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January 4, 2022

The Honorable Michael D. Hurley, Senate Clerk
Office of the Clerk of the Senate
State House, Room 335
Boston, MA 02133

The Honorable Steven T. James, House Clerk
Office of the Clerk of the House
State House, Room 145
Boston, MA 02133

Re: Interim Annual Report of the Massachusetts Attorney General's Student Loan Ombudsman Pursuant to G.L. c. 12, § 35

Dear Clerks Hurley and James:

Pursuant to G.L. c. 12, § 35, we hereby submit this report to the General Court on behalf of the Attorney General's Office ("AGO").

The Student Loan Ombudsman was established within the AGO by Chapter 358 of the Acts of 2020. The position became effective on July 1, 2021. The AGO's Student Loan Assistance Unit, created in 2015, now operates under the management of the Ombudsman and Deputy Ombudsman.

The Ombudsman's Student Loan Assistance Unit helps borrowers to:

- obtain information about their loans;
- explore repayment options;
- learn about, apply for, and maintain income-driven repayment plans;
- pursue Public Service Loan Forgiveness (PSLF), Temporary Expanded PSLF (TEPSLF), and the PSLF Limited Waiver Opportunity;
- avoid default or get loans out of default;
- end wage garnishments, tax refund interceptions, or benefit offsets;
- resolve disputes with loan servicers;
- stop harassing debt collection calls; and
- apply in certain circumstances for discharges.

In addition to assisting individual borrowers, the work of the Student Loan Assistance Unit informs policy and investigative work within the AGO.

The Ombudsman's Student Loan Assistance Unit maintains a website, www.mass.gov/ago/studentloans, where borrowers can individually submit Student Loan Help Request forms to report complaints and/or request assistance with their loans. The website also provides content and links to resources on topics including income-driven repayment plans, Public Service Loan Forgiveness, the ongoing pause on federal loan payments, and the eventual return to repayment for federal loans.

Since March 2020, payments on most federal student loans have been suspended. As such, the number of complaints and help requests received by the Student Loan Assistance Unit has been lower than in past years. Because the Ombudsman's position became effective on July 1, 2021, this report serves as an interim report covering the period between July 1, 2021 and December 15, 2021. A full annual report will be submitted after July 1, 2022, which will include recommendations "to improve the effectiveness" of the Ombudsman's position.

Between July 1, 2021 and December 15, 2021, the Ombudsman received a total of 393 complaints and/or help requests,[1] which have been categorized as follows:

Complaints

- 116 against student loan servicers.
- 76 relating to for-profit schools and associated debt.
- 16 relating to non-profit and/or public colleges and universities.
- 12 against student loan "debt relief" companies.

Help Requests

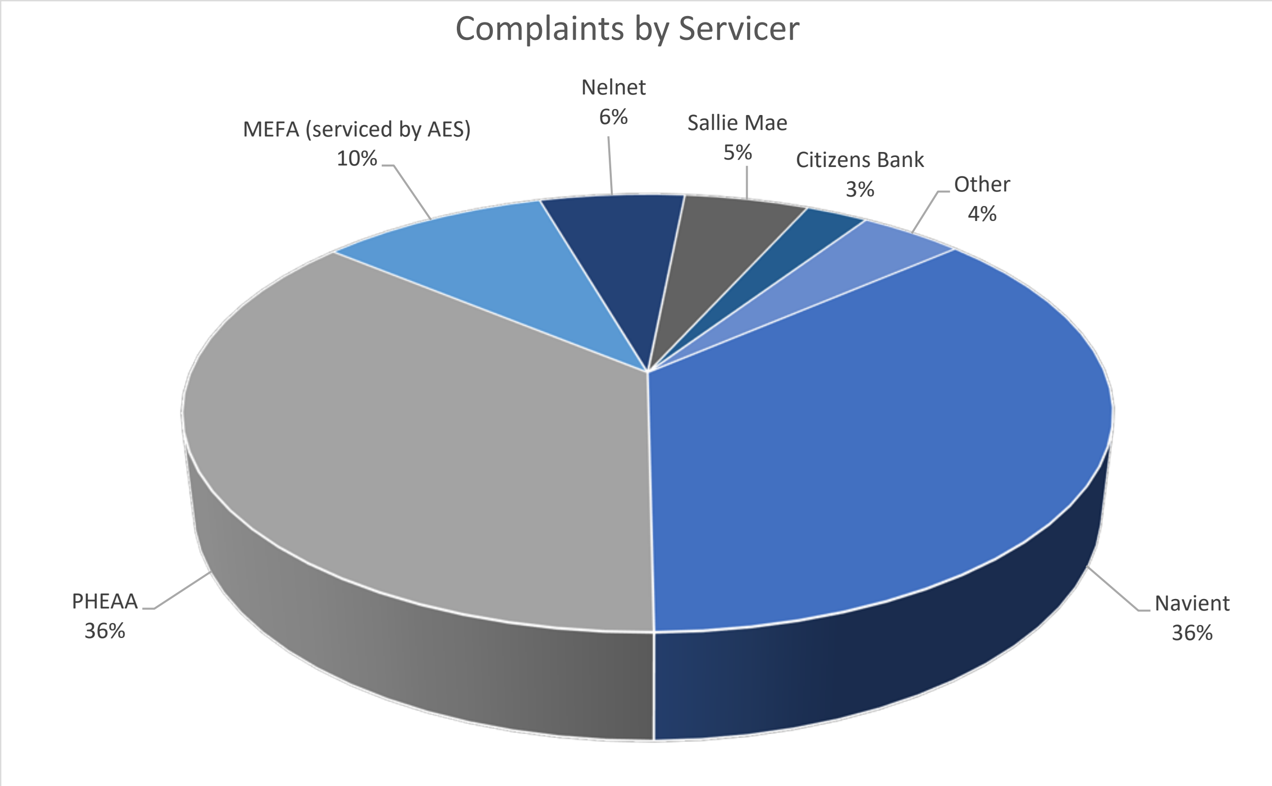
- 148 borrowers sought help exploring student loan repayment options.
- 136 borrowers sought help getting information on their student loans.
- 89 borrowers sought help getting out of default and avoiding wage garnishment and tax refund interception.
- 37 borrowers sought help applying for a total and permanent disability discharge.

