

**Borrowers on Hold:
Student Loan Collection Agency
Complaint Systems Need
Massive Improvement**

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National Consumer Law Center[®]

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Executive Summary

The U.S. Department of Education (the Department) relies on an increasing number of private collection agency contractors to recover defaulted student loans. Although the use of student loan collection agencies is not new, the impact of this policy on borrowers is greater than ever.

By contracting out its defaulted loan portfolio and failing to provide effective oversight, the Department has abdicated its responsibility to uphold the borrower protections in the Higher Education Act. These protections include affordable payment plans and loan cancellations in circumstances such as disability or death. The Department has created financial incentives for its contractors that encourage high collections at the expense of borrower rights.

Although official complaint reports likely underestimate the scope of the problem, there is growing evidence that borrower dissatisfaction with collection agencies has increased. There are numerous factors that contribute to the underestimation of complaints. This report focuses on the inaccessibility of agency complaint systems and poor agency tracking of complaints.

Borrowers must have an accessible way to lodge complaints when problems arise. This requires that collection agencies have fair and efficient borrower complaint systems. This report evaluates whether such systems are currently in place, focusing on whether borrowers are able to file complaints against student loan collection agencies and whether the federal government considers complaints in evaluating agency performance.

NCLC found that contractors do not maintain accessible complaint systems and some agencies ignore the Department's minimum requirements for handling borrower grievances. Overall, the complaint systems used by some collectors display a haphazard approach to resolving borrower disputes. The Department also has failed to inform borrowers of the resources available through the agency to address complaints.

As long as the Department and its contractors can deploy extraordinary collections tactics to recover federal loans, borrowers must have an accessible way to register their dissatisfaction. An accessible complaint system is not a panacea. A long-term solution is that the Department should simply stop using collection agencies to provide assistance to struggling borrowers. In the meantime, it is essential that the government aggressively oversee agency performance, evaluating agencies not only based on dollars collected, but also on service to borrowers. Tax dollars should not reward collectors who abuse borrowers, break debt collection laws, or who fail to inform borrowers of their options under the Higher Education Act.

Recommendations

1. **The U.S. Department of Education must create an accessible collection agency complaint system.** Borrowers should have a straightforward, intuitive, and efficient way to file a complaint with the Department. The Department should follow the lead of the Consumer Financial Protection Bureau in designing a website and providing other accessible contacts that are easy to find, easy to navigate, and responsive.
2. **The Department of Education must change its commission system to incentivize quality service.** The Department must revise its commission system so that collectors get paid for providing quality service. The commission system should not just focus on the amount of dollars recovered.
3. **The accessibility of the complaint system should be considered in evaluating agencies.** The Department can help ensure that agencies maintain an accessible internal complaint system by tying financial incentives to transparent and responsive systems. Without enforcement from the Department, agencies are largely left to design their own complaint processes. Some companies may receive more complaints because their complaint process is user-friendly, while companies with opaque complaint processes may appear to serve borrowers better.
4. **Increase enforcement and oversight of the private collection agencies.** The Department should evaluate not only the funds collected by the agencies but also verify compliance with complaint systems and other processes required to assist borrowers.
5. **Private collection agencies must work to resolve complaints.** The complaint process must be responsive to individual borrowers. This is not a guarantee of “customer satisfaction.” However, borrowers must always receive a clear response.

I. Introduction

The U.S. Department of Education (the Department) relies on an increasing number of private contractors to collect the approximately \$67 billion in defaulted federal student loan debt.¹ In 2008, the Department of Education contracted with 17 private collection agencies (PCAs), but as defaults have ballooned, the number of contractors has grown to 23.² Although the use of student loan collection agencies is not new, the impact of this policy on borrowers is greater than ever.

There are limited ways for federal student loan borrowers to recover from default, but they generally must rely on collection agencies to get this relief. Many borrowers end up stuck in default because they receive inaccurate information or are otherwise misled by collection agencies. The stakes are high. Borrowers in default are subject to the government's extraordinary collection powers that last a life time. The collection agencies hold the keys to the borrower's future because the government hires collection agencies not only to collect, but also to act as the front line "dispute resolution" entities for financially distressed borrowers.

The Department has noted the difficult balance involved in collecting for taxpayers and providing assistance to borrowers. A Department spokesperson recently said, "We want to make sure we are striking the right balance between helping borrowers who have hit hard times and honoring our responsibility to be good stewards of taxpayer dollars."³

The balance is difficult, but the reality is that the Department has consistently favored collection agency profits over the needs of struggling borrowers. The government fails to recognize that there comes a point when it no longer makes sense to pay a collection agency to pressure an older borrower living solely on Social Security, a young disabled veteran, or a working parent trying to go back to school.

A long-term solution is that the Department should simply stop using collection agencies to provide assistance to struggling borrowers. In the meantime, it is essential that the government aggressively oversee agency performance, evaluating agencies not only based on dollars collected, but also on service to borrowers. Proper service includes provision of accurate information to borrowers and compliance with laws intended to protect borrowers from collection agency harassment.

Borrowers must have an accessible way to lodge complaints when problems arise. This requires that collection agencies have fair and efficient borrower complaint systems. This report evaluates whether such systems are currently in place, focusing on whether borrowers are able to file complaints against student loan collection agencies and whether the federal government considers complaints in evaluating agency performance.

An accessible complaint system is not a panacea. However, it is an essential step in ensuring that borrowers have a way to present grievances and for policymakers to assess collection agency performance.

