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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

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January 30, 2020

Kathleen Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Kraninger:

We write regarding the Consumer Financial Protection Bureau's (Bureau) ongoing failure to conduct oversight of federal student loan servicers. It has now been more than two years—and more than a year that you have been Director—since the Bureau examined the companies that service the student loans for 43 million borrowers.¹

For the past year, you and your staff have provided a variety of excuses and shifting explanations for the Bureau's failure to fulfill this critical oversight role:

- During a March 2019 hearing before the Senate Committee on Banking, Housing, and Urban Affairs, you testified that you were in the process of hiring a new student loan ombudsman who would be responsible for reestablishing the information sharing Memorandum of Understanding (MOU) with the Department of Education (Department) that would allow the Bureau to resume examinations of federal student loan servicers;²
- During a March 2019 hearing before the House Committee on Financial Services, you also testified that you wanted to have the student loan ombudsman in place to reestablish the MOU with the Department so that the Bureau could resume examinations of federal student loan servicers;³
- In an April 2019 letter, you reiterated that you wanted to have the student loan ombudsman in place to reestablish the MOU with the Department; and

¹ See <https://www.pewtrusts.org/en/research-and-analysis/reports/2019/11/student-loan-system-presents-repayment-challenges>.

² The Consumer Financial Protection Bureau's Semiannual Report to Congress, U.S. Senate Committee on Banking, Housing, and Urban Affairs, Tr. at 18-20, available at, <https://www.govinfo.gov/content/pkg/CHRG-116shrg36014/pdf/CHRG-116shrg36014.pdf>.

³ Semi-Annual Review of the Consumer Financial Protection Bureau, U.S. House Committee on Financial Services (Mar. 7, 2019), Tr. at 75-76, available at <https://www.govinfo.gov/content/pkg/CHRG-116hhr36461/pdf/CHRG-116hhr36461.pdf>.

- In September 2019, after he had been appointed as the student loan ombudsman, Robert Cameron also led us to believe that he was working to reestablish the information sharing MOU with the Department.⁴

None of that was true. We recently learned that Mr. Cameron, the Bureau's student loan ombudsman, is neither responsible for nor has he worked on reestablishing the information sharing MOU with the Department. Instead, you assigned that responsibility to Brian Schneider, the Associate Director of the Bureau's Division of Supervision, Enforcement, and Fair Lending (SEFL). Your decision has led to significant delays. Mr. Schneider did not send the Department a first draft of the information sharing MOU until December 2019—a full year after you had become Director.⁵ As of mid-January 2020, the Department had not provided any written response to that draft.

We are deeply disturbed by your lack of transparency with Congress. But we are even more disturbed by the way you have stood by—and continue to do so—as Secretary DeVos and the Department have obstructed the Bureau from examining federal student loan servicers for more than two years. At this time, the Bureau still has made no progress towards reestablishing the information sharing MOU with the Department, still cannot provide a timeline for finalizing the MOU with the Department, and still cannot provide a timeline for when the Bureau will resume examinations of federal student loan servicers.

Millions of student borrowers are paying the price for your inaction. Because of your failure to stand up to Secretary DeVos, the Bureau is not conducting oversight to prevent student loan servicers from unfairly steering borrowers into forbearance or deferment plans—which are more costly for borrowers but more profitable for servicers—instead of income based repayment plans. Tens of thousands of teachers, nurses, servicemembers, and other public servants have been denied for loan forgiveness. Yet—even after multiple scathing reports by the Government Accountability Office and the Department of Education's Inspector General⁶—the Bureau is not examining the student loan servicer responsible for administering the Public Service Loan

⁴ See Oct. 9, 2010 Letter from Sen. Brown and Sen. Murray to R. Cameron (recapping discussions that expect him, as student loan ombudsman, to reestablish information sharing MOU with the Department), *available at* <https://www.banking.senate.gov/download/brown-murray-cfpb-ombudsman>.

