Policy Brief:
New Jersey Must Act to Address Student Loan Crisis

Diane Standaert, Director of State Policy
Yasmin Farahi, Policy Counsel

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Student Loan Debt is a Crisis

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. There are currently over 44 million Americans with student loan debt. With the costs of higher education continuing to rise at alarming rates and a college education becoming a requirement for more and more jobs, millions more will soon be joining their ranks. 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.[1] These trends exacerbate the already wide racial wealth gap. Student loan debt is also hampering older Americans' ability to retire with adequate financial support.

With estimates of outstanding student loan debt nationwide at $1.5 trillion and education borrowing now outpacing all other non-mortgage loan debt, the majority of Americans across the political spectrum agree that the amount of student loan debt represents a crisis.[2] This policy brief provides a look at the state of student loan debt for New Jersey and offers recommendations for the state to protect borrowers from abusive student lending practices.

One million New Jersey residents have outstanding student loan debt, totaling about $41 billion.[3] The rapid rise in college tuition, and incomes that are not keeping pace, has left most students with no choice but to borrow for college. New Jersey in particular, is an expensive place to pursue higher education as New Jersey colleges and universities have the fourth highest tuition and fees in the nation.[4] New Jersey's Class of 2017 graduated with the sixth highest student loan debt burden in the nation. Sixty-one percent graduated with federal student loan debt, holding $32,247 on average.[5] Another significant driver of student loan debt in New Jersey is predatory for-profit colleges, which enroll people for the purposes of drawing down federal student loan dollars while not providing a meaningful education in return.[6]

Unfortunately, while pursuing a higher education is widely-accepted as a pathway to higher incomes and better opportunities, many New Jerseyans are finding their student loan payments unaffordable. In fact, one in ten New Jersey student loan borrowers have a student loan debt in collections.[7] Delinquency and default can have serious, long-term effects on borrowers.[8] 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. For seniors, it could mean garnishment of their Social Security income, locking them into a lifetime of poverty.

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

Student Loan Servicers are the Most Important Link Between Borrowers and Their Outcomes

Student loan servicers serve an incredibly important function as the link between borrowers and the successful repayment of their loans. Though the federal government is the lender for the vast majority of student loans - over 90% - the government has outsourced the work of managing these loans to servicers. Private student loan lenders similarly outsource their servicing functions. Among other responsibilities, these servicers are tasked with collecting student loan payments, educating borrowers about repayment plans, and processing applications and annual recertifications for income-driven repayment plans.

Unfortunately, servicers have failed to fulfill these obligations consistently, engaging in a variety of abusive practices that have long-term negative consequences for borrowers. These practices include misapplying payments, reporting incorrect information to credit bureaus, and placing borrowers in plans that cause their debt to balloon, leading to delinquencies and defaults. Between 2011 and 2017, the Consumer Financial Protection Bureau (CFPB) received nearly 1,900 complaints from New Jersey borrowers regarding their student loans, with a 77% increase in complaints to the Bureau in 2017 compared to the year before. [9]

Federal student loan borrowers are entitled to participate in an income-driven repayment plan, if they are eligible. The ability to participate in such a plan is crucial for borrowers struggling to pay their debts, and servicers are the necessary link in determining whether a student is eligible to enter such as repayment plan. However, borrowers commonly report issues with their servicers in trying to access these plans – including lost paperwork, unnecessary delays in enrollment and annual income recertification, being misinformed about their options, and failing to provide correct information about Public Service Loan Forgiveness. Servicers' actions are leaving untold students unable to access income-driven plans and their protections.[10]

In fact, the CFPB initiated a lawsuit in January 2017 against Navient, the nation's largest servicer of student loans, for cheating and mistreating student loan borrowers, including routinely failing to put many of their millions of borrowers into the income-based repayment plans they are entitled to by law.[11] These practices lead to up to $4 billion in extra interest and fees being added to the principal balances of already indebted student loan borrowers.[12]

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*.'"[13] Navient followed up on this statement in court, telling a federal judge in Pennsylvania that any reference 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*."[14] Without consumer choice or effective regulatory mechanisms, student loan servicers have been left to operate without meaningful accountability to the detriment of borrowers.

