

United States Senate

WASHINGTON, DC 20510

October 9, 2019

Mr. Robert Cameron
Student Loan Ombudsman
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Mr. Cameron:

Thank you for meeting with our staff on September 18, 2019 to discuss your role as the Consumer Financial Protection Bureau's ("the Bureau," or CFPB) Student Loan Ombudsman. We appreciated hearing about your plans and priorities for the position. As you know, the *Consumer Financial Protection Act* (CFPA) grants the Bureau broad authority over the student loan industry, including the authority to issue rules, examine student loan servicers and debt collectors, and bring public enforcement actions against student loan servicers and debt collectors for violation of federal consumer financial laws. As part of the CFPA, Congress also established the Student Loan Ombudsman ("Ombudsman") to serve as a dedicated resource and advocate for student loan borrowers.¹ Given this broad statutory authority and background, we want to set out in writing our expectations for the CFPB Ombudsman's Office.

1. We expect you to serve as an advocate for student loan borrowers.

The Ombudsman serves as an advocate for student loan borrowers, not the student loan industry. As such, we expect you will fulfill this role by fully utilizing the Bureau's broad statutory authority and tools to carry out your duties as Ombudsman. These roles and responsibilities include, but are not limited to, the activities conducted by your predecessors, such as:

Bureau Policymaking: Chairing the CFPB's "Cross-Bureau Working Group" on Student Loans, which coordinated the Bureau's Research, Markets, Regulation, Supervision, Enforcement, Consumer Response, and Consumer Education functions. In this role, the Ombudsman leads all policymaking at the Bureau related to student finance, including student lending, servicing, and debt collection. The Ombudsman also serves as the Bureau's primary liaison to the Administration, and in particular to the U.S. Department of Education ("the Department") and U.S. Department of Treasury, on all matters related to federal student loan servicing and debt collection, including regulation and enforcement.

Gathering Evidence for and Referring Cases for Examination or Investigation: Making confidential referrals to CFPB Supervision and Enforcement, where complaints provide potential evidence of misconduct by for-profit colleges (*e.g.*, Corinthian Colleges, Inc., or ITT Educational Services, Inc.) or risks to consumers (*e.g.*, the Public Service Loan Forgiveness program). Making confidential or public referrals to other federal law enforcement officials and regulators where complaints provide evidence of illegal practices or risks to consumers (*e.g.*, U.S. Department of Justice or Federal Deposit Insurance Corporation regarding *Servicemembers Civil*

¹ 12 U.S.C. § 5535.

Relief Act violations). Making confidential or public referrals to state attorneys general or state banking regulators where complaints provide evidence of illegal practices or risks to consumers.

Recommending Legislative and Policy Changes: Making recommendations to the Director, to the Secretary of Treasury, to the Secretary of Education, and to Congress about ways to address risks to private and federal student loan borrowers. The Ombudsman also makes recommendations to other stakeholders across the student loan system (*e.g.*, state lawmakers, educational institutions, market participants) and issues reports, such as “Student Loan Servicing: Analysis of public input and recommendations for reform.”

Providing Direct Assistance to Consumers: Providing direct assistance to consumers with either private or federal student loans, typically when consumers required escalated assistance beyond what the Bureau’s Consumer Response function can offer. For federal student loan borrowers, this involves independent casework, not simply referrals to the Department or any of its sub-agencies or offices.

Requesting and Analyzing Data: Requesting data from student loan industry participants to inform analyses, enforcement referrals, and recommendations. The Ombudsman also requests data and information from student loan servicers, debt collectors, student lenders, and credit reporting agencies, as needed, to assist individual borrowers with complaints.

Monitoring the Marketplace for Risks to Young Consumers: Monitoring instances where financial services firms partner with colleges and universities to market financial products to students, including student banking products and, pursuant to Title III of the *CARD Act*, college-sponsored credit cards.

