



Student Loan Servicers: Scammers or Scapegoats?

AN ANALYSIS OF THE CONSUMER FINANCIAL
PROTECTION BUREAU COMPLAINT DATABASE

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A M E R I C A N E N T E R P R I S E I N S T I T U T E

Executive Summary

Nearly all student debt is issued through the federal government's student loan program, but the government does not actually service the loans itself. Instead, it hires private contractors to handle most interactions with borrowers. Recent media coverage, court cases, and legislative proposals suggest that loan servicers are mistreating borrowers by failing to provide them with sufficient and accurate information, committing processing errors, and providing low-quality customer service.

This report examines the extent to which these issues can be traced to how policymakers designed the

federal loan program itself, not in how loans are serviced. By analyzing a random sample of 1,200 complaints from the Consumer Financial Protection Bureau's complaint database, the authors conclude that fewer than half of the complaints filed under student loan servicing in the database reference something under loan servicers' control, while 34 percent of the complaints are actually about the terms and rules of the federal loan program, which servicers do not set. This suggests that one solution to frustration and dissatisfaction with student loan servicing can be found in a simpler student loan program.

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Americans are anxious about rapidly rising levels of student debt. They wonder whether payments are affordable and if financing college with debt will pay off in the end. But recent news headlines suggest another issue is increasingly on borrowers' minds: bad customer service and shoddy advice during loan repayment. This can leave borrowers feeling confused and cheated and can even lead them to incur additional costs.

The view that this is a widespread problem has prompted several states to enact laws aimed at loan servicing.¹ Similarly, several lawsuits that allege borrowers were cheated by bad loan servicing are working their way through the courts.² Some in Congress have even called for a national “student loan bill of rights” to guard against bad loan servicing.³

Nearly all student debt is issued through the federal government's student loan program, though the government does not actually service the loans itself. Instead, it hires private contractors (“servicers”) to handle most interactions with borrowers. In fact, borrowers with federal student loans interact with the US Department of Education only under a limited set of circumstances when repaying their loans, such as by submitting applications and other forms on the department's website. Servicers process payments, staff call centers, maintain websites, send account statements, and inform borrowers of repayment options. Concerns over the quality and reliability of loan servicing are thus generally directed

at the private contractors that collect the loans on the government's behalf, rather than at Congress or the department, which set the repayment terms for borrowers.

There is, however, a risk in automatically blaming servicers when borrowers believe they were mistreated. The alleged mistreatment may actually lie with the design of the loan program itself, not in how loans are serviced. In such cases, Congress and the department are responsible for the problem—and the solution.

In this report we measure the extent to which concerns and complaints about servicing in the federal student loan program could instead be misidentified complaints about the program's design. We analyzed a random sample of 1,200 out of 12,113 complaints borrowers have submitted to the Consumer Financial Protection Bureau's (CFPB) database that were classified as complaints against federal student loan servicers.⁴ We did not attempt to verify the complaints or determine whether borrowers' descriptions of events were accurate. Instead, we aimed only to assess the central topic about which a borrower complained.

We found that 44 percent of complaints referenced something under loan servicers' control. In other words, fewer than half of the complaints filed under student loan servicing are about student loan servicing. Thirty-five percent of the complaints were about the terms and rules of the federal loan program, which servicers do not set. Another 12 percent of the complaints were not related to servicing or the terms

of the loan but were complaints about institutions of higher education, debt relief companies, or some other matter. The remaining 9 percent contained so little information (or were so garbled) that we could not categorize them.⁵

Background on Federal Student Loans and Servicing

The federal student loan program dates back to the 1960s. In recent years this program has grown rapidly, with nearly \$1.5 trillion in debt held by almost 43 million Americans.⁶ That is nearly the same number of people currently receiving retirement benefits through the Social Security program.⁷ For much of the program's history, private lenders made Federal Family Education Loans (FFEL) to borrowers, while the government set interest rates, determined repayment options, and insured lenders against losses.

Since 2010, however, the federal government has made and held all federal loans through the Direct Loan (DL) program, which has existed since the 1990s. Direct Loans now make up over 80 percent of outstanding federal student loan debt.⁸ Our analysis includes loans issued under the FFEL and DL programs.⁹

While private lenders no longer issue federal student loans, private contractors still play a major role in the program. The department contracts with nine servicers to carry out nearly all administrative functions short of disbursing the loan to the student and adjudicating some loan discharge programs.¹⁰ Servicers send borrowers statements, collect payments, and process paperwork for repayment options. This is not a new phenomenon: Contractors have serviced the loans since the inception of the DL program. Policymakers generally believe that approach is more efficient and expedient than the department servicing the loans itself.

Servicers do not own the loans and are required to honor the terms of the loan that lawmakers set and the department clarifies through regulations, guidance, and contractual requirements for servicers. The department compensates servicers with a fixed payment per borrower with slight variations depending

on the status of the loan (in-school, default, delinquent, etc.), as set forth in their contracts with the department.¹¹ The department spends \$826 million a year administering the student loan program, most of which is spent on servicing contracts.¹²

The department assigns loans to individual servicers when they are first disbursed to borrowers and aims to assign more loan volume to the servicers it deems are performing relatively better than others. While borrowers generally cannot select their servicer, the department will sometimes reassign loans to a different servicer. Servicers are mostly bound by their contracts, statutes, and regulations governing the loan program, but they still maintain flexibility in many aspects of managing loans.¹³

CFPB Oversight and Complaint Database

Congress created the CFPB in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act in part to regulate consumer financial products. The law appears to have contemplated that CFPB's oversight role would cover private student lending but not federal student loan servicers. For example, the law establishes a private education loan ombudsman but not a similar office for federal student loan servicers. Among other responsibilities, the ombudsman's office is required to "compile and analyze data on borrower complaints regarding *private* education loans."¹⁴ (Emphasis added.) The statute that created the CFPB never mentions federal loan servicers but in numerous places explicitly lists private student loans as a product and market under its supervision.

In 2014, the CFPB issued a regulation stating that its consumer protection role extended to federal student loan servicers because Congress had given it authority to supervise "larger participants of markets for other consumer financial products or services."¹⁵ While the statute does not list servicers as such participants, the CFPB, acting under its rulemaking authority to define such terms, deemed the contractors servicing federal student loans to be such larger participants.

Our discussion of the CFPB's role in supervising loan servicers is limited to the CFPB's consumer

complaint database. As one of the CFPB's central responsibilities, it is required to receive, review, and attempt to resolve complaints about financial products. The CFPB has elected to make these complaints public on its website, although it is not required by statute to do so.

CFPB launched the complaint database in 2012 and began publishing federal loan servicing complaints in 2016. Originally, those filing complaints regarding any product were limited to defining their complaints by checking options from preselected menus, but in 2015 the CFPB allowed consumers the option to enter narratives explaining their issue.¹⁶ Roughly half of consumers filing complaints include a narrative.¹⁷ Our analysis is limited to complaints with narratives.

