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STATE OF COLORADO
DEPARTMENT OF LAW

January 1, 2022

The Honorable Dylan Roberts (via email)
Chair, House Business Affairs and Labor Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Barbara McLachlan (via email)
Chair, House Education Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Susan Lontine (via email)
Chair, House Health and Insurance Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Robert Rodriguez (via email)
Chair, Senate Busin., Labor, and Tech. Cmte.
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

The Honorable Rachel Zenzinger (via email)
Chair, Senate Education Committee
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

RE: Annual Report on the Colorado Student Loan Equity Act

Dear Chairpersons Roberts, McLachlan, Lontine, Rodriguez, and Zenzinger:

In accordance with § 5-20-104(2), C.R.S. of the Colorado Student Loan Equity Act (“CSLEA”), I am pleased to submit the Administrator’s annual report.¹ This annual report covers the period of January 1, 2021, to December 31, 2021, and follows the order set out in § 5-20-104(2)(a), C.R.S., implementation, effectiveness, and additional steps.

I. Implementation

1. Rulemaking

On June 29, 2021, Governor Polis signed SB 21-57, which amended the Colorado Student Loan Servicer Act, titled the Colorado Student Loan Equity Act. The amendments added additional requirements, including a private education lender registration

¹ Pursuant to § 24-1-136(9), C.R.S., this report shall be electronically filed with the Joint Legislative Library, for delivery and distribution to applicable legislators and legislative committees, and shall be made accessible to the public via the Department of Law website.

requirement, and requirements related to cosigner release, total and permanent disability of a private education loan borrower or cosigner, and collection of private education loan debt.

To implement the requirements on the private education lender registry's September 1, 2021, deadline, the Ombudsperson held a stakeholder meeting on July 14, 2021. The Administrator then adopted an emergency rule on July 30, 2021, to set fees for the private education lender registry and to implement the annual due date for documents and information required for registration, and to implement the alternative registration process and fee structure for public and private nonprofit postsecondary educational institutions. To establish permanent rules, the Administrator held a stakeholder meeting on October 11, 2021. She proposed permanent rules and held a rulemaking hearing on December 20, 2021. She adopted the permanent rules on December 21, 2021.

2. Licensing and registration

The CSLEA requires that on or after January 31, 2020, a person shall not act as a student loan servicer in Colorado without first obtaining a license from the Administrator. As of December 31, 2021, there are 43 of entities licensed as student loan servicers in Colorado. The Administrator made renewal applications available on December 14, 2021, and her team is currently responding to inquiries and processing applications in advance of the January 31, 2022, renewal deadline. The Administrator continues outreach to entities that may need to be licensed in Colorado.

Since September 1, 2021, 17 entities have registered as private education lenders. The Administrator has launched the [statutorily required website](#) with the list of schools, volume, default, officer and control person information, and model promissory notes.

3. Complaints

Between January 1, 2021 and December 28, 2021, the Consumer Credit Unit has received 206 student loan servicer complaints. As of December 28, 2021, 146 have been closed. Complaints received has increased 368% since last year. The Administrator's team investigates complaints, sends them out to student loan servicers for response where appropriate, and refers complaints to other agencies where appropriate. In addition, where appropriate, the Administrator's team provides consumer education materials in response to complaints, to help student loan borrowers understand their rights and responsibilities under the terms of their loans.

4. Outreach

Trainings and presentations: The Administrator's office provided trainings to student loan borrowers interested in Public Service Loan Forgiveness ("PSLF"). In March 2021, Administrator presented a continuing legal education course to the Consumer Protection Section of the Colorado Bar Association on PSLF. Members of the Administrator's team also presented on PSLF in eight virtual MoneyWi\$er workshops. The workshops are part of the Colorado Statewide K-12 Personal Financial Literacy Initiative sponsored by the Colorado Department of Law in partnership with Colorado Jump\$tart Coalition, the Colorado Department of Education, and Economic Literacy Colorado.

