



Washington Update & Higher Education Compliance

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- Every effort has been made to assure this information is up-to-date as of the day of this presentation, but circumstances are constantly changing.



Hot Topics On Campus

- Compliance
- **CFPB/Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)**
- **Cyber Security and the “Safeguards” Rule**
- Handling Identity Theft Disputes (Red Flags Rule)
- Telephone Consumer Protection Act (TCPA)
- **Credit Bureau Reporting-New Requirements (FCRA)**
- **Disputes & Validation: Applicable laws – Fair Debt Collections Practices Act (FDCPA) & Fair Credit Reporting Act (FCRA)**
- **Time-Barred Debt**
- Collection Costs
- Gap Funding
- **Holding Transcripts**
- Financial Wellness

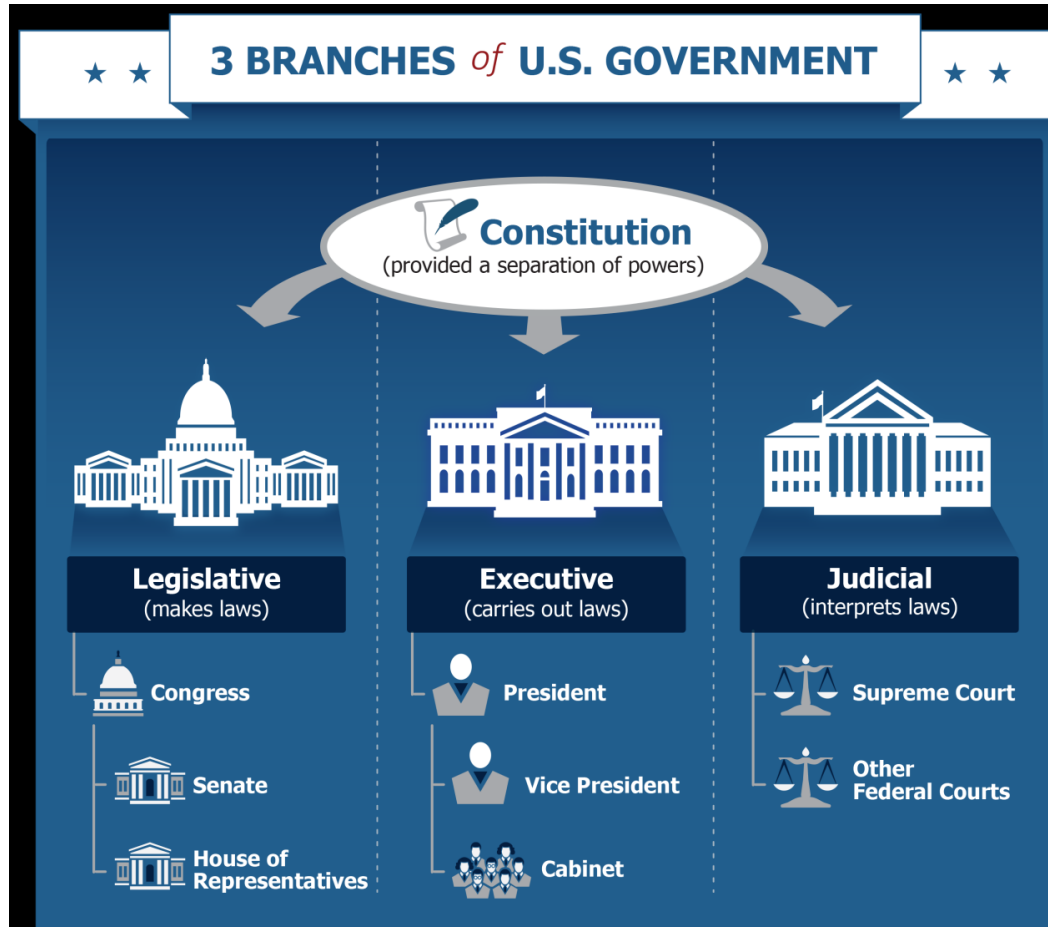


Laws & Regulations To Consider

- **ECOA (Equal Credit Opportunity Act)**
- **FCRA (Fair Credit Reporting Act)**
- **FDCPA (Fair Debt Collection Practices Act)**
- **FERPA (Family Educational Rights and Privacy Act)**
- **GDPR (General Data Protection Regulations)**
- **GLBA (Gramm–Leach–Bliley Act)**
- **IFAP (Information for Financial Aid Professionals)
(Federal Student Aid Regulations)**
- **Red Flags Rule**
- **TCPA (Telephone Consumer Protection Act)**
- **UDAAP (Unfair, Deceptive, or Abusive Acts or Practices)**



