

**Congress of the United States**  
**Washington, DC 20515**

August 13, 2019

Mr. Jeffrey R. Noordhoek  
Chief Executive Officer  
Nelnet, Inc.  
121 South 13th Street, Suite 100  
Lincoln, Nebraska 68508

Dear Mr. Noordhoek:

Americans are facing a crisis of student loan debt. Forty-three million student borrowers in the United States have more than \$1.4 trillion in outstanding federal student loans.<sup>1</sup> As Chairs of Committees with oversight responsibilities over the student loan industry, we are concerned by reports that the Trump Administration has paid more than \$1.7 billion in taxpayer money to Nelnet and other companies servicing these loans while failing to provide adequate oversight and shielding these companies from state and federal law enforcement.

Nelnet services \$180 billion in federal student loans, while Nelnet's subsidiary, Great Lakes Educational Loan Services, services \$236 billion in loans.<sup>2</sup> Reports indicate that improper practices by servicers—including inaccurate determination of monthly payments, forbearance steering, and other actions—directly impact millions of Americans and have ripple effects on their families, communities, and the economy as a whole.<sup>3</sup>

On March 5, 2019, the Department of Education's independent Office of Inspector General (OIG) released a report raising serious concerns about the Department's oversight of student loan servicers. The report found that the Department had failed to establish policies and procedures to mitigate the "risk of servicer noncompliance" and had "rarely used available

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<sup>1</sup> U.S. Department of Education, Office of Federal Student Aid, *Federal Student Loan Portfolio, Q1 2019*, (online at <https://studentaid.ed.gov/sa/about/data-center/student/portfolio>).

<sup>2</sup> U.S. Department of Education, Office of Inspector General, *Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans* (Mar. 5, 2019) (online at [www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf](http://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf)).

<sup>3</sup> See, e.g., Complaint (Jan. 18, 2017), *Consumer Financial Protection Bureau v. Navient*, N.D. Cal. (3:17-cv-00101-RDM) (Navient has "routinely disregarded" its commitment to help borrowers find an appropriate and affordable repayment plan and has "instead steered borrowers experiencing long-term distress or hardship into forbearance") (online at [https://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_Navient-Pioneer-Credit-Recovery-complaint.pdf](https://files.consumerfinance.gov/f/documents/201701_cfpb_Navient-Pioneer-Credit-Recovery-complaint.pdf)).

contract accountability provisions to hold servicers accountable.”<sup>4</sup>

The situation does not appear to be getting better, despite the Department’s claims of “significant ongoing improvements.”<sup>5</sup> In fact, in the 18-month period following the OIG’s audit, the Department took only two actions against loan servicers and recovered merely \$2 million in contractual fees. This amount represented less than 0.12 percent of the \$1.7 billion that Office of Federal Student Aid (FSA) budgeted for its servicing contracts across this period.<sup>6</sup> None of the \$2 million recovered was returned to student borrowers.

Under the Trump Administration, the Department has also taken steps to obstruct federal and state investigations into student loan servicers. For example, in December 2017, the Department issued a policy memorandum to all student loan servicers, prohibiting servicers from responding directly to any investigative requests made by law enforcement organizations (LEOs) or regulators. The memo instead requires servicers to direct investigative requests to the Department.<sup>7</sup> However, the Department has not approved *any* disclosures of data to LEOs since the issuance of the December 2017 memo.<sup>8</sup>

In addition, on June 13, 2018, the Department further obstructed efforts to hold servicers accountable by publishing a notice in the Federal Register ending the Department’s policy of collaboration with state law enforcement, stating, “The Department no longer intends to disclose any records” for use by other law enforcement agencies.<sup>9</sup>

The Department also unilaterally terminated two memoranda of understanding with the Consumer Financial Protection Bureau that were required by law and had facilitated the sharing of information to collaboratively oversee student loan servicers.<sup>10</sup>

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<sup>4</sup> U.S. Department of Education, Office of Inspector General, *Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans* (Feb. 12, 2019) (online at [www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf](http://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf)).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Memorandum from Patrick A. Bradfield, Director of Federal Student Aid Acquisitions, U.S. Department of Education, to Federal Student Aid Vendors, Regarding Ownership of and Access to U.S. Department of Education Records and Data (Dec. 27, 2017) (“Any request from any third party for Department records to which a contractor has access must be made directly to the Department, where it will be evaluated for compliance with the requirements of the Privacy Act, unless the contract has specifically provided otherwise.”) (online at <https://static.politico.com/51/1f/0f805fd04c2eb035bcd79f9200be/december-27-2017-servicer-memo.pdf>).