Borrowers who wish to file a complaint about their federal student loans are asked to select the nature of their problem.¹⁸ They are then instructed to detail their experience, suggest a fair resolution, and identify their loan servicer. Servicers are allowed to review complaints and can offer the borrower an explanation, nonmonetary relief, or monetary relief before the complaints are published in the online database. Servicers do not commonly publish their responses to complaints, but they have that option.

The CFPB does nothing to screen or verify complaints in the database. Narratives appear on the public-facing website exactly as the borrower entered them regardless of their accuracy, veracity, or any action the servicer takes in response to them.¹⁹ Although descriptions of events and conversations are often disputed by servicers after they review these complaints, the database gives no indication of inaccuracies. Nor does the CFPB verify that borrowers filing complaints do indeed have federal student loans.

Most importantly for our analysis, the CFPB automatically categorizes all complaints about a federal student loan as a loan servicing issue regardless of the actual problem the borrower describes. Borrowers only choose the category "federal loan" when submitting a complaint, but after submission all complaints are then displayed as complaints about "federal loan servicing." Even if borrowers complain about unaffordable payments, a predatory college that issued the loans, or a debt relief scam, their

complaint is counted as a servicing complaint, and their servicer is listed.

The borrower may select subcategories, such as "dealing with your lender or servicer," "struggling to repay your loan," or "problem with credit report or credit score," each with even more discrete subtopics, but the only main category publicly displayed is "federal student loan servicing." The subcategories are also unreliable for interpreting borrower complaints because the CFPB renamed several of the database's categories in 2017 but kept the old ones, creating duplicate complaint filters with slightly different wording.²⁰

How We Sampled and Categorized Complaints

Given the limitations of the database, we opted to largely ignore how the CFPB labels complaint categories and how borrowers coded complaints. Instead, we focused our analysis solely on the narrative borrowers provided. We did not rely on other information provided with the complaint, such as the date it was submitted, which servicer borrowers listed, or whether a resolution was noted.²¹

We began the analysis by downloading all 12,113 complaints in the database with narratives under the "federal student loan servicing" category as of April 2019, which includes loans in default.²² We then randomly selected 1,200 complaints for our analysis. The authors and an additional AEI staff member read an initial 300 of these complaints multiple times to develop a framework to consistently delineate whether the central focus of the complaints was about issues that servicers could control or some other matter. We also solicited feedback from experts in the policy community about the initial framework and made adjustments based on that feedback. Additionally, we consulted with loan servicers to better understand the context for some of the 300 complaints and adjusted the framework accordingly. Once the framework was finalized, we read and analyzed the remaining complaints in the sample.

Because we have access to only brief descriptions of events submitted by borrowers that often lack important details and context from their loan servicers, we do not attempt to judge whether complaints were accurate or who was at fault. Our goal was to determine whether the nature of the borrowers' complaints was related to loan servicing or some other matter. Although we aimed to create an analytical framework that was rigorous, logical, and consistent, the limited information provided in the complaint narratives required that we make inferences. The 1,200-complaint sample we used for this analysis, including the borrower narratives and our categorizations, is available on the AEI website.²³

We found that fewer than half of the complaints in our sample (44 percent) describe an issue under the servicer's control and discretion, or what we call "servicing failure." The majority of complaints referenced other issues, which we categorized as relating to "loan policy" (34 percent), something not related to servicing or loan policy (12 percent), and complaints that would require more information to categorize under our framework (9 percent).²⁴

We discuss these categories in detail in the subsequent sections and include numerous examples of unedited complaints in their entirety. For clarity and simplicity, we assigned complaints to only one category even if there were multiple issues.

Narratives that described elements of servicing failure and issues from any of the other categories were almost always categorized as servicing failures, except in limited cases where the servicing failure was clearly incidental to the central complaint.²⁵ In instances where complaints focused on a primary issue with additional descriptions of smaller, tangential problems, we categorized them according to the central complaint. Overall, our findings tend to understate the number of complaints that relate to the other categories in our framework, particularly loan policy, because we categorize complaints only once and almost always as a servicing failure if that is one of the issues mentioned.

Complaints About Servicing Failure

In this section we explain our framework for identifying servicing failure complaints and discuss some of the most common themes among these complaints. Note that this section is not exhaustive of all the types of complaints we categorized as servicing failure. Only the most prominent themes are discussed.²⁶

Complaints that described poor general customer service are common among those we coded as servicing failure.²⁷ These complaints included those in which the borrower described difficulty reaching a live customer service representative by phone, complained that the servicer's website was unavailable or broken, or claimed the servicer lost forms the borrower had submitted. We also included complaints about a lack of follow-through from servicers in the servicing failure category, such as when a servicer said they would take some action but then, according to the borrower, never followed through.

Situations in which the borrower described having received conflicting or inaccurate information were also included in our servicing failure category.²⁸ While the borrower could have received consistent information but misunderstood, we still deferred to the borrower and coded these complaints as servicing failures. Instances of borrowers reporting that they received conflicting information often occurred when (1) borrowers contacted servicers about the same question multiple times and believed they received different answers from different customer service representatives or (2) borrowers were told their payment would be one amount but were charged a different amount on their next bill.

Examples 1 and 2 from our sample generally represent complaints referencing poor customer service and conflicting information. Note that Example 1 includes a complaint about payment affordability, which we consider to be a loan policy complaint, but because the borrower goes on to complain about customer service problems, we categorize it as servicing failure. All redactions in the examples throughout this report appear as they are in the CFPB database.

Example 1: CFPB Complaint 2301305

The amount of money they wanted for a monthly payment was way too high for me to achieve. They made the process of lowering the payments almost impossible and took several months, every time I spoke to a person they had different answers and explanations. I was told the payments got lowered to XXXX dollars a month but when I received my first bill it was for XXXX+. Now I can not reach anyone at the company or get any answers. This is just an example of the headaches this company has given me. I am trying my hardest to stay above the waters and do what's right with paying back my loans and the company is making it impossible for this to be smooth.

Example 2: CFPB Complaint 2299618

Loan has been transferred to several different servicers, most recently Navient. When it was first transferred, the Navient representative told me that should I encounter financial hardship, I was eligible for unlimited forbearance. Not only was the forbearance limited (24 months, I think), but a forbearance due to unemployment was only limited for 6 months, giving me no time to recover financially once I did find a job. I've been trying for several months now to reach a human being at Navient to try to renegotiate my excruciatingly high monthly payments, but thanks to their automated phone system, reaching a human is near impossible. While applying for a different plan online is possible, the language is confusing and I need clarification, as I'm afraid if I apply I'll get stuck in a situation even worse than the one I'm in now (where my monthly payment is almost 25% of my post-tax income).