These efforts are critical to our collective work to protect and advocate for student loan borrowers. We were pleased to hear that you believe that, when student loan servicers make errors or harm borrowers, they should provide restitution and remediation to make borrowers whole. You also confirmed that student loan servicers have a responsibility to convey accurate and timely information to borrowers. Therefore, we expect you to advocate for student loan borrowers when you find that student loan servicers are failing to meet basic standards.

2. We expect the Bureau to continue oversight of both private and federal student loans.

The Bureau’s announcement of your appointment as Ombudsman only referenced your responsibility for private student loan oversight.² We appreciated hearing that, given the Bureau’s broad statutory authority over the student loan industry, your work would cover *both* private and federal student loans, including (1) reviewing and attempting to resolve student borrower complaints; (2) reestablishing and maintaining a Memorandum of Understanding (MOU) with Department; (3) compiling and analyzing data on borrower complaints; and (4) making recommendation to the Bureau’s Director, the Secretary of Treasury, the Secretary of Education, and to Congress.

² Consumer Financial Protection Bureau. “CFPB Appoints Private Education Loan Ombudsman.” August 16, 2019. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-appoints-private-education-loan-ombudsman/>.

3. We expect you to ensure adequate staffing of the Ombudsman's office.

We appreciate that you are planning to hire additional staff for the Ombudsman's Office to fill extended vacancies. Ensuring that sufficient personnel exist to conduct monitoring, examinations, and oversight of the student loan servicing industry is critical. We expect that the office will be fully staffed within the next few months.

4. We expect you to carry out your work even if the U.S. Department of Education attempts to interfere with the Bureau's jurisdiction.

While there may be instances where consultations with the Department may be helpful with regard to federal student loans, the Department has repeatedly failed to protect student loan borrowers or hold student loan servicers and debt collectors accountable. The Bureau is an independent agency and, as Ombudsman, you have a specific charge to protect all student loan borrowers. We, therefore, expect you to carry out your oversight and monitoring duties independent of the Department. Additionally, as Ombudsman, your analysis, advice, and recommendations should represent your views, not those of the Department.

5. We expect you to reestablish the Memorandum of Understanding (MOU) between the U.S. Department of Education and the Bureau as soon as possible.

As you know, the Department terminated the prior MOU with the Bureau effective October 1, 2017.³ Since December 2017, based on guidance from the Department, student loan servicers have refused to produce the information necessary for the Bureau and other law enforcement agencies to conduct routine examinations relating to federal student loans.⁴ As a result, it appears that the Bureau has been impeded from conducting full examinations of federal student loan servicers since at least December 2017. We appreciate that you will prioritize developing a new MOU with the Department. The Department, however, has consistently delayed reestablishing the MOU. In a recent letter from Director Kraninger, we were informed that the Bureau requested an MOU be reestablished in 2018, but the Department had still not complied with the request.⁵ At this point, the Bureau should not tolerate any further delays in securing a new MOU and we look forward to seeing the agreement finalized as soon as possible.

6. We expect you to promptly resume examinations of federal student loan servicers.

The Bureau should take immediate steps to ensure that it has access to all of the information necessary to conduct full and complete examinations of federal student loan servicers. In its litigation against Navient, for example, the Bureau obtained a court order compelling the company to produce student loan servicing records that the Department had otherwise refused to provide. The Bureau should likewise seek a court order compelling the Department to provide

³ Letter from Director Kraninger, Consumer Financial Protection Bureau, to Senator Sherrod Brown, Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs. April 23, 2019.

⁴ *Id.*

⁵ Letter from Director Kraninger to Senators Sherrod Brown and Patty Murray regarding the Bureau's Memorandum of Understanding for federal student loans. September 3, 2019. <https://go.usa.gov/xVFBC>

access to student loan information so that the Bureau can conduct examinations of federal student loan servicers.

The Department's interference with the Bureau's examination of federal student loan servicers is unacceptable. However, the Bureau's failure to stand up for student loan borrowers despite the Department's interference is equally disappointing. For nearly two years, student loan servicers have caused often irreparable harm to student loan borrowers with lax oversight by the Department and ongoing efforts to interfere with law enforcement.⁶ We appreciate that you will conduct aggressive oversight and monitoring of student loan servicers that break the law or fail to act in the best interest of borrowers.

