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Student data & student debt

How student enrollment status problems can make student loans more expensive

Consumer Financial Protection Bureau

Introduction

Almost 60 percent of Americans 25 and older have attended a college or university.[1] For these consumers, including the 40 million that have outstanding student loans to finance their education "enrollment status" (a record of the dates a person has been enrolled in college, whether they are currently enrolled in college and their expected graduation date) can affect the cost of their student loans in important ways. [2] A borrowers' enrollment status can determine when he or she must begin to repay their loans, [3] when any unpaid interest is added to the

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[1] *See* U.S. Census Bureau, *Educational Attainment in the United States: 2015* (Mar. 2016), www.census.gov/content/dam/Census/library/publications/2016/demo/p20-578.pdf.

[2] *See* U.S. Department of Education, *Federal Student Aid Portfolio Summary* (accessed on Feb. 21, 2017), https://studentaid.ed.gov/sa/about/data-center/student/portfolio.

[3] The Bureau reviewed a sample of private student loan promissory notes from lenders that collectively originate more than 85 percent of all new private student loans. The Bureau notes that every promissory note in our sample contains similar terms providing for the deferment of payments while the borrower attends the program of study financed by the loan. In addition, the majority of promissory notes in our sample contain similar provisions describing 1) the deferment of payments when a borrower returns to school after entering repayment, 2) the accrual of interest during periods of non-payment and the capitalization of unpaid interest at the conclusion of these periods, and 3) the transition from non-payment status to repayment based on the borrower's enrollment status [hereinafter *Private Promissory Notes*].

Federal student loan Master Promissory Notes (MPNs) contain similar provisions governing the transition from non-payment status to repayment based on the borrower's enrollment status. For borrowers with certain federal student loans, enrollment status also governs eligibility for consumer protections and borrower benefits established under the Higher Education Act, including eligibility for interest subsidies and eligibility for a "grace period" borrower's loan balance, and how a student loan servicer applies interest subsidies and other borrower benefits to the borrower's account.[4]

Colleges and universities are required by the Department of Education to provide timely, accurate, and complete information about students' enrollment status to the Department of Education as part of their obligations under the Higher Education Act.[5] The accurate and timely flow of this information ensures that a servicer of private or federal student loans can place loans into repayment at the appropriate time and that borrowers' loan balances and accrued interest are calculated correctly. However, the Consumer Financial Protection Bureau ("Bureau" or "CFPB") has received complaints from student loan borrowers who report encountering a range of servicing problems that may be driven by incomplete or inaccurate reporting of enrollment status information. For some consumers, these problems can lead to surprise interest charges, unexpected loan bills, and lost eligibility for interest subsidies and other benefits.

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following separation from school, before repayment begins. *See, e.g.*, U.S. Dept. of Education, *Subsidized/Unsubsidized Direct Loan Master Promissory Note* (expiring Apr. 30, 2019), https://studentloans.gov/myDirectLoan/downloadPDF.action?fileName=SUB_UNSUB_MPN [hereinafter *Direct Loan Promissory Note*]; *see also* U.S. Dept. of Education, *NSLDS Enrollment Reporting Guide* (Nov. 2016) https://ifap.ed.gov/nsldsmaterials/attachments/NewNSLDSEnrollmentReportingGuide.pdf [hereinafter *Reporting Guide*].

4 *See Private Promissory Notes*, *supra* note 3; *Direct Loan Promissory Note*, *supra* note 3.

5 The Department of Education has promulgated regulations and issued guidance for colleges seeking to oversee the operations of third-party servicers that assist schools in performing any aspect of the administration of the Title IV programs, including enrollment status reporting to the National Student Loan Data System. *See* 34 C.F.R. § 668.2; U.S. Dept. of Education, *Dear Colleague Letter GEN-16-15* (Aug. 18, 2016), https://ifap.ed.gov/dpcletters/GEN1615.html.

