



UPDATES AND TRENDS IN THE
COLLECTION OF STUDENT DEBT

CHAD ECHOLS - FROST ECHOLS, LLC

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DISCLAIMER

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Today's Presentation

Updates on Legal Issues & Trends in Debt Collection

What is going on out there, and how can we be prepared for success?

We are clearly in a disruptive period – what do we do?

You cannot spend “bad debt”, but you can spend actual money.

What are your agency partners doing to become more efficient and effective?

Take the opportunity in this fluid environment to be a problem solver on campus.

I am about to truly understand the cost of college and the impact on students/families



Well... The
times they are
a-changin'



Stress test on the system...



Supreme Court Blocks Student Loan Forgiveness

CNN Politics SCOTUS Congress Facts First 2024 Elections

Supreme Court rejects Biden's student loan debt forgiveness plan

The US Supreme Court ruled that the Biden administration does not have the authority to cancel or reduce student loan debt.

Majority



Roberts Thomas Alito Gorsuch Kavanaugh Barrett

Dissenting



Kagan Sotomayor Jackson

Source: US Supreme Court, Biden v. Nebraska
Graphic: Annette Choi, CNN

"The Secretary's comprehensive debt cancellation plan cannot fairly be called a waiver – it not only nullifies existing provisions, but augments and expands them dramatically," Roberts wrote. "However broad the meaning of 'waive or modify,' that language cannot authorize the kind of exhaustive rewriting of the statute that has taken place here."

The White House sought to use the HEROES Act authority to waive the debt.

Roberts said the government needed direct authorization from Congress.

"The question here is not whether something should be done; it is who has the authority to do it."

The liberal dissenters said the majority is basically making political decisions.

SAVE Plan -

Student loan payments under the SAVE plan are not likely to resume any time soon – or ever. Those applications have been removed from the website.

The Saving on a Valuable Education (SAVE) Plan



Federal Student Aid
AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION

Here we go...



JUST IN

17 Democratic-led states sue over Trump anti-wind moves

ENERGY & ENVIRONMENT | 27 MINUTES AGO

Senate eyes vote on stablecoin bill despite Democratic revolt

EDUCATION

A new era for student loans begins with garnished wages on the table

BY LEXI LONAS COCHRAN - 05/04/25 6:00 AM ET



Some stats:

42 Million Borrowers

1.6 Trillion in Student Debt

5 Million are in Default

4 Million are in Late-Stage Delinquency

Consumer spending accounts for 70% of the US Economy

There are currently no DOE contracts with private collection agencies

The reduction in DOE workforce & consumer communication

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By way of example...

$$\text{Interest Payment} = \text{Principal} \times \text{Interest Rate}$$

Assuming the **interest rate is annual at 6%**, and the loan amount is **\$50,000**, then:

$$\text{Annual Interest Payment} = 50,000 \times 0.06 = 3,000$$

So, the payments would be:

- **Annually:** \$3,000
- **Monthly:** $\frac{3,000}{12} = 250$

Final Answer:

- **\$250/month or \$3,000/year** on a \$50K interest-only loan at 6%.

Chevron Deference – Supreme Court

It has been nearly 40 years since the Supreme Court indicated in **Chevron v. Natural Resources Defense Council** that courts should defer to an agency's reasonable interpretation of an ambiguous statute. After more than three-and-a-half hours of oral argument on Wednesday, it seemed unlikely that the rule outlined in that case, known as the Chevron doctrine, will survive in its current form. A majority of the justices seemed ready to jettison the doctrine or at the very least significantly limit it.

The court's ruling could have ripple effects across the federal government, where agencies frequently use highly trained experts to interpret and implement federal laws. Although the doctrine was relatively noncontroversial when it was first introduced in 1984, in recent years conservatives – including some members of the Supreme Court – have called for it to be overruled.

<https://www.scotusblog.com/2024/01/supreme-court-likely-to-discard-chevron/>

CFPB chimes in on transcripts

<https://www.consumerfinance.gov/about-us/newsroom/cfpb-supervisory-examinations-find-violations-of-federal-law-by-student-loan-servicers-and-university-owned-lenders/>

Transcript Withholding

Under the Consumer Financial Protection Act, Congress gave the CFPB supervisory authority over entities that originate private education loans, including institutional loans. The CFPB examines private student lenders of all sizes, including entities that operate school-based lenders that extend loans directly to students.

Many in-house lenders employ a practice of withholding transcripts when a student borrower has an outstanding debt. Transcript withholding is designed to gain leverage over borrowers and coerce them into making payments, as it is difficult to seek employment or transfer education credits to another school without an official transcript. Even when borrowers enter into payment agreements with a school, the transcript might not be released until the debt is paid in full.