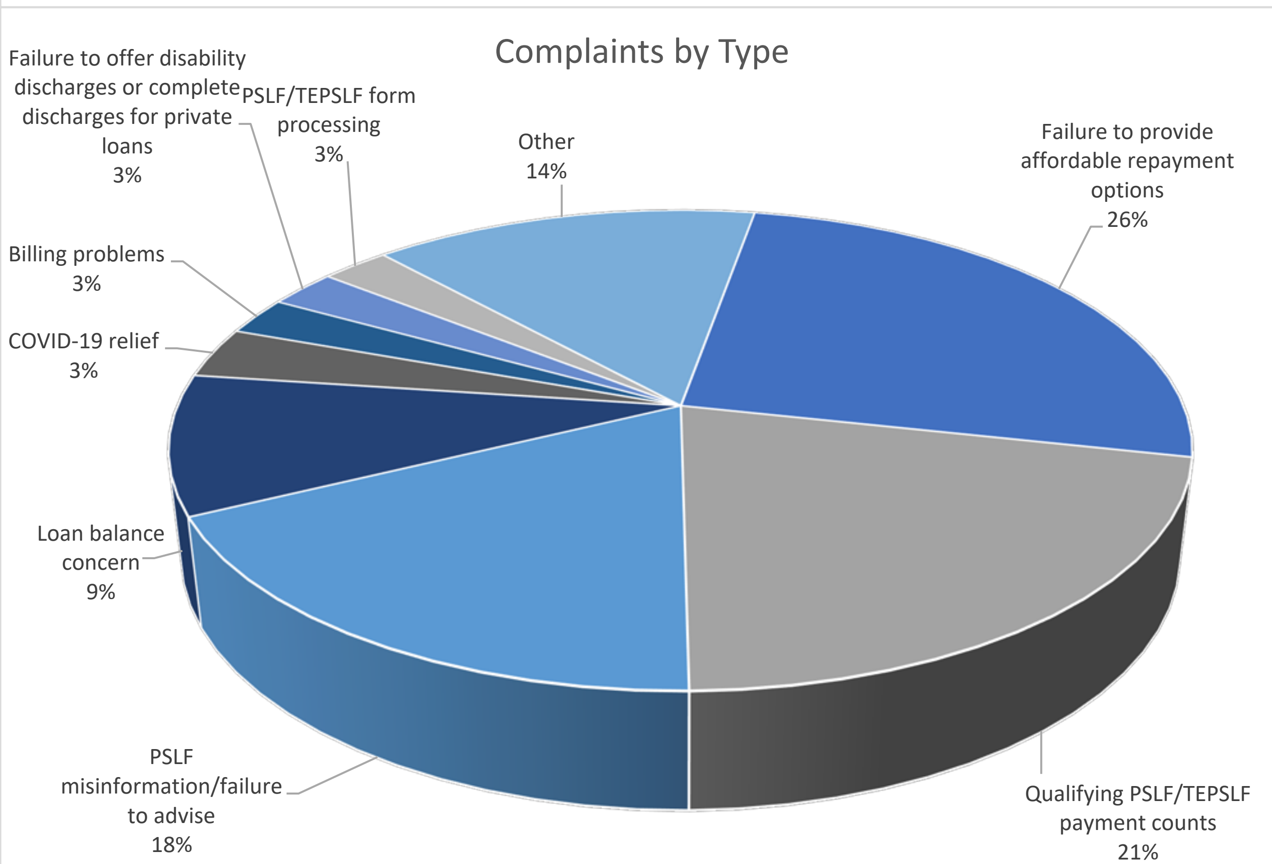
Student Loan Servicing Complaints

Of the complaints received against student loan servicers, the most common topics included failures to provide affordable repayment options, disputes concerning PSLF/TEPSLF qualifying payment counts, and misinformation or failures to advise concerning PSLF. The Pennsylvania Higher Education Assistance Agency ("PHEAA") and Navient Corporation ("Navient") were subject to the largest number of complaints, followed by the Massachusetts Education Finance Authority ("MEFA"), whose loans are serviced by American Education Services ("AES"), which is part of PHEAA.[2]

[1] In some cases, borrowers had multiple complaints or requested multiple types of help.

[2] Both Navient and PHEAA intend to stop servicing loans owned by the U.S. Department of Education. As a result, large numbers of federal borrowers will experience servicing transfers in the coming year. Navient's contract to service loans owned by the U.S. Department of Education was novated to Maximus Federal Services, Inc. on October 20, 2021. Navient continues to service commercially owned Federal Family Education Loans (FFELs) and private student loans.





PHEAA's servicing contract with the U.S. Department of Education is expected to end in December 2022. PHEAA is similarly expected to continue servicing commercially owned FFELs and private student loans.

Student Loan Servicer Complaint Resolutions

Resolutions to servicing complaints received by the Ombudsman commonly involved:

- Helping borrowers obtain information about their loans, including loan types, payment histories identifying interest capitalizations and allocations of payments to principal and interest, repayment plan histories, forbearance/deferment histories, repayment plan terms, and promissory notes.
- Providing borrowers with counseling concerning income-driven repayment options, including helping borrowers use the U.S. Department of Education's Loan Simulator tool.
- Providing counseling concerning the PSLF/TEPSLF Program, including how to access or maximize benefits under the PSLF Limited Waiver Opportunity.
- Assisting borrowers in securing reviews and/or corrections of PSLF qualifying payment counts.
- Helping borrowers explore private loan repayment options.
- Explaining default resolution options, including rehabilitation and consolidation.
- Providing information about or assisting borrowers with discharge applications, including Borrower Defense to Repayment Discharge, Total and Permanent Disability Discharge, Closed School Discharge, and False Certification Discharge.