<sup>8</sup> *See, e.g., Pennsylvania v. Navient*, No. 3:17-CV-1814 at 2 (M.D. Pa. Oct. 17, 2018), (finding that the Department repeatedly denied the Pennsylvania Attorney General access to records integral to a law enforcement investigation) (online at [www.courtlistener.com/recap/gov.uscourts.pamd.113587/gov.uscourts.pamd.113587.44.0.pdf](http://www.courtlistener.com/recap/gov.uscourts.pamd.113587/gov.uscourts.pamd.113587.44.0.pdf)).

<sup>9</sup> 83 Fed. Reg. 27587 (June 13, 2018) (online at [www.federalregister.gov/documents/2018/06/13/2018-12700/privacy-act-of-1974-system-of-records#print](http://www.federalregister.gov/documents/2018/06/13/2018-12700/privacy-act-of-1974-system-of-records#print)).

<sup>10</sup> *Education Dept. Ends Partnership with CFPB*, Inside Higher Ed. (Sept. 5, 2017) (online at [www.insidehighered.com/news/2017/09/05/education-dept-rebukes-cfpb-overreach-kills-information-sharing-agreement](http://www.insidehighered.com/news/2017/09/05/education-dept-rebukes-cfpb-overreach-kills-information-sharing-agreement)).

For all these reasons, please provide the following documents and information by August 27, 2019. Unless otherwise noted, please provide responsive documents from January 20, 2017, to present:

1. All documents and communications related to your company's contracts with the Department of Education for servicing of student loans, including any contracts held by your company's subsidiaries, including but not limited to;
  - a. the annual cost, revenue, and profit from each of these contracts;
  - b. change orders associated with these contracts;
  - c. performance reports filed with the Department in connection with these contracts; and
  - d. internal and external performance audits in connection with these contracts;
2. All policies and procedures related to any of the following activities:
  - a. payment allocation;
  - b. processing Income Driven Repayment (IDR) applications;
  - c. processing Public Service Loan Forgiveness (PSLF) applications;
  - d. IDR recertification;
  - e. implementing Department of Education guidance;
  - f. providing information to borrowers struggling to make their payments;
  - g. loan cancellation, and
  - h. servicing transfers;
3. The total compensation, including salary, bonuses, benefits, and other compensation, for the five highest-paid executives at your company;
4. All documents and communications, including internal communications, communications with the Trump Administration, and any policies or guidance regarding:
  - a. responding to investigative requests made by state or federal law enforcement or regulators; or
  - b. the Department's December 27, 2017, memorandum to loan servicers entitled "Ownership of and Access to U.S Department of Education Records and Data;"<sup>11</sup>
5. All documents and communications, including internal communications, communications with the Trump Administration, and any policies or guidance regarding:

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<sup>11</sup> Memorandum from Patrick A. Bradfield, Director of Federal Student Aid Acquisitions, U.S. Department of Education, to Federal Student Aid Vendors, Regarding Ownership of and Access to U.S. Department of Education Records and Data (Dec. 27, 2017) (online at <https://static.politico.com/51/1f/0f805fd04c2eb035bcd79f9200be/december-27-2017-servicer-memo.pdf>).

- a. disclosure of records for use by law enforcement agencies; or
  - b. the Department's June 13, 2018, Federal Register notice to revise the system of records entitled "Common Services for Borrowers" (CSB);<sup>12</sup>
6. All documents and communications, including internal communications, communications with the Trump Administration, and any policies or guidance regarding:
  - a. preemption of state regulation of student loan servicers; or
  - b. the Department's March 12, 2018, Federal Register notice preempting state regulations of student loan servicers;<sup>13</sup>
7. All documents and communication, including internal communications and communications with the Trump Administration, regarding any strategies, practices, or policies, whether formal or informal, to steer or encourage any borrowers to:
  - a. enter voluntary forbearance;
  - b. remain in forbearance; or
  - c. select forbearance over an IDR plan;
8. Documents sufficient to show whether your company complies with FSA's 2016 requirement that loan servicers must "proactively communicate with student loan borrowers who submit an incomplete IDR application" and "are prohibited from summarily denying these applications;"<sup>14</sup>
9. Documents sufficient to show the following information, broken down by Federal Direct Loan Program loans, Department of Education-owned Federal Family Education Loan Program Loans (FFELP), and privately-held Federal Family Education Loan Program loans, for the years 2016 to present, excluding periods of administrative forbearance:
  - a. the number of borrowers currently in an IDR plan;
  - b. the number of IDR applications approved in under 30 days, 30-59 days, 60-89 days, and 90+ days;
  - c. the number of borrowers in an IDR plan at any point during this period;
  - d. the number of borrowers in an IDR plan during this period who were in a period of forbearance within the 6 months prior to entering the IDR plan;
  - e. the number of borrowers currently in voluntary forbearance;