II. Complaints Against Student Loan Debt Collectors are Increasing

The Department frequently cites a low volume of complaints to support its claims of effective oversight. There are numerous factors that contribute to the underestimation of complaints. As discussed throughout this report, the inaccessibility of agency complaint systems prevents many borrowers from filing complaints. In addition, agency tracking of complaints is inconsistent and in some cases non-existent.

Despite the undercounting, there is still evidence that complaints against student loan debt collectors are increasing. In 2011, the number of complaints received by the Department increased by 41%. According to a media report, the Department received a total of 1,406 complaints in 2011.⁴ The key question is whether these reports fairly depict the scope of the problem or whether they are merely the tip of the iceberg.

There is no clear answer to this question because there is no public access to complaint records maintained by the Department or the PCAs. As a proxy, the National Consumer Law Center (NCLC) reviewed local Better Business Bureau (BBB) complaint records. BBB records likely underestimate the true numbers of complaints because, among other reasons, borrowers must lodge complaints with the local BBB in which the agency is located rather than the BBB in the borrower's location. This information, however, is

Student Borrower Experience 1 (Excerpt from an e-mail sent to NCLC's Student Loan Borrower Assistance Project)

"I am on SS disability after they take cost for medical out of my check I am left with a little over \$800.00 each month. Out of the \$800+ each month about \$110-\$120 is taken out for a \$6000.00 old student loan Debt I owe leaving me \$750.00 a month to try and live on. I am a heart patient I have a pace maker and 2 stints in my heart... I am homeless I have to stay with friends and family I can not afford a home of my own I am almost 60 years old... I have many loan collections call me over the years and with threats and the most ridiculous offers to help clear this loan up I just can't do this any more I cant afford the most basic things for life at the end of the month...I have to pick and choose what medications I can get. I eat soups peanut butter sandwiches and such as food I can not find anything cheaper to eat, I buy hamburger helper but can't afford the hamburger to put in it at \$3.99 a pound. I wear old sweat pants and tee shirt I get from hand me down stores for \$1 or \$2 each and I have know idea where or how to get help. These people spend more on lunch than I get for the whole month to live on and they want more and they keep taking and keep taking well I have nothing left to take. If anyone knows where I can get just a little relief please let me know because I can't find any"

— A Michigan borrower

useful in showing the growing numbers of complaints against Department of Education collection agencies. From March 2011 to March 2012, the BBB received 1,430 complaints against the 23 collections agencies with Department contracts.

The information in Table 1, presenting the BBB results, raises a number of concerns. Among other issues, NCO Group, the agency with the best overall Department of Education performance score in August 2011, had the most BBB complaints during the twelve-month period from March 2011 through March 2012. Further, in December 2008, the Texas Attorney General reached a settlement with the company regarding allegations that the company deployed verbally coercive collection tactics, among other violations.⁵ In February 2012, NCO Group settled a multi-state investigation of its collections practices. The company did not admit wrongdoing in either settlement.⁶

**TABLE 1: LOCAL BETTER BUSINESS BUREAU (BBB) COMPLAINTS
AGAINST DEPARTMENT OF EDUCATION CONTRACTORS⁷**

Private Collection Agency	Number of Complaints to the BBB Over the Past 3 Years (as of March 16, 2012)	Number of Complaints to the BBB in the Last 12 Months (as of March 16, 2012)	Competitive Performance and Continuous Surveillance (CPCS)⁸ Score (July-August 2011)
NCO Group	1116	314	98.18
Pioneer Credit Recovery	109	46	97.66
FMS Investment Corp. ⁹	--	--	92.1
Enterprise Recovery Systems	45	13	91.31
GC Services LP	341	86	88.39
EOS-CCA (formerly Collecto)	484	179	88.11
ConServe	94	35	87.47
Diversified Collection Services	314	119	87.37
Progressive Financial Services	140	69	87.31
Van Ru Credit Corporation	135	34	85.19

Table 1 continued on next page

Private Collection Agency	Number of Complaints to the BBB Over the Past 3 Years (as of March 16, 2012)	Number of Complaints to the BBB in the Last 12 Months (as of March 16, 2012)	Competitive Performance and Continuous Surveillance (CPCS)¹⁰ Score (July-August 2011)
Premiere Credit of North America	85	18	83.71
Financial Asset Management Systems	85	18	83.47
Allied Interstate	1314	296	79.45
Windham Professionals	136	47	79.06
CBE Group	199	72	77.53
Account Control Technology	10	4	73.77
West Asset Management	200	50	69.49

**TABLE 2: LOCAL BETTER BUSINESS BUREAU (BBB) COMPLAINTS AGAINST
DEPARTMENT OF EDUCATION SMALL BUSINESS CONTRACTORS**

Collection Technology, Inc.	23	10	95.82
Coast Professional	28	15	94.22
National Recoveries	14	4	85.29
Delta Management Associates	0	0	80.36
Immediate Credit Recovery ¹¹	--	--	78.11

III. How Complaints Are Considered in Department of Education PCA Contracts

The government has the power to shape collection activity through incentives in the collection contracts. Money talks and not surprisingly, in NCLC's experience working with borrowers, collection agencies pressure borrowers to pursue the options that bring the most money to the agencies due to government incentives, not necessarily those that work best for borrowers.