Student Loan Help Request Responses

In submitting help requests to the Ombudsman, borrowers most frequently sought assistance exploring repayment options. In response, the Ombudsman's Student Loan Assistance Unit counseled borrowers about federal income-driven repayment plans and if applicable, helped them to explore the limited repayment options available for private loans. Borrowers also commonly sought assistance getting information about their student loans. For many borrowers, getting help obtaining information about loan types and accessing the StudentAid.gov portal is a first and vital step towards understanding their debt burden, evaluating repayment options, enrolling in income-driven repayment, identifying and comparing default resolution options, or getting on track for PSLF.

Borrower Experiences Addressing Student Loan Debt

In submitting complaints and help requests to the Ombudsman, 319 borrowers provided information on their federal student loans and 105 reported on their private student loans. This information provides valuable insights into borrowers' experiences addressing their student loan debt, including their perception of how affordable their payments are, how frequently they miss or make late payments, and whether their loan balances have decreased over time.

- **Federal Loan Affordability.** Getting help exploring repayment options was the most common reason borrowers filed help requests with the Ombudsman. Often these borrowers have received inadequate information or assistance from servicers concerning income-driven repayment plans.

  Although complex, income-driven plans can significantly lower monthly payments, offer the possibility of loan forgiveness after 20 or 25 years of qualifying payments, and may provide valuable interest subsidies. Due to the potential for interest subsidies and loan forgiveness, income-driven plans are almost always a better option than forbearance and are an important tool for avoiding the devastating consequences of default. However, in some cases, income-driven plans can add to total loan costs.

The U.S. Department of Education offers four income-driven plans: Income-Based Repayment ("IBR"), Pay As You Earn ("PAYE"), Revised Pay As You Earn ("REPAYE") and Income-Contingent Repayment ("ICR"). The plans differ with respect to the required payment amount, payment amount cap, treatment of spousal income, interest subsidies, forgiveness period, income eligibility, loan type eligibility, and interest capitalization. Some of these differences can be difficult for borrowers to meaningfully evaluate.

