
***The Consumer Finance Podcast: CFPB's Focus on Student Loan Servicing:
Insights from the Office of Servicemember Affairs Report***

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Chris Willis:

Welcome to [The Consumer Finance Podcast](#). I'm Chris Willis, the co-leader of Troutman Pepper's Consumer Financial Services Regulatory Practice. And today I'm going to be talking about the most recent Office of Servicemember Affairs report from the CFPB, which as it turns out, is mostly about student loan servicing. But before I get into talking about that, let me remind you to visit and subscribe to our [TroutmanPepperFinancialServices.com](#) and [ConsumerFinancialServicesLawMonitor.com](#) and don't forget to check out our other podcasts. We have a whole lot of them. We have the [FCRA Focus](#) all about credit reporting, [The Crypto Exchange](#) about all things crypto. We have [Unauthorized Access](#), which is our privacy and data security podcast. We have [Payments Pros](#), which is all about the payments industry and our newest podcast [Moving the Metal](#), which is all about auto finance. All of those podcasts are available on all popular podcast platforms.

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But this particular edition of it that was just released really ends up mostly being about student loan servicing issues that although they may be impactful according to the CFPB to members of the military, they certainly aren't uniquely so, and many of them, in fact, the majority of them are just repeats of issues that we've seen the Bureau talking about in student loan servicing for years. So I wanted to highlight some of the major conclusions or observations of this Office of Servicemember Affairs report, which seems to have been used to sort of further the dialogue from the CFPB standpoint on the same issues it's been talking about with respect to student loan servicing for a while now. So let me go through those with you and talk to you about how they seem to have been playing out.

The Bureau first states in the report that service members face challenges in reaching loan servicers, student loan servicers, and they have long hold times and callback features that often failed, and that if they were stationed overseas, they had particular challenges due to time zone differences.

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Well, the thing is, as I noted before, the existence of obstacles in customer service among student loan servicers has been something that we've heard from the CFPB before. We've seen it issued as a UDAAP finding in supervisory exams, and we've seen the CFPB make public statements about it in other channels that are not specific to service members. So this issue about phone customer service not being available enough is really just a repeat of an issue that we've heard before with sort of the twist of the idea that for some reason, student loan servicers need to have the ability to man phone centers at times when service members may be calling from overseas if they are multiple time zones away. That piece of it was new and seems like a pretty interesting request to make of student loan servicers, that they have to have essentially 24/7 phone support because someone may call them from somewhere else in the world in a different time zone.

The bureau secondly in this report identified complaints about errors in income driven repayment plans for federal student loans. And according to the Bureau, service members encountered errors in the calculations of their monthly payments under these income driven repayment or IDR plans, which in the bureau's view could lead to higher payments and therefore affect eligibility for public service loan forgiveness. Now of course, these kinds of issues with federal student loan servicers have long been a feature of the CFPB's public dialogue and even its positions in supervision and in enforcement where the Bureau concentrated a lot on the proper application of IDR preferring it over other alternatives like forbearance and providing accurate information and accurate sort of runway processes for consumers, not just members of the military, but others who are eligible to participate in public service loan forgiveness. In fact, the Bureau was very, very insistent on that.

And it's interesting because now several of the largest federal student loan servicers have exited the business. They didn't renew their federal student loan servicing contracts a couple of years ago. And so you have really a new crop of federal student loan servicers who now have these obligations that the Bureau is expecting them to fulfill. And it'll be interesting to see if the Bureau finds a similar level of errors to those that it alleged with the previous servicers in things like income driven repayment, forbearance, and the provision of information and evaluation of applications for public service loan forgiveness. But again, this is an issue that we've been hearing about from the Bureau for years. Now it's just going to be applied to the new set of parties who are responsible for the bulk of federal student loan servicing. And then finally, the report gets to another perennial issue that the Bureau has talked about a lot in student lending, and that is transcript withholding.

The Bureau has made it abundantly clear in numerous communications in the past that it believes that a school's act of withholding a transcript from a student who is delinquent in paying a loan for attendance at that particular institution is an unfair or deceptive practice. And that allegation is repeated in this service member report saying that service members suffered this treatment as well at the hands of various schools, which of course are not named in the report. And the Bureau says this practice is especially disruptive to service members because of their frequent relocations as they get moved from place to place in terms of where they're stationed. But the thing is, as I said, transcript withholding has been on the forefront of what the CFPB has been talking about for years. Interestingly though, although the Bureau makes it out to be an issue for student loan servicers to deal with, it's generally not the student loan servicer who's engaging in transcript withholding.

The servicer may be servicing the loan on behalf of the school, for example, if the school happens to own the loan and the school is the one who makes the decision about whether to withhold the transcript or not. And it's not a decision over which the servicer generally has any control. And I think we're very likely to see in the near future efforts by the CFPB to use the CFPB's regulatory authority over the student loan servicers as a way to try to get to the schools and to persuade them to engage in less transcript withholding or to eliminate it altogether.

And so just like we've seen in other areas of consumer financial services regulation where the Bureau uses its regulatory hold over one set of parties, say auto finance companies to influence the behavior of another set that it doesn't have clear jurisdiction over like auto dealers, I think we're going to see that issue play out with respect to transcript withholding too, because even though student loan servicers don't control that issue, they are probably perceived by the Bureau to be closer in communication to the schools and therefore able to influence what the schools are doing. And we may get to a point where if a school insists on engaging in transcript withholding, the student loan servicers may be pressured by the Bureau to not service on behalf of that school. And that would be one of the ways I think that the Bureau would try to influence the behavior of the schools with respect to this issue. That's clearly very important to the Bureau's leadership.

Those are the primary findings in the Servicemember Affairs report that was just released by the CFPB. And although they were contained in a report about service members, to me, the real takeaway from this report is not that this is some special service member issue, but that the CFPB feels strongly enough about these three student loan servicing issues to use the opportunity of the Servicemember's report to amplify and to discuss them again. And I think now having featured them in the Servicemember report, it's likely to give additional impetus to the CFPB in engaging in supervisory and enforcement activities with respect to these issues and what it means for the industry, the student loan servicing industry in particular, is that we need to be very, very conscious of these issues and the fact that the Bureau is likely to pursue them and do everything that we can to try to take our way out of harm's way with respect to the three of them.

So even though it's a servicemember's report, I really think it's more important from the standpoint of the student loan servicing industry as a warning about the prominence of these issues in the Bureau's thinking and the Bureau's likely interest in continuing to take action on these issues. Those are really my takeaways from the Office of Servicemember's report. Thank you, of course for listening to this podcast, and I hope you enjoyed listening to it. Don't forget to visit and subscribe to our blogs, [TroutmanPepperFinancialServices.com](https://www.TroutmanPepperFinancialServices.com) and [ConsumerFinancialServicesLawMonitor.com](https://www.ConsumerFinancialServicesLawMonitor.com). And while you're at it, why not visit us over at [Troutman.com](https://www.Troutman.com) and add yourself to our Consumer Financial Services email list. That way we can send you copies of the alerts and advisories that we send out, as well as invitations to our industry-only webinars that we hold from time to time. And as I mentioned at the top of the episode, don't forget to check out our mobile app. Just search for Troutman Pepper in your app store and give it a try. And of course, stay tuned for a great new episode of this podcast every Thursday afternoon. Thank you all for listening.

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