We also categorized complaints describing inadequate information about available repayment options as servicing failure.²⁹ Borrowers often described being told only about deferment and forbearance options if they could not afford their monthly payments, rather than being offered income-based repayment (IBR)

options.³⁰ Borrowers are not required to make payments when in deferment or forbearance for a limited time, but interest accrues on most loans.³¹

In IBR, borrowers with low incomes do not need to make payments, and interest generally accrues, but borrowers can have debt forgiven after 20 years of payments. While it is possible that borrowers making these complaints were told about IBR, were ineligible for it, or forbearance and deferment better suited their situations, we categorized complaints regarding insufficient information about the availability of a beneficial option as servicing failures, such as the complaint shown in Example 3. We consider such issues distinct from the complaints that reference insufficient information about a particular feature of the loan or repayment plan that a borrower is already using. We treated the latter complaints as loan policy, which we explain in the section on that category and more in endnote 40.

Example 3: CFPB Complaint 2296697

Back in XXXX I was in forbearance and deferment all the way up until XXXX/XXXX/XXXX. I always had a job and was able to pay something back towards my loan. XXXX XXXX never offered me any income base repayment plan options. When I really started looking into my accounts I realized they charged my account XXXX dollars in interest. I called Navient to see if they could remove all the interest or at least half and they declined it. That's when Navient offered the income base repayment plan XXXX/XXXX/XXXX. Currently I'm on track making my monthly payments of XXXX.XXXX XXXX XXXX XXXX.

Payment processing complaints comprised a significant portion of servicing failure narratives.³² In these cases, borrowers complained that the servicer was responsible for mishandling payments, charging incorrect payment amounts, or not applying payments to accounts at all. Another issue typical of payment processing complaints was when a borrower wanted to direct prepayments to a loan with a higher interest rate or the lowest balance, which is allowed

under the program, and the servicer did not follow the borrower's request.³³ Examples 4 and 5 taken from our sample of complaints are representative of payment processing problems.

Example 4: CFPB Complaint 3164212

In XXXX of 2018 Navient debited my account for my monthly installment 2 days before the payment due date. I had more than enough money in my account to cover the payment but for some arbitrary reason then "reversed the payment" without any notification that there was a problem on their end. Then I receive a message AFTER the payment due date saying that I've missed payment. I call in only to told there is nothing I can do about the incurred interest due to a missed payment even though I didn't miss a payment. I know it sounds petty to worry about the incurred interest but when you have almost 90,000 in student loans and the interest rate is nearly 7%, I need to worry about every single penny of my balance.

Example 5: CFPB Complaint 2916618

At least twice I've requested that XXXX allocate excess payments to one specific loan and it has refused to do so.

Other common complaints referred to processing errors in the IBR and Public Service Loan Forgiveness (PSLF) programs.³⁴ These repayment options are complicated, involve numerous eligibility rules and special terms, and require the borrower to complete paperwork at least annually by nonstandard deadlines. To use IBR, borrowers submit annual income documentation and then make payments equal to 10 percent of their income above 150 percent of the federal poverty guidelines. The government forgives remaining balances after 20 years of payments in the plan. Under PSLF, borrowers using IBR have debt forgiven after 10 years of payments while working in nonprofit or government jobs.

Borrowers who complained about servicing failure often complained that a servicer mishandled their IBR or PSLF application, failed to notify them about

a deadline, or did not provide them with accurate and timely information about their status or eligibility for these benefits.³⁵ We treated complaints as servicing failure when borrowers claimed to have indicated an interest in the PSLF program to a servicer or completed one part of the application process (i.e., filed an employer certification form) and the servicer did not then make them aware that their loans or repayment plans were ineligible for PSLF.³⁶ Examples 6 and 7 from our sample feature problems with IBR and PSLF due to servicing failure.

Example 6: CFPB Complaint 2419576

I have been on the income-based repayment plan for a few years. I called FedLoan Servicing at XX/XX/XXXX about re-applying to the plan and was informed that I didn't have to turn in the application until XX/XX/XXXX. I mailed my application on XX/XX/XXXX and received a letter on XX/XX/XXXX that I had been dropped from the plan, that my interest had capitalized (over (\$12,000.00)), and that my monthly payment had increased by over three times. I called to speak to someone and was told they were sorry but there was nothing they could do about it.

Example 7: CFPB Complaint 3016740

I have been trying to have XXXX XXXX provide a correct calculation of my eligible payments towards the Student Loan Repayment Program for the XX/XX/XXXX-XX/XX/XXXX period for about a year. They have incorrectly recalculated my eligible payments three times to date, to my knowledge. In the beginning of the year, after various incorrect recalculations, I requested a detailed statement showing which payments are qualifying payments and why. On XX/XX/XXXX I received a voicemail apologizing for the time it has already taken to process the request and to verify it is being processed. I called shortly after to confirm the request is still being process. I was told I would receive the document in my inbox within 30 days. It is now 4 months since that call and I have still not received the requested information. I have called numerous

times and have been told they are still working on the request over at least 7 months from the initial submission and over a year and a half from submitting my initial verification.

Complaints About Loan Policy

In this section we explain our framework for identifying loan policy complaints, which make up 34 percent of our sample. We also discuss the most common themes among these complaints.³⁷

We assigned complaints to the loan policy category when borrowers clearly indicated or described a feature of the loan program as the reason for their complaint and did not also indicate a servicing failure.³⁸ Borrowers often described an issue in a way that suggested they believed the servicer was responsible for the problem even though their description closely matched a feature of loan policy lawmakers or the department set. Borrowers may therefore have felt it appropriate to complain about a loan servicer, even though the nature of the complaint is well outside the servicers' control or discretion. In other cases, borrowers may have understood that the servicer did not set the policies about which they were complaining, but the design of the CFPB database discussed above required that their complaint be directed at the loan servicer anyway.

Borrowers also often blamed loan servicers when they were surprised about the terms of their loans. We categorized those complaints as loan policy if the terms were a basic feature of the loans, were disclosed on a form that borrowers would have signed acknowledging them, were disclosed in mandatory entrance counseling, or were widely available on the department's and servicer's websites.³⁹ This is different than how we categorized complaints where borrowers said a servicer did not inform them of optional benefits for which they might have been eligible, such as IBR. We considered those complaints to be servicing failure because they relate to eligibility for a benefit even though they are disclosed in the above sources.⁴⁰

Many of the loan policy complaints referenced how payments are set or treated in the loan program,

making it the dominant theme among loan policy complaints.⁴¹ For example, many complaints are about an unusual and largely beneficial policy in the loan program ("paid-ahead status") that requires loan servicers to advance borrowers' due dates when they pay more than the minimum monthly payment.⁴² As is the case with most loans, excess payments on a federal student loan are applied first to any outstanding fees, then to accrued interest, and then to the principal balance. But department regulations require servicers to take an additional step when borrowers pay more than is due. The servicer must advance borrowers' due dates according to the size of the prepayment.⁴³ Borrowers can request that a servicer not advance the due date, but it is the default setting required by long-standing department regulation.