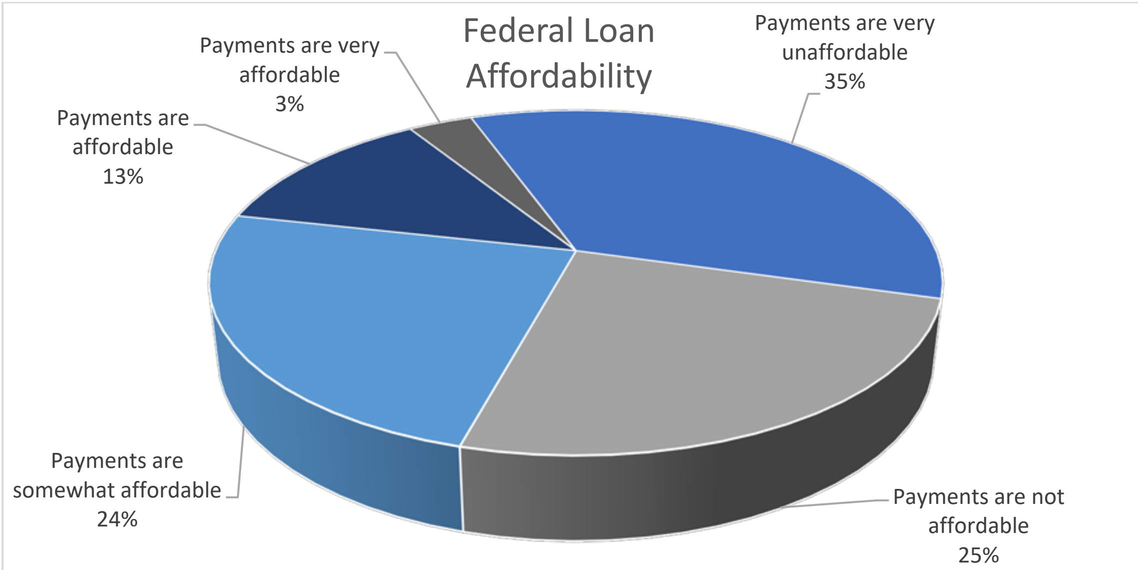
Under most income-driven plans, borrowers must pay 10-15% of their income that exceeds 150% of the federal poverty line. For a single borrower in Massachusetts with an income of $40,000 per year, IBR payments are $258.50[3] per month and REPAYE payments are $172.33 per month. To continue making income-driven payments, borrowers must recertify their income and family size each year so that their payments can be recalculated.

Given Massachusetts' high cost of living and income-driven repayment's use of notoriously low federal poverty guidelines, even when enrolled in income-driven plans, some borrowers have trouble affording payments. Additionally, borrowers with Federal Family Education Loans ("FFELs") often have not been advised of the option to consolidate their federal loans into the Direct Loan Program to gain access to the more affordable income-driven plans like REPAYE.

Some borrowers in income-driven plans express frustration over their increasing loan balances and lengthy repayment terms. Because payments made prior to enrollment in an income-driven plan may count towards forgiveness and borrowers are not given qualifying payment counts, it is difficult for borrowers to gauge where they stand with respect to forgiveness. Historically, borrowers have also had trouble maintaining enrollment in income-driven plans due to burdensome and poorly communicated annual recertification processes.

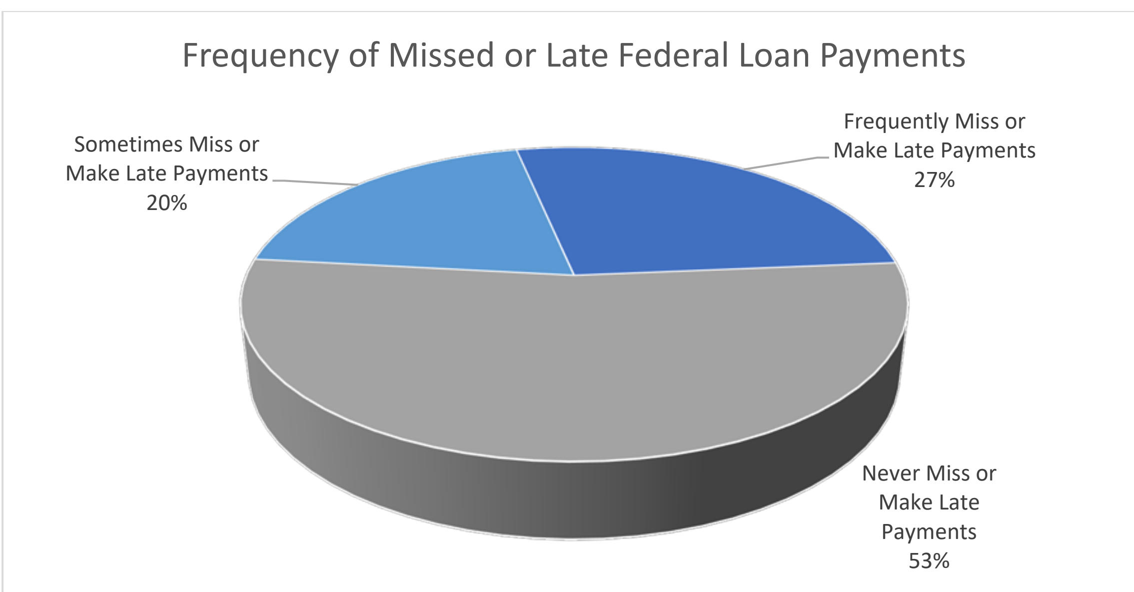
In answering questions about federal loan payment affordability, 191 borrowers reported that their payments were either very unaffordable or not affordable, while only 50 stated their federal loan payments were either affordable or very affordable. A breakdown of these responses appears on the following page.

