AMERICAN FEDERATION OF TEACHERS

STUDENT BORROWER PROTECTION CENTER

March 19, 2020

The Honorable Kathleen Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Kraninger:

On behalf of the 44.7 million consumers who owe $1.6 trillion in outstanding student loan debt, including the 1.7 million teachers, nurses, and other professionals who are members of the American Federation of Teachers, we are writing to urge you to take aggressive action to address the risk of consumer harm in the student loan market stemming from the global coronavirus pandemic.

The public health and economic effects of the coronavirus pandemic are projected to be widespread, upending daily life for millions of Americans and potentially driving the U.S. into its first recession in more than a decade. These public health and economic disruptions will pose unique problems for student loan borrowers and will acutely stress the student loan market that you are responsible for overseeing. Absent rigorous oversight from the Consumer Financial Protection Bureau, student loan borrowers will be forced to bear the brunt of this turmoil.

We write today to urge you to take immediate action to ensure that student loan borrowers are protected. In particular, we ask that you take the following steps to fulfill the Bureau's responsibility to protect student loan borrowers from the fallout of the global coronavirus outbreak:

- **Return the Bureau to its role as the primary independent regulator of the full student loan servicing market.** As millions of student loan borrowers' lives are disrupted by the coronavirus, there will likely be an influx of Americans turning to their servicers for help. These private companies are hired and paid by creditors, including the U.S. Department of Education, to guide borrowers through the repayment process. However, we already know of substantial, pervasive problems across the student loan servicing marketplace. From allegations of wrongful denials of borrowers' right to loan forgiveness[1] to specific evidence of servicing failures around the management of the "mandatory administrative forbearance" status applied to borrowers' loans without their consent during natural disasters,[2] there is ample reason to question whether student loan servicers are up to the challenge of navigating a response to the coronavirus. The

[1] *See, e.g.*, Complaint, *New York v. Pennsylvania Higher Education Assistance Agency* (S.D.N.Y. 2019) (No. 19-cv-9155), https://ag.ny.gov/sites/default/files/pheaa_complaint_with_file_stamp.pdf.

[2] *See, e.g.*, Ben Kaufman, *New Data Show Student Loan Defaults Spiked in 2019 – A Warning to Industry and DeVos Amid Economic Fallout*, Student Borrower Protection Center (Mar. 13, 2020), https://protectborrowers.org/every-26-seconds/.

Bureau should immediately begin to examine the full breadth of these companies' operations—including the servicing of loans owned by the U.S. Department of Education—with a focus on the ramp-up of Income-Driven Repayment enrollment to assist borrowers in distress, emergency response preparedness, policies governing the terms of mandatory administrative forbearance and the procedures surrounding its implementation, the training of their customer service agents, and the readiness of servicers' technological infrastructure for the possibility of changes to millions of borrowers' repayment status. The oversight should not be simply left to the Department of Education, but instead come from the CFPB, which is uniquely equipped to identify and address consumer harm in financial markets. If the Department of Education continues to challenge the Bureau's exercise of its supervisory authority, the stakes are simply too high for the Bureau to back down. The Bureau should seek an order from a federal judge declaring that it has the authority to oversee these private-sector firms, irrespective of whether the creditor that hires a servicer is a private-sector financial institution or the federal government.

- **Coordinate joint oversight and examinations with states that have supervisory authority over student loan servicers.** Since Connecticut became the first state to license and supervise student loan servicers in 2015, an additional nine jurisdictions have stepped in to oversee the practices of servicers operating within their borders. As a federal agency, the Bureau is uniquely situated to work with states to establish a powerful, unified effort to protect borrowers impacted by the coronavirus outbreak. The Bureau should lead an effort to coordinate state agencies in their supervision of student loan servicers, including by providing guidance on areas of focus in exams, providing resources for examiners, and promoting information sharing across agencies. Because of the speed with which the student loan servicing industry will need to mobilize to respond to looming economic disruption, it is critical that regulators at all levels immediately marshal their resources to ensure that industry's response is compliant with consumer law and protects borrowers' rights.

- **Prioritize the examination of student loan debt collectors as part of the Bureau's ongoing supervisory program for debt collection.** Since 2012, the Bureau has had the authority to supervise larger debt collectors, including by performing routine oversight of companies that collect on defaulted loans and other consumer debt owed by American families. The Department of Education contracts with multiple large and small debt collectors, each of which is responsible for assisting defaulted borrowers as they navigate the process of curing a default and getting back on track with their loans. These companies are also responsible for directing the process of collecting involuntary payments from borrowers, including through wage garnishment and the seizure of Social Security benefits and tax refunds. As more borrowers struggle and fall behind on their student loans, debt collectors will be responsible for balancing these functions. Only an independent regulator is positioned to ensure borrowers can access their rights to cure defaults and access long-term repayment relief (*i.e.*, through consolidation and rehabilitation options) and are protected amid financial pressure on industry to boost recoveries through involuntary collections. The Bureau should immediately exercise its oversight authority in the debt collection market to ensure these firms are properly implementing programs and protections intended to blunt the economic fallout of the coronavirus.

- **Exercise the Bureau's market monitoring authority to identify consumer harm before it happens.** Section 1022(c)4 of the Dodd-Frank Act empowers the Bureau to "gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers."[3] This authority extends to student loan servicers. In 2017, the Bureau initiated efforts to collect data on the student loan market so that it might gain key insights to help it better protect the most vulnerable borrowers.[4] However, the Bureau still has not finalized these efforts. In the face of public health and economic crises, it is critical for the principal federal regulator charged with protecting borrowers to use its authority to understand in near real-time which segments of the market may be experiencing stress. By immediately expanding market monitoring, the Bureau can use this data to inform policymakers, regulators, and the public as governments work to address systemic risks to the American economy. Further, this data can drive oversight, regulatory, and enforcement efforts by the Bureau to protect borrowers from emerging risks before millions of Americans are harmed.

More than a decade ago, Congress created the Consumer Financial Protection Bureau with a unique mission: to "provide a single point of accountability for enforcing federal consumer financial laws and protecting consumers in the financial marketplace."[5] It is critical that the Bureau use the tools bestowed upon in by Congress to mitigate student loan borrower distress, avert defaults, and protect borrowers from unnecessary loan repayment roadblocks.

With student loan delinquency rates in the double digits and another borrower defaulting on a federal student loan every 26 seconds, the student debt crisis is already dire. However, taken together, the steps described above will ensure that millions of student loan borrowers are not made even more vulnerable by the impacts of the coronavirus. We urge the Bureau to take immediate action in the face of this public health emergency.

Sincerely,

| | |
|---|---|
| Randi Weingarten<br>President<br>American Federation of Teachers<br>AFL-CIO | Seth Frotman<br>Executive Director<br>Student Borrower Protection Center |

---

[3] Pub. L. 111-203, Title X, § 1022(c)(4)(A) (2010) (codified at 12 U.S.C. § 5512(c)(4)(A)).

[4] *See* Consumer Financial Protection Bureau, *Student Loan Servicing Market Monitoring*, 82 Fed. Reg. 11440 (2017), https://www.regulations.gov/document?D=CFPB-2017-0002-0001; *see also* Seth Frotman & John McNamara, *Increasing transparency in the student loan servicing market*, Consumer Financial Protection Bureau (Feb. 16, 2017), https://www.consumerfinance.gov/about-us/blog/increasing-transparency-student-loan-servicing-market/.

[5] *The Bureau*, Consumer Financial Protection Bureau, https://www.consumerfinance.gov/about-us/the-bureau/ (last accessed March 17, 2020).