Despite the department adding this feature to the loan program to give borrowers flexibility—borrowers have the option to skip their next monthly payment(s) and stay current on their original repayment schedule—borrowers often complain about it.⁴⁴ They believe erroneously that the servicer is advancing the due date *instead* of paying down the loan or that the servicer chose to adopt this practice to increase the amount the borrower will pay overall. Contrary to these misperceptions, when borrowers make prepayments, they in fact pay down the principal balance after any accrued interest, reduce the interest they will owe if they continue to make payments on this original schedule, and enter paid-ahead status simultaneously. While this is a complicated feature of the loan program, by itself it generally cannot harm borrowers. This type of complaint is illustrated by Example 8 from our sample.

Example 8: CFPB Complaint 2317538

I have repeatedly requested that all over payments get applied directly to principle, but my loan servicer, Nelnet, continually advances the due date. Then they tell me I don't know how payments work. I then have to educate a willfully ignorant rep on how compound interest works, and advancing my due date is not in my best interest.

In addition to complaints about paid-ahead status, borrowers complained about how their payments were allocated to their loans or how their payments were set. Like in the complaints about paid-ahead status, these complaints were often erroneously directed at the servicer. The terms of their loans and repayment options are set by Congress and, to a lesser extent, the department.

For example, borrowers frequently complained that their loan payments were set at or below the amount of accruing interest so that the balance remained constant or increased even though they were making on-time payments. This is an intentional feature of the loan program. Borrowers can enroll in a graduated repayment plan where payments initially are low and cover only the accruing interest. By design, payments increase later, usually every two years.

Similarly, if borrowers use IBR to make their payments affordable, their reduced payments may be less than the accruing interest because the payments are based on their income, not their balance and interest rate. While borrowers' balances may increase as a result (but may later be forgiven), this is what lawmakers intended. Other borrowers complained that servicers were crediting payments to interest before principal, which is a requirement under the loan program. Loan servicers did not make any of these policies and have no discretion to change them, but many complaints against servicers in the CFPB database reference exactly these issues. Examples 9, 10, and 11 from our sample illustrate this.

Example 9: CFPB Complaint 2794720

I currently have a loan with Nelnet. I have the income base payment plan, but the monthly interest is higher than the payment I can make. So my balance is increasing instead of being lower with my monthly payments because I am not paying enough to cover the interest. I write an email to Nelnet to see if they can apply my payment to the principal, but they respond that my payment go first to interest and last to principal. And that I need to make additional payments in order to lower the principal. I can not pay a bigger amount right now and I feel that

I am wasting my money because is not making any difference in my final balance.

Example 10: CFPB Complaint 2968056

My student loans that I pay (\$290.00) per month for are currently (\$62,000.00) which they have remained steadily for at least the past year. The company states paying (\$290.00) per month of the loan will result in it costing me (\$120,000.00) overall. I have not missed a payment in years yet it grows higher and higher. The applied my entire last years payments to interest only (without giving me any option) and continued to compound interest of my FLEP loans as well as my subsidized and unsubsidized. I have been on autopayment for 2 years in order to get an interest reduction but was penalized when I cancelled it for one month. I am not on the lowest plan and in fact am on the middle of 5 plans.

Example 11: CFPB Complaint 2656105

My student loan company Navient has scheduled an increase on my repayment plan to XXXX as of XXXX/XXXX/XXXX that i did not authorize that was once before XXXX which i started to payment XXXX/XXXX/XXXX. When i spoke to Representative he said the plan i was end only last 2 years, notice i been in this plan for 4 years now.

Another type of complaint we categorized as loan policy were those in which the borrower complained about unaffordable payments.⁴⁵ We categorized this type of complaint as loan policy in cases where borrowers appeared to be complaining that the options to reduce their payments still resulted in an unaffordable payment.⁴⁶ If borrowers indicated, however, that the servicer failed to inform them of such an option when they asked for assistance, we treated the complaint as a servicing failure.

Examples 12 and 13 are typical of a loan policy complaint regarding unaffordable payments. The borrowers appear to have been in touch with their servicers multiple times but are unsatisfied with the available options (and interest rates) they were offered

because they do not bring monthly payments down enough. The available options are set in law, as are the interest rates, and servicers do not have flexibility to change them.

Example 12: CFPB Complaint 2690638

My Student Loan Lender “Navient” has been not helpful with my several requests to lower my payments or settle on my debt. I have been going through financial hardships after my mother passed away, dealing with house payments, mortgage, helping the family etc and I really am unable to pay more than (\$200.00) a month for my student loans. Navient has been unwilling to work with me to resolve this issue. My rate is very high as well and I am accumulating %. Please help.

Example 13: CFPB Complaint 2293984

My monthly payments were extremely too high so I had to do the deferment forbearance and the IBR. Payments were still too high and so we're the interest payments.

The IBR and PSLF programs were other topics about which borrowers frequently complained.⁴⁷ While many of these complaints fit our definition of servicing failure that was discussed in a previous section, many others clearly described loan policy. Borrowers often reference one of IBR's complicated terms that caught them off guard or that they thought were unfair. For example, borrowers were mad when their payments spiked after marrying because their spouse's income must be included in the payment calculation.

Borrowers were also frustrated with having to document their incomes or when they forgot to recertify it each year on time. Others complained when the program did not reduce their payments enough or when they were not eligible for IBR due to high incomes, low debt amounts, or some combination thereof.⁴⁸ Rising balances are another frequent complaint, as are the complicated scenarios under which borrowers have their unpaid interest added to their principal balance (“capitalization”) as detailed on the 10-page IBR

application the department designed. We categorized these complaints as loan policy because the issue centered on a feature of the program that was set by policymakers, not servicers. Examples 14 and 15 reflect many of the loan policy complaints regarding IBR.

Example 14: CFPB Complaint 2298749

My student loan is currently being serviced by Navient. I currently pay (\$200.00) dollars per month. The customer service representative has tried to steer me to making payments in excess of (\$500.00) per month. Further, I do not know the formula they use for repayment. They ask me to show proof of what my salary is, but they do not take in account cost of living in the XXXX part of the country which is some of the most expensive in the nation. Not to mention, the incessant phone calls to my home, place of business and family members!

Example 15: CFPB Complaint 2443516

I was told that income repayment program was the best for me because it was based on my income alone. What I wasn't told is that there is a cap and when ur married it includes my wife income now as a result I'm paying much higher and there nothing I can do about it because if I get out then I pay much higher. On top of that I requested for them to change my auto pay account and they told me that I have to stop auto pay the regular rate with the higher interest then change the account. Even though they can change it via paper request they can't via phone even though they already have the account on file. When I requested to speak a manager I was refused but then they just put me on hold for 15 mins to change a simple thing.