[3] This calculation presumes that the borrower had an outstanding federal loan balance before July 1, 2014. Under the IDR plan, borrowers who did not have an outstanding loan balance before July 1, 2014 pay 10% of income exceeding 150% of the federal poverty line rather than 15%.



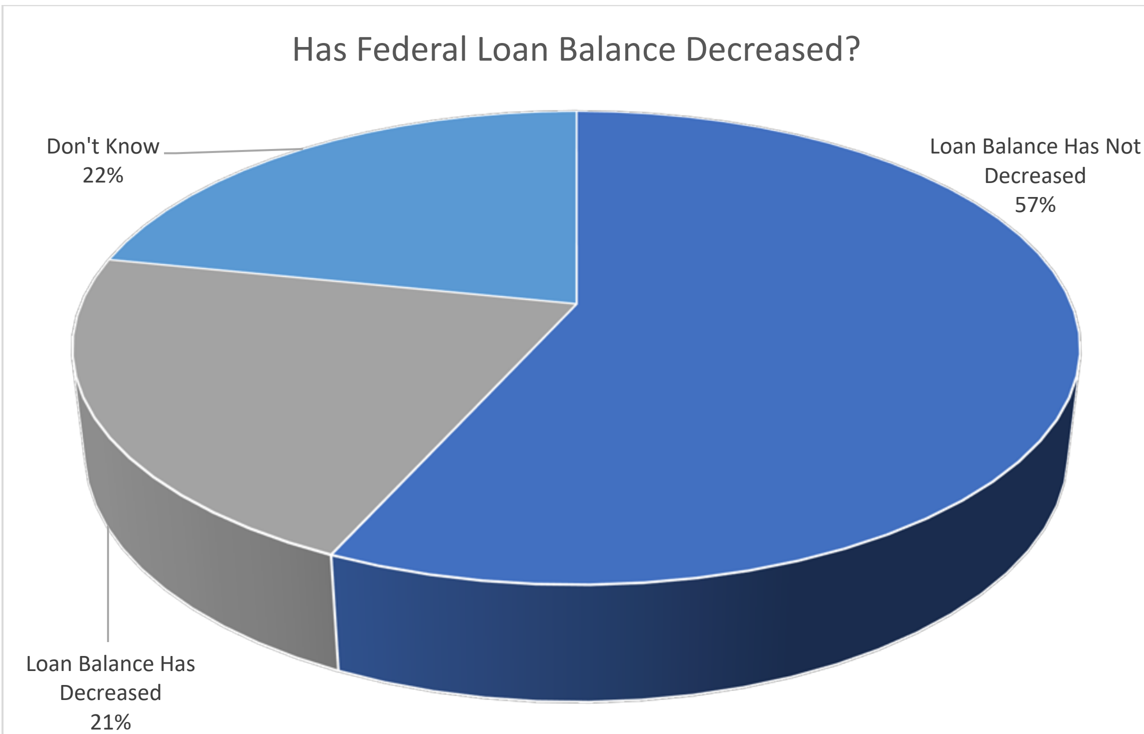
- **Frequency of Missed or Late Federal Loan Payments.** Student loans are simple daily interest loans, which means that interest accrues every day. When borrowers pay late, more of their payment is applied to accrued interest and less is applied to principal, increasing their total loan cost. Many borrowers are unaware that making late or irregular payments hinders their efforts to pay down their loans. Borrowers frequently contact the Ombudsman with concerns that their loan balance is not decreasing despite making payments. Often, this is at least in part attributable to a pattern of late or irregular payments. Making late payments can also result in credit harm. Once a federal loan is 90 days past due, the delinquency is reported to the credit bureaus.

  When asked how frequently borrowers missed or made late payments, 170 reported never missing or making late payments, 86 stated they frequently miss or make late payments, and 63 stated they sometimes do.