The CFPB's examinations found that the blanket withholding of transcripts to pressure borrowers is an abusive practice under the Consumer Financial Protection Act.

Category: [Press](#)

ACA International Files Lawsuit Challenging CFPB's Ongoing Overreach in Rewriting the Law and Failing to Justify its Actions

Tag(s): [CFPB](#), [Compliance](#), [FCRA](#), [Medical Debt](#)

ACA seeks to prevent the rule from taking effect for its impact on health care providers revenue cycle, patients' access to health care and the CFPB's lack of statutory authority.

01/09/2025 11:30 A.M.

6 minute read



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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION

ACA INTERNATIONAL

and

SPECIALIZED COLLECTION
SERVICES, INC.,

Plaintiffs,

v.

CONSUMER FINANCIAL PROTECTION
BUREAU; and ROHIT CHOPRA, in his
official capacity as Director of the Consumer
Financial Protection Bureau,

Defendants.

Case No. _____

COMPLAINT

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SCHRECK, LLP

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Mar 17
Gregorio Silva

CFPB Rule Precluding Reporting of Consumer Medical Debt On Hold Until June or Later

ABSTRACT: Texas federal court issues a 90-day halt on the final rule from the Consumer Financial Protection Bureau (“CFPB”), to prohibit collection and reporting of consumer medical debt.

We have an update regarding [our recent blog post](#) on the Consumer Financial Protection Bureau’s (“CFPB”) [final rule](#) amending Regulation V, which implements the Fair Credit Reporting Act (“FCRA”). The new rule which would have become effective on March 17, 2025 has been stayed by a Texas federal judge.

SUPREME COURT OF THE UNITED STATES

Syllabus

CONSUMER FINANCIAL PROTECTION BUREAU ET AL. *v.* COMMUNITY FINANCIAL SERVICES ASSOCIATION OF AMERICA, LTD., ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 22–448. Argued October 3, 2023—Decided May 16, 2024

The Constitution gives Congress control over the public fisc subject to the command that “[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” Art. I, §9, cl. 7. For most federal agencies, Congress provides funding through annual appropriations. For the Consumer Financial Protection Bureau, however, Congress provided a standing source of funding outside the ordinary annual appropriations process. Specifically, Congress authorized the Bureau to draw from the Federal Reserve System an amount that its Director deems “reasonably necessary to carry out” the Bureau’s duties, subject only to an inflation-adjusted cap. 12 U. S. C. §§5497(a)(1), (2). In this case, several trade associations representing payday lenders and credit-access businesses challenged regulations issued by the Bureau pertaining to high-interest consumer loans on statutory and constitutional grounds. As relevant here, the Fifth Circuit accepted the associations’ argument that the Bureau’s funding mechanism violates the Appropriations Clause.

Held: Congress’ statutory authorization allowing the Bureau to draw money from the earnings of the Federal Reserve System to carry out the Bureau’s duties satisfies the Appropriations Clause. Pp. 5–19, 22.

(a) Under the Appropriations Clause, an appropriation is a law that authorizes expenditures from a specified source of public money for designated purposes.

(1) The Bureau’s funding is “drawn from the Treasury” and is therefore subject to the requirements of the Appropriations Clause. The issue is whether the Bureau’s funding mechanism constitutes an

PRESS RELEASE

Household Debt Balances Continue Steady Increase; Delinquency Transition Rates Remain Elevated for Auto and Credit Cards

February 13, 2025

NEW YORK—The Federal Reserve Bank of New York's Center for Microeconomic Data today issued its [Quarterly Report on Household Debt and Credit](#). The report shows total household debt increased by \$93 billion (0.5%) in Q4 2024, to \$18.04 trillion. The report is based on data from the New York Fed's nationally representative [Consumer Credit Panel](#). It includes a one-page summary of key takeaways and their supporting data points.

The New York Fed also issued an accompanying [Liberty Street Economics](#) blog post examining delinquency rates in the auto loan market.

“While mortgage delinquency rates are similar to pre-pandemic levels, auto loan delinquency transition rates remain elevated,” said Wilbert van der Klaauw, Economic Research Advisor at the New York Fed. “High auto loan delinquency rates are broad-based across credit scores and income levels.”