The Three Branches of Government



Legislation, Regulation, Appropriation

- Legislation creates the law
- Regulations are specific requirements within the legislation
- Appropriations fund the programs created by legislation



Congress



Today's 116th Congress

House

- 231 Democrats
- 197 Republicans
- 1 Independent
- 6 Vacancies
 - Majority rules
 - Controls agenda

Senate

- 53 Republicans
- 47 Democrats
- Majority controls agenda, hearings, BUT
 - 60 votes needed to move most legislation
 - Judges, appointments need just 50
 - New rules limit debate



Key People in the House

Education & Labor Committee:



Bobby Scott (D-VA)
Chairman



Virginia Foxx (R-NC)
Ranking Member

28 Ds and 22 Rs
16 new Democrats
10 new Republicans

- **Subcommittee on Higher Education and Workforce Training:**
 - Susan Davis (D-CA) is Chair (retiring at end of term)
 - Lloyd Smucker (R-PA) is Ranking Member
- **College Affordability Act (CAA) instead of the PROSPER Act**
 - Passed out of the Committee in Fall 2019



Key People in Senate

Senate Health, Education, Labor & Pensions Committee

- 12 Republicans
- 11 Democrats
- Controls Higher Education Act



Lamar Alexander (R-TN)
Chairman (retiring)



Patty Murray (D-WA)
Ranking Member

Key HELPers:

- Sanders (I-VT)
- Collins (R-ME)
- Baldwin (D-WI)
- Burr (R-NC)
- Casey (D-PA)
- Isakson (R-GA)
- Enzi (R-WY)
- Kaine (D-VA)
- **New:**
 - Doug Jones (D-AL)
 - Tina Smith (D-MN)
 - Mike Braun (R-IN)
 - Mitt Romney (R-UT)
 - Jackie Rosen (D-NV)
 - Maggie Hassan (D-NH)



Higher Ed Reauthorization



HEA Reauthorization

- HEA was last reauthorized in 2008.
- In 115th Congress, both parties introduced a bill in the House. Neither party introduced a bill in the Senate.
 - PROSPER Act (H.R. 4508) – House Rep. bill
 - Aim Higher Act (H.R. 6543) – House Dem. bill
- Senate: FAST Act by Chairman Alexander introduced in 2015 formed the basis for his current plans, but was limited to improving the FAFSA process & simplifying financial aid.
- Bill was not a comprehensive reauthorization and parts were included in the FUTURES Act that passed in Dec. 2019.



Reauthorization Bills

- Dozens of bills introduced modifying student aid programs
- Sen. Alexander and Sen. Murray agreed on FUTURE Act, passed in December – small-scale HEA bill; House leaders agreed
 - Extensive re-write of student eligibility and the Needs Analysis – more complex calculations designed to account for variety of different circumstances
 - FAFSA reduced to about 32 questions, with added sections for state and institutional information
 - Alexander claims 22 questions, but several have sub-parts
 - Pressures states and schools to use federal information for their own decisions by publishing lists of who does and doesn't
 - Creates automatic connection between ED and IRS to fill out FAFSA, avoid need for verification – supposed to eliminate mistakes and save \$2.8 billion.



