



Collection Agency Panel

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- The views and opinions expressed by the Presenters are those of the Presenters and not necessarily representative of any of our companies or COHEAO
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Agenda



- Hot Topics and Questions
- Adapting to Our New Environment
- Post Covid Collections
- Statute of Limitations
- New Debt Collection Rules
- Transcript Laws
- Q & A

Hot Topics and Questions



- How did agencies adapt to the remote work environment?



ADAPTING TO OUR NEW ENVIRONMENT

Hot Topics and Questions



- Many schools are concerned about negative press in attempting to collect during the pandemic. What do you see as the current best practice regarding this issue? What is your advice to your client base?
- What are other clients doing in reference to collecting accounts during the pandemic?



Post COVID Collections

Post COVID Collections



- Empathy works regardless of the pandemic
- Higher education specialization is important
- Attempt to remove emotions from the equation. Stick to facts
- Flexibility is key regarding postponing, adjusting, suspending, or cancelling payments
- Discuss system capabilities with your agency/clients
- What are institutions and agencies seeing? Share your experiences.

Hot Topics and Questions



- Can collection agencies collect accounts beyond the statute of limitations?



Statute of Limitations

Statute of Limitations (SOL)



- What is it?
- Are debt collectors bound by the statute of limitations when requesting payment on an outstanding debt?
- Is the debt more or less recoverable once the SOL expires?
- How can the creditor assist with the collection of moderate and older debts?



Statute of Limitations (SOL)



- Does the state law where the debt occurs or where the student resides have precedence? What about electronic acceptance?
- Default Dates
 - SOL and credit bureau reporting
- When does SOL calculation begin
 - Date of last payment?
 - Date of default?
 - Date payment became due?

Tolling the SOL



- Interrupts (tolls) the running of a statute of limitations in certain situations.
- In some states, the statute of limitations may be tolled when a partial payment or acknowledgement of a debt is made (refresh).
- In other states, these actions reset the statutory clock, thus causing the full statute of limitations period to run anew (revive).
- Some states do not allow tolling.

Time Barred Debt

(Debt on which the Statute of Limitations has expired)



- Some states prohibit any collection attempts on past statute debts.
- Some states require debt collectors to provide specific disclosures to the consumer regarding the status of the debt.
- Courts have held that settlement offers on time barred debts that fail to disclose the debt is past statute status may violate the FDCPA.
- The Eleventh Circuit Court of Appeals has held that filing a proof of claim in a bankruptcy case on an out-of-statute debt violates the FDCPA.
- Bankruptcy interrupts the running of a statute of limitations in certain situations.

Hot Topics and Questions



- The CFPB rules primarily apply to third party collectors. What role or responsibilities does the school (first party) have in assisting your agency does not violate these “new rules”?
- Many schools do not have a Financial Repayment Agreement. How important is it to have this document? What are the collection strategy limitations (if any) if this document is not in place?
- What are agencies doing to prepare for the new debt collection rules?
- How does your agency transmit information back to clients when a student issues a cease and desist request? If you receive this notification, what are your next steps?



New Debt Collection Rules

New Debt Collection Rules



Update Section 806-808 of the FDCPA

- First Party Not Included
- Limited Content Message for Voicemails
- Defines Consumer
- Communications
 - Time and Place
 - Using Modern Technology
 - Texting
 - Emailing
- Consumer Disclosure Provisions
 - E-sign Opt Out
- Disputes
- Required Disclosures
- Record Retention
- Disclosures Models (Supplemental Rules)

New Debt Collection Rules

Things to Consider



- One of the hallmarks of the supplemental rule is a new validation notice with greater information
 - Account number associated with the debt
 - Itemization date (last statement, charge-off date, last payment date, or transaction date)
 - Amount of debt on the itemization date
 - An itemization of the current amount of the debt
- That information will have to come from the original creditor (the school)

New Debt Collection Rules

Things to Consider



- Creditors will need to incorporate the elements of the final rule into their oversight of debt collectors
 - Ensure-mails and text messages are sent only at convenient times
 - Monitoring to see if mini-Miranda warnings are given in every language in which a debt collection communication occurs
 - Monitoring call frequency under the presumptive limits in the final rule
 - Monitoring for the potential for harassment from aggregated contact attempts across all communication channels

New Debt Collection Rules

Things to Consider



- Significant terms of creditors internal collection operations and with respect to their relationships with debt collectors
- The one-year compliance period for the final rule should be a period of intense effort by creditors to be prepared to handle these impacts.

Hot Topics and Questions



- Does the new transcript laws affect my institution?
- If legislation such as AB1313 gains popularity across the country, what do you see as the strategy schools will need to collect its tuition debts?



Transcript Laws

Withholding Transcripts - Federal



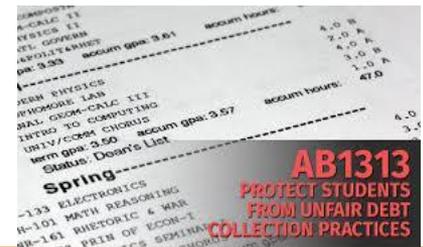
- H.B. 3761, introduced on July 15, 2019, by Reps. Lee (D-NV), Finkenauer (D-IA), Wilson (D-FL), Sherrill (D-NJ), and Davis (R-IL)
- Would apparently prevent institutions receiving federal loans from withholding transcripts from students who have defaulted on their student loans



Withholding Transcripts-CA



- [A.B. 1313](#), signed into law
- Effective date January 1, 2020
- Repealed existing law which required public institutions to withhold transcripts
- Prohibits public and private postsecondary schools from withholding transcripts
 - Applicable to any unpaid student debt
 - Broad restrictions (Can't hold transcript to collect a debt)



Withholding Transcripts-WA



- [H.B 2513](#) signed into law April 2
- Effective date June 11, 2020
- Institutions of higher education may not withhold a student's official transcript, regardless of debt, except the fee charged to provide an official transcript, if the official transcript is requested by a student or entity for any of the following purposes:
 - (a) Job applications;
 - (b) Transferring to another institution;
 - (c) Applying for financial aid;
 - (d) Pursuit of opportunities in the military/national guard;
 - (e) Pursuit of other postsecondary opportunities

Hot Topics and Questions



- Are there any other state laws we should be aware of?

State Collection Laws to Watch



- New Jersey
- Colorado
- California
- Massachusetts
- Maryland

Questions...



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