

<http://www.nclc.org/issues/searching-for-relief.html>

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Given the problems in accessing government relief programs, it is not surprising that there is a growing student loan debt relief industry. An informed consumer with

resources may feel it is worthwhile to hire someone to help navigate the complex government student loan system. This is not necessarily abusive if the fees are disclosed properly, and the company is in fact what it says it is, is competent and up to date on the complex laws, and in compliance with all relevant consumer protection laws.

As we have shown throughout this report, these companies can easily cross over into practices that violate key consumer laws, provide inaccurate and misleading information, and take student loan debtors' money without providing valuable services. Given the many misrepresentations we uncovered, it is unlikely that these companies are providing quality services in return for the money they are charging. Complaints from borrowers affirm these concerns. Such practices severely compound the pain of vulnerable consumers seeking to find resolutions to difficult student debt problems.

We particularly urge regulators to follow up and investigate these companies to find out more about the services actually offered and about the advertising claims.

RECOMMENDATIONS

The following recommendations are intended to help ensure that only borrowers that truly want these services and know what they are getting buy them.

Improve Government Bureaucracy and Simplify Student Loan Relief Programs

Student loan debt relief companies go too far in selling how difficult it is for consumers to get relief from the federal government on their own. Yet, the reality is that the government does not have an efficient system for informing borrowers of these programs or of administering them efficiently and according to the law. One of the best ways to keep these companies in check is for the government to improve its administration of its own programs. This will more easily be done if the programs are simplified.

Require Fair and Reasonable Fees

- All companies must disclose fees online and in all calls with consumers.
- The companies must not charge advance fees in violation of federal law before services are completed.

- Companies should charge only fees that are bona fide and reasonable. This will likely mean that any fees for ongoing assistance with loan consolidation are unreasonable.

Prohibit Misleading Advertisements or Representations

- Companies must not engage in false, deceptive or misleading advertising, including improperly stating or implying affiliations or connections with government agencies.
- Companies must prominently disclose if their programs are government programs and if so that these programs are available at no cost through the government.
- Claims about performance must be transparent and verifiable.
- Claims about borrower rights and the requirements of student loan programs must be accurate and up to date.

Safeguard Consumer Privacy

- Companies must not request or require borrowers to provide PIN numbers for the National Student Loan Data System (NSLDS). The U.S. Department of Education should investigate these practices in order to preserve the integrity of the student loan database.
- Companies must provide information about the potential dangers of signing power of attorney documents and comply with all applicable laws regarding such documents.

Refunds

Refunds should not be as much of a concern if companies comply with applicable laws and do not charge any fees until services are completed. However, the companies must at a minimum refund any funds received if the consumer does not qualify for a program or otherwise has grounds for refund.

Other Consumer Protections

- Commissions should not be allowed based on numbers of borrowers enrolled in particular programs.
- Transparency is critical. The companies must not only disclose all fees online and in response to requests for information, but also provide sample contracts upon request and verification of performance information.
- Comply with all applicable consumer laws, state and federal, including cancellation rights.
- Companies must comply with unauthorized practice of law provisions.
- Mandatory arbitration and other contract provisions limiting consumer access to justice should be banned.

Enforcement

Many of the consumer protections described above are already on the books. Federal and state regulators must step up to investigate these companies and enforce consumer protection laws.

Expand Reliable Assistance Resources

Schools, loan holders, and credit counselors can and should do more to assist borrowers, particularly in providing information and counseling services. These entities may also provide direct assistance in certain circumstances, but they cannot be everything to everyone. A particular concern involves conflicts of interest as well as nonlawyer counselors failing to stay up to date on the complex student loan programs and crossing the line into providing legal advice.

Funding is a problem for all of these programs. Creative solutions should be considered, including possible public funding or support from higher education institutions. We do not believe that an effective program can be built through funding from creditors. This will create improper incentives and conflicts of interest that disadvantage borrowers.

It is more difficult to close the gap in direct assistance service for borrowers. One solution is for lawyers, including legal aid and pro bono programs, to expand their services and provide legal assistance for student loan borrowers.

Existing legal resources are insufficient. Legal aid programs are underfunded and restricted in what they can do in some cases. Few assist student loan borrowers. At a minimum, Congress or state policymakers should consider pilot projects to fund neutral, nonprofit entities to provide direct assistance to financially distressed student loan borrowers. Private funders could also offer assistance as long as there is no funding from conflicting interests, such as lenders. This would be a borrower advocate program that would work in collaboration with ombuds, counseling, and other mediation entities. Counselors in this program must be under the supervision of a qualified lawyer.