College Affordability Act

- House Democrats' bill: passed out of Ed & Labor Committee on party line vote, floor action in 2020?
- Creates Federal Direct Perkins Loans
 - Same provisions as Unsub Stafford, with 5% interest rate
 - \$2.4 billion in funding per year
- SEOG, Work Study remain – base guarantee phased out
 - Schools with lots of Pell students get more allocation
- Repeal loan origination fees and reduce repayment options to two
- Expand PSLF job definition
- Keep subsidized Direct Loans



College Affordability Act

- Federal Loan refinancing at lower rates
- Private loan refinancing for loans in good standing into unsub. Direct Staffords
- Pell Grant maximum raised, indexed
- Caps on Direct Loans unchanged
- Parent PLUS eligible for IBR
- Incentives for states to make 2 years of college free



Budget and Appropriations



Budget & Appropriations

- *There are 12 separate appropriations bills*
 - Budget year is Oct 1 – Sept 30
- Process starts with President's budget request
 - Issued February 10, 2020, almost on time
- End game: September, hopefully before start of 2021 fiscal year Oct. 1, 2020
- Because of unprecedented fiscal situation it's unclear what will happen this year.
- Could be a "Continuing Resolution" punting final decisions until the lame duck session after the election in November or could be resolved much earlier.



President's FY 2021 Requests

- Evaluate separating Federal Student Aid from ED
- Pell Grant maximum \$6,345 per year
- Pell Grants for short term programs, prisoners
- Eliminate SEOG program
- Allow Work Study for more jobs, change allocation formula -- tie to Pell grants
- One loan program each for undergrads, grads, parents
- Cap Parent PLUS at \$26,500/year;
- Cap Grad PLUS at \$50K/year, \$100K total, not counting undergrad borrowing
- Eliminate subsidized loans
- Work with Congress on institutional risk sharing
- Consolidate the 5 income-driven loan repayment plans into one with monthly payments at 12.5% of discretionary spending and eliminate standard repayment cap
- Not taken seriously by Congress



Perkins Loan Initiatives



COHEAO's Perkins Access, Retention & Completion (ARC) Loan

- Revised Perkins-style plan extended to more schools with better funding mechanism
- Terms like legacy Perkins: 5%, no in-school interest, public service forgiveness
- Include Grad students
- Include more schools
- Campus-based awards & servicing
- Funding limited nationally and per institution



Administrative Cost Allowance (ACA)

- June 30, 2018 was last date for schools to charge ACA to the Perkins fund
- ACA or similar funding is key to sustaining quality campus-based servicing and institutions should be compensated
- COHEAO advocated for a change in the law and Congress twice passed spending bills that provides ED with the authority to pay schools that service their Perkins loans
- “...funds appropriated under this heading **may be available** for payments for student loan servicing to an institution of higher education that services outstanding Federal Perkins Loans under part E of title IV of the Higher Education Act of 1965...”
- But...ED and OMB: **No action so far!**
- Line on FISAP for reporting cost of servicing



Higher Ed Wants Campus Servicing

- COHEAO organized a letter to Congress, endorsed by the American Council of Education calling for the addition of campus-based servicing to the College Affordability Act's Perkins program
- Letter written for higher education associations and campuses to sign
- 110 organizations signed & letter sent to Congress
- *“...we strongly urge you to include a provision that allows campus based servicing of Perkins loans...”*



Perkins Advocacy Efforts

- Letter to Ed & Labor Committee requesting campus-based servicing provision be included in Reauthorization
 - COHEAO and ACE were the lead
 - 110 Institutions and Higher Education Associations signed on
- Perkins Access, Retention & Completion (ARC) Loan Program
 - COHEAO's reauthorization proposal for replacement program
 - Direct funding from U.S. Treasury
 - Bipartisan support expected
- COHEAO Efforts with the Department of Education
 - Reimbursement to schools for long standing debt cancelled Perkins loans
 - Reimbursement to schools who service Perkins portfolio (ACA replacement)
 - Review of the mandatory assignment of loans 2 years or greater in default



Department of Ed



Department of Ed

- DeVos Details Distribution of Emergency Grant Funds for Students
 - \$6 billion in higher education aid, which was part of the CARES Act coronavirus emergency package, passed last month and will be distributed to college students in the form of emergency financial aid grants
 - <https://ifap.ed.gov/electronic-announcements/040920PressRelEmergencyCashGrantsCollegeStudentsCOVID19>
- Office of Federal Student Aid cancelled its procurement solicitation for creation of the Next Generation Loan Servicing
- Department Posts Additional Guidance for Perkins/FFEL Borrowers in New Federal Student Loan Coronavirus Provisions
 - <https://ifap.ed.gov/electronic-announcements/040320UPDATEDGuidanceInterruptStudyRelCOVID19>
- Department of Education COVID Guidance
 - <https://studentaid.gov/announcements-events/coronavirus> and <https://www.ed.gov/coronavirus?src=feature>
- You should contact the following email about any concerns for the school-held portfolio: COVID-19@ed.gov