The Administrator and the Ombudsperson spoke on a MoneyTalks 50+ Podcast about student loan issues facing older adults. The Ombudsperson held a series of educational events on various topics including, resources available to borrowers through the Ombudsperson program, PSLF, predatory schools and changes to federal student loans. The Ombudsperson presented this information at:

- the Annual Conference of the Colorado Association of Financial Aid Administrators;
- the Military Education Fair at Buckley Airforce Base;
- NACCA 2021 Examiners' & Consumer Services School;
- the Colorado Gear Up Conference;
- Atlantis Community Inc;
- Colorado Jump\$tart Coalition;
- the Colorado Fund for People with Disabilities;
- the Colorado Department of Higher Education; and
- the Default Management Group, a coalition of community college financial aid professional working to help students avoid defaulting on their student loans.

The Ombudsperson and her team held two office hours for Department of Law employees on the U.S. Department of Education's (ED) limited waiver for PSLF.

Education materials: The Administrator created consumer education materials made available on the Department of Law website:

- an FAQ about ongoing transfers between student loan servicers is available [here](#);
- an FAQ about return to repayment after payment pause due to COVID is available [here](#);
- a document explaining the role of the Student Loan Ombudsperson and the availability of the office to assist student loan borrowers. is available [here](#);
- a one-pager about the return to repayment available [here](#); and
- a social media toolkit that highlights the assistance offered by the student loan ombudsperson program, PSLF, and student loan do's and don'ts is available for distribution upon request.

The Administrator has a website for student loan borrowers with information on how to file a complaint and has created a general student loan complaint form and a PSLF-specific form.

5. Advocacy

Multistate letters:

In March, the Attorney General led a multistate letter of 23 state attorneys general asking U.S. Department of Education Secretary Cardona to address the student debt crisis, including welcoming the administration's commitment to consider using executive authority to cancel student debt. Also in March, the Administrator joined a multistate regulator letter Secretary Cardona. The letter asked the Secretary to address preemption and the Private Act to permit states to oversee student loan servicers.

In July, the Attorney General joined a multistate letter of state attorneys general addressing the Secretary's topics for negotiated rulemaking, encouraging the Secretary to

create meaningful regulations to correct systemic abuses and strengthening borrower protections. The Ombudsperson joined a letter of state student loan ombudspersons and advocates similarly addressing the Secretary's negotiated rulemaking and describing issues those state officials saw from their work with student loan borrowers in their respective states.

The Attorney General submitted a [comment](#) on the Secretary's Federal Preemption and Joint Federal-State Regulation and Oversight of the Department of Education's Federal Student Loan Programs and Federal Student Loan Servicers Interpretation. The comment applauded the Interpretation and requested additional clarification. The Attorney General also joined a multistate state attorneys general [comment letter](#).

The Attorney General joined a multistate AG comment letter on the Secretary's request for information on PSLF. The letter encouraged the Department of Education to automate forgiveness and fix prior errors in the implementation of PSLF. The Ombudsperson also signed a letter by state ombudspersons and advocated on the request for information. The ombudsperson letter encouraged the Department of Education to simplify forgiveness, make it automatic, grant partial forgiveness on an incremental basis, and avoid penalizing borrower who leave public service after ten years.

Loan Forgiveness and Borrower Defense Advocacy

ITT Tech: In April 2021, Colorado led a bipartisan coalition of 24 states and the District of Columbia in a group Borrower Defense application on behalf of ITT Tech students. The application alleged ITT defrauded students by encouraging them to enroll and take out loans based on false information about the value of an ITT degree and high-paying jobs after graduation. The application requested full debt relief and refunds of payments made for students who enrolled in ITT between 2007 and 2010, approximately 282,000 students across the country.