Background

The framework for student loan repayment begins when a lender first originates a federal or private student loan. The loan contract (also known as a promissory note) defines the loan terms, conditions, and benefits. Student loans typically have three distinct stages or "statuses," all tied to a borrower's enrollment status at a college or university. First, a borrower's loans are classified as being in an "in school" status – a period of time when payments are typically not required because the borrower is enrolled in school at least half-time.[6] For the nearly 30 million borrowers with subsidized federal student loans, "in school" status offers an additional financial benefit – these borrowers are not responsible for interest charges during "in school" status.[7] Once a student separates from school (or enrolls for less than half-time), many federal and private student loans transition into a "grace period" status – a set period of time, generally six months, where no payment is due on the loan.[8] At the conclusion of a grace period, or, for loans with no grace period, at the end of "in-school" status, borrowers enter "repayment" status – the period of time during which payments are typically due on a student loan.[9] Borrowers in

[6] Note that some private student loan promissory notes provide borrowers with an option to make monthly payments during periods of "in-school" status; however, the sample of promissory notes reviewed by the Bureau generally did not include provisions compelling repayment until after the borrower graduated or separated from school. *See Private Promissory Notes*, *supra* note 3.

[7] *See, e.g.*, *Direct Loan Promissory Note, supra* note 3; *see also* U.S. Dept. of Education, *Federal Student Loan Portfolio: Federal Student Aid Portfolio by Loan Type* (accessed on Feb. 14, 2017), https://studentaid.ed.gov/sa/about/data-center/student/portfolio (reporting that 29.5 million student loan borrowers owed outstanding subsidized federal student loans as of the fourth quarter of 2016.).

[8] *See Private Promissory Notes*, *supra* note 3. Not all student loans have a grace period. For example, a Federal Direct Consolidation Loan has no grace period and immediately enters repayment following origination. *See, e.g.*, U.S. Dept. of Education, *Federal Direct Consolidation Loan Application and Promissory Note* (accessed on Feb. 14, 2017), https://studentloans.gov/myDirectLoan/consolidationPaper.action.

[9] *See supra* note 3.

"repayment" status may elect to return to school at any point during the course of repaying a loan and, typically, have the option of suspending monthly payments during this period.[10]

A borrower's decision to enroll less than half-time, separate from, or complete school triggers the transition between these stages. Generally, a student loan servicer manages this process by obtaining the borrower's enrollment status to automatically calculate accruing interest charges and invoke any additional loan terms or conditions driven by the borrower's enrollment status. For example, common loan terms that are triggered by a change in enrollment status may include the cessation of interest subsidies, the capitalization of unpaid interest or, for some older federal loans, a change in the interest rate. As described in further detail below, schools, which are obligated to report information about students' enrollment to government information systems, often through the use of private-sector service providers, drive the process by which a student loan servicer obtains this information. If this information is not timely or accurate, borrowers' loans may not be serviced correctly.

How information about enrollment status gets to a student loan servicer

Servicers may obtain information about a borrower's enrollment status through one of three main channels: 1) directly from the student loan borrower; 2) from a central, government-operated information system to which colleges are obligated to report; or 3) from a school or its designated third-party enrollment reporting company.[11] The channel through which a student loan servicer obtains this information is largely determined by whether the loan is owned by the Department of Education.

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[10] *See supra* note 3.

[11] *See* 34 C.F.R. §§ 685.204(b), 685.207, 682.209, 682.210(c); *see also supra* note 3.

Enrollment status reporting is an automated process for most borrowers. Federal student loan borrowers are obligated under the terms of their loan contract to inform both their school and their student loan servicer about changes in their enrollment status that would drop them below half-time enrollment.[12] Private student loan borrowers may also be required under the terms of their loan contract to provide this information directly to their lender or servicer.[13] However, contract terms governing private loans, and federal regulations and servicing practices for federal loans, also generally provide for a process through which loan servicers can automatically obtain information about enrollment status from third-party sources.[14] In practice, servicers typically rely on a process that automates the updating of enrollment status, based on information provided on behalf of schools by a third-party enrollment reporting company. The reporting of enrollment data and the corresponding maintenance of a borrower's loan status generally takes place without any direct action by a student loan borrower.