The myriad eligibility requirements for PSLF regarding loan types, repayment plans, and employment are another source of loan policy complaints. How we determined whether these complaints were servicing failure or loan policy merits some explanation.

We categorized complaints about PSLF as loan policy when borrowers complained about the eligibility

requirements for the program or complained that their employer was not an eligible employer. Borrowers also complained they did not know about one of the many eligibility terms and mistakenly believed they were making progress toward the 120 payment requirement, only later to find out they were not. (Borrowers can file their paperwork to claim PSLF *after* they have fulfilled the terms.)

If borrowers did not indicate that they had contacted the servicer about their interest in PSLF before working toward it, did not indicate they had inquired about their eligibility with a servicer before attempting to make qualifying payments, or did not say they submitted an employer verification form, we categorized the complaint as loan policy. This is the scenario that the borrower in Example 16 describes.

Under the existing program design, a servicer does not know that borrowers think they are working toward PSLF unless they indicate this to the servicer—only then can the servicer be expected to take some action in response. We deemed these loan policy complaints distinct from servicing failure where the servicer had not provided accurate and appropriate information when borrowers requested it or when borrowers did something else to indicate their intention to pursue PSLF.

Example 16: CFPB Complaint 2869741

I initially had my student loans with XXXX XXXX and I have been working in public service for almost 10 years. Since I have almost met the 10 year mark (1.5 years away), I decided to apply for the loan forgiveness program with XXXX XXXX. The loans were transferred over successfully (2 months later) and then I started receiving letters that I will need to change to a qualifying payment plan. I called them twice to figure out what was going on and today I find out that my loans do not qualify for the forgiveness program because I'm not in the right payment plan. If I had known this, I would have never ever transferred my loans over to them. With the forgiveness program, I would end up paying way more than I borrowed originally or would have paid off with my original payment

plan. I told the supervisor that what they are doing is considered fraud and they should be more clear in terms of who actually qualifies for forgiveness eligibility. The supervisor at the loan office acted like this was all transparent. Their definition of eligible repayment plan was never clarified for me. When I asked if I was the first person to call in about this, the supervisor said no. She just kept mentioning it was on the sheet I signed which it wasn't. Needless to say, I will be transferring my loans yet again to another service. In short, be very careful before you apply to the loan forgiveness program with XXXX XXXX.

Other Complaints

We found that 12 percent of complaints did not fit either of our definitions of servicing failure or loan policy. We coded these complaints as “other.” Generally, these complaints were about the school that the borrower attended or a third-party company that offered the borrower debt relief or assistance in processing paperwork (often fraudulently), or the borrower did not have a complaint at all and used the CFPB portal to request information.

We categorized these as “other” because loan servicers are not part of the loan disbursement process and are not involved in whether a school should be eligible for federal loans.⁴⁹ The department assigns servicers to loans when they are disbursed. On the issue of debt relief companies, the servicer cannot prevent a borrower from employing a third party to fill out paperwork or take over the handling of their loans completely. They can help identify when a borrower may be the victim of a scam, but the servicer is not responsible when a borrower is a victim harmed by one.

Example 17: CFPB Complaint 2328000

I went to school and graduated. Cant get a job in the field, due to the school not being accredited. There were extra fees added that i was not aware of.

Example 18: CFPB Complaint 2295529

I was contacted by a third party consolidation company who I thought was with the government but I was mistaken. I provided personal information in hopes to consolidate all my loans to one payment/interest rate. After I was given a quote he said it would be a couple days to process and after doing some research discovered I could consolidate my loans through the department of education myself for FREE and this company was charging me XXXX dollars. After calling him back to confront him he responded with a yes you can do that in a smart aleck response. I gave him my FSA ID, SS number, bank statements, and contact information and after talking to the Department of education was a huge mistake. Company is called Student Loan Care or XXXX.

We also categorized complaints as “other” when borrowers claimed they never took out the loans being serviced. While these borrowers may have been the victims of identity theft, misled by their schools to take out loans, or simply forgot that they borrowed, loan servicers must service the loans that the department assigns them. The borrower in Example 19 identifies several issues, all of which relate to the borrower disputing that they had loans.

Example 19: CFPB Complaint 2372028

Credit report showing negative payment history to them for federal student loans however, I never received emails, physical mail, or any other form of communication stating there was a balance or payment due. From all communication originally received, amounts granted were considered grants, not debts.

Borrowers may believe mistakenly that servicers are responsible for the issues we coded as “other,” or they are simply using the CFPB database as a convenient way to voice any concern or question they have about a federal student loan.

Conclusion

As the federal student loan program has grown in size and scope, observers have increasingly turned their attention to the contractors that service these loans. They argue that servicers play an integral role in delivering the benefits of this large entitlement program that helps millions of students pursue a higher education. Some in the policy community have alleged that loan servicers are failing in this role and undermining the benefits and protections the loan program is supposed to provide. In their view, borrowers are missing out on important repayment options or incurring additional interest costs because of servicer negligence and malfeasance.

The CFPB consumer complaint database is one of the most prominent sources of evidence that critics cite in making this case. This report casts serious doubt on the quality of that database and its suitability as evidence to support claims of systematic problems with servicing in the federal loan program. The CFPB employs no screening or verification processes before posting consumer complaints, and the site contains little or no information from loan servicers about each complaint. As such, it should be treated with skepticism among serious audiences, even though it carries the moniker of a government agency.

The CFPB’s decision to passively assign all complaints related to federal student loans as servicing complaints is another major design flaw. It is unintentionally misleading at best and willfully negligent at worst. As shown in this report, even when we assume that borrowers’ claims are 100 percent accurate, we find that fewer than half reference something under servicers’ control. Overstating servicing complaints by defining any complaint about federal student loans as a servicing issue is unfair to servicers. It also gives policymakers license to ignore the other major source of complaints in the database for which they are responsible: the design of the federal student loan program.

These points are not to suggest that the CFPB database is useless. The narratives that borrowers submit provide real-life descriptions of how borrowers interact with the loan program and servicers. In that regard, the database can bring to light issues in

the program—including servicing—that might otherwise go unnoticed, giving policymakers the opportunity to scrutinize these issues further.

One issue that this report suggests is ripe for more scrutiny is the federal student loan program’s complexity. The 34 percent of complaints in the database that focus on one of the features of the loan program can largely be traced to the program’s complexity. And even the complaints we found to be about loan servicing are related to the complexity of the program. This complexity usually arises from a benefit that policymakers embedded in the program.

The rule regarding paid-ahead status offers a good case study. A large number of complaints in the database (we estimate about 5 percent of all complaints) are about this generally beneficial feature. As we explained earlier, the policy cannot cause borrowers to pay more on their loans, but there is an exception. And the problem stems from yet another benefit. Loan forgiveness in PSLF occurs after borrowers make 120 on-time payments. Advancing borrowers’ due date when they overpay, which is required under the law, delays when they can make their next on-time payment to their now-advanced due date.