> Alejandra attended a for-profit university and co-signed with her mother on a loan from Sallie Mae (now Navient). Neither the financial aid officer from her university nor her loan promissory note clearly informed her of interest rates and the true costs of her loan. Alejandra has made regular, on-time payments since she graduated.
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> As of June 2016, **she had paid over twice as much in interest as she had on the principal balance of her loan (approximately $37,000 vs. $18,000)**. Alejandra also reports a discrepancy between what she has paid and the amounts listed in her records with Navient. While she reports paying over $18,000 towards her principal balance, Navient's records in June 2016 showed that her principal had only decreased by about $6,500.
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> *Source: New Jersey Citizen Action*

As evidenced by the complaints to the CFPB and high delinquency rates across the country and state, the wild west of student loan servicing is harming borrowers with long-lasting consequences for themselves and the economy. One of the lessons learned from the recession and foreclosure crisis, now a decade ago, was the importance of protecting consumers from abusive servicer practices. These lessons must be applied to student loan servicers to ensure that student borrowers are treated fairly when trying to repay their loans.

Financially Vulnerable Communities are Particularly Harmed

Communities of Color

While student loan debt directly impacts a wide swath of the American public, the crisis is disproportionately affecting communities of color. Nationally, nearly half of Black graduates owe more on their undergraduate student loan after four years than they did at graduation, compared to 17% of white graduates.[15] These disparities may be explained in part by the persistent and wide income disparity between nonwhite families and white families. In New Jersey, the average household income of nonwhite families is about 70% of white families.[16] People of color also continue to face a racial wealth gap, where nationally, white households have 10 times the wealth of Black households, and similarly significantly more than Latino households.[17] This means families of color more likely to need to borrow for higher education, will have less income with which to pay it, and have less of a cushion to withstand future financial shocks, thus contributing to higher likelihood of delinquency and default on student loan debt. Unaddressed student loan servicing issues which fail to ensure students have a pathway out of debt contribute to this legacy of economic disparity for people and communities of color.

In New Jersey, 17% of borrowers who live in communities of color have student loan debt in collections, while only 7% of those who live in white neighborhoods do.[18] In a few areas of the state, the racial disparities are even more pronounced, as shown in Table 1 below.

Table 1: Percent of Student Loan Debt in Collections[19]

	Non-White Neighborhoods	White Neighborhoods
Camden County	28%	10%
Essex County	22%	4%
Mercer County	24%	5%
New Jersey	17%	7%

Women

Women are also more likely to struggle with student loan debt. Across the country, women graduate, on average, with $2,700 more in student loan debt, and because they earn about 26% less, paying off their debt takes significantly longer. Women of color are struggling the most; 34% of women and 57% of Black women who were repaying loans reported that they had been unable to meet essential expenses during the past year. [20]

A borrower from Monroe Township whose debt is serviced by FedLoan reports being weighed down and held back by her loans. **At age thirty, although she has children of her own, she was forced to sell her home and move in with her parents to focus on paying off student loan debt.** Because of her loan's high interest rates, her payments for three years have barely made a dent in her debt. With access to information about income-based repayment plans and loan consolidation, this borrower might be able to find a repayment option that would allow her to focus on raising her children and owning a home.

Source: New Jersey Citizen Action

Older Americans

As the fastest-growing group with student debt nationally, older adults (age 50 and older) are also being greatly impacted by the student loan crisis. Many older adults have returned to school after being unable to find work in the rapidly-changing economy in which almost two-thirds of jobs now require at least some higher education.[21] Others are still struggling with debt from co-signed loans for their children or grandchildren to pursue their educations.

In New Jersey, the number of senior citizens affected grew from 88,000 to over 130,000 between 2012 and 2017.[22] Collectively, New Jersey's seniors hold over $4.7 billion in student loan debt. The most recent available data show that 12% of seniors in the Garden State are delinquent on their student loans.[23]

For federal student loans, the federal government has extraordinary powers of collection. The government can garnish not only a defaulted borrower's wages without court proceedings, but also their tax returns and Social Security payments. A recent report found that in 2015, nearly 40% of federal student loan borrowers aged 65 or older were in default and 114,000 older Americans had their Social Security income seized. [24] Social Security provides a foundation of income to allow seniors to meet their most basic needs; in fact, three in 10 older New Jerseyans rely on Social Security as their sole source of income.[25] Garnishing Social Security income for student loan debt repayment endangers seniors by taking the money they need to pay for housing, utilities, medicine, and food.

