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Before the Senate Committee on Judiciary

On SB 279, Regulating the Practices of the Student Loan Industry

Public Hearing: March 19, 2019

Chairman Prozanski and members of the committee, thank you for allowing me to submit this testimony in support of SB 279 to protect Oregonians from abusive practices by student education loan servicers.

The Center for Responsible Lending (CRL) is a nonprofit, nonpartisan research and policy organization which is dedicated to protecting homeownership and family assets by working to eliminate abusive financial practices. We strive to promote responsible lending and access to fair terms of credit for low-wealth families. CRL is an affiliate of Self-Help Credit Union, which is the nation's largest community development financial institution with a mission of helping underserved people and communities build wealth and assets.

To that end, over the past few years we have worked on student lending issues around the country. This written testimony will focus on three key areas of concern: (1) Oregon's student loan debt crisis deepens the racial wealth gap and harms older Oregonians; (2) abuses by student loan servicers prolong and deepen the student loan debt crisis, further increasing the racial wealth gap and harm to older Oregonians; and (3) the federal rollback of existing protections bolsters need for state action.

**1. *Oregon's student loan debt crisis deepens the racial wealth gap and harms older Oregonians.***

In the last decade, student loan debt has exploded, directly impacting the lives of millions of Americans and leaving its mark on the entire economy. More than 523,000 student loan borrowers in Oregon alone owe over \$18 billion.<sup>1</sup> With the cost of higher education continuing to rise at alarming rates and college education becoming a requirement for more and more jobs, many more will soon be joining their ranks.

Unfortunately, while pursuing a higher education is widely-accepted as a pathway to higher incomes and better opportunities, most students have no choice but to borrow for college. With the continual increase in college tuition, few college students have the ability to pay rising costs in cash. In this state, 56% of 4-year degree college students left school with debt in 2017,



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carrying an average of nearly \$27,885.<sup>2</sup> Burdened by extraordinary student loan debt and stagnant wages, a generation of Americans are delaying or forgoing opportunities to build wealth, such as purchasing their first homes or starting their own businesses.<sup>3</sup>

Oregonians across the board are finding their student loan payments unaffordable, however, there are huge disparities between white students and students of color. These trends exacerbate the already wide racial wealth gap. While roughly one in ten white student loan borrowers in Oregon have a student loan debt in collections that number rises to one in two for borrowers of color.<sup>4</sup> Having debt in collections leads to a cascade of other harms that intensify the structural inequities that put borrowers of color in this position in the first place. Moreover, borrowers of color are disproportionately impacted by student loan debt because structural racial inequalities reduce intergenerational wealth, thereby affecting how much they borrow and how quickly they can repay the loan. In addition, for-profit colleges specifically target this community with deceptive advertising, leaving students of color with debt they cannot repay, due to difficulties securing employment after attending these failing and often fraudulent schools.<sup>5</sup>

Recent reports also indicate that—across the board—student loan delinquency and default are more serious problems than previously thought. Data suggest that for students who entered school in 2004, nearly 40 percent may default on their loans within 20 years of starting.<sup>6</sup> Again, there are disparities in the harm to borrowers of color: “Debt and default among black college students is at crisis levels... black BA graduates default at five times the rate of white BA graduates (21% versus 4%) and are more likely to default than white dropouts.”<sup>7</sup> These high debt loads and defaults, due in part to the racial wealth gap, also prevent progress in closing the racial wealth gap. Defaulting on a student loan harms a borrower’s credit score, making it more difficult to access jobs and housing, as employers and landlords routinely conduct credit checks when assessing applicants. This, in turn, hampers opportunities for homeownership, starting a business, and saving for retirement.

Student loan debt is also a real and growing problem for older Americans.<sup>8</sup> In Oregon, the number of residents age 60 and older saddled with student loan debt increased 30% from 2012 to 2017, from just over 34,000 to more than 44,000 residents.<sup>9</sup> These Oregon seniors hold more than \$1.2 billion in student loan debt, an increase of 45% from 2012.<sup>10</sup> The growing debt load they face also hampers their ability to retire with adequate financial support.<sup>11</sup>

Delinquency and default can have serious, long-term effects on these older borrowers as well. Since 2015, nearly 40 percent of federal student loan borrowers aged 65 or older were in default nationwide, which can result in the garnishment of social security benefits without a court order.<sup>12</sup> For senior citizens already teetering on the edge of financial security, a social security “offset” by the federal government to repay student loan debt can mean there is no money left over to pay for basic needs, like rent or groceries. Older consumers with outstanding student loans are more likely than those without outstanding student loans to report that they have skipped necessary health care needs such as prescription medicines, doctors’ visits, and dental



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care because they could not afford it. In 2014, for example, 39 percent of consumers age 60 and older with a student loan said that they skipped such care compared to 25 percent of older consumers without a student loan.<sup>13</sup>

Clearly, Oregon residents' lives and potential for economic prosperity is inextricably tied to how the state chooses to address this crisis.