IFAP

CURRENT ELECTRONIC ANNOUNCEMENTS

- **May 15, 2020**-(OPE Announcements) Subject: UPDATED Guidance for interruptions of study related to Coronavirus (COVID-19)
<https://ifap.ed.gov/electronic-announcements/051520UPDATEDGuidanceInterruptStudyRelCOVID19May2020>
- **May 15, 2020**-(Direct Loans) Subject: Interest Rates for Direct Loans First Disbursed Between July 1, 2020 and June 30, 2021 <https://ifap.ed.gov/electronic-announcements/051520InterRatesforDLFirstDisbBetw070120and063021>
- **May 5, 2020** - (OPE Announcements) Subject: Higher Education Emergency Relief Fund Reporting- Emergency Financial Aid Grants to Students <https://ifap.ed.gov/electronic-announcements/050620HigherEdEmergencyReliefFundRptg>
- **April 30, 2020**- (OPE Announcements) Subject: PRESS RELEASE: Secretary DeVos Delivers Nearly \$1.4 Billion in Additional CARES Act Relief Funds to HBCUs, Minority Serving Institutions, and Colleges and Universities Serving Low-Income Students<https://ifap.ed.gov/electronic-announcements/050620HigherEdEmergencyReliefFundRptg>
<https://ifap.ed.gov/electronicannouncements/043020SecDeVosDelivers1pt4BillionAddtlCARESActReliefFunds2HBCUs>
- **April 24, 2020**-(Direct Loans) Subject: Revised Master Promissory Notes for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct PLUS Loans (Paper Versions)(Direct Loans) Subject: Revised Master Promissory Notes for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct PLUS Loans (Paper Versions)
<https://ifap.ed.gov/electronic-announcements/042420RevisedMPN4DirectSubDirectUnsubDirectPLUSLoans>
- **April 23, 2020**-(Loans) Subject: Availability of Guide for Financial Statement Audits and Compliance Attestation Engagements of Guaranty Agency Servicers Administering the Federal Family Education Loan Program
<https://ifap.ed.gov/electronic-announcements/042320availguideforinstatauditsadminffelpprogram>



IFAP

CURRENT ELECTRONIC ANNOUNCEMENTS

- **April 23, 2020**-(General) Subject: FY 2017 Cohort Default Rate Deadline Modification and Update on Federal Work-Study Community Service Waivers Related to Coronavirus (COVID-19)
<https://ifap.ed.gov/electronic-announcements/042320FY2017CDRDeadlineModUpdateFWSCCommRelatedCOVID19>
- **April 24, 2020**-(EDESuite) Subject: Availability of EDEExpress for Windows 2020-2021, Release 2.0
<https://ifap.ed.gov/electronic-announcements/042420availedexpressforwin2021release2pt0>
- **April 21, 2020**-(Loans) Subject: HEAL Program Information – Maximum HEAL Program Interest Rates for Quarter Ending June 30, 2020
<https://ifap.ed.gov/electronic-announcements/042120healproginfomaxratequarterjune3020>
- **April 21, 2020**-(Direct Loans) Subject: Annual Student Loan Acknowledgement – Operational Guidance for Schools and Additional COD System Information
<https://ifap.ed.gov/electronic-announcements/042120ASLAOpGuidanceSchoolsAddtlCODSysInfo>
- **April 21, 2020**-(OPE Announcements) Subject: PRESS RELEASE: Secretary DeVos Delivers \$6 Billion in Additional Grant Funding to Support Continued Education at America’s Colleges, Universities
<https://ifap.ed.gov/electronicannouncements/042120SecDeVosDelivers6BillAddtlGrantFundSupportContEducation>



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CURRENT ELECTRONIC ANNOUNCEMENTS

