

NAVIENT

5 Facts

In May of 2014, Navient reached a voluntary settlement with the U.S. Department of Justice (“DOJ”) related to student loans and Servicemembers Civil Relief Act (SCRA) benefits. The settlement has been mischaracterized and politicized. It’s time to face the facts.

1 Navient did not violate the law or “cheat” service members.

The DOJ’s review of Navient imposed a different standard than the statute and the Department of Education (“ED”) required of Navient and its other student loan servicers – a standard ED developed following a public rulemaking process. Navient’s policies and procedures followed the law and ED’s requirements.

DOJ did not complete an audit nor visit any Navient servicing centers prior to making its assertions or putting forward a settlement amount.

Navient is the only federal loan servicer that has matched its entire population of student loan borrowers against the Department of Defense (DOD) military personnel database and made payments to service members under the DOJ’s new interpretation of the SCRA’s interest rate benefit.

2 Navient settled the matter to avoid a protracted legal battle.

The alternative to settlement was to engage in a lengthy legal battle. This would have been bad for Navient – creating organizational distraction, delaying our corporate strategic separation, and exposing us to on-going reputational risk – but it would have been worse for service members, as it would have delayed implementation of policy changes and remediation payments.

If we had known how significantly others would distort our reasons for entering into this settlement, we would have been much less likely to resolve this without litigation.

3 Driven by the Navient settlement agreement, ED changed its rules for processing the SCRA benefit -- a change Navient and the other servicers sought many years ago.

Following Navient’s settlement, ED changed the documentation requirements for SCRA benefits. Under the new process, servicers periodically check their loan portfolios against the DOD database and automatically apply the SCRA benefit for any borrower in active duty status. This change is a win for service members. Servicers requested this new process in 2011 because service members are often not in a position to submit the required documentation, and given the complexity of various military documents.

With this new process, more than 55,000 Navient customers are currently receiving the benefit.

It’s unfortunate that it took this extraordinary legal approach to create a better solution for service members - a solution that was proposed by Navient and other federal student loan servicers several years earlier.

5 Facts

Continued

4 **Navient's compliance with the Department of Education and the law has been confirmed by multiple independent third party audits.**

ED, multiple guarantors, and other regulatory bodies have reviewed Navient's practices and confirmed Navient's compliance with previous ED's requirements and the law, as well as Navient's compliance with the new standards. A summary of ED's review of Navient based on a statistically valid random sample is attached.

5 **Navient made some processing errors on a small fraction of accounts.**

No servicer is perfect. While we take every measure to avoid mistakes, processing errors can occur and do not reflect Navient's commitment to service members.

Rather than a time consuming and detailed review of individual borrower accounts that would have resulted in millions of dollars for consultants and lawyers and few dollars to service members, Navient and DOJ jointly agreed to provide compensation to service members based on the active duty dates listed in the DOD, without regard to documentation or dates on documentation in the borrowers' loan files. Compensation was broadly provided to service members including to borrowers where Navient had no prior record of military service; to borrowers who provided documentation but only for a portion of their service period; and to borrowers whose documentation did not meet the requirements set forth by ED and the law (which required a written request and military orders). Navient refunded interest (and based on a formula determined by DOJ, a multiple of the interest paid) even in instances when ED, not Navient, received the interest payments on the loan.

Only 5 percent of borrowers who received compensation under the settlement were determined to have provided the required written request and military orders calling them to active duty service; for some of these customers there was a difference between the dates on the military orders submitted to Navient and the dates in the DOD database.

Appendix

Summary of Department of Education Review of Navient SCRA Processing

In January 2015, the Department of Education (“ED”) completed a review of Navient’s SCRA processing. The review was based on a statistically valid random sample of accounts selected by Ernst & Young (“E&Y”). This special review was in addition to the all-servicer reviews conducted by ED of Navient and the other federal loan servicers. The Department’s Office of Inspector General (“IG”) issued a report in February of 2016, criticizing ED’s methodology used in the all-servicer reviews. The IG report could not comment on the validity of the statistical sample selected by E&Y in the special Navient review. We do not know why E&Y did not provide their sampling methodology. As stated in public reports (including the IG report) for the Navient review, ED modified and strengthened procedures for identifying the universe of potential eligible borrowers and expanded the sample size. The following is a summary of the E&Y selection criteria and ED findings for the Navient review based on publicly available information.



Summary of Department of Education Navient SCRA Review

E&Y Selection Criteria

- Loans serviced by Navient on behalf of ED, with an interest rate in excess of 6 percent for the period June 17, 2009 through November 2014, were extracted from the National Student Loan Data System (NSLDS) and matched against the Department of Defense Manpower database (DMDC).
 - This is different from the review of other federal servicers that simply used the NSLDS database¹.
- This match generated a population of 112,190 loans made to 54,410 borrowers.
- These matched records were provided to E&Y who selected a statistically valid random sample of 300 unique borrowers and an additional 100 borrowers for substitutions if needed. (Navient's sample was three times larger than the other TIVAS.)
- After adjusting for borrowers who only had active duty or notification of active duty start dates (reservists or National Guard members) that began after May 31, 2014, the borrower population was determined to be 52,848 borrowers.
- E&Y then eliminated 7 borrowers who had not been in active duty status prior to June 1, 2014, and replaced them from the substitute population.
- The updated random sample of 300 unique borrowers with a total of 755 loans was used by ED to conduct the review.

ED Findings Based on the Sample Selected by E&Y

For the 300 borrowers tested:

- 23 borrowers requested the SCRA interest rate cap:
 - Navient correctly granted the SCRA interest rate cap to 16 borrowers.²
 - Navient correctly denied the benefit to 6 borrowers
 - Navient incorrectly denied the benefit to 1 borrower. As a corrective action, Navient retroactively applied the SCRA benefit to the account.
- Error rate based on this sample was 4.3%.

IG Findings

- The IG found that they could not assess the validity of E&Y sampling methodology, but did state that ED “modified and strengthened the procedures for identifying the universe of potential eligible borrowers and expanded the sample size to 300.”
- The IG found that Navient's second review included 3 borrowers whose SCRA benefit was processed after the review period. None of these borrowers requested the benefit prior to the review period but their active duty period was concurrent with the review period. Excluding these borrowers from the pool, the results would have been:
 - 20 out of 297 service members in the sample requested SCRA for their student loans
 - Navient processed the benefit to 15 of these service members
 - Navient properly denied the benefit to 4 ineligible service members
 - Navient incorrectly denied the benefit to one borrower (which we have corrected and retroactively applied the benefit to the borrower's account)—resulting in an error rate of 5%. Under the new DMDC matching, which we have advocated since 2011, these errors are eliminated.

¹ NSLDS (an ED system used to track loan status and other loan information) only identifies borrowers who had received a military deferment, whereas the Department of Defense Manpower database identifies military borrowers who are in an active duty status.

² The May 26, 2015 report originally cited 6 instances where Navient incorrectly granted the benefit – that is, where Navient gave customers the SCRA's interest rate benefit even though they did not qualify for the benefit. The SCRA benefit processing for the loans in question occurred between August 2008 and April 2011 when Navient's written procedures did not require a separate written request from the borrower. However, subsequent to this period, the Department of Education issued requirements for lenders and servicers to secure a separate written request and Navient thereafter updated its written procedures to incorporate the Department's requirements. Following Navient's receipt of the May 26, 2015 report, Navient requested FSA to remove the finding in light of Navient's procedures in place at the time of processing and the provisions of the DOJ consent order. FSA agreed no account adjustments or corrective actions were required.