Both of these policies were made by Congress or the department, not servicers. Both were intended to help borrowers. When they are combined, they make it look like a servicer is cheating a borrower out of loan forgiveness. The servicer is simply following the rules.

These complicated terms and benefits also increase the risk that a servicer provides a borrower with inaccurate information or fails to follow a borrower’s instructions. Similarly, the risk that borrowers misinterpret *accurate* information from a servicer and as a result believe they were not correctly informed also increases with this complexity. And complexity, such as paid-ahead status and PSLF, requires a servicer to stretch finite budget resources ever thinner to proactively educate borrowers about it and help them work around it. In short, a complicated student loan program like the one we currently have invites perceived servicing failures and actual servicing failures.

This suggests that one solution to frustration and dissatisfaction with student loan servicing can be found in a simpler student loan program. The challenge

in this effort is that simplifying the program will either reduce the number of benefits the program provides or require a large increase in the taxpayer cost of the program. For example, borrowers would no longer complain about rising loan balances while using IBR if the program did not charge interest in excess of what borrowers were required to pay each month. But the cost to taxpayers of such a change would be substantial.

Similarly, policymakers could prevent borrowers from complaining that their payments increased because they did not understand the graduated payment plan by simply discontinuing that repayment option. Of course, many borrowers might find that option convenient and beneficial.

While those are difficult trade-offs to make, this report suggests that if policymakers are not willing to make them, they are unlikely to address the root cause of the concerns over student loan servicing. In the meantime, those who argue that servicing in the federal student loan program is *the* problem are taking the easy way out. They want a loan program with layers of features and options, interacting benefits, and relief targeted to just the right borrowers in just the right circumstances, and they want someone else to make it work seamlessly for borrowers.

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Notes

1. For more detail on state legislation in California, Colorado, Connecticut, the District of Columbia, Illinois, Maryland, New York, and Washington, see Cal. Code Regs. tit. 10, § 2032-44; 2019 Colo. Sess. Laws, 1855; 2015, Conn. Acts, 15-162. (Reg. Sess.); DC Mun. Regs. tit. 26, § C30 (2018); 110 Ill. Comp. Stat. 992 (2018); Maryland House Bill 594 (Chapter 546); New York NY Banking Law § 14-A (2019); and 2018, Wash. Sess. Laws, 461.

2. For more detail on lawsuits against servicers see *Commonwealth of Pennsylvania v. Navient Corporation*, 354 F.3d 529 (3rd Cir. 2018); *Consumer Financial Protection Bureau v. Navient Corporation*, 3:17-CV-101 (M.D. Pa. 2018); *Lawson-Ross v. Great Lakes Higher Education Corporation*, 18-14490 (11th Cir. 2018); *Nelson v. Great Lakes Educational Loan Services, Inc.*, No. 18-1531 (7th Cir. 2019); and *Student Loan Servicing Alliance v. District of Columbia* 351 F.3d 26 (D.D.C. 2018).

3. Student Loan Borrower Bill of Rights of 2019, S. 1354, 116th Cong., 1st Sess., § 3.

4. At the time we downloaded complaints for analysis, there were 12,113 complaints with narratives, which is the universe of complaints from which we drew our sample, and roughly 9,000 more complaints without narratives. In complaints without narratives, the borrower selected complaint topics from the CFPB's menus but did not further explain the issue with a written description. Because we rely on the narratives for our analysis, we sampled only from the complaints with narratives.

5. See CFPB Complaint 2867039 for an example of such a complaint. "School XXXX XXXX Lender XXXX XXXX XXXX XXXX Guarantor XXXX XXXX XXXX/NAVIENT Disbursement Date XX/XX/XXXX Original Principal (\$6,000.00) XXXX XXXX Lender XXXX XXXX XXXX XXXX Guarantor XXXX XXXX XXXX/NAVIENT Disbursement Date XX/XX/XXXX Original Principal (\$1,000.00) School XXXX XXXX Lender XXXX XXXX XXXX XXXX Guarantor XXXX XXXX XXXX/NAVIENT Disbursement Date XX/XX/XXXXXXX/XX/XXXX Original Principal (\$3,500.00) School XXXX XXXX Lender XXXX XXXX XXXX XXXX Guarantor XXXX XXXX XXXX/NAVIENT Disbursement Date XX/XX/XXXXXXX/XX/XXXX Original Principal (\$3,500.00) XXXX XXXX Lender XXXX XXXX XXXX XXXX Guarantor XXXX XXXX XXXX/NAVIENT Disbursement Date XX/XX/XXXX Original Principal (\$6,000.00)."

6. US Department of Education, Federal Student Aid, "Federal Student Loan Portfolio," <https://studentaid.ed.gov/sa/about/data-center/student/portfolio>.

7. US Social Security Administration, "Social Security Beneficiary Statistics," <https://www.ssa.gov/oact/STATS/OASDIbenies.html>.

8. Authors' calculation based on US Department of Education, Federal Student Aid, "Federal Student Loan Portfolio."

9. We generally cannot distinguish which loans borrowers who submit a complaint hold, although borrowers sometimes indicate which kind of loan they have in their complaint. Loan types are not indicated in the CFPB database.

10. The nine servicers are CornerStone Education Loan Services (Utah Higher Education Assistance Authority), FedLoan Servicing/Pennsylvania Higher Education Assistance Agency, Granite State Management & Resources, Great Lakes Educational Loan Services Inc., MOHELA, Navient, Nelnet, New York State Higher Education Services Corporation/Edfinancial, and Oklahoma Student Loan Authority. See US Department of Education, Federal Student Aid, "Servicer Performance Metrics and Allocations," <https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing/servicer-performance>.

11. US Department of Education, "Loan Servicing Contracts," <https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing>.

12. Budget documents show two different figures for the government's total cost of administering the loan program, which includes contract payments to loan servicers. The department's budget documents show servicing costs to be about \$826 million. See US Department of Education, "Congressional President's FY 2020 Budget Request for the U.S. Department of Education, Student Aid Administration," <https://www2.ed.gov/about/overview/budget/budget20/justifications/y-saa.pdf>. The other figure, which is reported in Department of Education budget documents, shows total administrative costs, which includes servicing costs, in present value terms, per dollar lent in the loan program. The department expects to incur administrative costs on federal student loans equal to 1.70 percent of each dollar lent over the life of the loan, in today's dollars. The Congressional Budget Office expects the government to make \$98 billion in loans each year, which would translate into \$1.7 billion in administrative costs per cohort of loans. See Office of

Management and Budget, “Budget of the US Government, Fiscal Year 2020,” <https://www.whitehouse.gov/wp-content/uploads/2019/03/appendix-fy2020.pdf>.

13. For a more detailed discussion of the functions that servicers have discretion over, see Congressional Research Service, “Administration of the William D. Ford Federal Direct Loan Program,” https://www.everycrsreport.com/files/20170511_R44845_1e9386012270221ba5e8d60eeb1429c6ac7cb872.html#_Toc482341754.