- **April 09, 2020**-(OPE Announcements) Subject: PRESS RELEASE: Secretary DeVos Rapidly Delivers More Than \$6 Billion in Emergency Cash Grants for College Students Impacted by Coronavirus Outbreak
<https://ifap.ed.gov/electronic-announcements/040920PressRelEmergencyCashGrantsCollegeStudentsCOVID19>
- **April 09, 2020**-(COD System) Subject: COD System Implementation for 2020–21 Award Year
<https://ifap.ed.gov/electronic-announcements/040920CODSystemImplementation202021AY>
- **April 09, 2020**-(General) Subject: Financial Responsibility and e Z-Audit Reporting Requirements
<https://ifap.ed.gov/electronic-announcements/040920FinancialResponsibilityQuestionsAnswers>
- **April 07, 2020**-(General) Subject: OUTAGE ALERT – IRS DRT Outage on April 12, 2020 (Updated April 8, 2020)
<https://ifap.ed.gov/electronic-announcements/040720OutageAlertIRSOutageonApril1220>
- **April 07, 2020**-Subject: Federal Family Education Loan Program Special Allowance Rates for the Quarter Ending March 31, 2020
<https://ifap.ed.gov/ffel-special-allowance-rates/SAPmemo033120>



Other Stuff From the Department

- Direct Loan Interest Rates Drops nearly 2%
 - 2.75 percent, down from the current 4.53 percent for undergrad
 - 4.3 percent from this year's 6.08 percent for grad
 - 5.3 percent, down from the current 7.08 percent for Plus Loans
- Title IX Final Regulations have been released with implementation of
 - <https://www.bing.com/news/search?q=2020+Department+Of+Education+Final+Regulations&qpv=2020+department+of+education+final+regulations&FORM=EWRE>
 - Implementation August 14, 2020



COVID-19 Relief



COVID Legislation

- Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020
 - \$8.3 billion bill spurring coronavirus vaccine research and development.
- Families First Coronavirus Response Act
 - Approximately \$104 billion package largely focused on paid sick leave and unemployment benefits for workers and families.
- Coronavirus Aid, Relief, and Economic Security (CARES) Act
 - \$ 2.2 Trillion stimulus package



Coronavirus Aid, Relief, & Economic Security (CARES) Act



- Signed into law March 27, 2020
- \$2.2 Trillion Dollar Stimulus Package
- \$500 Billion in Checks to go to each individual family
 - <https://sa.www4.irs.gov/irfof-wmsp/login>
- \$50 Billion Airline Industry Bailout
- \$150 Billion Secured Loans to critical sectors
 - Guarantee 100% of six weeks of Payroll Capped at \$1540/week per employee

COVID-19 Pandemic Education Relief Act of 2020

- Sec. 4503: Higher education institutions waived from matching federal aid for 2019-20 and 2020-21 school years. This relates to requirements for the campus-based programs, Supplemental Educational Opportunity Grants (SEOG) and Work-Study.
- Sec. 4504: Schools may use SEOG for emergency financial aid to assist students. Waives amount of need calculation, up to maximum federal Pell Grant award.
- Sec. 4507: Adjustment of Subsidized Loan Usage Limits. This will not count the time during the declared national emergency towards the limit on how many subsidized Stafford loans a student can receive throughout their academic career.



COVID-19 Pandemic Education Relief Act of 2020

- Sec. 4508: Loans are canceled for students forced to withdraw due to emergency. Extensive flexibility for schools to allow leave of absences. This will make a big difference to students who now face strict federally mandated rules about taking leaves of absence and must demonstrate satisfactory academic progress to keep receiving federal aid. The result may be more students taking a leave, which could have implications for private loans. Also included is a provision waiving the Return of Title IV Funds requirement for students who withdraw during a semester for which they have already received federal aid as well as for their institutions.
- Sec. 4513: Temporary Relief for Federal Student Loan Borrowers. The Secretary shall suspend all payments due for Direct Loans for 6 months. Interest shall not accrue during the suspension. Each month covered by the suspension shall count as if the borrower had made a qualifying payment for any Direct Loan forgiveness plan, such as public service loan forgiveness.