"As I wandered around the crowd of NYU students...protesting student debt...I couldn't believe the accumulated wealth they represented—for our industry. It was lip-smacking...As bill collectors and debt buyers only work on what is termed bad debt, which is guaranteed under these circumstances and in today's economic environment—we are in for lifetime employment!"¹⁴

— Jerry Ashton, student debt collections consultant

Given the Department's power to incentivize collection agency behavior, an emphasis on rewarding agencies with few complaints or penalizing those with high numbers of complaints could be a significant step to assisting borrowers. The Department paid contractors almost \$1 billion in commissions in 2011.¹² It is not surprising that competition for these lucrative contracts is high, with one industry insider likening the contracts to "winning the Super Bowl."¹³

The government has not used this leverage to affect agency treatment of borrowers. According to the most recently available public information, borrower complaints play a minor role in the evaluation and compensation of PCAs. Instead, the Department of Education's policies reveal an overwhelming focus on the percentage of dollars collected on defaulted accounts.

The Department evaluates its contracting PCAs quarterly using a metric called the Competitive Performance and Continuous Surveillance (CPCS) score. The percentage of dollars collected on federal student loan accounts determines the majority of a contractor's CPCS score, with a maximum of 70 possible points. The second metric is Account Servicing Percentage which calculates the percent of federal student aid accounts awarded to the PCA that have activity as a result of the PCA's efforts, either through litigation, an administrative resolution, or actual payments. The top performer for this metric will receive 20 points. Finally, PCAs may earn up to 10 points for their Administrative Resolution Percentage which tabulates how many federal student aid accounts the PCA referred back to the Department for a non-cash administrative resolution (i.e. disability discharge, death of borrower, etc.).

TABLE 3: COMPETITIVE PERFORMANCE AND CONTINUOUS SURVEILLANCE (CPCS) SCORING CRITERIA

<i>Category</i>	<i>Definition</i>	<i>Maximum Potential Points</i>
Dollars Collected Percentage	Gross amount of dollars collected divided by the average balance of the accounts placed with the contractor for the past four quarters	70
Account Servicing Percentage	The sum of the total accounts approved for administrative resolution and the payments received on non-administrative resolution accounts divided by the total inventory of contractor accounts	20
Administrative Resolution Percentage	The percentage of accounts resulting in a non-cash resolution, including discharges for disability, death, etc.	10
Small Business Subcontracting ¹⁵	This performance indicator measures the extent to which a collection agency subcontracts work out to small businesses	5
Service Quality	Service quality encompasses a variety of performance factors, including accuracy, bounced checks, and customer satisfaction.	Undefined

The Department can add or subtract points from a contractor's CPCS score based on two additional categories: small business subcontracting and service quality. The Department fails to specify the discretionary range of points that will be deducted or added based on service quality performance in its Request for Quotes issued to potential contractors.¹⁶ No other performance category even potentially incorporates borrower experience and the Department does not specifically include complaints as part of their definition of the service quality metric.

The Department's 2008 Collections Contract offers a few more details. If the Department receives a complaint about a PCA that it considers a concern, the Department will instruct the contractor to stop the activity. If the Department receives another complaint that resembles the initial complaint, the contractor will receive a two point reduction in its next quarterly CPCS score.¹⁷ However, it is unclear whether the Department automatically deducts these points.

The volume of complaints received in 2011 (1,406), combined with the high scores of the top performers, suggests the Department does not deduct points for complaints.

The Department ranks contractors according to their performance for the various categories. The top performer receives the maximum number of points. Other contractors are awarded slightly fewer points in each category, with the fraction of points awarded decreasing as a contractor's relative performance worsens. The Department determines the share of new accounts to award contractors based on the CPCS score, instilling fierce competition among contractors for the hundreds of millions of dollars in commissions.¹⁹ The three contractors with the highest score receive additional performance compensation, which can exceed a million dollars for the top contractor.²⁰ Performance compensation is also tied to dollars collected; the top performing PCAs receive a percentage of dollars collected as their bonus.²¹

In addition to the performance compensation awarded on the basis of the CPCS score, the Department pays out different fees for various resolutions. Collectors generally receive the highest fees for options that the Department favors such as loan rehabilitation with higher monthly payment amounts. Fees paid for administrative resolutions, however, are capped between zero and \$300. Administrative resolutions include referring accounts back to the Department of Education for reasons including incarceration, total and permanent disability, bankruptcy, and death.

TABLE 4: COMMISSIONS PAID TO DEBT COLLECTORS FOR ADMINISTRATIVE RESOLUTIONS¹⁸

<i>Administrative Resolution</i>	<i>Fee</i>
Bankruptcy-Chapter 13	\$150
Bankruptcy-Chapter 7	\$200
Death	\$150
Disability	\$200
Income Contingent Repayment Program	\$100
Incarceration	\$150
Programmatic Cancellation	\$100
Standard Litigation	\$200
Special Litigation	\$300
Administrative Rehabilitation	\$100
Other	\$0-\$300

IV. The Department's Complaint System Requirements

The Department manual for PCAs describes a standardized borrower complaint process across all 23 PCAs.²² The Department requires PCAs to maintain records of all correspondence, including complaints. PCAs must also provide a fax number to receive complaints, designate at

least two personnel to receive and address complaints, and suspend collections activity while the company composes a response.²³ If a borrower makes a complaint, the PCA must forward the complaint to the Department of Education's regional office in Atlanta. The PCA has ten calendar days to respond after it has forwarded its response to the Department.²⁴

Borrowers who complain directly to the Department are entitled to similar treatment. Collection must cease while the complaint is resolved. The Department sends the complaint to the PCA and the PCA responds with documentation. Multiple records are required, including a completed complaint form, a copy of the initial complaint, the agency response letter, and any supporting documentation.²⁵

V. Survey of Collection Agencies—How The Complaint System Works in Practice

In theory, the collection agency complaint process is efficient, transparent, and accountable. However, NCLC's research found that the reality is much different. NCLC called all of the agencies with Department contracts. These calls revealed a wide variety of practices in dealing with borrower complaints, some of which appear to violate Department rules. NCLC reviewed the website of every PCA that has a contract with the Department of Education to learn more about their complaint processes. Of the 23 PCAs contacted by phone, fifteen were willing to discuss how their agency handled student complaints.²⁶ Two companies²⁷ refused to comment and six companies²⁸ did not return NCLC voice mails.