Servicers handling Department of Education-owned federal student loans obtain updates about enrollment status from the National Student Loan Data System (NSLDS).[15] The Department of Education shares information about the enrollment status of certain federal student loan borrowers with a range of third-parties, including participants in

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[12] *See, e.g.*, *Direct Loan Promissory Note*, *supra* note 3 ("7. INFORMATION YOU MUST REPORT TO US AFTER YOU RECEIVE YOUR LOAN . . . Until you graduate or otherwise leave school, you must notify your school's financial aid office if you . . . Do not enroll at least half-time for the loan period certified by the school; Do not enroll at the school that determined you were eligible to receive the loan; Stop attending school or drop below half-time enrollment; Transfer from one school to another school; or Graduate. You must also notify your servicer if any of the above events occur at any time after you receive your loan.").

[13] *See, e.g.*, *Private Promissory Notes*, *supra* note 3. However, the Bureau also observed that some private student loan promissory notes do not include an equivalent provision that explicitly provides for an automated process administered by the lender.

[14] *See Private Promissory Notes*, *supra* note 3; 34 C.F.R. §§ 674.34, 685.204(b), 682.210(c).

[15] Federal student loan servicers receive NSLDS enrollment updates to manage Department of Education-owned loans, which include all Federal Direct Loans and also loans from the discontinued Federal Family Education Loan Program (FFELP) that were purchased by the Department of Education from private loan holders.

the Federal Student Aid program.[16] The Department of Education requires colleges participating in Federal Student Aid programs to provide timely, accurate, and complete enrollment information on their students, reporting at least every 60 days.[17] This information is stored in NSLDS, the Department of Education's central database for student-level enrollment and financial aid data.[18] Colleges can report enrollment information directly to NSLDS, or outsource this function to a specialty third-party service provider that handles student enrollment data (third-party enrollment reporting company).[19] The largest third-party enrollment reporting company is the National Student Clearinghouse.[20] When a college elects to use a third-party enrollment reporting company to handle this function, the school reports enrollment status information to the third-party enrollment reporting company and this service provider reports the information to NSLDS.[21] Servicers of federal loans held by the government currently receive

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16 *See, e.g.*, *Direct Loan Promissory Note*, supra note 3.

17 A borrower's initial enrollment status is based on his or her expected graduation date. Colleges then certify enrollment status at least every 60 days, retroactively reconciling changes to borrower's enrollment status since last certified. *See* 34 C.F.R §§ 674.19(f), 682.610(c), 685.309(b); *see also Reporting Guide*, *supra* note 3.

18 *See Reporting Guide*, *supra* note 3.

19 *See* U.S. Dept. of Education, *Reminder to Institutions of NSLDS Enrollment Reporting Responsibilities* (Feb. 2014), https://ifap.ed.gov/eannouncements/022414RemindertoInstitutionsofNSLDSEnrollment.html.

20 The National Student Clearinghouse advertises that, currently, more than 3,600 colleges and universities, enrolling over 98 percent of all students in public and private U.S. institutions, participate in the Clearinghouse. *See* National Student Clearinghouse, *Who we work with* (accessed Jan. 30, 2017), http://www.studentclearinghouse.org/about/who_we_work_with.php. Although not discussed in this report, readers should note that the Clearinghouse also advertises that certain types of student data may be available for use or purchase by others outside of the student financial aid system, including researchers, financial services companies, landlords, insurance companies, and other market participants.