14. Private Education Loan Ombudsman, 12 USC § 5535 (2010).

15. Consumer Financial Protection Bureau, “Defining Larger Participants of the Student Loan Servicing Market,” *Federal Register* 78, no. 235 (December 6, 2013): 73383–407, <https://www.federalregister.gov/documents/2013/12/06/2013-29145/defining-larger-participants-of-the-student-loan-servicing-market>.

16. Consumer Financial Protection Bureau, “CFPB Publishes over 7,700 Consumer Complaint Narratives About Financial Companies,” <https://www.consumerfinance.gov/about-us/newsroom/cfpb-publishes-over-7700-consumer-complaint-narratives-about-financial-companies/>.

17. Consumer Financial Protection Bureau, “CFPB Publishes over 7,700 Consumer Complaint Narratives About Financial Companies.”

18. Borrowers may file complaints via the CFPB’s website or by mail. Most complaints are made via the website.

19. In past annual reporting on the student loan complaints contained in the database, the CFPB did “take steps to confirm a commercial relationship between the consumer and the company” but did not verify the facts alleged in the complaints. For more detail, see Consumer Financial Protection Bureau, “Annual Report of the CFPB Student Loan Ombudsman,” https://files.consumerfinance.gov/f/documents/cfpb_annual-report_student-loan-ombudsman_2017.pdf.

20. The servicer named in the complaint may also be inaccurate. Many borrowers are likely unaware of which of the nine servicers administers their loans but are required to identify one when filing a complaint online anyway. This makes it difficult to determine if borrowers are attributing complaints appropriately. Consumer Financial Protection Bureau, “CFPB Summary of Product and Sub-Product Changes,” https://files.consumerfinance.gov/f/documents/201704_cfpb_Summary_of_Product_and_Sub-product_Changes.pdf.

21. Since borrowers frequently reference past events and discussions with customer service representatives, we assume that some complaint dates do not accurately represent when servicing actions took place. While the database does include brief descriptions of how servicers responded to complaints, outcomes typically only include “closed with explanation,” “closed with nonmonetary relief,” “closed with monetary relief,” “untimely response,” and “closed.” We therefore did not have access to detailed servicer responses that would have made our categorizations more precise, so we disregarded those responses. While the database includes information on if borrowers dispute the complaint resolution, there are too many missing values to accurately determine how common these disputes are.

22. Many complaints in the “federal student loan servicing” category referenced borrowers experiencing issues with default and debt collection. Federal student loans are transferred to private collection agencies if the borrower defaults and are no longer administered by a servicer. Many borrowers do not distinguish between servicers and debt collection agencies when submitting complaints. Since we have no way of determining a borrower’s repayment status with information included with complaints, we kept complaints in our sample that may have been miscategorized as “federal student loan servicing” rather than “debt collection” complaints. Therefore, the 12,113 complaints we sampled include complaints from borrowers in default whose loans are effectively serviced by private collection companies that the department hires to recover the debts. We did not exclude or differentiate our methodology for these complaints because the issues and policies are conceptually the same as servicing: In both cases we are analyzing borrowers’ complaints about private companies the department hires to administer a program and categorizing the complaints based on whether the issue is something under the companies’ discretion or something determined by policy set by Congress or the department.

23. Jason D. Delisle and Lexi West, “Authors’ Categorization of CFPB Complaint Sample,” American Enterprise Institute, <https://www.aei.org/wp-content/uploads/2019/10/Authors-Categorization-of-CFPB-Complaint-Sample.xlsx>.

24. Due to rounding, these percentages do not total 100 percent. The 9 percent of complaints in the sample we included in our “more information” category usually were a sentence long or less. Others were garbled. While most complaints in the sample provided limited information and required us to make inferences, complaints in this category are beyond even educated guesswork. Typical of this

group of complaints are borrowers who wrote that their “interest and payments [were] too high” and nothing more (CFPB Complaint 2294280). This could be a loan policy problem (lawmakers set the repayment terms), or it could be servicing failure if, for example, borrowers sought to enroll in a forbearance but the servicer never processed their request due to error and continued to send them bills. The lack of any additional information does not even give us a clue about which scenario best describes this borrower’s situation.

25. See Example 15 as a case of a complaint we categorized as loan policy. The borrower’s main complaint is about terms of IBR. (He has to make a higher payment because his wife’s income is included.) He also complains that the servicer is making him submit paperwork to establish an auto debit that includes a recurring prepayment and that when he protested this and asked to speak to a manager he was put on hold for 15 minutes. Submitting paper requests for automatic debits when they include prepayments, while inconvenient, is a reasonable, common practice among servicers and permitted by the department. Therefore, we did not consider the servicing complaints to be significant enough to override the larger loan policy complaint about IBR. In our analysis, cases in which the loan policy complaint superseded other complaints were rare; most of the time the servicing failure aspect of the complaint determines how we categorized it.

26. Other complaints in our servicing failure category that did not fit the themes we discuss include a range of topics but were too infrequent to constitute a theme. These include complaints from borrowers who allege that their servicer wrongly reported a delinquency or default to a credit bureau, dispute the amount they owe, or dispute whether interest should be capitalized. There were also complaints that servicers mishandled the loan consolidation processes—another option in the loan program—or loan discharges for bankruptcy or disability.

27. Twenty-three percent of servicing failure complaints and 10 percent of all complaints in the sample described such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

28. Seventeen percent of servicing failure complaints and 8 percent of all complaints in the sample described such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

29. Six percent of servicing failure complaints and 3 percent of all complaints in the sample described such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

30. This report refers to the collection of plans that allows borrowers to make payments based on their incomes as IBR. The IBR plan is generally the most generous plan for new federal student loan borrowers as of 2014. While borrowers with loans from before that date may access other plans that set payments based on income, such as Pay as You Earn and the Revised Pay as You Earn plan, the vast majority of new borrowers who use such plans will enroll in IBR.

31. Although both deferment and forbearance are important benefits for borrowers experiencing short-term financial challenges, they are not always available to all borrowers and are time limited, and interest continues to accrue and capitalizes on most loans while borrowers are not making payments, making them poor long-term repayment options. For more information, see US Department of Education, “Deferment and Forbearance,” <https://studentaid.ed.gov/sa/repay-loans/deferment-forbearance>.

32. Twenty-nine percent of servicing failure complaints and 13 percent of all complaints in the sample describe such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

33. Some borrowers with multiple loans can pay a lower amount in interest over the life of the loan by directing payments to loans with higher interest rates. Alternatively, borrowers may benefit from targeting payments to loans with the lowest balances, since paying off individual loans will reduce the payment due on all loans.