CARES Act

Funds For Emergency Grant Aids

- Letters went to University and College Presidents
- DOE released its first [guidance](#) on the disbursement of funds appropriated to colleges and universities in the Education Stabilization Fund
- ED will release CARES Act funds to institutions on two separate timelines.
- Schools first received their portion of the \$6.28 billion allocated for emergency grant aid to students, approximately \$6 million
- Need to complete a certification and agreement form and submit the form via a grants.gov portal.
- Emergency grant aid funds will not be used for any purpose other than the direct payment of grants to students for their expenses related to the disruption of campus operations due to coronavirus.
- Schools need to report to Ed how the money was used and they kept staff employed to the best of their ability within 30 days.
- Schools need to post the information on their website within 30 days of allocation then update every 45 days



Reporting CARES ACT FUNDS TO IRS

- Non Taxable Grants
- Report in Box 5 of 1098T-s
- Box 5 is not an indicator of taxability



CARES Act Amends FCRA

- Amends the FCRA to report accurately during a Pandemic or National Disaster.
- The period of the amendment is Jan. 31, 2020, to the later of 120 days after the CARES Act is enacted (July 26, 2020) or 120 days after the declared COVID-19 national emergency is terminated.
- The furnishers have an obligation to report a borrower as current as it applies to any accommodation given during this time.
- An accommodation is broadly defined to include any “agreement to defer 1 or more payments, make partial payments, forbear any delinquent amounts, modify a loan or contract, or any other assistance or relief granted to a consumer.



CFPB FCRA Policy Statement

- Bureau extended the time period for furnishers to investigate consumer disputes from 30 to 45 days.
- They will not take enforcement actions against those who furnish information to consumer reporting agencies that accurately reflects the payment relief measures they are employing.
- Bureau will consider a consumer reporting agency's or furnisher's individual circumstances and does not intend to cite in an examination or bring an enforcement action against a consumer reporting agency or furnisher making good faith efforts.



Reporting Requirement Resources

- [FAQ 45 – Reporting Loans in Forbearance](#)
- [FAQ 58 – Reporting of Natural or Declared Disaster](#) - Using AW Codes



The Health Resources and Services Administration (HRSA) Guidance

- Released guidance on the following loans:
 - Health Professions Student Loan (HPSL)
 - Primary Care Loan (PCL)
 - Loans for Disadvantaged Students (LDS)
 - Nursing Student Loan (NSL)
 - Nurse Faculty Loan Program (NFLP)
- Identical to the CARES Act DL Relief with one exception
 - Optional Administrative Forbearance if requested by student
- Interest waived until September 30 retroactively from March 13th
 - Still uncertain if schools are responsible for reimbursing the funds for the waived interest.
- All defaulted loans 30 days or more should be automatically be put in forbearance



Perkins COVID Guidance

- For Perkins borrowers who are impacted by the pandemic and contact the school, or servicer, expressing a financial hardship, the following benefits provide similar relief, and are subject to eligibility:
 - Economic Hardship Deferment: Defers both principal and interest and has a post-deferment grace period of 6 months.
 - Unemployment Deferment: Defers both principal and interest and has a post-deferment grace period of 6 months.
 - Forbearance: Temporarily postpones payments, interest continues to accrue and is due once regular payments resume.
 - If you provide the interest subsidy to your Perkins Loan borrowers, your institution is **not required** to reimburse the Perkins Loan Revolving Fund for the lost interest. The option to offer a 0% interest rate until September 30 is not an incentivized repayment plan.



More COVID Legislation

- [Paycheck Protection Program and Healthcare Enhancement Act](#)
 - Phase 5
 - Increases amounts authorized for the Paycheck Protection Program under the Small Business Act and economic injury disaster loans and emergency grants under the CARES Act for hospitals and provider recovery and testing and other purposes.
 - Additional \$370 billion
 - \$250 billion in unrestricted funds for the PPP
 - \$60 billion for smaller lending institutions
 - \$50 billion for Economic Injury Disaster Loans
 - \$10 billion for the Economic Injury Disaster Loans advance grants
 - \$100 billion allocated for hospitals and COVID-19 testing



Future COVID Legislation

- Health and Economic Recovery Omnibus Emergency Solutions (HEROES) ACT
 - Phase 6
 - Passed in the House
 - Stalled in the Senate
 - Democrat Partisan Bill
 - Additional \$3 Trillion
 - \$1 Trillion to State and Local Government
 - \$200 Billion for Hazard Pay for Frontline Workers