A. Few Agencies Comply with the Department's Complaint System Requirements

NCLC's calls to the PCAs found that many PCAs did not appear to have a formalized complaint process. Out of the fifteen companies that discussed their complaint process with NCLC, ten described a formalized complaint process.²⁹ However, as described below, some of these "formal" processes do not appear to meet Department of Education standards. In general, the five companies with a less formal complaint process reported that they referred borrowers to a manager who would deal with complaints on a case-by-case basis. While addressing complaints on a case-by-case basis does not automatically violate the Department's requirements, it is unclear whether or not the companies who handle complaints in this way treat complaints formally by ceasing collection activity, retaining documentation, and reporting the complaint to the Department. Other companies try to avoid accepting complaints altogether, as discussed below.

B. Few Agencies Provide Easy Access to Complaint Systems

A borrower attempting to file a complaint directly with the PCA will likely experience problems at nearly every step of the process, starting with figuring out how to complain. Only seven of

the 23 PCAs posted contact information and complaint instructions for borrowers on their main web sites.³⁰ Only four companies, Progressive Financial Services, Inc., Windham Professionals, NCO Group, and Allied Interstate linked e-mail addresses that route users directly to staff dedicated to addressing complaints. One company, NCO Group, has a fillable online complaint form.³¹

While a minority of PCAs make this information available online, it can be buried deep in the site. Some sites may provide more prominent complaint information if a borrower logs in, but NCLC did not have access to the secure sections of the PCA websites.

Windham Professionals, for example, has a detailed page describing its Consumer Advocate. Their site states, “In order to provide superior customer service, Windham keeps a consumer advocate on staff to mediate debt-related questions. Our consumer advocate is here to discuss your rights and responsibilities, and to help you navigate the intricacies of student loans. The consumer advocate’s duties include: Working with debtors and/or their attorneys to resolve disputes...”³² An e-mail for the Consumer Advocate is listed below the description of duties. Although the site provides details about the Consumer Advocate, most borrowers will likely have trouble finding the page. Instead of listing the Consumer Advocate under the “Contact Us,” page, the page is linked under the “Helpful Information,” heading. The “Contact Us” page does list general phone numbers and a corporate address that can be used to address borrower “concerns.”³³

Some agencies pass the buck to the government. For example, Coast Professional, Inc., a small business PCA that earned the second highest CPCS score in August 2011, said the company did not accept complaints. A representative told NCLC that all complaints about the agency’s collection activity were handled directly by the Department of Education in-house. He specifically stated that Coast Professional lacks a complaint process.³⁴ FMS Investment Corp. told NCLC that representatives may or may not refer complaints to a manager. FMS suggested that NCLC contact the Department of Education.³⁵ These practices deviate from the complaint protocol outlined in the Department’s manual which requires PCAs to track complaints, designate at least two personnel to receive and manage complaints, and maintain a specific fax number to receive complaints.³⁶

C. Problems with the Department of Education’s Complaint System

Collection agencies cannot shirk their duties by referring borrowers to the Department of Education. Compounding the problem, borrowers may have just as much difficulty if not more trying to contact the Department directly. Department staff acknowledged that the Department previously posted a complaint form on the web site. It is not clear whether this form was for agency or borrower use. Department staff had provided the link to the complaint log to NCLC as a source for on-line consumer complaints. They later explained that they took this form off-online because it “...was from a brief pilot.”³⁷

The Federal Student Aid website states:

Collection agency employees are trained to comply with the terms of the Fair Debt Collection Practices Act which governs collection practices by debt collectors. When Debt Collection Service is notified in writing of complaints concerning our collection agencies, we review the evidence and take the necessary action to correct the situation.³⁸

The Department does not direct borrowers to an e-mail or physical address where borrowers can submit their complaints. Below the statement noting that borrowers can contact the Department if they have a complaint, the site lists the contact information for the 23 PCAs. Borrowers must navigate to a separate page within the Federal Student Aid website which lists a general phone number to call to make a verbal complaint.³⁹ The defaulted loan site is not easy to access from the main Federal Student Aid website. Borrowers must click through five web pages to learn how to complain about PCAs and gather the Department's contact information to submit their complaint.

Borrowers must travel first to the general Federal Student Aid site, click on the link to "Repayment Information," scroll down to the bottom of that page and click the link to the "Department of Education's Default Resolution Group Web site," which leads to a new website. Users must then click on the "Default" tab at the top of the page or the FAQs link on the right to read the blurb about how the Department accepts written complaints about private collection agencies. Finally, users can navigate to the "Contact us" page to write down the address to submit written complaints.

