COMMITTEES
BANKING AND FINANCE
BUDGET
BUDGET SUBCOMMITTEE NO. 5 ON
PUBLIC SAFETY
HUMAN SERVICES
NATURAL RESOURCES

SELECT COMMITTEES
CHAIR: COASTAL PROTECTION AND
ACCESS TO NATURAL RESOURCES
CO-CHAIR: ENVIRONMENTAL CAUCUS

Assembly
California Legislature

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March 19, 2018

Secretary DeVos
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary DeVos:

As state legislators dedicated to protecting student borrowers, we are writing to ask that you withdraw the March 12 memo pre-empting state laws meant to protect student loan borrowers. We request that you instead support a state's ability to regulate and license student loan servicers operating within its jurisdiction.

On Monday, March 12, the U.S. Department of Education released an interpretive memo entitled "Federal Pre-emption and State Regulation of the Department of Education's Federal Student Loan Programs and Federal Student Loan Servicers." The memo purports to pre-empt not only state licensing regimes for student loan servicers, but that even the traditional police powers of state's Attorneys General[1] are pre-empted when that enforcement is related to federal student loans.

States, as Justice Louis Brandeis opined, are meant to be the laboratories of democracy. State legislators are best positioned to respond to the needs of their constituents to include ensuring consumer protections are in place as they relate to student loan servicers. The right of states to protect their residents from predatory practices is a bedrock principle of American government.

In our states, student loan debt has become one of the greatest challenges to our residents. Between us, our constituents hold $475.82 billion[2] in outstanding student loan debt, with the average college borrower graduating with $28 thousand to repay. Our constituents rely on the accurate and timely servicing of their student loans in order to be successful in their repayment. Servicers play a critical role in the success or failure of a borrower's repayment and must be held accountable.

When these tasks are carried out with accuracy, borrowers are able to reliably repay their debt at a rate that will give them the best chance at success. However, servicers have recently come under increased scrutiny for unscrupulous business practices. Complaints received by the Consumer Financial Protection Bureau (CFPB) detail widespread servicing failures including a patchwork of sloppy business practices that can create obstacles to repayment, raise costs and contribute to defaults. Borrowers must overcome needless hurdles, such as prolonged processing delays and wrongful rejections in applying for lower student loan payments. These practices are so widespread and so blatant, that the nation's largest student loan servicer was sued by the CFPB and the State Attorneys General of Washington and Illinois in January 2017 and by the Pennsylvania Attorney

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1 https://www.npr.org/sections/ed/2018/02/27/588943959/education-department-wants-to-protect-student-loan-debt-collectors
2 https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_student-loans_50-state-snapshot_complaints.pdf

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General in October 2017 for systemic illegal and unethical practices. In August 2017, the Massachusetts Attorney General sued the Pennsylvania Higher Education Assistance Agency (PHEAA), the nation's second largest student loan servicers, for similar alleged abuses.

In our states, 19,864[2] complaints have been made to the CFPB about student loan servicers, and many of us have also engaged our constituents directly to better understand their experiences with student loan servicers. One borrower in California recounted the following:

I have been working in XXXX jobs for close to 4 years now. I have also been working to pay off my federal loan through the Public Service Loan Forgiveness Program. I first submitted 6 months certification (out of 1 year employment) to request credit for 6 months of payments and enrollment in the PSLF program. I initially was sent a letter saying the certification was valid and I would receive 6 months of credit for the one year I worked in my first XXXX job. I then transferred to another XXXX agency where I have been for almost 3 years. In those nearly 3 years, I have submitted yearly certification to show I am in the PSLF program, making on time Income Based payments and working toward the 10 years of service and payments before loan forgiveness. The Fed Loan company (My Fed Loan Servicing) routinely does not recognize these certifications, or says I have not submitted them, and does not accurately reflect the over three and a half years of payments that I have made in the PSLF program. I am concerned that they are not honoring the work I am doing or the payments I am making. I again submitted another certification this month, to which they responded that they had not received anything and to please re-certify every year. It is a pattern that they continue to exhibit which shows to me that the PSLF program is not being run properly. I also don't make very much money and the payments they are taking are nearly 1/4 of my total income. I am struggling to adjust to their most recent increase from {$490.00} to {$700.00}. I am a single parent putting a child through college and working in a relatively low paying public service job. Any assistance the CFPB can provide to remedy these issues would be appreciated.

The problems found in the mortgage crisis are mirrored in the problems being found in the student loan servicing industry today. With one in four students struggling to repay their loans or already in default, combined with well documented complaints featuring servicing failures, it comes as no surprise that student debt has left borrowers in a bleak position. Borrowers saddled with large student debt are increasingly stymied from actively participating in the economy such as starting a business, buying a house, or starting a career. In the event of non-payment, borrowers are affected by the negative financial impacts of default such as garnished wages and ruined credit.

States are uniquely positioned to protect these consumers and help the federal government ensure that borrowers receive transparent and accountable servicing. States are able to use existing or potential enforcement and oversight tools to closely monitor the servicing activity within their own state. This oversight can prevent our nation from tipping into another financial crisis.

Student borrowers are the future of our country. However, burdened with debts and without protection from irresponsible loan servicers, they may never have the opportunity to repay their debts and establish themselves in our economy. We ask that you support a state's ability to protect student borrowers and regulate the student

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loan servicing industry. We respectfully request that you withdraw the March 12 memo that would explicitly preempt states from licensing student loan servicers.

Sincerely,

Mark Stone
California State Assembly

Eloise Vitelli
Maine State Senate

Lorena Gonzalez Fletcher
California State Assembly

Eric Lesser
Massachusetts State Senate

Daniel Kagan
Colorado State Senate

Erin Murphy
Minnesota House of Representatives

David Grosso
District of Columbia Council

Ilhan Omar
Minnesota House of Representatives

Daniel Biss
Illinois State Senate

Kip Kendrick
Missouri House of Representatives

Sandra Cunningham
New Jersey State Senate

Patricia Roybal Caballero
New Mexico House of Representatives

Kenneth P. Zebrowski
New York State Assembly

Aaron Regunberg
Rhode Island House of Representatives

Marko Liias
Washington State Senate

Guy Palumbo
Washington State Senate

Monica Jurado Stonier
Washington House of Representatives

Kevin Ranker
Washington State Senate

Christine Rolfes
Washington State Senate

Lisa Wellman
Washington State Senate

Janet Howell
Virginia State Senate

Cc: Kathleen Smith, Deputy Chief Operating Officer, U.S. Department of Education
James F. Manning, Acting Under Secretary (OUS) and Acting Chief Operating Officer (FSA), U.S. Department of Education