21 Use of a third-party enrollment reporting company does not relieve the college of responsibility for compliance with all NSLDS enrollment reporting requirements. *See* U.S. Dept. of Education, *Reminder to Institutions of NSLDS Enrollment Reporting Responsibilities* (Feb. 2014), https://ifap.ed.gov/eannouncements/022414RemindertoInstitutionsofNSLDSEnrollment.html; *see also Reporting Guide*, *supra* note 3.

enrollment reports from the NSLDS system to track borrowers' enrollment status and manage their student loan portfolio.[22]

In contrast, servicers generally rely on third-party sources of information to track enrollment status for private student loan borrowers and for borrowers with older federal loans made by banks and other private lenders.[23] This is information flow is particularly important when a student loan borrower enters repayment and when a borrower in repayment elects to return to school at least half-time and has a right to defer his or her obligation to make payments.[24]

Servicers managing both types of loans will generally access information compiled by the same third-party enrollment reporting company. In effect, the same third-party enrollment reporting company may perform two distinct functions at the center of this information exchange:

1. Compiling student-level enrollment information on behalf of colleges and universities and providing this information to NSLDS to satisfy federal financial aid requirements; and

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[22] *See* Federal Student Aid, *NSLDS Frequently Asked Questions* (accessed Jan. 30 2017), https://www.nsldsfap.ed.gov/nslds_FAP/static/faq.jsp.

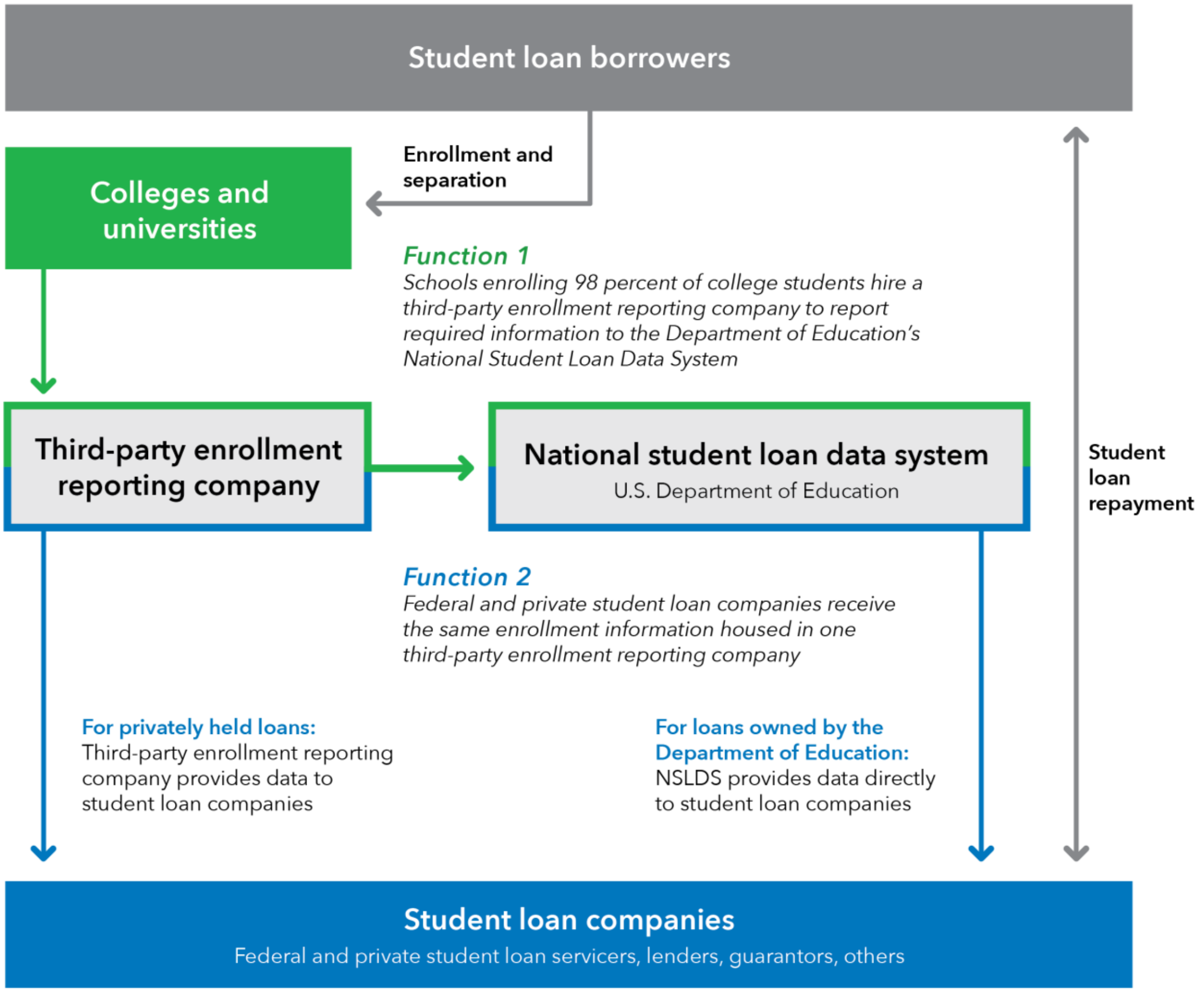
[23] Readers should note that information about private student loans is not included in NSLDS. *See also Private Promissory Notes, supra* note 3, and Common Manual, *Electronic Common Manual* (2014), www.commonmanual.org/doc/ECMarchive/ECM2014.pdf ("A lender must determine the eligibility of a borrower—or, as applicable, the dependent student—for an in-school deferment based upon the receipt of documentation indicating that the borrower is enrolled on at least a halftime basis. The lender may use documentation from an appropriate source (e.g., the borrower, school, guarantor, National Student Clearinghouse, or NSLDS)—provided the documentation supplies sufficient information to ensure that the borrower meets all eligibility criteria. A borrower is not required to request an in-school deferment. If the lender grants an in-school deferment and the borrower has not requested the deferment, the lender must notify the borrower of the in-school deferment and of the option to continue paying on the loan. This change is effective for in school deferments granted by the lender on or after October 1, 1998.").

