Education Finance Council
Nonprofits Empowering Student Success

September 17, 2024

The Honorable Raphael Warnock
Chairman
U.S. Senate Subcommittee on
Financial Institutions and Consumer Protections
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Thom Tillis
Ranking Member
U.S. Senate Subcommittee on
Financial Institutions and Consumer Protections
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Subcommittee Chairman Warnock and Ranking Member Tillis:

I am writing on behalf of Education Finance Council (EFC) to offer our expertise to enhance your hearing titled "Back to School: Shedding Light on Risks and Harm in the Private Student Lending and Servicing Market." As you gather information about private education loan lenders and servicers, we think it important to spotlight the diversity of market participants, which include mission-driven nonprofit organizations that help families plan and pay for college.

EFC is the national trade association representing nonprofit and state-based higher education finance organizations. Located in two dozen states nationwide, EFC members increase postsecondary education access, success, and affordability by providing a wide range of free resources and services to millions of students and families every year.[1] EFC members support students as they seek to grow their skills and improve their lives.

Many EFC members also offer low-cost loan products with borrower-friendly terms to help families cover the gap between their free financial aid, federal Direct Stafford Loans, and the cost of attendance.[2] They are inspired by a robust set of guiding principles to make sure their borrowers receive a high level of service, including timely and accurate responses to inquiries and complaints.[3] Our members' loan programs feature low annual percentage rates (APRs), no origination fees, and flexible repayment plans. It is common for fewer than 1 percent of EFC members' borrowers to default on their private education debt. Many students cover their unmet need using high-cost credit sources such as federal Parent PLUS Loans, credit cards, and private for-profit student loans. Though those options may be convenient or well-known, they are also exorbitantly expensive. Policymakers can make college more affordable by promoting awareness of lower-cost sources of funding like scholarships, grants, and nonprofit and state-based student loan programs.[4]

The federal government has an established accountability framework that vigorously protects private student loan borrowers from abusive acts or practices.[5] The *Truth in Lending Act* (TILA), also known as Regulation Z, mandates that private student lenders disclose critical information to borrowers including interest rate and accrual practices, fees, APRs, and other consumer rights available to them under the law.[6] These mandates often go further than what the federal government requires for its student loan programs, which, for example, do not disclose to borrowers

[1] EFC, "2024 National Impact Report." https://www.efc.org/wp-content/uploads/2024/09/2024-EFC-National-Impact-Report.pdf
[2] EFC, "Affordable Student Loan Finder." https://www.efc.org/in-school-loans/
[3] EFC, "Guiding Principles." https://www.efc.org/guiding-pinciples/
[4] EFC, "Financing Unmet Need: Why College Students Use High-Cost Credit Sources." https://www.efc.org//wp-content/uploads/2023/12/brief_efc_financingunmetneed.pdf
[5] 12 CFR Part 1026, "Truth in Lending (Regulation Z), Subpart F – Special Rules for Private Education Loans." https://www.consumerfinance.gov/rules-policy/regulations/1026/
[6] Ibid

the loans' APR before disbursement. Additionally, in accordance with federal law, private education lenders certify that the loans they make do not exceed borrowers' cost of attendance less other aid.[7]

EFC's state-based, nonprofit members that use Qualified Student Loan Bonds (QSLBs) to raise capital for education loans to students and parents are subject to even more federal supervision. The Internal Revenue Code limits the yield on the portfolio of student loans funded by QSLBs to no more than 2 percentage points more than the yield on the bond issuance.[8] In other words, EFC's member nonprofit lenders and servicers must operate their state-nexus programs at or near cost. Any extra revenue they generate from these loans gets returned to their communities in the form of reduced rates for borrowers or invested in maintaining and improving their free student support services.

State governments also oversee private student lenders and servicers. According to the National Conference of State Legislatures, 18 states have enacted 35 laws that regulate student loan servicers' and lenders' interactions with borrowers.[9] These laws are not always consistent with one another, and they establish lender and servicer registration and licensing requirements, state ombudsman offices, "Student Borrower Bill of Rights" statutes, and other provisions that prohibit misapplication of monthly payments and enforce rapid responses to consumers' inquiries or complaints.

Despite limited resources, EFC members work tirelessly to help all postsecondary learners navigate the complexities of financing their education and pursue their aspirations with minimal debt burdens. Our members dutifully work according to the rules of federal and state accountability frameworks to increase access to higher education and improve college affordability.

EFC looks forward to working with your offices to improve the federal laws and regulations governing the actions of private student loan lenders and servicers. All student loan borrowers should have access to organizations that prioritize their interests, and I am proud to share that our members are committed to doing exactly that.

Sincerely,

Gail daMota
President

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[7] Ibid
[8] Internal Revenue Service, "IRC § 144(b) – Qualified Student Loan Bonds." https://www.irs.gov/pub/irs-tege/teb2_lesson9.pdf
[9] National Conference of State Legislatures, "Postsecondary Legislation Database." https://www.ncsl.org/education/postsecondary-legislation-database