- **Decrease in Federal Loan Balance Over Time.** Many federal loan borrowers facing prolonged economic hardship have been placed in lengthy forbearances. Loan balances may also remain static or increase over time for federal loan borrowers in income-driven repayment plans if monthly payments are low compared to the loan's accruing interest.[4] While income-driven plans offer the possibility of loan forgiveness after 20 or 25 years of qualifying payments, forbearances result in interest capitalizations and a larger debt burden without the possibility of forgiveness. Additionally, many borrowers repay their federal loans in standard, graduated, or extended repayment plans with 20-to-30-year repayment terms. These lengthy terms result in slow progress paying down loan principal. Compounding this, borrowers may consolidate their loans multiple times, thereby further extending their repayment terms and further slowing their repayment progress. As noted above, making late or irregular payments can also hinder repayment progress.

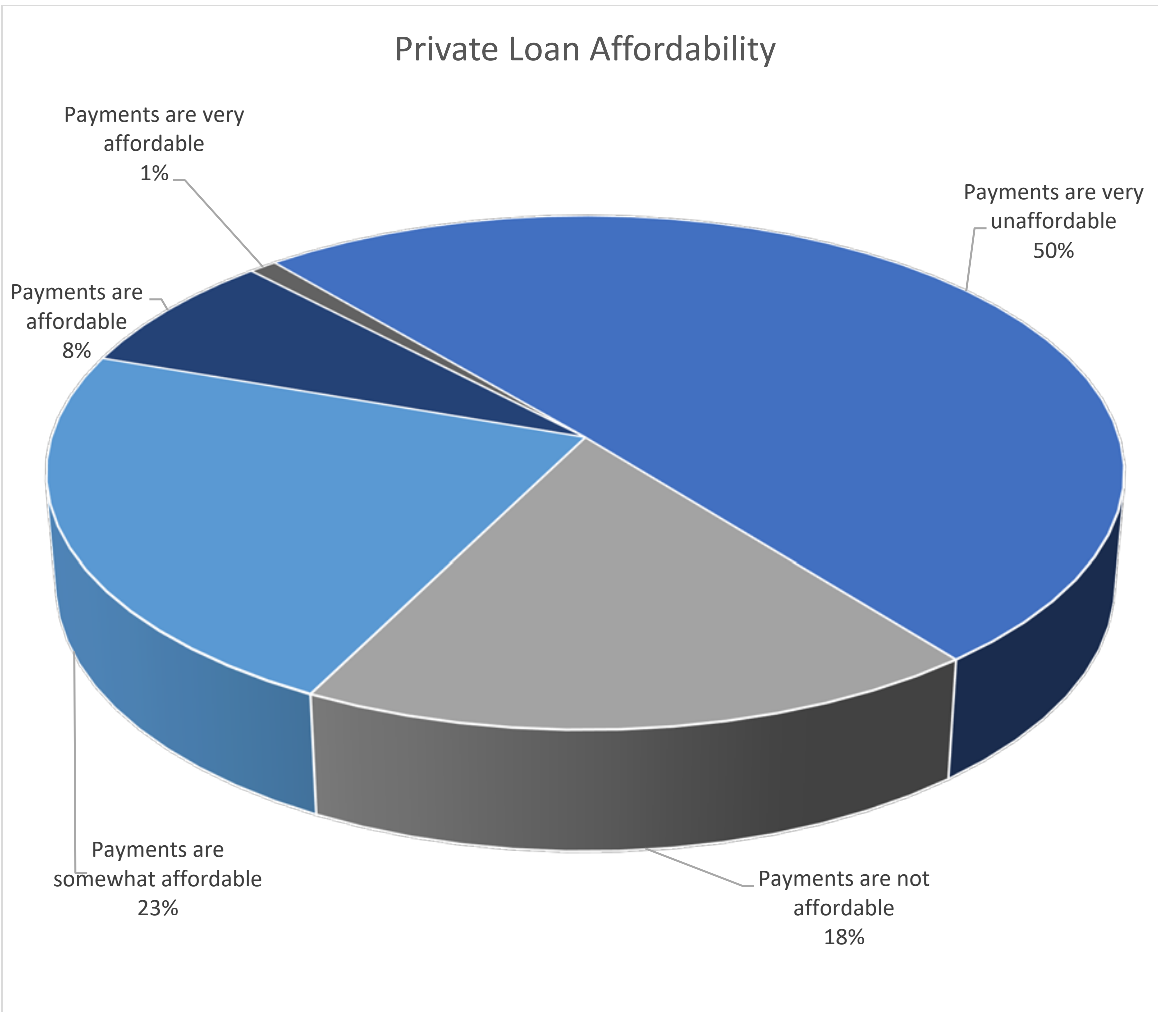
  When asked whether their federal student loan balance had decreased over time, 182 borrowers reported that their federal loan balance had not decreased, 70 did not know, and 67 stated they had made progress paying down their federal loans.