[24] *See Private Promissory Notes, supra* note 3, and Common Manual, *Electronic Common Manual* (2014), www.commonmanual.org/doc/ECMarchive/ECM2014.pdf.

2. Providing the same enrollment status information to certain lenders and servicers of privately held student loans, where these market participants may not have access or authorization to receive information available in NSLDS.[25]

[25] Where a lender or servicer of privately-held student loans is permitted to access NSLDS, readers should note that these market participants can only access information in NSLDS for borrowers of federal student loans and who can only access this information for the purpose of servicing a federal student loan.

FIGURE 1: TWO FUNCTIONS OF A THIRD-PARTY ENROLLMENT REPORTING COMPANY



The Department of Education has noted multiple times that providing timely, accurate, and complete information about enrollment data has also been a challenge for some colleges.[26] In

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[26] *See e.g.*, U.S. Dept. of Education, *Default Management Plans*, 2015 FSA Training Conference for Financial Aid Professionals (Dec. 2015), http://fsaconferences.ed.gov/conferences/library/2015/2015FSAConfSession16.ppt; U.S.

particular, the Department of Education has noted that when reporting and servicing breakdowns cause enrollment statuses to become unavailable or incorrect, it can lead to higher loan costs for borrowers[27] and may contribute to increases in student loan delinquency and default.[28]

Consumers identify a range of servicing problems driven by breakdowns in enrollment status information

Student loan borrowers note that when their enrollment status information is inaccurate, it can lead to a loss of borrower benefits, unexpected payments due, and incorrect interest capitalization. Additionally, borrowers report challenges in correcting errors related to information about their enrollment status.[29]

Dept. of Education, *Changes to NSLDS Enrollment Reporting: Program-Level and More Frequent Reporting*, DCL ID: GEN-14-07 (Apr. 2014), https://ifap.ed.gov/dpcletters/GEN1407.html [hereinafter *Changes to NSLDS*].