Credit card balances increased by \$45 billion from the previous quarter and reached \$1.21 trillion at the end of December 2024. Auto loan balances saw a \$11 billion increase and stood at \$1.66 trillion. Mortgage balances increased by \$11 billion and currently stand at \$12.61 trillion. HELOC balances rose by \$9 billion to \$396 billion, representing the eleventh consecutive quarterly increase since Q1 2022. Other balances, which include retail cards and other consumer loans, grew by \$8 billion. Student loan balances grew by \$9 billion, and now stand at \$1.62 trillion.

From the
Federal Reserve
Bank of NY in
Feb.

Bankruptcy statistics...

<https://www.uscourts.gov/data-news/judiciary-news/2025/02/04/bankruptcy-filings-rise-14-2-percent>

Bankruptcy Filings Rise 14.2 Percent

Published on February 4, 2025

Total bankruptcy filings rose 14.2 percent, with increases in both business and non-business bankruptcies, in the twelve-month period ending Dec. 31, 2024. This continues an ongoing rebound in filings after more than a decade of sharply dropping totals.

According to statistics released by the Administrative Office of the U.S. Courts, annual bankruptcy filings totaled 517,308 in the year ending December 2024, compared with 452,990 cases in the previous year.

Business filings rose 22.1 percent, from 18,926 to 23,107, in the year ending Dec. 31, 2024. Non-business bankruptcy filings rose 13.9 percent to 494,201, compared with 434,064 in December 2023.

Bankruptcy totals for the previous 12 months are reported four times annually.

For more than a decade, total filings fell steadily, from a high of nearly 1.6 million in September 2010 to a low of 380,634 in June 2022. Total filings have increased each quarter since then, but they remain far lower than historical highs.

Get accounts into repayment!



Be creative - consider new strategies, small payments, settlements, and any other ideas you may have to prompt payment.

You could memorialize low payment plans and request a co-signor as a condition. This may require a litigation strategy to accomplish as the leverage for the new agreement.

You could provide a payment arrangement on a settled amount that is secured by a confession of judgment for the full amount. Be careful to check with counsel on a confession of judgment in KS as they are barred by statute for consumer credit transactions. Many states allow them, but others do not.

Schools are treated more like businesses by the regulators. It may be time to act more like businesses by being intentional and strategic.

Overcoming disputes and getting payments in the digital era

Using QR codes post COVID-19

One touch payment options

Provide new payment methods – Apple, Google, PayPal, Venmo

Texting Consumers...



90%

of texts read within just 5 minutes.



5x

higher click-through rate compared to email.



12x

greater conversation rate than traditional emails.

www.sndright.com



Debt Buyer – Collection Agency –
College/University

What can schools learn from
other areas of debt collection?

Digital is here – Consent is key

Students, and most of us, rarely talk on the phone anymore. We have accepted texting as an appropriate method of personal and commercial communication.

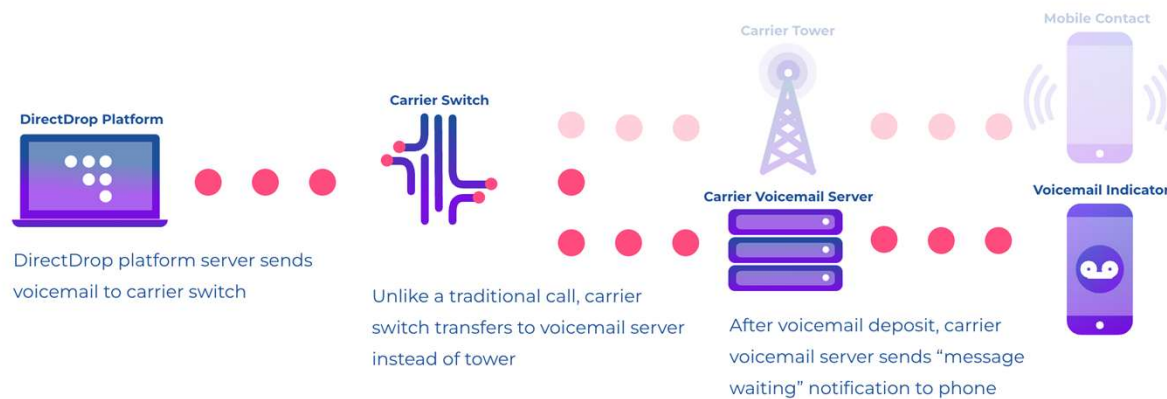
***** Capture consent in a way that you can prove. Also have a broad policy regarding revocation!!**



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Here's how it works:



The Telephone Consumer Protection Act

SUPREME COURT OF THE UNITED STATES

Syllabus

FACEBOOK, INC. *v.* DUGUID ET AL.