***2. Abuses by student loan servicers prolong and deepen the student loan debt crisis, further increasing the racial wealth gap and harm to older Oregonians.***

While conversations continue in Oregon and nationally about how to address affordability in higher education in the future, the \$1.53 trillion in outstanding national student loan debt is and will continue to be collected by companies known as servicers. One of the many lessons learned from the foreclosure crisis following the Great Recession is the importance of protecting against abusive servicer practices. For federal student loan borrowers, student loan servicers are a critical link between borrowers and the repayment of their loans. Servicers are charged with evaluating borrowers for income-driven repayment programs, discharges, and other plans that can help them manage their monthly payments. Failure to properly serve borrowers, however, has led to delinquencies, defaults, and even an increase in outstanding student loan debt nationally.<sup>14</sup> When servicers do not do their job, students cannot reasonably repay their loans.

One Oregon resident, who has Navient Solutions, LLC (Navient) as a student loan servicer, made the following complaint to the Consumer Financial Protection Bureau (CFPB) recently that is emblematic of common problems borrowers experience with their servicers:

*Over the course of many years Navient failed to inform me of my income-driven repayment options and allowed me to continue with forbearances. This resulted in accumulating massive amounts of student debt over and above the original loan amounts.<sup>15</sup>*

Another Oregon resident submitted the following complaint, also about Navient, after having issues with how her payments were being handled:

*I have contacted Navient on XX/XX/XXXX and spoke with 3 representatives - one was a supervisor. I noticed that my overpayments were not being applied to principal but only a credit towards the next month[']s payment. I read Navient[']s repayment allocation statement which said that they will apply overpayments to next month[']s [payment] unless otherwise instructed. I called to instruct them otherwise. All 3 representatives assured me my payment was being applied to principal and that it's a "computer glitch" that shows a reduced payment...None of them could or would help to get my overpayments applied to the principal and not a credit towards next month[']s payment...I've asked to have my overpayments applied to the principal and they have refused to do so...Navient is preventing customers from paying off their loans early.<sup>16</sup>*



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Yet another Oregonian submitted this complaint about the student loan servicer, Nelnet, Inc. (Nelnet), with respect to Nelnet's recordkeeping, or lack thereof, on the loan:

*I have filed repeated requests for my annual student loan income based repayment plan and submitted the required documents to my servicer, Nelnet. Nelnet keeps "losing" my documents and refuses to process my request. They give no explanation why and will not escalate my case.<sup>17</sup>*

These are just three of the 329 complaints filed with the CFPB by Oregon residents in the last three years alone against Navient and Nelnet, two of the big four student loan servicers collecting payments on outstanding federal student loan debt.<sup>18</sup> According to a lawsuit filed by the CFPB against Navient, the company failed every type of borrower at every level of repayment. One of the key abuses the CFPB alleges is that Navient placed borrowers into forbearance even though the borrowers were eligible for income-driven repayment plans, which would have tied their monthly payments to their incomes. In forbearance, a borrower pays nothing for a set number of months – while the interest on their loans continues to compound. While this solution is appropriate for a borrower who needs a few months to get back on their feet, it is not a solution for borrowers who need long term help. Indeed, by placing borrowers in forbearance after forbearance, Navient added an additional \$4 billion in compounded interest to the loan debt of 500,000 students.<sup>19</sup> A recently released U.S. Department of Education audit of Navient supports the complaints and CFPB lawsuit in finding that Navient representatives failed to offer struggling borrowers options other than forbearance in about one out of every 10 calls audited.<sup>20</sup>

Significantly, borrowers are not able to select who services their federal student loans; the U.S. Department of Education does. As a result, servicers are not incentivized by market forces to provide quality customer service and otherwise engage in fair practices. In fact, Navient, in the CFPB enforcement action, acknowledged as such: “*The servicer acts in the lender’s interest... and there is no expectation that the servicer will ‘act in the interest of the consumer.’*”<sup>21</sup> Navient followed up on this statement in court, telling a federal judge in Pennsylvania that any reference it made to helping borrowers successfully pay their loans “[is] friendly talk, it’s puffery, but it is not the stuff of a legal obligation to now become your financial counselor.”<sup>22</sup> Without consumer choice or effective regulatory mechanisms, student loan servicers have been left to operate without meaningful accountability to the detriment of borrowers.