The Department of Education's main site provides contact information for the Office of the Inspector General (OIG), which accepts complaints related to fraud, waste, and abuse. The broad mission of the OIG may deter borrowers, however, who may believe their individual experience falls outside of the scope of the OIG's powers. Further, in a 2011 e-mail to NCLC, Department of Education staff said that sending a borrower to OIG for a complaint "...will only delay a response to the borrower because the OIG will refer the borrower to Atlanta [the Department's regional office]."

The Department's defaulted student loan or general federal student aid site could also refer borrowers to the federal student aid ombudsman, the office charged with mediating conflicts between borrowers and lenders, servicers, and private collection agencies.⁴⁰ However, it is unlikely that most borrowers would have prior knowledge of the ombudsman's role in addressing grievances. Borrowers must navigate directly to the ombudsman website to request investigation of collection agency complaints. The defaulted student loan site and the general federal student aid site fail to link to the ombudsman's office. Unless the Department actively promotes the ombudsman, borrowers will remain unaware of this potential tool.

D. Complaint Processes are Random and Generally Fail to Comply with Department of Education Standards

A borrower's success in accessing a complaint system is dependent on which contractor holds her loan and who she speaks with when contacting the PCA. The majority of PCAs rely on borrowers to send written complaints to the company's general address or attempt to resolve verbal complaints on a case-by-case basis. It is unclear whether companies track verbal complaints according to the protocols established by the Department of Education. While an informal, case-by-case approach may be beneficial in certain situations, it also deprives borrowers of certain protections that are triggered if the complaint is treated formally.

The Department's manual is unequivocal: if a company receives a complaint, collections must be suspended until the complaint is resolved. The PCA must forward documentation and communications to the Department, which is supposed to maintain a repository for verbal and written complaints.⁴¹ Complaints are tracked by borrower account, contractor, date, the individual debt collector, and the substance of the complaint. The language of the manual makes it clear that the Department has the discretion to remove contractors for specific violations but that it does not have to do so.⁴² **The Department's stated policies are designed to ensure that systemic problems are remedied. The uneven implementation of these processes, however, penalizes contractors that make their complaint processes accessible and responsive.**

Premiere Credit of North America, one of the seven companies with websites that publish contact information for individuals who have a complaint, attributes the volume of complaints to the website's transparency. A representative from Premiere Credit

Student Borrower Experience 2 (Excerpt from an e-mail sent to NCLC's Student Loan Borrower Assistance Project)

"My student loans are in default and it is no one's fault but myself. However I am trying to make it right and trying to pay them back but the collection agency out of California is almost making it impossible. They did a financial evaluation and after my income and all paid bills I had around \$300 dollars left over at the end of the month. They want me to pay \$300 dollars a month. To me this is absurd. To pay everything I have left over and have nothing in case of an emergency is ridiculous. I've tried to reason with them and negotiate a smaller amount, even half. But they say it isn't good enough. That i can pay a lesser amount, but it won't rehabilitate my loan and they will still come after me legally and put in for a wage garnishment. I've contacted the Department of Education who is no help and the original Loan company who also is no help. Now they are coming back to me with an option of consolidating my already consolidated loans, with all their fee's, at almost \$10,000 more than i have outstanding out. This whole experience is ridiculous."

— A California borrower

who responds to complaints said that the majority of calls to the complaint hotline are a result of individuals searching through the site and finding the information. While other companies seem to rely on written complaints to trigger a formal review, Premiere’s representative said the majority of the complaints they handle are made over the phone. The representative said they received a “good number of phone calls every day.”⁴³

Premiere’s CPCS score in August put it just outside the ten top-performing contractors, but it received fewer complaints through the BBB than all those who outscored the company.⁴⁴

Without enforcement from the Department, PCAs are largely left to design their own complaint processes. Companies, like Premiere Credit, may receive more complaints because their complaint process is more user-friendly, while companies with opaque complaint processes may appear to serve borrowers better. As a representative from Van Ru Credit Corporation told NCLC when asked if borrowers were aware of how to complain, “We certainly don’t want to encourage people to file [complaints].”⁴⁵

VI. Recommendations

1. The U.S. Department of Education Must Create an Accessible Collection Agency Complaint System

Borrowers should have a straightforward, intuitive, and efficient way to file a complaint with the Department. Other federal agencies have created user-friendly complaint systems, and the Department of Education could follow their lead. Federal student loan borrowers should be able to easily find complaint instructions and contact information. As mentioned previously, the current Department defaulted student loan website fails to mention or link to the ombudsman, the entity responsible for working with borrowers and PCAs to resolve disputes. The website also requires multiple steps to track down contact information to make a complaint directly to the Department.

In contrast, the **Consumer Financial Protection Bureau’s** (CFPB) recent initiative to collect private student loan complaints exemplifies a process that is seamless, user-friendly, and integrated within the agency’s overall mission. Upon visiting the CFPB’s home page, the complaint form for student loans is prominently displayed. Individuals can select from among three options to air their student loan grievances. Individuals can submit their stories online without making a formal complaint, they can submit formal complaints using an online form, or they can call a telephone number.