**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT**

No. 19–511. Argued December 8, 2020—Decided April 1, 2021

A litigation strategy!

What do you get when you win a lawsuit? Be mindful, it is not money. You get a judgment.

Garnishment – A judgment creditor in New York can utilize the private right of garnishment. No garnishment in NC, SC, PA, and TX

Choice of law/Venue selection



Clear change - The CFPB was Looking at All Aspects of Student Debt



[Consumer Education](#) ▾

[Rules & Policy](#) ▾

[Enforcement](#) ▾

[Compliance](#) ▾

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Consumer Financial Protection Bureau to Examine Colleges' In-House Lending Practices

CFPB Publishes Oversight Protocols for Institutional Student Lending

JAN 20, 2022

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CFPB and Higher Education

CFPB Examination Procedures

Education Loan

Education Loan Examination Procedures

After completing the risk assessment and examination scoping, examiners should use these procedures to conduct an education loan examination.

In addition, the CFPB expects every regulated entity under its supervision and enforcement authority to have an effective compliance management system appropriate for the size and complexity of the entity and adapted to its business strategy and operations. Examiners should also use the compliance management system review procedures to conduct review and testing of components of the supervised entity's compliance management system.¹

Exam Date:	[Click&type]
Exam ID No.	[Click&type]
Prepared By:	[Click&type]
Reviewer:	[Click&type]
Docket #:	[Click&type]
Entity Name:	[Click&type]
Event #:	[Click&type]

CFPB and Higher Education

- **Placing enrollment restrictions:** Students who are late on their loan payments may be restricted from enrolling in or attending classes, which could delay their graduation and prevent them from finding employment.
- **Withholding transcripts:** When a school withholds academic transcripts from students that owe the school a debt, this prevents students from using their transcripts to demonstrate their education levels in the job market.
- **Improperly accelerating payments:** Schools that use acceleration clauses in their loans when a student withdraws from the program could be putting a heavy financial burden on the student by making the loan immediately due and collectible.
- **Failing to issue refunds:** If a borrower withdraws from a program early, they may be entitled to some refunds by the school.
- **Maintaining improper lending relationships:** Schools that have preferential relationships with certain lenders may pose risks to students because, for example, they may end up paying more for their loan.

The new CFPB and Higher Education...

<https://www.bankrate.com/loans/student-loans/ex-cfpb-ombudsman-talks-student-loans/>

Ex-CFPB ombudsman's message to federal student loan borrowers: 'Demand' what you're 'legally entitled to'



Written by [Andrew Pentis](#), Edited by [Rhys Subitch](#)

Published on March 12, 2025 | 6 min read

Julia Barnard was working her “dream job,” pouring her “heart into the work” of helping education debtors nationwide. Until Barnard — the last student loan ombudsman at the [hotly-contested Consumer Financial Protection Bureau](#) (CFPB) — was abruptly (and [some argue, illegally](#)) fired by the Trump Administration on Feb. 13.

Barnard's job was to work directly with then-CFPB director, Rohit Chopra, on student loan policy and strategy to address America's over \$1.6 trillion education debt. She was also on the ground, working with the Department of Education, and its maligned Office of Federal Student Aid (FSA), to secure loan forgiveness for a borrower who was scammed in one example and the mother of a disabled son in another.



Anna Moneymaker / Staff/Getty Images

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CFPB Issues a Roadmap for States Days Before Trump Takes Office



By [Jason Cover](#), [Mark Furletti](#), [Stefanie Jackman](#), [James Kim](#), [Caleb Rosenberg](#), [Chris Willis](#) & [Jesse Silverman](#) on January 15, 2025

POSTED IN [ALL ENTRIES](#), [CONSUMER FINANCIAL PROTECTION BUREAU \(CFPB\)](#), [REGULATORY ENFORCEMENT + COMPLIANCE](#), [STATE ATTORNEYS GENERAL](#), [CFPB + FTC](#)

This article was republished on [insideARM](#) on January 23, 2025, in their [newsletter](#) on January

State action??

It should come as little surprise that Republican lead states are likely to bolster the administration's positions in their states as Democratic lead states will try and fight the agenda with state level consumer protection activity.

The FDCPA Generally

Some history;

Creditors are not subject to the FDCPA (generally);

The FTC & CFPB;

Are debt collectors less compliant today or more compliant?

- CFPB – CMS;
- Call recording;
- Account documentation;
- Voice analytics; and
- AI & utilizing data.

The explosion of litigation and a strict liability statute;

Etc...



