July 13, 2015 – Amended August 7, 2015

The Honorable Richard Cordray

Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Student, consumer, labor and civil rights groups' response to Request for Information on Student Loan Servicing

Dear Director Cordray:

The undersigned consumer, student, education, and civil rights groups submit this comment in support of student loan servicing reform. Fair and accurate student loan servicing is crucial to protect student loan borrowers' rights under the law and help them repay their loans successfully. But student loan servicing today stands where mortgage servicing stood over a decade ago: hugely important, and largely ignored. Instead of supporting higher education, the present student loan servicing system makes it more difficult for borrowers to realize the promise of their investment. As American students increasingly rely on loans to pay for college, the student loan servicing system must not throw additional obstacles into their path or prevent financially distressed borrowers from getting back on their feet.

Principles of Fair Student Loan Servicing

A fair, effective student loan servicing system is one where servicers serve borrowers. Borrowers should not default, pay more than necessary, or have difficulties paying down their loans because of poor service. Regulators must take action to end clearly unfair and deceptive practices, like purposefully maximizing fees or flouting statutory or contractual rights. Contracts, regulations, and supervision goals must be structured so that servicers are required to act in the best interests of the student borrower. And servicers should create an internal culture where high standards of compliance and customer service ensure that borrowers can access accurate information in a timely manner.

History of mortgage servicing and credit card reforms provide useful perspectives

During the foreclosure crisis mortgage servicers' shoddy and unfair conduct repeatedly prevented borrowers from accessing mortgage modifications or other loss mitigation that could have helped them keep their homes. In some cases, servicers engaged in outright fraud, proceeding with foreclosures without proper grounds to do so. These bad servicing practices harmed not only consumers and their communities, but also the investors who owned mortgage securities, but could not properly oversee the servicers. Loan modifications that would have benefitted both the investor and borrower never happened because distressed borrowers did not get the information and help needed from their servicers. Now, new mortgage servicing rules require servicers to act on loss mitigation programs they have on their books, to respond in a timely way, and provide clearer information to borrowers.

Although student loans and mortgage loans differ in some key respects, in both cases good servicing can make the difference between success and failure in repayment, and can protect borrowers' contractual and statutory rights. Far too many student loan borrowers face distress and default because of student loan servicers' failure to help them access relief, like income-based repayment plans for federal loans, or modification of private education loans. Taking a cue from mortgage servicing reforms, improved student loan servicing could address many common problems, including payment processing, error resolution, transfer of servicers, and interest rate notifications.

Credit card reforms also underscore the need and potential for student loan servicing reforms. Many complaints of private education loan borrowers today echo those of credit card borrowers prior to the protections of the 2009 CARD Act. Prior to the CARD Act, consumers with credit card debt faced many unfair servicing practices that hurt their ability to promptly pay down their balances and unfairly increased their costs. For example, credit card companies would allocate payments in a way that maximized interest to them, take too long to post payments, or charge unfair late fees. The CARD Act stopped these practices, and has saved consumers tens of billions in unfair charges, while reducing risk to the industry and preserving consumers' access to affordable credit. Today, private education loan borrowers make similar complaints about unfair payment processing, late fees, and universal default policies. They deserve the same protections as credit card borrowers now enjoy.

Servicemember rights need greater protection

The Servicemembers Civil Relief Act (SCRA) gives servicemembers the right to an interest rate cap while on active duty, but servicer neglect and misconduct can prevent them from getting this benefit. Recent enforcement and supervisory actions against student loan servicers for SCRA violations by the Department of Justice, Federal Deposit Insurance Corporation, and the CFPB demonstrate an urgent need for more active oversight of servicer compliance with the SCRA.

Poor servicing opens the door to fraudsters

Student loan repayment options can be complex and intimidating, even for the most highly educated graduates. Unfair and substandard servicing practices may further confuse borrowers about their options. This confusion opens the door to scammers purporting to advise borrowers about their options and mislead them into thinking they need to pay large upfront fees to enroll in free income-based repayment plans or to consolidate their loans. State attorneys general and the CFPB have sued fraudsters taking advantage of borrowers – but the practice will continue to flourish as long as student loan servicers fail to adequately communicate with and assist borrowers.

Better data needed

The current gaps in both federal and private education loan data pose serious obstacles for policymakers and other stakeholders seeking to determine how student loan servicing can better serve consumers.

More than two out of five (41%) outstanding student loan dollars are from private education loans and Federal Family Education Loans (FFEL) for which there are no servicer-level data, and in some cases no data at all, on loan status, terms, or repayment plans. Even for Federal Direct Loans, key data are not available to evaluate the effectiveness of student loan servicers, such as the share of each servicer's portfolio in delinquency, the share that goes into default, and the share of borrowers in income-driven repayment who successfully recertify their income each year.

There is also a need for annual data on borrowing behavior and outcomes broken out by the demographic characteristics of borrowers, such as by race and income. Those data, currently only available from sample surveys conducted every four to eight years, would help shed light on whether certain populations are experiencing a heavier burden of loan debt, being serviced differently, and/or experiencing disproportionately poor outcomes, such as delinquency and default.

