

Borrowers on Hold: 2013 Update

*National Consumer Law Center's Student Loan
Borrower Assistance Project*

March 14, 2013



Introduction

In May 2012, the National Consumer Law Center (NCLC) released the report [*Borrowers on Hold*](#), focusing on major gaps in the federal student loan collection agency complaint system. The report found that the U.S. Department of Education (the Department), as well as its contractors, failed to provide a transparent complaint process for borrowers struggling to get out of default.

An accessible complaint system cannot eliminate all of the problems in the current collections process. However, a responsive and transparent complaint process will help restore the balance between borrower rights and draconian collection powers. The current system of collections for student borrowers in default is unforgiving. The Department has nearly unlimited power to recover defaulted student loans. An effective complaint process introduces a measure of accountability into a punitive system of collection and helps ensure that the government respects borrower rights.

Unfortunately, the collection system can be baffling for student borrowers. A single borrower may have several types of loans, multiple lenders, and numerous collection agencies assigned to recover the balance owed. The incentives embedded in the Department's contracts reward high collection rates above all even at the expense of borrower rights.

Our prior report emphasized the importance of accountability, "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."¹

While NCLC focused on the collection agencies themselves, the Department has primary responsibility for establishing an accountable complaint process and enforcing borrower rights. NCLC urged the Department to create an accessible collection agency complaint system.

¹ Deanne Loonin & Jillian McLaughlin, *Borrowers on Hold: Student Loan Collection Agency Complaint Systems Need Massive Improvement*, National Consumer Law Center (May 2012), p. 3, available at: <http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/File/borrowers-on-hold.pdf>.

Update: The Department of Education Has Made Significant Progress

Less than a year later, the Department of Education has improved the complaint process for borrowers by creating a more responsive, intuitive, and transparent system. Borrowers that directly navigate to the Department's website for default resolution, [MyEdDebt.com](http://www.myeddebt.com), can access a centralized complaint system. Borrowers in default may log in to the site to view personalized payment information, including their loan balances, the specific private collection agency (PCA) assigned to collect the loan, and prior repayment agreements, among other information.

MyEdDebt.com also provides borrowers with numerous avenues to resolve student loan issues. After borrowers log in, a side menu appears with five distinct ways to interact with the Department. Web visitors may send a general e-mail, submit a complaint and download forms to request a hearing to contest Administrative Wage Garnishments (AWG), the Treasury Offset Program (TOP), and the Federal Salary Offset (FSO).

The screenshot shows the 'Submit Complaint' form on the MyEdDebt.com website. The form is titled 'Submit Complaint' and includes a brief introduction: 'The U.S. Department of Education accepts complaints related to collection activities through this Web site. If you have a complaint about the handling of your account, you can complete the information below and click on the Submit button to send us your complaint. We will investigate the issue and contact you with further questions or with our findings and resolution.' The form fields are organized into sections: 'Complaint' (First Name, Middle Name, Last Name, Social Security Number, Account Number, Address 1, Address 2, City, State, Zip Code, Country, Home Telephone, Work Telephone, Other Telephone, Email), 'Complaint Category' (dropdown menu), 'Complaint' (dropdown menu), and 'Current Account Assignment' (Agency Name, Agency Address, Agency Telephone, Agency Web site). There are also 'Submit' and 'Clear' buttons at the bottom right.

Selecting the “Submit Complaint” option retrieves a standard form. The form contains a drop-down menu that lists the collection agency or agencies currently handling the borrower’s account, helping to reduce confusion. The name, e-mail address, Social Security Number, and contact information automatically populate the form.

The general [Federal Student Aid](http://studentaid.ed.gov)² website has also improved. On the home page, visitors to the site will see a “Repay Your Loans” option prominently displayed on the menu bar. Borrowers may then navigate to the “[Resolving Disputes](http://studentaid.ed.gov/repay-loans/disputes)”³ subsection. The section encompasses a wide range of student loan disputes. For example, a borrower can learn how to dispute an error on her credit report if a loan servicer transmitted inaccurate information to a credit bureau. The page also links to information regarding [common disputes](http://www.myeddebt.com/borrower/InfoCenterDisputeMainPageAction.action),⁴ such as identify theft or disability hardships, and identifies steps to resolve issues.

² <http://studentaid.ed.gov/redirects/federal-student-aid-ed-gov>

³ <http://studentaid.ed.gov/repay-loans/disputes>

⁴ <https://www.myeddebt.com/borrower/InfoCenterDisputeMainPageAction.action>

If these solutions fail to resolve the issue, the Department highlights the federal student aid ombudsman, which is the office responsible for mediating conflicts between borrowers and lenders, servicers, and private collection agencies. At the bottom of the “Resolving Disputes” page, the Department describes the process for escalating complaints if the other remedies discussed fail. The site reads:

Problem not solved? Complete the Self-Resolution Checklist to assure yourself that you have done everything you can. If you are still not satisfied, you might wish to contact the Federal Student Aid Ombudsman Group to help you resolve your dispute. Contact the Ombudsman Group only as a last resort; and first, be sure to get prepared before seeking help.