California looks to get involved with institutional debt (CA AB850) -

EdSource

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NEWS BRIEF

THURSDAY, FEBRUARY 20, 2025 — 8:49 AM

Bill aims to protect California college students owing 'institutional debt'

A bill in the California state Assembly proposes a variety of consumer protections for students who owe debts directly to a college or university related to a mid-semester withdrawal from classes, unpaid meal plans or other outstanding fees.

AB 850 aims to change how the state's colleges and universities handle institutional debts, the debts students owe to their college or university and incur in their capacity as students. Such debts do not include the costs of attendance for the academic term in which the student is currently enrolled or seeking to enroll.

Quote from the prior slide's article...

Assemblymember Blanca Pacheco, a Democrat whose district includes portions of southwestern Los Angeles County and northern Orange County, introduced the bill.

“Unlike other forms of debt, institutional debt lacks basic consumer protections and any financial setback can derail a student’s education,” Pacheco said in a news release. “AB 850 changes that by establishing critical reporting and safeguards to ensure that institutional debt doesn’t create permanent roadblocks to education.”

Fair Credit Reporting Act

Do you furnish to CRAs (you – the actual school – not via a servicer or agency)?

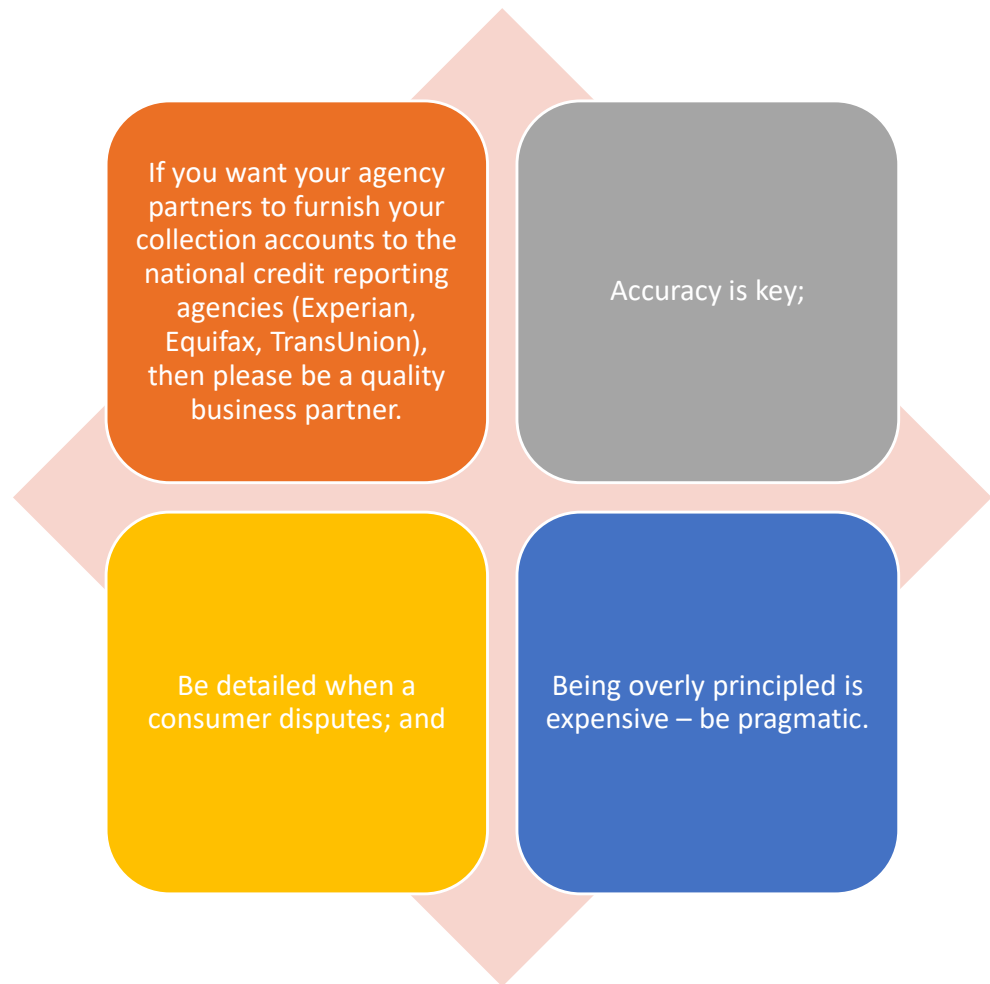
What is furnisher?

What is the risk (1681s-2(b))(note triggered by notice from a CRA – not direct notice from a student)?

Q&A



Fair Credit Reporting Act



Questions...





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