A recently released report by the Office of Inspector General (OIG) for the Department of Education echoes many of these same issues concerning student loan servicers’ lack of accountability thus far. The report details the findings of an internal audit specifically examining the Office of Financial Student Aid (FSA), the branch of the Department of Education responsible for the entire \$1.147 trillion federal student loan portfolio. Of that portfolio, just over 89 percent of its total value is assigned to only four main servicers, of which 23 percent is assigned to Navient, and 19 percent to Nelnet.<sup>23</sup> The audit found, from January 2015 through September 2017, “recurring instances...of servicer representatives not sufficiently informing



borrowers about available repayment options.”<sup>24</sup> Moreover, the report states that servicers were placing borrowers into forbearance instead of sufficiently informing them about available repayment options, which, in some instances resulted in borrowers’ interest capitalizing when another repayment option would have prevented it.<sup>25</sup> In addition, the audit showed that servicers were repeatedly miscalculating borrowers’ repayment amounts on income-driven repayment plans.<sup>26</sup> Importantly, the OIG, in its report, indicates that the noncompliance the FSA repeatedly identified through its audit could put more borrowers at risk than just those borrowers that the audit covered. The OIG states those risks as including, “increased interest or repayment costs incurred by borrowers, the missed opportunity for more borrowers to take advantage of certain repayment options, negative effects on borrowers’ credit ratings, and an increased likelihood of delinquency or even default.”<sup>27</sup>

### ***3. The federal rollback of existing protections bolsters need for state action.***

Despite the numerous problems and concerns with student loan servicers, the U.S. Department of Education is currently taking steps to roll back existing protections against student loan servicing abuses. In April 2017, the Department withdrew the policy directives created by the previous Administration, which had put in place safeguards against companies that service student loans with a history of fraudulent and illegal practices.<sup>28</sup> This rollback prevents federal student loan borrowers from taking advantage of better repayment options, and reduces accountability for servicers, leaving borrowers on the hook for high-cost payment plans that are doomed to fail.

In light of the federal government’s failure to meet its obligation to protect students, states must and can take action to fill the void. As a bipartisan group of thirty state Attorneys General, including the Oregon Attorney General’s Office, wrote to Secretary of Education DeVos last year:

*Given the states’ experience and history in protecting their residents from all manner of fraudulent and unfair conduct, they play an essential role in consumer protection in student loans and education. States are uniquely situated to hear of, understand, confront, and ultimately, resolve the abuses their residents face in consumer marketplace. Abuses in connection with schools or student loans are no different. As with other issues facing their citizens, state regulators bring a specialized focus to, and appreciation for, the daily challenges experienced by students and borrowers. Far from interfering with the Department and other federal efforts to rein in abuses, the record overwhelmingly demonstrates that state laws and state enforcement complement and amplify this important work.*<sup>29</sup>

**Therefore, the Center for Responsible Lending urges this committee to take a stand for Oregon student loan borrowers by supporting SB 279 with amendments that incorporate a robust regulatory and oversight regime in order to effectively prevent abusive student loan servicing practices.**



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For additional information or if you have any questions, please contact Ezekiel Gorrocino, Government Relations and Policy Associate, at 510-379-5516, or [ezekiel.gorrocino@responsiblelending.org](mailto:ezekiel.gorrocino@responsiblelending.org).

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<sup>1</sup> U.S. Department of Education, Federal Student Loan Portfolio by Borrower Location, <https://studentaid.ed.gov/sa/about/data-center/student/portfolio> (Reflecting totals through the end of June 2018); Consumer Financial Protection Bureau, 50 State Snapshot of Student Loans, Aug. 2017, [https://files.consumerfinance.gov/f/documents/cfpb\\_student-loans\\_50-state-snapshot\\_complaints.pdf](https://files.consumerfinance.gov/f/documents/cfpb_student-loans_50-state-snapshot_complaints.pdf)

<sup>2</sup> The Institute for College Access & Success, Student Debt and the Class of 2017 (2018), [https://ticas.org/sites/default/files/pub\\_files/classof2017.pdf](https://ticas.org/sites/default/files/pub_files/classof2017.pdf).

<sup>3</sup> National Association of Realtors, Student Loan Debt and Housing Report (2017), <https://www.nar.realtor/research-and-statistics/research-reports/student-loan-debt-and-housing-report>

<sup>4</sup> Urban Institute, Debt Collection in America: Student Loan Debt (May 2018), <https://apps.urban.org/features/debt-interactive-map/>.