A senior borrower from Somerset was a signatory to six loans for his daughter, serviced by Navient, and two for his son, serviced by PHEAA. He is seventy years old and a tenured professor at Rutgers, but **he is facing monthly payments over $1600 per month for potentially the rest of his life, a number Navient informed him was non-negotiable**. His tax refund was seized in 2011 to pay off his PHEAA loans, and he faces garnishment of his wages or Social Security for the Navient loans. More options for managing his debt and more transparency of information could lift some of this borrower's financial burden and allow him to retire without fear of losing his benefits.

Source: New Jersey Citizen Action

For-profit Colleges are a Major Driver of Student Loan Debt in New Jersey

For-profit, post-secondary institutions are more expensive than other schools and typically leave students with a mountain of debt that is nearly impossible to repay. The vast majority of revenue for for-profit schools comes from federal student loans made to their enrolled students, but very little is used for educational purposes. A 2012 Congressional investigation into the nation's largest 30 for-profit schools showed that these school spent, on average, just 17% of all revenues on instruction.[26] Because of the schools' poor quality – and often fraudulent – offerings, students are typically unable to obtain employment that will enable them to repay their loans when they leave. For-profit colleges have a long history of aggressive and deceptive marketing, often aimed at low-income students, women, and people of color.

In New Jersey, undergraduate enrollment at for-profit colleges are most likely to be students that are low-income (64%), African-American (30%), and women (65%).[27] For-profit students in New Jersey are also more likely to have higher debt loads, lower graduation rates, and higher default rates than other students in the state. Unfortunately, this means that an inordinate number of low-income students and students of color are left with large loans that they cannot repay, and very little to no educational benefit in return.

Table 2: For-Profit Colleges in New Jersey: Less Favorable Outcomes, More Debt for Students[28]

	For-Profit College	Non-Profit	Public
Graduate within 6 years	23%	49%	62%
Take out Student Loans	73%	47%	56%
Median Debt at Graduation	$29,333	$23,732	$21,343
% of Borrowers Defaulting within 3 years of Graduation	10.2%	5.5%	4.6%

States Have Authority to Protect Students from Servicing Abuses

Though the issue of student loan debt and servicing is not unique to New Jersey, the state must act to ensure that the interests of student loan borrowers in New Jersey are protected. 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 put in place safeguards against companies with a history of fraudulent and illegal practices. [29] 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.

Since 2015, states have begun to enact state level laws to hold student loan servicers accountable. These states include Connecticut, California, Illinois, and Washington. In efforts to avoid this additional oversight, student loan servicers and the U.S. Department of Education have made misguided claims that states do not have any authority in this area. Despite these claims, the power of states to regulate the abusive practices of student loan servicers is clear. In fact, the Attorney General of New Jersey, Gurbir S. Grewal, has affirmed the right of the states to oversee and enforce student loan laws, joining 29 other state attorneys general in signing a letter stating, in part:

> 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 the 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.[30]

Conclusion and Policy Recommendations

While addressing the larger issue of increasing student loan debt burdens in this country will require a multi-faceted approach, states must take concrete steps to ensure their citizens are safeguarded from abusive practices by loan servicers. New Jersey has the power to protect against unfair and abusive practices which drive students deeper into debt.

In regard to servicing abuses, other states have enacted laws which set common sense standards for student loan servicers. States can and should ensure that student loan servicers are prohibited from misleading student loan borrowers, misrepresenting borrowers' obligations under their loans, misapplying loan payments, refusing to communicate with authorized representatives of borrowers who provide written authorization, and providing inaccurate information to credit bureaus, thereby harming borrowers' creditworthiness.

States may also exercise oversight over for-profit colleges to prevent fraudulent and abusive practices. For example, states can use their authority to ensure that for-profit colleges actually spend tuition dollars on education, do not steer students into unaffordable private loans, and do not enroll students into programs for fields of employment in which they are not eligible to obtain a job.[31]

As the nation begins to face the enormity of this crisis, people across the political spectrum are concerned that the federal government has recently reduced efforts to protect students from abusive student loans and servicers. New Jersey lawmakers have an opportunity to enact, with widespread support, meaningful reforms to protect their citizens who have financed the education of themselves and their family members in pursuit of better opportunities. By taking action to stand up for students against these harmful practices and fraudulent for-profit colleges, the state can maintain New Jersey's position as a leader in consumer protections and make a difference in the lives of millions of their residents.

Endnotes

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