[27] The Department of Education has noted that inaccuracies in enrollment reporting can cause borrowers to lose interest subsidies, revealing that "Failing to report completions at all may cause borrowers to lose interest subsidy when they should not." *See Changes to NSLDS*, *supra* note 26; *see also Reporting Guide*, *supra* note 3.

[28] The Department of Education has noted that borrowers may lose grace period benefits due to enrollment reporting breakdowns, which in turn can contribute to higher risks of delinquency and default. It notes that "delays in submitting timely and accurate NSLDS enrollment changes may increase default risk . . . Of the borrowers who defaulted, most did not receive their full 6-month grace period due to late or inaccurate enrollment notification by the institution." *See Default Management Plans*, *supra* note 26.

[29] The discussion in this section includes information based on consumer complaints, which are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service. We do not verify the facts alleged in these complaints, but we take steps to confirm a commercial relationship between the consumer and the company. Accordingly, this section does not suggest the prevalence of the issues described as they relate to the entire student

When enrolled in school, borrowers complain that their loans prematurely enter repayment. Student loan borrowers have submitted complaints to the Bureau stating that their student loans unexpectedly entered repayment status, when the loan status should have indicated an in-school status or deferment. Borrowers have reported to the Bureau that their servicer incorrectly placed their loan into repayment status, sometimes multiple times, despite being continuously enrolled more than half-time at their college. Some borrowers report that their loans were treated as past due and reported as delinquent to credit reporting agencies while they were still enrolled more than half-time in school. One borrower reported that when he prematurely entered repayment status years before graduation, it caused his unpaid student loan interest to capitalize. When loan interest capitalizes, any unpaid interest is added to the borrower's outstanding principal balance and begins accruing additional interest on the capitalized interest.[30] If these errors are not corrected, this can hurt the borrower's credit and cost hundreds, and, perhaps, thousands of dollars over the life of a loan.

When leaving school, borrowers complain that inaccurate information about enrollment status can lead to unexpected bills or surprise delinquencies. Borrowers reported they faced unexpected and past due bills when their separation dates were inaccurate. For example, one borrower who recently entered repayment complained that he started receiving notices that his account was past due, despite having paid his first bill (due in June) in full. He later learned that his enrollment status was not updated until one month after he had graduated. This resulted in the servicer's system back-creating another "first bill" with a May due date. When the enrollment error was corrected after the borrower made his first payment, the servicer applied his June payment to the new back-created May bill, causing his account to appear a full month past due when the company generated the July bill. As a result, the

loan market. The information provided by borrowers helps to illustrate where there may be a mismatch between borrower expectations and actual service delivered. For more information about how we handle complaints, see http://www.consumerfinance.gov/data-research/consumer-complaints/.

[30] For a description of the treatment of student loan interest and the consequences of interest capitalization, see Consumer Financial Protection Bureau, *Student Loan Servicing* (Sept. 2015), files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf.

consumer unexpectedly received a past-due bill for twice his normal monthly payment. Another borrower reported thousands of dollars in unexpected and unexplained student loan debt borrowed to finance classes he initially enrolled in but properly withdrew from, consistent with his school's withdrawal requirements. He later learned that his school processed his withdrawal weeks after he dropped the courses, triggering an additional loan disbursement under his existing loan contract.[31]

When returning to school following a period of separation, borrowers report that untimely and inaccurate information about changes to their enrollment status may cause servicers to apply deferments inconsistently and may lead to extended periods of costly payments. Borrowers returning to school reported short-term financial distress when it took months for their servicers' systems to accurately reflect their change to "in-school" status, requiring them to continue making payments during this period, even where tools exist to prevent this hardship.[32] For example, one borrower returning to school reported that she was obligated to continue making loan payments while her servicer took over two months to apply an in-school deferment. During this period, this borrower noted that delays persisted, despite the borrower submitting her own enrollment verification. Other borrowers complained of being charged late fees and being reported delinquent to the credit bureaus when their enrollment status failed to update.

