

**Testimony of Lorelei Salas**  
**New York City Department of Consumer Affairs**  
before the  
**Joint Legislative Public Hearing on 2019-2020 Executive Budget Proposal:**  
**Economic Development**

February 12, 2019

I am Lorelei Salas, Commissioner of the New York City Department of Consumer Affairs (“DCA”). In New York City, DCA protects and enhances the daily economic lives of New Yorkers. The agency fulfills this mission, in part, by enforcing consumer protection laws to curb unfair and predatory practices, conducting research to further contextualize consumer issues, and engaging in extensive outreach and education to bring information to businesses and consumers alike.

In November, I testified before the Assembly to affirm that student loan debt distress constitutes a national and statewide economic crisis worthy of immediate legislative action.<sup>1</sup> This call to action was, and continues to be, informed by a series of reports and findings from DCA that conclude that there is a discrete need for additional consumer protections and oversight to protect student borrowers.

DCA’s 2018 report [\*Student Loan Debt Distress Across NYC Neighborhoods: Identifying Indicators of Vulnerability\*](#), for example, sheds light on the disproportionate impact of student loan burden on vulnerable populations, including low-income and minority communities. DCA’s 2019 report [\*Student Loan Debt Distress Across NYC Neighborhoods: Public Hearing and Policy Proposals\*](#) memorializes expert testimony describing widespread consumer confusion and misinformation regarding lending and repayment and recommends regulating student loan servicers (“servicers”) as one way New York State can respond to the growing crisis.

Today, I am recommending the legislature adopt DCA’s policy recommendation and support Governor Cuomo’s Executive Budget proposal to regulate and license servicers operating and conducting business in New York State.

*The Case for Regulating and Licensing Servicers*

A robust market economy in New York State is intrinsically tied to the state’s ability to ensure that its residents have access to safe financial services. For student borrowers, loan servicers fill a particularly important role. These are companies that, according to the Consumer Financial Protection Bureau, should not only disburse money, collect payment and perform routine maintenance of a student loan, but should also respond to borrower inquiries, information requests and process activities to prevent default.<sup>2</sup> Too often, and particularly under a regime of lax oversight by the U.S. Department of Education (“DOE”),<sup>3</sup> servicers fail to credibly meet these obligations.

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<sup>1</sup> <https://www1.nyc.gov/assets/dca/downloads/pdf/partners/Advocacy-NYS-Assembly-Student-Loan-Industry-112718.pdf>

<sup>2</sup> <https://www.consumerfinance.gov/ask-cfpb/what-is-student-loan-servicer-en-583/>

<sup>3</sup> [https://www.washingtonpost.com/news/grade-point/wp/2017/04/11/devos-dials-back-consumer-protections-for-student-loan-borrowers/?utm\\_term=.a52f5148bd52](https://www.washingtonpost.com/news/grade-point/wp/2017/04/11/devos-dials-back-consumer-protections-for-student-loan-borrowers/?utm_term=.a52f5148bd52)

A 2017 DOE audit of Navient, one of the largest servicers, confirmed widespread exploitation of consumers. For example, the audit describes instances where, on brief, five-minute calls with distressed borrowers, Navient employees prioritized more expensive options like forbearance, which earn Navient more money, and omitted less lucrative, repayment options.<sup>4</sup> Most recently, the DOE Inspector General (“IG”) found that servicers repeatedly provided inadequate information about repayment plan options and incorrectly calculated income-driven repayment plan amounts.<sup>5</sup> Markedly, the IG found that the office in charge of managing the student loan portfolio for DOE did not have sufficient procedures and policies in place, or were unwilling, to hold student loan servicers accountable for these and other instances of noncompliance.

Testimony submitted to DCA at our June public hearing highlighted the human cost of these servicing failures. Local legal service providers testified about clients who were not told of available relief, like the story of an elderly hospital social worker who was eligible for the Public Student Loan Forgiveness Program but missed the opportunity to make eight years of qualifying payments because her servicer never informed her of the option. Another client story described a man’s frightening experience of receiving a notice from a servicer threatening to garnish his wages even though both he, and the servicer, had no record of outstanding student loan debt in the borrower’s name.

More can, and must be, done to further protect student borrowers and provide oversight of servicers. New York borrowers, on average, have a student loan debt burden of \$30,300<sup>6</sup>, and, in New York City, the average balance is even higher at \$34,900.<sup>7</sup> This debt burden, and the number of individuals who are unable to repay their debt, demands state action to prevent poor servicing.

### *Governor Cuomo’s Executive Budget Proposal*

The legislation would require certain servicers to be licensed by the New York State Department of Financial Services (“DFS”) who would also enforce consumer protection standards against all servicers interacting with New York borrowers. The legislation would explicitly prohibit servicers from engaging in unfair, deceptive, or predatory acts or practices toward any borrowers; providing inaccurate information to consumer reporting agencies; misapplying payments to outstanding loans; and failing to respond within fifteen days to a consumer complaint submitted through DFS. Servicers would also be required to keep appropriate recordkeeping to ensure compliance with the law and would be subject to examination by DFS. Importantly, in addition to penalties itemized in the legislation, it preserves a borrower’s private right to action.

DCA urges the legislature to support the Governor’s proposal, a needed consumer protection for the approximately one million student loan borrowers in New York City.

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<sup>4</sup> <https://www.warren.senate.gov/imo/media/doc/Ed.%20Dept.%20May%202017%20FSA%20Audit%20Report.pdf>

<sup>5</sup> <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf>

<sup>6</sup> <https://rockinst.org/blog/a-deeper-look-at-student-loan-debt-in-new-york-state/>

<sup>7</sup> <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/credit-conditions/student-loan-borrowing-nyc-neighborhoods.pdf>