⁵ Mr. Schneider was not hired until September 2019. But that is no reason for delay. He is only overseeing negotiations that are being carried out by senior SEFL staff, and his work had been carried out by the Acting Associate Director for the prior seven months. You also testified that, prior to Mr. Schneider becoming SEFL Associate Director, the Bureau had been engaged with the Department on reestablishing the information sharing MOU prior to his appointment.

⁶ See U.S. Gov't Accountability Office, GAO 19-595, Public Service Loan Forgiveness, Improving the Temporary Expanded Process Could Help Reduce Borrower Confusion, Sep 2019, at 6, *available at* <https://www.gao.gov/assets/710/701157.pdf>; U.S. Dep't of Education, Office of Inspector General, ED-OIG/A05Q0008, Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans, Feb. 12, 2019, *available at* <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf>.

Forgiveness Program. And, despite the mountain of new research on racial disparities in student debt,⁷ the Bureau is not examining whether student loan servicers are violating civil rights laws or engaged in other unlawful conduct that disproportionately harms borrowers of color. In the face of the Department's obstruction efforts,⁸ the Bureau is not without options. In its litigation against student loan servicer Navient, the Bureau obtained a court order over the objections of the Department to gain access to information for federal student loan borrowers.⁹ The Bureau could likewise seek a court order compelling the Department to provide access to information so that the Bureau can examine federal student loan servicers. We ask you to do so immediately. After more than two years of inaction, and more than 100 days since you last testified before Congress, the Bureau can no longer withhold protections for the 43 million Americans with federal student loans.

We, as members of the Committee with oversight responsibilities over the Bureau, and the public need to understand the complete set of facts relating to the Bureau's inability to fully examine federal student loan servicers since December 2017. To that end, please respond to the following requests by February 13, 2020.

1. State the dates that the Bureau and the Department have exchanged *each* written draft of:
 - a. The information sharing MOU; and
 - b. The complaints MOU.
2. State the date Mr. Schneider began working on reestablishing the information sharing MOU with the Department.
3. From December 2017 until Mr. Schneider joined the Bureau, identify the staff person who was primarily responsible for, and other staff who participated in, the Bureau's discussions with the Department on:
 - a. The information sharing MOU; and
 - b. The complaints MOU.
4. Does the Bureau have any examinations of student loan servicers that includes a review of federal student loan information scheduled for 2020?
5. The Department has publicly stated that it does not believe the Bureau has any role in conducting oversight of federal student loan servicers.¹⁰

⁷ See, e.g., <https://libertystreeteconomics.newyorkfed.org/2019/11/just-released-racial-disparities-in-student-loan-outcomes.html>; <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-quicksand-student-debt-crisis-jul2019.pdf>.

⁸ Ortiz, Erik. "Inside the Education Department's effort to 'obstruct' student loan investigations," NBC News (Sep. 9, 2019), available at <https://www.nbcnews.com/news/education/inside-education-department-s-effort-obstruct-student-loan-investigations-n1049576>.

⁹ See Memorandum Opinion, *CFPB v. Navient Corp.*, Case No. 3:17-CV-00101-RDM (May 4, 2019), available at https://www.courtlistener.com/recap/gov.uscourts.pamd.110329/gov.uscourts.pamd.110329.88.0_1.pdf.

¹⁰ See <https://www.npr.org/2019/10/17/771021135/senators-press-cfpb-to-dig-into-public-service-loan-forgiveness-problems>.

- a. Has the Department maintained this position during discussions over the information sharing MOU?
 - b. If so, how has the Department's position affected discussions?
6. Have you had direct discussions with Secretary DeVos regarding the lack of an information sharing MOU or the Department's instruction to federal student loan servicers to not provide the Bureau with access to information for federal student loans? If so, what were the results of that discussion?
7. Congress previously called on the Bureau to seek a court order to compel the Department to provide access to information for federal student loans. Will the Bureau agree to do so now? If not now, is there a date by which if Department has not finalized the information sharing MOU that Bureau will seek a court order?

Thank you for attention to this important matter. We look forward to your response.



Sherrod Brown
U.S. Senator

Sincerely,



Robert Menendez
U.S. Senator