Future COVID Legislation

- Student Loans
 - Expanded definition of Student Loans in the CARES Act to include all loans (Perkins, HPSL, etc.)
 - Suspension of Payments and interest on all loans to September 30, 2021
- Debt Collections
 - Credit Bureau Reporting During National Disasters
 - Debt Collection During National Disasters
 - Mandate Repayment and Forbearance
 - Government Payments for Private Loans
 - Mortarium on Small Business Collections



Debt Collection State Restrictions

- Illinois-"Recommendation" to stop collections
- ~~Massachusetts – No collection calls (1st and 3rd party)~~
 - ACA Filed a Law Suit and won
- **Nevada- No collection activity during stay at home-May 30**
- New York- No collections on state owed debt at AG
- North Carolina- Deferment of payments during crises
- **Washington D.C.- No collection activity during crises**
- Wisconsin- Issued guidance under the Wisconsin Consumer Act



CFPB

NCM

Consumer Financial Protection Bureau

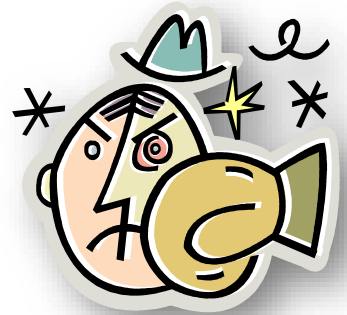
- UDAAP
- FDCPA
 - Collection Costs
 - Updating Laws, New Debt Collection Rules
 - Statute Of Limitations
- FCRA
- Service Providers
- Collections and Collection Agencies
- Servicemembers Civil Relief Act (SCRA)
- Safeguard Rules
- Complaint Process
- Financial Literacy
- Etc.....



CFPB & UDAAP

It is unlawful to engage in any Unfair, Deceptive, or Abusive Acts or Practices

- FDCPA makes it illegal for debt collectors to engage in this activity
- CFPB has authority to protect consumers against UDAAP violations
- Original creditor and debt collectors



Fair Debt Collection Practices Act (FDCPA)

- Established in 1977
- Legal protection from abusive debt collection practices
- Promotes fair debt collection
- Ensures an avenue for disputing and obtaining validation of debt – to ensure the accuracy
- Guidelines for debt collectors
- Works in conjunction with FCRA



CFPB To Introduce New Debt Collection Rules

- 2013 - CFPB issued an Advanced Notice of Public Rulemaking - 162 questions on debt collections
- 2016 - Small Business Review Enforcement Fairness Act (SBREFA) Panel to discuss an outline of proposals
- The CFPB subsequently noted that it was limiting its focus to third party collections
- May 2019 – published Notice of Proposed Rule Making and comments were due by mid September 2019
- The final rule is anticipated in Q2 of 2020 and we anticipate a one-year implementation period
- But the 2020 elections and pandemic create some additional factors that may impact timing
 - Potential impact of Presidential election
 - Potential for Congressional Review Act override



CFPB - Debt Collection Proposed Rules

- **Collect the correct debt:** Collectors would have to scrub their files and substantiate the debt before contacting consumers.
- **Limit excessive or disruptive communications:** Collectors would be limited to six communication attempts per week through any point of contact before they have reached the consumer.
- **Make debt details clear and disputes easy:** Collectors would be required to include more specific information about the debt in the initial collection notices sent to consumers. A tear-off is required.
- Document the debt on demand for disputes within 30 days.
- **Stop collecting or suing for debt without proper documentation:** If a consumer disputes – in any way – the validity of the debt, collectors would have to stop collections until the necessary documentation is checked.
- **Stop burying the dispute:** If debt collectors transfer debt without responding to disputes, the next collector could not try to collect until the dispute is resolved.



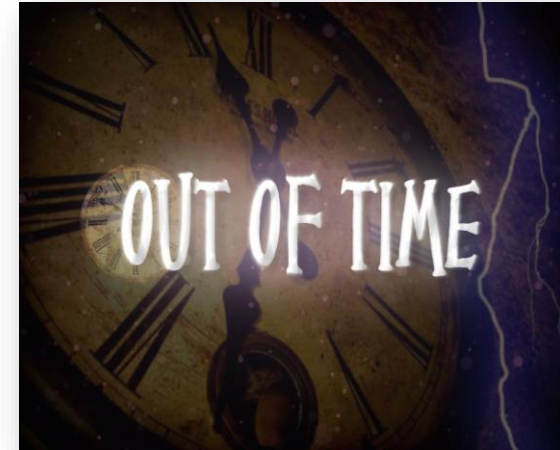
STATUTE OF LIMITATIONS (SOL)

- Do you follow the state law where the debt occurs or where the student resides?
- States and federal regulators are now using the statute of limitations to make it increasingly difficult to collect older debt obligations.
- The trend will require specific action to prevent a great deal of debt from becoming uncollectable.



