



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE UNDER SECRETARY

November 13, 2017

Honorable Patty Murray
United States Senate
Washington DC 20510

Dear Senator Murray:

Thank you for your letter expressing concern regarding the U.S. Department of Education's (Department's) decision to discontinue two Memoranda of Understanding (MOUs) with the U.S. Consumer Financial Protection Bureau (CFPB). Your letter has been forwarded to me, and I am pleased to respond. An identical response has been sent to each of your cosigners.

The commitment of Secretary DeVos to students has been and continues to be this Department's top priority. The Department's mission of serving students and borrowers has been undermined by the CFPB's violation of the MOUs. Specifically, the CFPB has failed to direct complaints regarding *Federal* student loans to the Department for resolution, despite the fact that the Department has consistently fulfilled its commitment under the MOUs to refer all complaints related to *private* education loans to the CFPB.

This same division of labor regarding student loans is made clear in the statute that gave rise to the MOUs in the first place, 12 U.S.C. § 5535. Section 5535 describes the CFPB's role as being limited to *private* education loans, using the limiting term "private" five times. *Id.* In contrast, the only mention of *Federal* student loans is with regard to coordinating with the Department's Student Loan Ombudsman, who has been given clear statutory authority over *Federal* student loans under Title IV. *Id.*; 20 U.S.C. § 1018. In derogation of this statutory language, however, the Bureau's Private Education Loan Ombudsman reported receiving 12,900 Federal student loan complaints over the past year but has not provided these complaints to the Department's office of Federal Student Aid, nor shared any information on how servicers responded to the CFPB about these complaints. This has led to unnecessary confusion for borrowers when they hear conflicting guidance regarding their loans, the rules governing the programs, and their rights and responsibilities. The CFPB's actions to undercut the intent of these MOUs and the underlying statute have also made it more difficult for the Department to address borrower-specific issues through the servicing of their loans.

The Department entered into these MOUs with the understanding that the CFPB would work together collaboratively toward the shared goal of meeting each individual agency's statutory directives and responsibilities. The MOU with the Private Education Loan Ombudsman also reflected this understanding. For example, the MOU specifically noted that, with respect to borrower complaints concerning both Federal and private student loans, "the Agency receiving the complaint shall work to resolve the component of the complaint over which it has responsibility and notify the borrower that the remaining portion of the complaint will be

referred to the other Agency.” As the government agency responsible for ensuring that Federal student loans are administered consistent with the Higher Education Act of 1965, as amended, the Department is responsible for ensuring that students are provided with high-quality servicing, information upon which they can rely and swift feedback to any concerns and questions they may have.

Thank you again for your letter to the Department. If you have further questions, I encourage you to contact our Office of Legislation and Congressional Affairs at 202-401-0020.

Sincerely,

A handwritten signature in blue ink that reads "James F. Manning". The signature is fluid and cursive, with a long, sweeping tail on the letter "g".

James F. Manning
Acting Under Secretary