Before the Department revamped the Federal Student Aid and Default Resolution sites, borrowers had to learn about the ombudsman on their own. Neither site mentioned the role of the ombudsman in resolving complaints. Now, students can easily learn about the process. They can also download the “[Self-Resolution Checklist](#)”⁵ which outlines the steps borrowers must take prior to contacting the ombudsman. Borrowers are equipped with the information to advocate for themselves.

Ongoing Concerns: Creating a Responsive Complaint System

An accessible online complaint system is only the first step to protect student borrowers. The system should also be *responsive*. According to the most recent collection agency handbook that the Department has made available, collection efforts must be suspended on defaulted accounts if a borrower lodges a complaint.⁶ Once a complaint is submitted, the Department is supposed to forward the grievance to the assigned PCA. The agency is responsible for crafting a response and the Department requires the PCA to include multiple records to document its proposed resolution.⁷ A Department spokesperson reported that borrowers receive a response within a week and complaints are routed through the Atlanta regional office. The spokesperson did not provide additional details.

The Department’s general response is helpful, but incomplete. We urge the Department to make information public about complaint outcomes and responsiveness periods. Without this additional information, we are unable to evaluate the system’s responsiveness and effectiveness.

The Consumer Financial Protection Bureau (CFPB) continues to serve as a model for the Department of Education. The CFPB enumerates its six-step process for resolving complaints on its [website](#).⁸ Borrowers who submit complaints may track the status of the complaint by logging into the CFPB’s site.

⁵ <http://studentaid.ed.gov/sites/default/files/ombudsman-self-resolution-checklist.pdf>

⁶ The Department removed its 2009 *Collection Agency Handbook* from its website. We have requested a copy of the most recent version informally and in a formal FOIA request, but the Department has not responded. It has been about six months since NCLC submitted the FOIA request on this and other collection-related topics.

⁷ Deanne Loonin & Jillian McLaughlin, *Borrowers on Hold: Student Loan Collection Agency Complaint Systems Need Massive Improvement*, National Consumer Law Center (May 2012), p. 11.

⁸ <http://www.consumerfinance.gov/complaint/>

Based on public reports, the CFPB's system appears to offer tangible outcomes for borrowers who seek assistance. Over a 13-month period, the public submitted nearly 80,000 complaints. Of those, 94 percent received a response from the company in question.⁹ Some even received monetary compensation. The median monetary relief for private student loan borrowers approximated \$1500.¹⁰

Recommendations

In general, the Department of Education has improved complaint processes for defaulted student borrowers. These changes are a welcome sign for borrowers, but challenges remain.

- **The Department should publish information about the various stages of the complaint resolution process.** Borrowers should be aware of the different steps the Department takes to enforce their rights. Amid a generally baffling collection system, the process for ensuring accountability should be transparent. Outlining the process will help borrowers track their complaint and escalate their grievance if the established system fails.
- **The Department must track and publish complaint outcomes and average response time.** To truly evaluate the adequacy of the current complaint system, the Department must reveal key metrics, including the response time and eventual outcome of complaints.
- **Private collection agencies should prominently link to the federal default resolution website.** PCAs are required to have their own complaint process, but as a federal contractor, they should also provide borrowers with the information to file a formal grievance with the Department. Requiring the link will help standardize the borrower experience.
- **Aggregated complaint data must be publicly available.** As a steward of taxpayer dollars, the Department should follow the example of the CFPB and report aggregated complaint data by private collection agency and type of grievance. Tracking this data and making complaints publicly available can help borrowers, advocates, and policymakers to assess if taxpayer funds are bankrolling bad behavior.
- **Complaint data should be used to drive enforcement and oversight efforts.** The Department should use borrower feedback to identify systemic problems among its contractors.

⁹ Consumer Financial Protection Bureau, "Consumer Response: A Snapshot of Complaints Received." (Oct. 10, 2012), p. 4.

¹⁰ Consumer Financial Protection Bureau, *Annual Report of the CFPB Student Loan Ombudsman*, (Oct. 16, 2012), p. 4.

Conclusion

In *Borrowers on Hold*, NCLC outlined suggestions to reform the transparency and accountability of the federal student loan collections system. The Department has fulfilled the first recommendation to create an accessible collection agency complaint system. 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 can present grievances and for policymakers to assess collection agency performance. A robust complaint process can lay the foundation for further reform.

Despite the significant progress in the collection agency complaint area, there is still much that the Department must do to improve the overall student loan collections system. Among other reforms, the Department must change the way it compensates PCAs to incentivize respect for borrower rights and compliance with consumer protection laws. PCAs should also be subject to greater government oversight. As we recommend in NCLC's 2013 "Promoting Equal Access to Higher Education Priority Agenda", we ultimately urge the government to eliminate PCA involvement in collecting federal student loans.¹¹

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

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Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. www.nclc.org.

NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens, and make loan repayment more manageable. www.studentloanborrowerassistance.org.

¹¹ The agenda is available on-line at: <http://www.studentloanborrowerassistance.org/blogs/wp-content/uploads/2007/03/higher-ed-p-priorities2013.pdf>.