Westwood College: In August 2020, the Attorney General's team submitted a Borrower Defense group application to ED on behalf of more than 22,000 students who attended Colorado-based Westwood College between 2002 and 2015. If granted, the application could result in the discharge of millions of dollars of federal student loan debt. The application is largely based on this office's investigation of Westwood's misrepresentations of employment and salary prospects, transferability of credits, and its private institutional loan.

In July 2021, ED announced that it approved 1600 individual Westwood Borrower Defense applications representing approximately \$53 million in relief. The Department of Education's decision to grant the relief was based in part on information provided by Colorado in its group BD application. Specifically, the Department of Education found that from 2002 through its 2015 closure, all of Westwood's campuses across the country engaged in widespread misrepresentations about the ability of students to transfer credits. Despite claims by Westwood, students were generally unable to transfer their credits to other institutions. The inability of Westwood students to transfer their credits meant that they had to—or would have to—restart their education at a different school.

Litigation

Fulford v. PHEAA: In September, the student loan servicer that handles the PSLF program, Pennsylvania Higher Education Assistance Agency, agreed to comply with a state

law requiring consumer protection oversight after Colorado sued the servicer in May. PHEAA, which does business as FedLoan Servicing and AES, is the exclusive servicer for the PSLF program that Congress created in 2007 to encourage graduates to work in public service. Under the administration of PHEAA, implementation of the program has been beset with problems, including extremely low approval rates for forgiveness and misinformation about whether borrowers were in the right kind of repayment plan or had the right kind of loans. PHEAA obtained a Colorado license. The Department then requested records related to PHEAA's handling of the PSLF program during the COVID-19 pandemic. When PHEAA initially refused to produce documents, the department sued to ensure that PHEAA comply with the attorney general's oversight authority. [Under the agreement](#), PHEAA will produce records to the department in compliance with Colorado law. On July 8, 2021, PHEAA announced that it will not accept an extension of its contract to service federally owned loans, including the PSLF program, and the company will transfer the federally owned loans to a different servicer.

Borrower Defense: The Attorney General joined 21 other states in a suit against ED's for violation of the Administrative Procedure Act ("APA"). The suit arises from the ED's promulgation of the 2019 Borrower Defense Rule, which fundamentally fails to protect consumers in the manner mandated by Congress and, instead, insulates predatory for-profit colleges. The litigation remains pending.

Gainful Employment: The Attorney General also joined another multistate APA suit against ED which arises from ED's replacement of the 2014 Gainful Employment Rule. The new rule fails to hold post-secondary schools accountable for their programs of study that fail to lead to gainful employment and, instead leave students with debt they cannot afford to repay. The litigation remains pending.

Effectiveness

Section 5-20-104(2)(a)(II), C.R.S. requires the Administrator to provide an assessment of the overall effectiveness of the Student Loan Ombudsperson. The Student Loan Ombudsperson and the Administrator's team regularly collaborate with their counterparts in other states, meet with consumer advocacy organizations focused on student loan issues, attend industry conferences and trainings, and remain informed of products and services that impact student loan borrowers. Colorado plays a leadership role, including, for example, in litigation and contributing to multistate letters and comments. The Administrator's assessment is that the role of Student Loan Ombudsperson is effective and continues to serve the student loan borrowers of Colorado.

Additional Steps

Section 5-20-104(2)(a)(II), C.R.S. requires recommendations regarding additional steps for the Administrator to gain regulatory control over licensing and enforcement with respect to student loan servicers. The CSLEA's deadline for licensure for student loan servicers was January 31, 2020 and for registration for private education lenders was September 1, 2021. Following the licensure deadline, the Administrator began conducting examinations for compliance with the CSLEA. The Administrator will continue to examine and investigate student loan servicers and private education lenders pursuant to the CSLEA's mandate. The Administrator also continues outreach to entities who may need to be licensed or registered under the CSLEA.

Please feel free to contact me if you would like further information.

Respectfully submitted,

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Cc:

Joint Legislative Library (via email)

Kurt Morrison, Colorado Department of Law, Deputy Attorney General for
Intergovernmental Affairs (via email)