[4] In some cases, interest is subsidized under income-driven plans. For example, for the borrower's first three consecutive years in IBR, interest on subsidized loans that exceeds the borrower's monthly payment amount is subsidized. REPAYE offers the most generous interest subsidies of all the income-driven plans. For the borrower's first three consecutive years in REPAYE, interest on subsidized loans that exceeds the borrower's monthly payment amount is subsidized. Additionally, on subsidized loans after these first three years and on unsubsidized loans during all periods, *half* the difference between the borrower's monthly payment amount and the interest that accrues is subsidized under REPAYE.

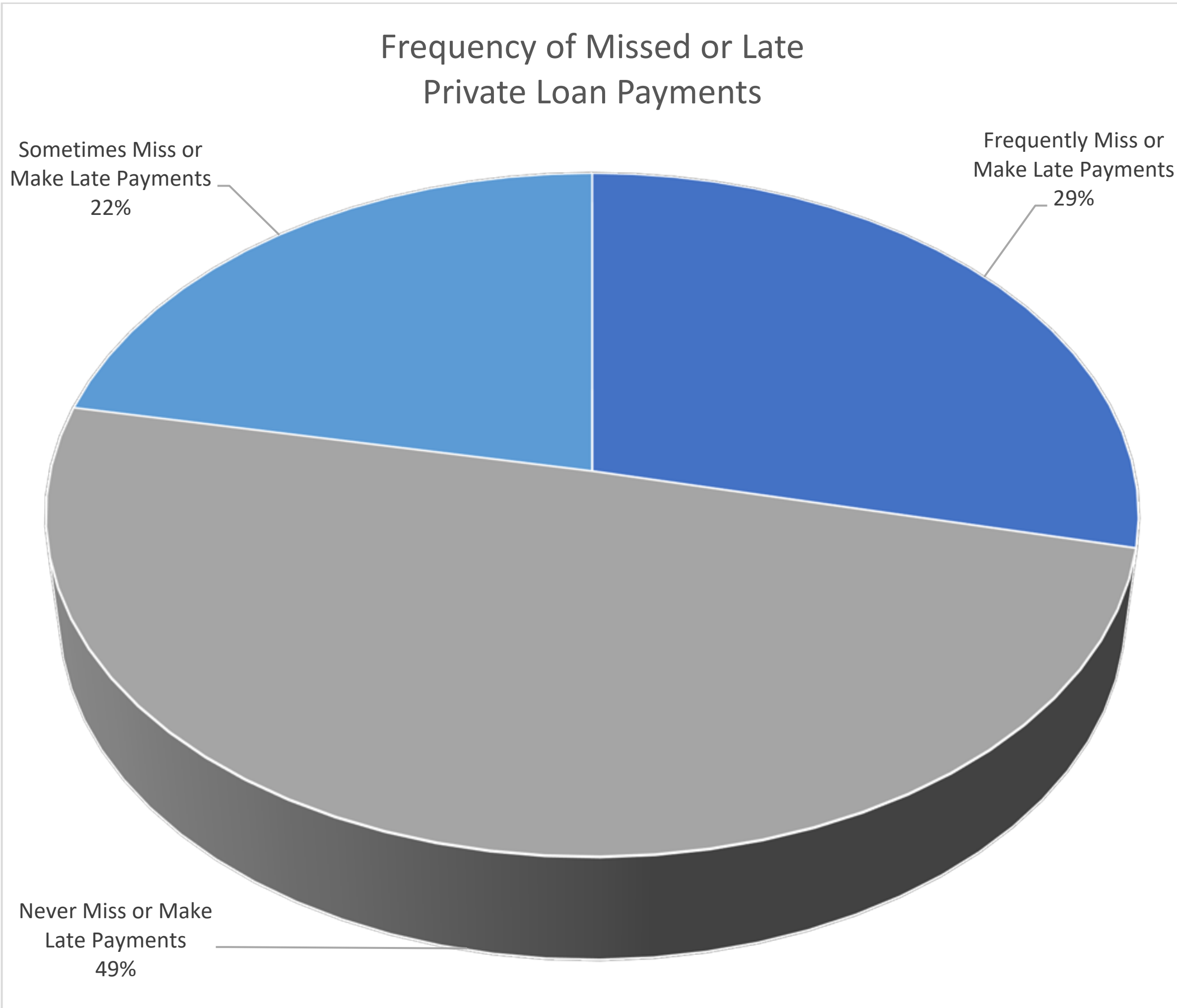
- **Private Loan Payment Affordability.** Private lenders tend to offer very little flexibility for borrowers experiencing economic hardship, and the criteria for accessing modified plans tend to be opaque and the enrollment processes challenging. Additionally, most modified repayment plans for private loans are temporary and ultimately result in higher loan balances and monthly payments.