<sup>5</sup> In Oregon, for-profit students are more likely to be low-income (56.2%), African-American (5.2%), and women (80.3%) compared to enrollment at Oregon's public and private nonprofit four-year institutions. See Center for Responsible Lending, State of For-Profit Colleges: Oregon, <https://www.responsiblelending.org/map/pdf/co.pdf>.

<sup>6</sup> Judith Scott-Clayton, "The looming student loan default crisis is worse than we thought," Brookings Institute, Evidence Speaks Reports, Vol. 2, #34 (2018), <https://www.brookings.edu/wp-content/uploads/2018/01/scot-clayton-report.pdf>.

<sup>7</sup> Id.

<sup>8</sup> Consumer Financial Protection Bureau, Snapshot of older consumers and student loan debt (2017), [http://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_OA-Student-Loan-Snapshot.pdf](http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf).

<sup>9</sup> Consumer Financial Protection Bureau, Older consumers and student loan debt, by state (2017), [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708\\_cfpb\\_older-consumers-and-student-loan-debt-by-state.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_older-consumers-and-student-loan-debt-by-state.pdf)

<sup>10</sup> Id.

<sup>11</sup> The Institute for College Access & Success, The Self-Defeating Consequences of Student Loan Default (2018), [https://ticas.org/sites/default/files/pub\\_files/ticas\\_default\\_issue\\_brief.pdf](https://ticas.org/sites/default/files/pub_files/ticas_default_issue_brief.pdf).

<sup>12</sup> Consumer Financial Protection Bureau, Snapshot of older consumers and student loan debt (2017), [http://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_OA-Student-Loan-Snapshot.pdf](http://files.consumerfinance.gov/f/documents/201701_cfpb_OA-Student-Loan-Snapshot.pdf).

<sup>13</sup> Id.

<sup>14</sup> Press Release, Consumer Financial Protection Bureau, "CFPB Sues Nation's Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment: Navient, Formerly Part of Sallie Mae, Illegally Cheated Borrowers Out of Repayment Rights Through Shortcuts and Deception", (January 2017) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

<sup>15</sup> Consumer Financial Protection Bureau, Complaint Database: <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/2703983>.

<sup>16</sup> Consumer Financial Protection Bureau, Complaint Database: <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/2597036>.

<sup>17</sup> Consumer Financial Protection Bureau, Complaint Database: <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3080674>.



<sup>18</sup> Consumer Financial Protection Bureau, Complaint Database, <https://www.consumerfinance.gov/data-research/consumer-complaints>, (last accessed February 19, 2019).

<sup>19</sup> Press Release, Consumer Financial Protection Bureau, “CFPB Sues Nation’s Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment: Navient, Formerly Part of Sallie Mae, Illegally Cheated Borrowers Out of Repayment Rights Through Shortcuts and Deception”, (Jan. 2017) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

<sup>20</sup> Ken Sweet, AP Exclusive: Audit points to deceptive practices by Navient (Nov. 20, 2018), <https://apnews.com/eeebf667026a420c9893220215e542cb>.

<sup>21</sup> Shahein Nasiripour, “Student Debt Giant Navient to Borrowers: You’re on Your Own: The servicer says publicly it wants to help you pay debt. In a government lawsuit, it has a different message,” Bloomberg, (Apr. 3, 2017), <https://www.bloomberg.com/news/articles/2017-04-03/student-debt-giant-navient-to-borrowers-you-re-on-your-own>.

<sup>22</sup> Stacy Cowley, “How a Potential \$1 Billion Student Loan Settlement Collapsed After Trump Won,” New York Times (Oct. 7, 2018), <https://www.nytimes.com/2018/10/07/business/student-loans-navient.html>.

<sup>23</sup> PHEAA and Great Lakes are responsible for the remaining portfolio of federal student loans. *See* Audit Report, 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), <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Andrew Kreighbaum, “U.S. Alters Rules for Picking Student Loan Servicers,” Inside Higher Ed, (Apr. 12, 2017), <https://www.insidehighered.com/news/2017/04/12/devos-withdraws-consumer-protections-servicing-contractprocess>.

<sup>29</sup> Letter from Eric T. Schneiderman, Cynthia H. Coffman, et al. to The Honorable Betsy DeVos (March 15, 2018), [https://ag.ny.gov/sites/default/files/ag\\_letter\\_student\\_loan\\_preemption.pdf](https://ag.ny.gov/sites/default/files/ag_letter_student_loan_preemption.pdf).