Borrowers or others who are interested in telling their stories can submit it anonymously through the “Tell your story” page. This option, while open to all, can be especially useful for whistleblowers. The page allows users to flag whether their story concerns a practice they

Consumer Financial Protection Bureau's Online Complaint Form

The screenshot shows the top of the CFPB's online complaint form. At the top left is the CFPB logo. To its right, it says "Consumer Financial Protection Bureau" and "An official website of the United States Government". On the far right, there is a phone number: "(855) 411-2372". Below this is a navigation bar with links: "HOME", "INSIDE THE CFPB", "GET ASSISTANCE", "PARTICIPATE", "REGULATION", and "SUBMIT A COMPLAINT". Below the navigation bar, there is a section titled "Submit a complaint" with a breadcrumb "HOME > SUBMIT A COMPLAINT" and social media icons for Facebook, Twitter, and Email. There are five icons representing different types of loans: Mortgage (house), Credit card (card), Bank account or service (bank building), Vehicle loan or consumer loan (car), and Student loan (graduation cap). Below these icons, there is a progress bar with five steps: 1. What happened?, 2. Desired resolution, 3. My information, 4. Product information, and 5. Review. The first step is highlighted in orange, and the others are green. Below the progress bar, there is a section titled "My loan is *" with three radio button options: "Federal loan (Stafford, Direct, consolidation, PLUS, Perkins)", "Non-federal loan (Private, alternative, other student loan)", and "I am not sure".

The CFPB's web page provides highly visible complaint information to borrowers who visit the site.

The complaint form guides borrowers through the process step-by-step.

The screenshot shows a pop-up window titled "My loan is *". It contains the text: "Find out what type of student loans you have on the US Department of Education's website, or by calling 1 (800) 4FEDAID (800 433-3243)". Below this text is a green button that says "What type of student loan do I have?". At the bottom left of the window is a link that says "[close]".

If a borrower indicates she does not know the type of loan she borrowed, a pop-up window opens with helpful information to determine the loan type.

The screenshot shows a pop-up window titled "File a complaint about a federal student loan". It contains the text: "File a complaint about a federal student loan on the US Department of Education's website or by calling 1 (877) 557-2575". Below this text is a green button that says "File a federal student loan complaint". At the bottom left of the window is a link that says "[close]".

Finally, borrowers who report that they have a complaint about a federal student loan are directed to the Federal Student Aid ombudsman website. The CFPB also displays a telephone number borrowers can call to make a verbal complaint.

observed while employed at a financial company.⁴⁶ The CFPB maintains a separate e-mail address for complaints from whistleblowers.⁴⁷

The official complaint form asks a series of questions, including the type of loan, desired resolution to the complaint, individual information, and product information. The top of the form explains the steps of the complaint process. The CFPB will forward the complaint to the company mentioned, provide a tracking number to the individual, and keep the individual updated on the status of the complaint. Companies must address the complaint within a specific time frame; if the company fails to resolve the complaint or does so unsatisfactorily, the CFPB will prioritize it as a practice to investigate.⁴⁸

Each question is worded simply. If a borrower needs more information to complete the form, the CFPB links to sites that will help them complete the form. For example, one of the questions asks individuals to select the type of loan they wish to file a complaint. If a borrower selects, “I am not sure,” a dialog box pops up that links to a federal student aid website and lists a phone number so the borrower can find out. Individuals can also use a live chat feature, similar to instant messaging, that allows individuals to talk with a representative if they have questions as they fill out the form.

If a borrower selects that their loan complaint concerns a federal loan, she is re-directed to a web page for the Department of Education ombudsman. The Department’s site for the ombudsman provides phone numbers, a mailing address, and a generic online complaint form.⁴⁹ This is particularly interesting because the Department’s defaulted student loan site and the general federal aid site fail to link to the ombudsman’s office.

The CFPB’s complaint process is part of a larger attempt to engage the public and demonstrate responsiveness to citizen concerns. Director Richard Cordray said the CFPB will use complaints to inform its rule-writing and legislative advocacy.⁵⁰

The Federal Trade Commission (FTC) provides another example of a streamlined, user-friendly complaint process. However, unlike the CFPB, the FTC does not attempt to resolve individual consumer complaints.⁵¹ The FTC collects complaints on a variety of industries, including debt collection agencies. In fact, complaints involving debt collection agencies comprised the second largest percentage of all complaints, behind only identity theft. Consumers filed 180,928 complaints about debt collection in 2011.⁵²

A link to a complaint form is prominently displayed in the upper right-hand corner of the FTC’s website. The link directs consumers to the “FTC Complaint Assistant.” Like the CFPB complaint form, the FTC site walks the consumer through six steps, collecting demographic information, company information, and the details of the complaint. A help button is located at the bottom of each step.

2. The Department of Education Must Change Its Commission System to Incentivize Quality Service

Collectors tend to steer borrowers toward the most lucrative options for the agencies. In the process, they may violate the Fair Debt Collection Practices Act (FDCPA) and other laws by misrepresenting borrower rights or otherwise providing inaccurate information. For example, collection agencies will insist that borrowers must pay certain minimum amounts to get out of default through rehabilitation, in violation of the federal statute and regulations.⁵³

The Department must revise its commission system so that collectors get paid for providing quality service and are monitored for compliance with applicable laws and regulations. The commission system should not just focus on the amount of dollars collected. The Department should reform the CPCS score by decreasing the share of points awarded for dollars collected and instead shift greater weight to the Account Servicing Percentage, which measures all activity on Department accounts as a result of contractor effort. The Account Servicing Percentage incentivizes collectors to recover federal dollars while equally rewarding collectors that help borrowers who are entitled to relief.