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<sup>12</sup> 83 Fed. Reg. 27587 (June 13, 2018) (online at [www.federalregister.gov/documents/2016/09/02/2016-21218/privacy-act-of-1974-system-of-records](http://www.federalregister.gov/documents/2016/09/02/2016-21218/privacy-act-of-1974-system-of-records)).

<sup>13</sup> 83 Fed. Reg. 10619 (Mar. 12, 2018) (online at [www.federalregister.gov/documents/2018/03/12/2018-04924/federal-preemption-and-state-regulation-of-the-department-of-educations-federal-student-loan](http://www.federalregister.gov/documents/2018/03/12/2018-04924/federal-preemption-and-state-regulation-of-the-department-of-educations-federal-student-loan)).

<sup>14</sup> Annual Report of the CFPB Student Loan Ombudsman (Oct. 1, 2017) (online at [https://files.consumerfinance.gov/f/documents/cfpb\\_annual-report\\_student-loan-ombudsman\\_2017.pdf](https://files.consumerfinance.gov/f/documents/cfpb_annual-report_student-loan-ombudsman_2017.pdf)).

- f. the number of borrowers in voluntary forbearance at any point during this period;
  - g. a breakdown of the amount of time these borrowers spent in voluntary forbearance, using the following ranges: 0-5 months, 6-11 months, 12-17 months, 18-23 months; and 24 months or more; and
  - h. a breakdown of the average amount of interest capitalized at the end of forbearance for these borrowers, using the following ranges: 0-5 months, 6-11 months, 12-17 months, 18-23 months; and 24 months or more;
  - i. the number of borrowers in an IDR plan who timely recertified;
  - j. the number of borrowers in an IDR plan who recertified late; and
  - k. the number of IDR recertification applications approved in under 30 days, 30-59 days, 60-89 days, and 90+ days;
10. Documents sufficient to show annual volume of calls from borrowers and average wait time;
11. Documents sufficient to show what your company is paid per borrower in forbearance:
  - a. by the Department of Education for Department-owned loans and
  - b. for servicing FFELP loans owned by a private creditor;
12. Documents sufficient to show what your company is paid per borrower with a current account status, including a borrower with an IDR:
  - a. by the Department of Education for Department-owned loans and
  - b. for servicing FFELP loans owned by a private creditor;
13. Documents sufficient to show how customer service representatives have been evaluated and compensated, including any incentive pay or bonuses paid in connection with borrower assistance phone calls and the basis for these payments;
14. All training materials and call scripts provided to customer service representatives related to payment allocation, IDR, PSLF, deferments, or forbearance;
15. Documents sufficient to show the number of complaints received from borrowers, broken down by the subject matter of the complaints;
16. All documents related to instances in which the Department of Education identified non-compliance by your company with legal or contractual requirements, including all communications with the Department and internal communications, documents showing any enforcement action taken or penalty imposed, and documents showing any compliance efforts the company made in response.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. The Committee on Education and Labor has oversight and investigation authority over all federal education initiatives. The Committee on Financial Services has oversight and investigative authority over student loan servicing.

An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact Oversight Committee staff at (202) 225-5051.

Sincerely,



Elijah L. Cummings  
Chairman  
Committee on Oversight and Reform



Robert C. “Bobby” Scott  
Chairman  
Committee on Education and Labor



Maxine Waters  
Chairwoman  
Committee on Financial Services

Enclosure

cc: The Honorable Jim Jordan, Ranking Member  
Committee on Oversight and Reform

The Honorable Virginia Foxx, Ranking Member  
Committee on Education and Labor

The Honorable Patrick McHenry, Ranking Member  
Committee on Financial Services

## Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.



INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

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16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.