

Congress of the United States

Washington, D.C. 20515

April 14, 2022

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1275 First Street NE
Washington, D.C. 20002

Dear Director Chopra:

We are writing to request information about the relationship between the Consumer Financial Protection Bureau (CFPB) and the Department of Education's Office of Federal Student Aid (FSA). Over the past year, Congress has sought answers about the CFPB's work in the federal student loan space. However, the nature of the relationship between the CFPB and FSA is opaque. The net effect has been a gross expansion of federal control over student lending behind closed doors.

On August 31, 2017, the Department of Education (Department) notified the CFPB it was terminating two Memoranda of Understanding (MOUs) that permitted the agencies to share federal student loan information. The Department took this step because the CFPB used that information to "undermine" the Department's "mission to serve students and borrowers."¹ In fact, the notification letter further asserted that CFPB's actions "were characteristic of an overreaching and unaccountable agency."²

The Department's decision to terminate the MOUs aligns with congressional intent: Congress assigned jurisdiction for federal student loans and loan servicing solely to the Department of Education, not the CFPB.³ In fact, nowhere in the statute governing these programs is CFPB even mentioned.⁴ Given the lack of authority, either statutorily or by agreement, it is unclear how and why the CFPB is presently scrutinizing postsecondary institutions and federal student loan servicers.

¹ Letter from Kathleen Smith, Acting Asst. Sec'y, Office of Postsecondary Education, and Dr. A. Wayne Johnson, Chief Operating Officer, Federal Student Aid, to Hon. Richard Cordray, Director, Consumer Fin. Protection Bureau (Aug. 31, 2017), https://consumerist.com/consumermediallc.files.wordpress.com/2017/09/2017-09-01_signed_letter_to_cfpb.pdf.

² *Id.*

³ *Higher Education Act of 1965.*

⁴ *Id.*

FSA is responsible for the administration of the Department's federal student aid programs, which amount to over \$100 billion annually in grants and loans designed to increase low-income students' access to postsecondary education. In addition to facilitating the disbursement of federal student aid, FSA is responsible for overseeing federal contractors and institutions of higher education who serve as partners in the administration of the student loan program. However, FSA has increasingly outsourced its responsibilities to other federal and state agencies.⁵

Despite the termination of the MOUs, the CFPB is once again mobilizing to take action against federal student loan servicers, notwithstanding that there has been no change to the relevant statutes or a new MOU. At the same time, the CFPB is also targeting career-focused institutions which often provide a lifeline to students who have been ignored or ill-served by other, more traditional institutions. The CFPB's scrutiny of a narrow segment of the postsecondary education marketplace, which appears to be coordinated with the Department and other federal agencies, threatens to harm the very students the Department was established to help.

We have requested documents and information to clarify the relationship between the CFPB, the Department, and FSA, on multiple occasions. In response, the agencies have provided conflicting information, vague responses. As a result, Congress is left with unanswered questions.⁶ To assist the Committees of jurisdiction, provide the following unredacted documents and information no later than two weeks after date of letter:

1. All documents and communications between you and any current or former FSA or Department of Education employee or consultant, including but not limited to letters, emails, text messages, transcripts, and call logs since January 1, 2021;
2. All documents and communications referring or relating to any agreement between the CFPB and FSA or the Department of Education to share information, including but not limited to any memoranda of understanding;
3. Any information related to federal student loans or loan servicers provided by FSA or the Department of Education to CFPB since August 31, 2017; and
4. Documents sufficient to show all meetings between you and any current or former FSA or Department of Education employee or consultant since January 1, 2021.

We appreciate your attention to this important matter. Please contact our staff with any questions about this request. We look forward to your reply.

⁵ See, e.g., <https://www.ed.gov/news/press-releases/new-interpretation-encourage-state-collaboration-student-loan-servicing>

⁶ Higher Education and Workforce Investment Subcommittee Hearing on "Examining the Policies and Priorities of the Office of Federal Student Aid" (Oct. 27, 2021); CFPB staff briefing for Financial Services and Education and Labor Committee staff (Feb. 24, 2022).

Sincerely,

A handwritten signature in blue ink that reads "Virginia Foxx". The signature is written in a cursive, flowing style.

Virginia Foxx
Ranking Member
Committee on Education and Labor

A handwritten signature in blue ink that reads "Patrick McHenry". The signature is written in a cursive, flowing style.

Patrick McHenry
Ranking Member
Committee on Financial Services