3. The Accessibility of the Complaints System Should be Considered in Evaluating Agencies

The Department can help to ensure that agencies maintain an accessible internal complaint system by tying financial incentives to transparent and responsive systems. The Department can help ensure that agencies are not gaming the evaluation system by reviewing not only the numbers of complaints, but also the accessibility of the complaint system. Otherwise, agencies can avoid collecting complaint reports by attempting to prevent borrowers from filing them. At a minimum, the Department must require agencies to offer a streamlined and easy-to-access online complaint form AND a clearly defined mailing address for those who cannot or choose not to lodge online complaints. The Department must also create a centralized location for handling complaints.

4. Increase Enforcement and Oversight of the Private Collection Agencies

Department of Education audits focus almost exclusively on handling of funds rather than borrower experiences. Investigations that have focused on collection agency performance have indicated that the Department's Federal Student Aid Division needed to improve its monitoring of private collection agencies.⁵⁴

The Department must increase its oversight of its private collection agencies, evaluating not only for funds collected, but also for compliance with complaint systems and other processes required to assist borrowers.

5. Private Collection Agencies Must Work to Resolve Complaints

The complaint process must be responsive to individual borrowers. If and when borrowers are able to figure out how to file a complaint, the complaint should result in a resolution. This is not a guarantee of “customer satisfaction.” However, borrowers must always receive a clear response of who reviewed the complaint and the outcome of the review.

Conclusion

There is a balance between the need to collect student loans and the need to assist borrowers. At this point, the balance is tilted overwhelmingly in favor of high collections and collection agency profits. As the White House and Congress look for ways to reform the federal student loan system, this is an area that is in desperate need of attention.

A fair and efficient complaint system is not going to resolve all of the problems that arise from prioritizing collector needs over borrower needs. However, it is an essential step in ensuring that borrowers have a way to present grievances and for policymakers to assess collection agency performance.

Borrower Experience 3 (Excerpt from an e-mail sent to NCLC’s Student Loan Borrower Assistance Project)

“Contrary to the belief of the collection agencies and most of society at that time, I was not a dead beat avoiding my obligations. Each conversation with one of these people [student loan collection agencies] would leave me physically sick and emotionally distraught, but I simply could not afford the minimum amount that they wanted (usually in the \$400.00 range) to qualify for their repayment plans. ...They were calling me at work and sending letters to my employer about intent to garnish. I tried hard to find an answer to this situation. I hope that something in this saga can help you understand that for some people student loans seem to be a never ending nightmare even when they are trying their hardest to make it right.”

— An Oklahoma borrower

Endnotes

¹ John Hechinger, "Obama Relies on Debt Collectors Profiting From Student Loan Woe," *Bloomberg* (March 26, 2012).

² insideARM.com, "Department of Education Names Small Business Collection Contractors," (March 11, 2009); Department of Education, "Contacting Collections," (2012).

³ John Hechinger, "Obama Relies on Debt Collectors Profiting From Student Loan Woe," *Bloomberg* (March 26, 2012).

⁴ John Hechinger, "Debt Collectors With a Financial Agenda," *Bloomberg* (April 5, 2012).

⁵ "N.C.O. Group," *Better Business Bureau* (2012).

⁶ John Hechinger, "Obama Relies on Debt Collectors Profiting From Student Loan Woe," *Bloomberg* (March 26, 2012).

⁷ Collect Corp. Corporation was recently added as a contractor and does not have a CPCS score for August of 2011 and so was excluded from this table.

⁸ The Competitive Performance and Continuous Surveillance (CPCS) score is discussed in more detail below. The CPCS score is a ranking provided by the Department of Education that determines how the share of new default accounts will be awarded, with the highest proportion awarded to the contractor with the highest CPCS score. The score also determines the size of the contractor's commission. The percentage of dollars collected overwhelmingly determines a contractor's CPCS score while borrower complaints exert little effect on a company's standing.

⁹ The local Better Business Bureau (BBB) located where FMS Investment Corp. operates does not have an online profile for the company.

¹⁰ The Competitive Performance and Continuous Surveillance (CPCS) score is discussed in more detail below. The CPCS score is a ranking provided by the Department of Education that determines how the share of new default accounts will be awarded, with the highest proportion awarded to the contractor with the highest CPCS score. The score also determines the size of the contractor's commission. The percentage of dollars collected overwhelmingly determines a contractor's CPCS score while borrower complaints exert little effect on a company's standing.

¹¹ Immediate Credit Recovery also does not have a BBB profile.

¹² Id.

¹³ Dimitri Michaud, "Student Loan Market Enticing but Competition is Fierce," *insideARM* (Feb. 14, 2008).

¹⁴ Jerry Ashton, "A Love Letter from Your Student Loan Bill Collector," *insideARM* (Feb. 23, 2011).

¹⁵ It is unclear whether the Department will penalize a PCA that fails to subcontract some of the accounts to small businesses. See RFQ 2008, p. 22.

¹⁶ U.S. Department of Education, "FSA-Private Collection Agency (PCA) Service Area (SA)-Debt Collection Request for QUOTES (RFQ) RFP No. ED-08-R-0052," (May 29, 2008) (hereafter "RFQ 2008"), p. 20-23.

¹⁷ U.S. Department of Education, "Statement of Work: 2008 Collections Contract," (2008) (hereafter "2008 Collections Contract"), p. 9.

¹⁸ 2008 Collections Contract, p. 14-18.

¹⁹ 2008 Collections Contract, p. 5; Cynthia Wilson, "Competition Intensifies on ED Collection Contract in Third Quarter," *insideARM* (Sept. 29, 2011).