  When asked about the affordability of their private loans, 72 borrowers reported that their payments were either very unaffordable or not affordable, while only 9 stated their private loan payments were either very affordable or affordable.



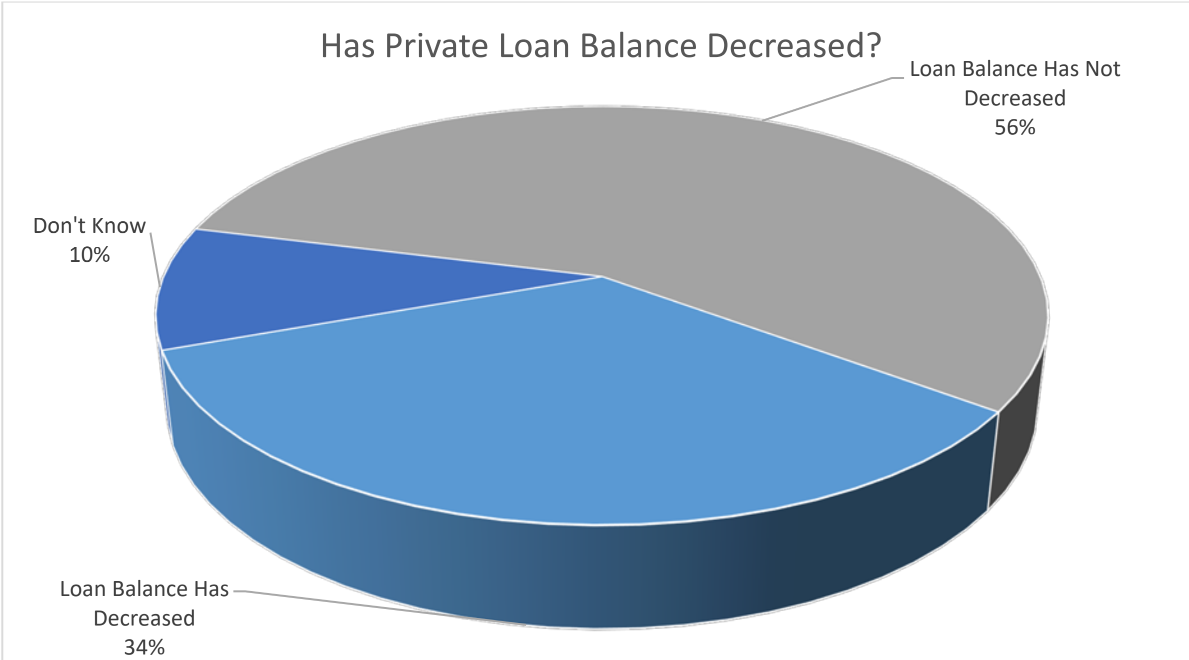
- **Frequency of Missed or Late Private Loan Payments.** Like federal loans, private loans are simple daily interest loans. Making late or irregular payments on private loans thwarts repayment progress and can negatively affect borrowers' credit scores.

  When asked how frequently private loan borrowers miss or make late payments, 53 reported that they frequently or sometimes miss payments or pay late, whereas 52 reported that they never miss payments or pay late.



- **Decrease in Private Loan Balance Over Time.** Borrowers frequently contact the Ombudsman with concerns about their private loan balance. Private loans often have higher interest rates than federal loans, which can result in escalating loan balances when borrowers cannot afford to make regular monthly payments. Unfortunately, very few private lenders offer sustainable repayment options for struggling borrowers.

  When asked if their private loan balance had decreased over time, 59 private loan borrowers reported it had not decreased, 36 reported that they had made progress paying down their private loan, and 10 did not know whether their balance had decreased. A breakdown of these responses appears on the following page.



In working with borrowers, the Ombudsman's Student Loan Assistance Unit has consistently found that the existing federal loan repayment system is overly complex and plagued by servicing failures that have trapped borrowers in unaffordable debt. Even with federal income-driven repayment plans, borrowers often face long-term and costly debt burdens. While private loan debt represents a smaller portion of overall student debt, private loan borrowers seeking help from the Ombudsman's Student Loan Assistance Unit typically have more costly loans and fewer options for managing repayment. We look forward to continuing our advocacy work on behalf of Massachusetts borrowers.

Thank you for your interest in this important issue. If you have any questions, please do not hesitate to contact us.

Sincerely,

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cc:
The Honorable Aaron Michlewitz, House Chair, Joint Committee on Ways & Means
The Honorable Michael J. Rodrigues, Senate Chair, Joint Committee on Ways & Means
The Honorable James M. Murphy, House Chair, Joint Committee on Financial Services
The Honorable Brendan P. Crighton, Senate Chair, Joint Committee on Financial Services