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[31] Colleges are only permitted to disburse student loans to students that are enrolled in college. Colleges may improperly disburse loans when there is a delay in updating a borrower's enrollment status after the borrower informs the college of his or her intent to withdraw. Additionally, colleges that do not maintain a consistent record of student attendance are permitted to use the mid-point in a term or semester as the date of withdrawal. Borrowers that withdrew before this date are sometimes billed for classes they did not take, which may increase their student debt burden. *See supra* note 3.

[32] Borrowers may receive an immediate deferment if the school completes and the borrower submits an in-school deferment form to his or her servicer. Moreover, servicers could grant a temporary forbearance to prevent payments from being due for a period of time during which the servicer is waiting to receive updated enrollment information from the borrower's college.

Borrowers returning to school also report long-term financial distress when student loan servicers have inaccurate enrollment information. One borrower who returned to school reported that her servicer unexpectedly and automatically withdrew hundreds of dollars in payments from her account believing she was no longer enrolled, despite the fact that she had provided documentation of her continued enrollment as more than a half-time student. Borrowers also reported being billed throughout the course of their program of study, even though they attempted to secure an in-school deferment with their servicer. Borrowers described how their loan servicer incorrectly continued to require monthly payments, despite their other loan servicers correctly and automatically applying in-school deferments. One private student loan borrower writes:

> *I have been in law school for two years, and entering my third. [Servicer] has continually, through the three years, continued to withdraw a monthly amount, and claims they have no record of my enrolling in school (no other lender has this issue)... I should not have been charged for the past two years. As a student on a tight budget, I had to take out additional loans in order to cover those monthly payments, and when I could get someone on the phone last year, they told me there was nothing I could do that year, but wait for the [third-party enrollment reporting company] to update my info for the second year. That never happened, and they are still billing me as the third year of school begins.*

Borrowers report roadblocks when trying to correct or update inaccurate information about their enrollment status. Borrowers' complaints indicate the absence of an effective process they can follow to remedy errors in information relating to their enrollment status. These borrowers described a series of unsuccessful encounters with different personnel, including the staff at their college, the customer service representatives at their college's third-party enrollment reporting company, and the customer service staff from their student loan servicer. For example, borrowers reported roadblocks when attempting to correct errors in their enrollment status, even after submitting proof of enrollment to their servicer. Other borrowers reported that when they are able to correct enrollment status errors, they often are placed back in the wrong status repeatedly.

Next steps

Stakeholders that compile and use enrollment information should be aware of the important role that timely and accurate information plays in the management of student loans. Market participants seeking to reduce the risk of borrower harm and distress associated with inaccurate enrollment information can provide more oversight of service providers and improve error resolution. Additionally, students and borrowers can help mitigate unexpected surprises by informing their student loan servicer if their enrollment status changes and by reporting to NSLDS that they have enrolled in school (which will ensure that colleges are obligated to report enrollment about them). Contemporaneous with the publication of this report, the Bureau released a consumer advisory warning consumers about these issues and advising consumers to diligently monitor this information during periods of transition.[33]

[33] *See* Consumer Financial Protection Bureau, *Consumer Advisory: Bad information about your college enrollment status can cost you* (Feb. 27, 2017), https://www.consumerfinance.gov/about-us/blog/consumer-advisory-bad-information-about-your-college-enrollment-status-can-cost-you.

Contact information

To reach the CFPB's Student Loan Ombudsman:

By email students@cfpb.gov

By mail Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

To submit a complaint:

Online consumerfinance.gov/complaint

By phone 180+ languages, M-F 8am-8pm EST
Toll-Free: (855) 411-CFPB (2372)
TTY/TDD: (855) 729-CFPB (2372)

By mail Consumer Financial Protection Bureau
PO Box 4503
Iowa City, Iowa 52244

By fax (855) 237-2392

Press and media requests

By email press@consumerfinance.gov

Congressional inquiries

By phone (202) 435-7960

Additional resources to assist student loan borrowers

Repay Student Debt web tool
http://www.consumerfinance.gov/paying-for-college/repay-student-debt