²⁰ The Request for Quotes issued by the Department of Education in 2008 outlines the bonus payment plan. The bonus payment is a percentage of dollars collected by the Contractor. The first place contractor receives a 5% bonus on the dollars collected for the Department. In September of 2011, NCO Group, the contractor with the highest CPCS score, collected \$27,391,559. NCO's bonus payment, according to the 2008 RFQ,

should equal \$1,369,577.95. See RFQ 2008, p. 23-24; Cynthia Wilson, "Competition Intensifies on ED Collection Contract in Third Quarter," *insideARM* (Sept. 29, 2011).

²¹ RFQ 2008, p. 23-24.

²² The 2009 Handbook is the most recent version. NCLC submitted a FOIA request to the Department of Education in March 2012, asking whether a more recent version is available and requesting a copy. We received a CD with the 2009 handbook. NCLC also sent an e-mail request to Department staff and the press office with these questions about the handbook as well as inquiries about whether the handbook is publicly available. We have not heard back to date.

²³ Dep't of Education, "PCA Procedures Manual: 2009 ED Collections Contract," (Sept. 2009) (hereafter "PCA Procedures Manual"), p. 36-37.

²⁴ *Id.*, p. 33.

²⁵ *Id.*, p. 36.

²⁶ The companies that NCLC spoke with in February-March 2012 include NCO, Diversified Collection Services, Inc., FMS Investment Corp., Financial Asset Management Systems, INC., Van Ru Credit Corporation, Collecto, Inc., Pioneer Credit Recovery, Inc., ConServe, Delta Management Associates, Inc., Coast Professional, Inc., Enterprise Recovery Systems, Inc., Allied Interstate, Progressive Financial Services Inc., National Recoveries, and Premiere Credit of North America.

²⁷ Immediate Credit Recovery Inc. and West Asset Management, Inc. refused to comment.

²⁸ CollectCorp, Account Control Technology, Inc., Windham Professionals, Inc., The CBE Group, Inc., Collection Technology, Inc., and GC Services did not return phone calls.

²⁹ Diversified Collection Services, Inc., Financial Asset Management Systems, INC., Van Ru Credit Corporation, Collecto, Inc., Pioneer Credit Recovery Inc., ConServe, Delta Management Associates, Inc., Allied Interstate, Progressive Financial Services, and Premiere Credit all described processes that are somewhat standardized.

³⁰ NCLC distinguishes complaint forms and complaint information from general contact forms or "Questions or Comments" forms. NCLC includes in this tabulation only pages or forms that clearly and prominently specify consumer complaint or dispute resolution information. The agencies with online information include Windham Professionals, Progressive Financial Services, Inc., National Recoveries, Premiere Credit of North America, GC Services, NCO Group, and Allied Interstate.

³¹ NCO Group, "contact us," available at <http://www.consumerhelpunit.org/contact-us-disclosure.html>.

³² Windham Professionals, "Consumer Advocate," (2012) available at <http://consumer.windhampros.com/helpful-information/consumer-advocate>.

³³ Windham Professionals, "Contact Us," (2012) available at <http://consumer.windhampros.com/contact-us>

³⁴ Personal Communication with Coast Professional, Inc. (March 2, 2012).

³⁵ Personal Communication with FMS Investment Corp. (February 29, 2012).

³⁶ PCA Procedures Manual, p. 37.

³⁷ E-mail from Denise Leifeste to Deanne Loonin (May 19, 2011). A later e-mail from Department staff in February 2012 stated that there never was an online complaint form, despite the May 2011 e-mail acknowledging that such a form existed.

³⁸ Federal Student Aid, "Contacting Collections," (2012) available at <http://www2.ed.gov/offices/OSFAP/DCS/collection.agencies.html>.

³⁹ Federal Student Aid, "Contacting Collections," (2012) available at <http://www2.ed.gov/offices/OSFAP/DCS/contact.us.html>.

⁴⁰ Federal Student Aid, "What to Expect after You Request the Ombudsman's Assistance," (2012) available at <http://www.ombudsman.ed.gov/process/whattoexpect.html>.

⁴¹ PCA Procedures Manual, p. 36-38.

⁴² *Id.*, p. 38.

⁴³ Personal Communication with Premiere Credit Representative (March 6, 2012).

⁴⁴ See Chart 1.

⁴⁵ Personal Communication with Van Ru Credit Corporation Representative (February 29, 2012).

⁴⁶ See Consumer Financial Protection Bureau, "Tell Your Story," (2012) *available at* <https://help.consumerfinance.gov/app/tellyourstory>.

⁴⁷ Kent Markus, "The CFPB wants you to blow the whistle on lawbreakers," *Consumer Financial Protection Bureau* (Dec. 15, 2011).

⁴⁸ Naima Ramos-Chapman, "Richard Cordray Talks Student Lending, For-Profit Colleges with Campus Progress," *Campus Progress* (March 12, 2012).

⁴⁹ Dep't of Education, "Ombudsman," (2012) *available at* <https://ombudsman.ed.gov/OmbudsmanWebApp/do?action=getRequest>.

⁵⁰ *Id.*

⁵¹ Federal Trade Commission, "Before You Submit a Complaint," (2012).

⁵² Federal Trade Commission, "FTC Releases Top Complaint Categories for 2011," (Feb. 28, 2012).

⁵³ John Hechinger, "Obama Relies on Debt Collectors Profiting From Student Loan Woe," *Bloomberg* (March 26, 2012).

⁵⁴ U.S. Dep't of Educ., Office of Inspector Gen., Final Audit Report, Control #ED-OIG/A19-D0002 (Dec. 23, 2003).

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