Finally, more *school-level* data on federal loans would help policymakers identify if borrowers are being placed in forbearance or deferment when it is not in their best interest, either to delay defaults until after the period when schools are held accountable or because it is easier for the servicer to do so than to place them in a more appropriate repayment plan.

The CFPB and Department of Education should protect borrowers from unfair, illegal, and bad servicing practices

Student loan borrowers must be treated fairly during the life of their loans. Student loans, especially federal loans, are intended to help students gain a firm financial footing through higher education. Student loan servicing must be reformed to reflect this goal of helping students succeed. The CFPB should aggressively explore all available avenues, including formal rulemaking, guidance, enforcement actions, and supervision, and work closely with the Department of Education to ensure proper oversight of Direct and FFEL student loan servicers.

Thank you for the opportunity to comment on the Request for Information. We appreciate your continued dedication to protecting student loan borrowers.

Sincerely,

National Signatories

AFL-CIO
American Association of State Colleges and Universities
Americans for Financial Reform
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Consumers Union

Higher Ed Not Debt Jobs With Justice
The Leadership Conference on Civil and Human Rights National Association of Consumer Advocates
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low-income clients) National Council of La Raza
National Education Association
National Fair Housing Alliance National People's Action
National Urban League Project Springboard
Public Citizen
Service Employees International Union (SEIU) Student Labor Action Project
The Other 98% TICAS
U.S. Public Interest Research Group United States Student Association Veteran Education Success
Young Invincibles

State Signatories

Arkansans Against Abusive Payday Lending, AR Arkansas Community Organizations, AR Arizona Community Action Association, AZ Arizona PIRG, AZ
California Reinvestment Coalition, CA SEIU Local 221, CA
Mutual Housing California, CA California State Student Association, CA Colorado PIRG, CO
ConnPIRG, CT
Connecticut Citizen Action Group, CT Connecticut Association for Human Services, CT
Delaware Community Reinvestment Action Council, DE Florida Alliance for Consumer Protection, FL Consumer Federation of the Southeast, FL
Jacksonville Area Legal Aid, Inc., FL Florida PIRG, FL
Georgia PIRG, GA
Hawaii Appleseed Center for Law & Economic Justice, HI Scott County Housing Council, IA
Iowa PIRG, IA
Woodstock Institute, IL
Northwest Side Housing Center, IL
Heartland Alliance for Human Needs & Human Rights, IL Illinois Asset Building Group, IL
The Law Project of the Chicago Lawyers' Committee for Civil Rights Under Law, IL Bethel New Life Inc., IL
Illinois PIRG, IL
Partners In Community Building, Inc. (PICB), IL Project IRENE, IL
Spanish Coalition for Housing , IL Global Network CDC, IL
Bethel New Life Inc., IL

Citizen Action/Illinois, IL
U.S. Public Interest Research Group, IL Northwest
Indiana Reinvestment Alliance, IN Kentucky Equal
Justice Center, KY
Puentes New Orleans, LA
Louisiana Community Reinvestment Coalition, LA The
Midas Collaborative, MA
MASSPIRG, MA SEIU Local
509,MA
Maryland CASH Campaign, MD Baltimore
Neighborhoods, Inc, MD Maryland Consumer
Rights Coalition, MD PYT FUNDS INC Pay Your
Tuition, MD Maryland PIRG, MD
Center for Civil Justice, MI PIRG in
Michigan, MI
Hennepin Technical College Student Senate, MN American
Council on Consumer Awareness, Inc., MN African Immigrant
Services (AIS), MN
Missouri PIRG, MO
Coalition for a Prosperous Mississippi, MS
Reinvestment Partners, NC
North Carolina Consumers Council, NC North
Carolina Justice Center, NC Action NC, NC
Achievement Academy of Durham, NC
Heather Jarvis, Student Loan Expert, NC North
Carolina PIRG, NC
New Hampshire PIRG, NH New Jersey
Citizen Action, NJ New Jersey PIRG,NJ
New Mexico PIRG, NM
Western New York Law Center, NY
NYPIRG, NY
New Economy Project, NY
NHS Consumer Law Center, OH
Affairs Unlimited, OH
Neighborhood Housing Services of Greater Cleveland, OH
Policy Matters Ohio, OH
The Legal Aid Society of Cleveland, OH
Ohio PIRG, OH
Oregon State Public Interest Research Group (OSPIRG), OR
Oregon Consumer League, OR
The One Less Foundation, PA
Community Legal Services, Inc., of Philadelphia, PA (on behalf of our low income clients), PA
Pennsylvania PIRG, PA
Rhode Island PIRG, RI
South Carolina Appleseed Legal Justice Center, SC
Tennessee Citizen Action, TN
Virginia Citizens Consumer Council, VA

WashPIRG, WA
Wisconsin Public Interest Research Group (WISPIRG), WI
West Virginia Center on Budget & Policy, WV