veterans
The Institute for College Access & Success

Institute for Higher Education Policy
League of United Latin American Citizens (LULAC)
MALDEF
NAACP
National Association for College Admission Counseling
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Consumers League
National Council of La Raza (NCLR)
National Women Veterans Association of America
National Women's Law Center
New York Legal Assistance Group
Project on Predatory Student Lending of the Legal Services Center of Harvard Law
Public Advocates, Inc.
Public Good Law Center
Public Law Center
Service Employees International Union (SEIU)
Student Debt Crisis
Student Veterans of America
United States Student Association
University of San Diego School of Law Veterans Legal Clinic
U.S. PIRG
Veterans Education Success
Veterans for Common Sense
Veterans' Student Loan Relief Fund
VetJobs
VetsFirst, a program of United Spinal Association
Vietnam Veterans of America
Woodstock Institute
Young Invincibles