34. Direct Loan borrowers who work for 10 years in either a government or nonprofit job and are enrolled in an IBR plan are eligible for forgiveness of their loans. Borrowers may choose to certify each qualifying employer as they change jobs or certify them individually upon applying for forgiveness after making 120 qualifying payments. For more detail on PSLF, see US Department of Education, “Public Service Loan Forgiveness,” <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service>. Twenty-four

percent of servicing failure complaints and 11 percent of all complaints in the sample described such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

35. Borrowers often complained that servicer delays in processing paperwork resulted in them being removed from IBR and having their interest capitalized, even though the borrowers claimed they had submitted all documents on time. Under department rules, if a servicer cannot process the paperwork by the time borrowers are required to recertify, borrowers are supposed to remain on their current income-driven payment until the recertification is complete, and interest will not be capitalized. We categorized these complaints as servicing failure. However, in four complaints, the borrowers' central complaint was that the IBR application process took too long or was too complicated, which we categorized as loan policy. In one complaint, the borrower says it took two weeks to process the application, which we did not consider unreasonable. In another, the delay appears to be because the borrower insisted on using non-standard income documentation that the servicer rejected. In the remaining two, the borrowers' central complaint was that the application process took too long, but the borrowers appear to be referring to the paperwork burden placed on them, not the time they waited for the servicer to process it.

36. It is our understanding that a servicer is not obligated under Education Department policy to proactively ensure that borrowers who indicate some interest in PSLF meet all the eligibility requirements; the onus is on borrowers to ensure their own eligibility for the program. However, most observers would argue that the appropriate practice would be for a servicer to check whether borrowers' loans and repayment plans qualify if the borrowers indicate they are pursuing PSLF or have submitted an employer verification form for the program. If borrowers' loans or repayment plans do not qualify, then the servicer should make some attempt to notify the borrowers accordingly. That said, borrowers complaining about this could have been notified by the servicer. We do not aim to sort out such factual disputes and categorize complaints based on the information the borrower provides in the narrative.

37. In addition to the themes discussed in this section, less common complaints in the loan policy category included those referencing balances being higher than borrowers expected, borrowers not knowing they were in default, the lack of a "goodwill" credit adjustment, and changes to required rehabilitation payment amount.

38. When a borrower's complaint involved a situation where loan policy and servicing actions were tightly intertwined, we erred on the side of coding such complaints as servicing failure. An example is instructive. Many borrowers complained that their minimum monthly payment jumped when their annual IBR recertification was not processed by the due date. Filing an annual recertification is a program requirement lawmakers set, and therefore the complaint could, in one sense, be coded as loan policy. But if the borrower claimed to have submitted the necessary documentation correctly and on time, then we coded the complaint as servicing failure.

39. These forms include master promissory notes, plain language disclosure statements, entrance counseling, and repayment plan applications. See US Department of Education, "Information for Financial Aid Professionals," <https://ifap.ed.gov/dlfsheets/attachments/DLSubUnsubMPNnodatalabels.pdf>; US Department of Education, Federal Student Aid, "Entrance Counseling," <https://studentloans.gov/myDirectLoan/counselingInstructions.action?counselingType=entrance>; and US Department of Education, Federal Student Aid, "Repayment Forms," <https://studentloans.gov/myDirectLoan/formLibrary.action>.

40. In our framework, we consider informing borrowers about their eligibility for specific repayment options relative to borrowers' circumstances to be a reasonable expectation for servicers. Complaints about this issue are therefore categorized as servicing failure. On the other hand, we considered the expectation that servicers must inform borrowers about every term and feature (and the interactions of multiple features) of their loans beyond what is included in the disclosures listed above to be an unreasonable standard. Complaints that borrowers were insufficiently informed about a feature or benefit that they already had were categorized as loan policy. We deemed these complaints to be largely about the program's complexity and how borrowers struggle to understand and keep track of all the different terms. It would be unreasonable to expect a servicer to impart perfect information to borrowers to fully rule out the possibility that borrowers might not understand a provision of their federal student loan. To put this in perspective, the department's IBR application includes among its 10 pages a matrix with cells that run 12 by 5, which compares the different terms of the four IBR and related payment plans. The risk that a borrower fails to understand the information in one of the 60 cells in the matrix is so high that it is unreasonable to expect a loan servicer to prevent any confusion the borrower may have about these features. See CFPB complaints 2706940 and 2484806 for examples of complaints referencing insufficient information that we coded as loan policy. For the

IBR application, see US Department of Education, “Income-Driven Plan Request,” <https://static.studentloans.gov/images/idrPreview.pdf>.

41. Thirty-six percent of loan policy complaints and 13 percent of all complaints described such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

42. Miscellaneous Repayment Provisions, 34 CFR § 685.211 (2013).

43. Borrowers may continue making payments as usual, reducing the total time they repay and the interest they accrue.

44. While advancing the payment due date has no direct consequence for most borrowers, those participating in the PSLF program are only given credit toward forgiveness for payments made on the regular monthly due date in the scheduled amount due. When these borrowers make prepayments and therefore automatically advance their due dates, they are more likely to erroneously make future payments that will not count toward forgiveness.

45. Nineteen percent of loan policy complaints and 6 percent of all complaints in the sample described such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

46. Federal regulations allow servicers to offer a more flexible repayment plan or “alternative repayment plan” to Direct Loan borrowers at their discretion, but it is not widely used. The department does not even list the option among Direct Loan repayment plans on its website. For more detail on the alternative repayment plan, see Repayment Plans, 34 CFR § 685.208.

47. Seventeen percent of loan policy complaints and 8 percent of all complaints in the sample described such an issue. Percentages that refer to themes in the complaints may not total 100 percent, as some complaints were counted more than once because they described multiple topics.

48. To qualify for IBR, borrowers’ payments under IBR must be lower than their original payment on a 10-year fixed payment plan (the standard plan). Borrowers with a low balance and an income that exceeds the 150 percent of poverty income exemption under the program may not qualify. For example, borrowers with a \$6,000 loan at 5 percent interest make a \$64 monthly payment under the standard plan. IBR must reduce their payment below that for them to be eligible. If their annual income exceeds approximately \$27,000, they will not be eligible for the most generous version of IBR that sets payments to 10 percent of income above 150 percent of the poverty threshold. Their income would need to be even lower to qualify for less-generous versions of IBR that were more common when complaints in this analysis were filed. For an example of a CFPB complaint from our sample in which a borrower complains he was ineligible for IBR, see CFPB complaint 2805726.

49. While servicers verify borrower eligibility for loan discharge before sending an application to the department, the department makes the final determination in approving discharges. We did not observe borrowers complaining about servicers’ role in filing discharge paperwork on their behalf, though some complained that the department had not discharged their loan when they felt they were eligible for relief. Their complaint submitted to the CFPB was that they believed they should not have to pay the loan and that the servicer should not collect it from them. See borrower defense application at US Department of Education, “US Department of Education Application for Borrower Defense to Loan Repayment,” https://borrowerdischarge.ed.gov/s/?language=en_US.

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