7. We expect you to carry out your duties free of conflicts of interest.

Based on your prior work as Deputy Chief Counsel at the Pennsylvania Higher Education Assistance Agency (PHEAA), we have raised concerns about potential conflicts of interest that would prevent you from fully or effectively carrying out your duties as Ombudsman. We also have concerns about PHEAA's claims of sovereign immunity to avoid lawsuits by state regulators during your tenure as Deputy Chief Legal Counsel. During your meeting with our staff, you detailed your prior work as Deputy Chief Counsel for PHEAA.

In response to our concerns, we appreciate that you have, and will continue to, consult on all ethics issues with the Bureau's Legal Division and Designated Agency Ethics Official regarding any recusals that may be necessary. For example, we understand that matters affecting certain "rights and privileges" of PHEAA may require recusal, but that other matters involving general student loan servicing complaints may not require recusal.

We request additional information on what matters affect PHEAA's "rights and privileges" that would require your recusal. As you know, PHEAA is one of the largest student loan servicers, and CFPB retains clear authority to open investigations into the company's potential violations of law, including deciding what claims the Bureau should bring and what relief the Bureau should seek.

In order to address these and other outstanding questions, we ask you to provide responses to the following requests by October 25, 2019:

- I. Please provide a written explanation of when you would be recused from any work or involvement, including providing advice or recommendations, relating to PHEAA. You should include a specific explanation work that affects "rights and privileges" of PHEAA that would require your recusal. Please also provide any official ethics guidance that has been issued to you by agency officials.

⁶ Ortiz, Erik. "Inside the Education Department's effort to 'obstruct' student loan investigations." *NBC News*. September 9, 2019. <https://www.nbcnews.com/news/education/inside-education-department-s-effort-obstruct-student-loan-investigations-n1049576>

2. Following the briefing, the Bureau referred us to its April 23, 2019 letter to Senator Brown in response to questions about the Bureau's examination of federal student loan servicers. That letter states:

In some exams [since December 2017], the examiners have applied questions regarding PSLF, focusing on representations about PSLF that servicers make to borrowers Since December 2017, student loan servicers have declined to produce information requested by the Bureau for supervisory examinations related to Direct Loans and Federal Family Education Loan Program (FFELP) loans held by the Department based on the Department's Guidance. The Bureau has pursued options that *would have permitted* it to obtain information from student loan servicers necessary for supervisory examinations of Direct loans and Department-held FFELP loans." (Emphasis added).

The Bureau's April 23, 2019 letter suggests, but is not clear, that the Bureau has not been able to examine federal student loan servicers, and has only had a limited ability to examine their administration of PSLF. To clarify, please answer the following:

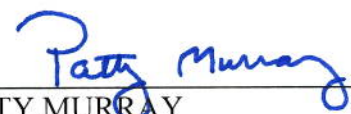
- a. Since December 2017, has the Bureau has conducted *full and complete* supervisory examinations related to Direct Loans and FFELP?
 - b. Since January 20, 2017, has the Bureau conducted any *full and complete* examinations (aside from a limited review of representations about PSLF) of student loan servicers administration of PSLF?
3. Please provide a list of current full-time equivalent staff in the Ombudsman's office disaggregated by main job functions, the number of staff you hope to hire in such functions, and the anticipated dates by which this hiring will be complete.

If you have any questions, please contact Jan Singelmann with the Senate Committee on Banking, Housing, and Urban Affairs at Jan_Singelmann@banking.senate.gov, or Bryce McKibben with the Senate Committee on Health, Education, Labor, and Pensions at Bryce_McKibben@help.senate.gov. We look forward to your response.

Sincerely,



SHERROD BROWN
Ranking Member
Senate Committee on Banking, Housing,
and Urban Affairs



PATTY MURRAY
Ranking Member
Senate Committee on Health, Education,
Labor, and Pensions