STATUTE OF LIMITATIONS (SOL)

- Default Dates
 - SOL and Credit bureau reporting
- When does the SOL calculation begin?
 - Date of last payment
 - Date of default
 - Date payment became due



TOLLING SOL

- Interrupts 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.
- In other states, these actions reset the statutory clock, thus causing the full statute of limitations period to run anew.
- Some states does not allow you to Toll at all



RESTRICTIVE SOL LAWS

- California
- Connecticut
- Massachusetts
- Mississippi*
- Missouri
- New Mexico
- North Carolina*
- New York State
 - NYC and Yonkers
- Texas (State debt is excluded)
- West Virginia
- Wisconsin* (State debt is excluded)

*Prohibited to collect Time Barred Debt



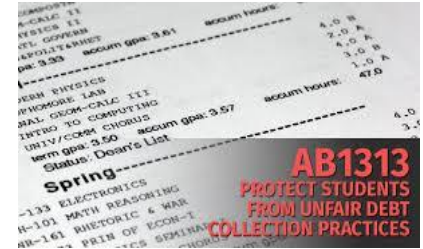
CFPB Supplemental Rules

- Consumer Financial Protection Bureau (CFPB) released Supplemental Notice of Proposed Rulemaking (SNPRM) for time-barred debts on February 21, 2020.
- CFPB has created separate proposed disclosures that would be applied to applicable situations.



Withholding Transcripts – CA

- A.B. 1313, signed into law
- Effective date January 1, 2020
- Will repeal existing law which requires public institutions to withhold transcripts
- Will prohibit 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



Credit Bureau Reporting

- The [FACT Act Furnisher Rules](#) were passed in 2010 by the federal banking agencies and the Federal Trade Commission and consist of:
 - **Accuracy and Integrity Rule:** requires companies that provide information to credit bureaus to establish written policies regarding the "accuracy and integrity" of information furnished to the credit bureaus.
 - **Direct Dispute Rule:** allows consumers to take their disputes directly to the furnishers of credit report information rather than acting solely through a credit bureau.
- These rules impose duties for lenders, servicers, collectors and other financial institutions that report or "furnish" information to credit bureaus.



FCRA Credit Reporting Initiatives

- Requirement to have contract or agreement to pay – Effective 6/15/16
 - Do not report debt that did not arise from a contract or an agreement to pay
 - Requirement to have contract or agreement to pay
 - Including but not limited to fines, tickets, and other
- Report a full file monthly - Effective 9/1/16
- Reporting of identifiable information - Effective 9/15/17
 - Collecting and reporting
 - Full Name
 - Address
 - Social Security Number
 - Date of Birth



SCRA



Servicemembers Civil Relief Act

- Intended to postpone or suspend certain civil obligations to enable service members to devote full attention to duty and relieve stress on the family members of those deployed service members.
- 50 U.S.C. App. §§ 501—597b

FTC – Red Flags Rule

- Red Flags Requirements for Financial Institutions
 - Require financial institutions to develop and implement written identity theft prevention programs as part of the Fair and Accurate Credit Transactions Act of 2003.
- Each institution must develop and implement a written identity theft prevention program designed to detect, prevent, and mitigate identity theft in connection with new or existing accounts.
- Passed January 1, 2008 – Effective December 31, 2010
- <https://www.ftc.gov/tips-advice/business-center/privacy-and-security/red-flags-rule>



Gramm-Leach Bliley Act (GLBA)

- **GLBA:** a federal law that requires financial institutions to explain how they share and protect their customers' private information.
- To be GLBA compliant, financial institutions must:
 - Communicate to customers how they share the customers' sensitive data
 - Inform customers of their right to opt-out if they prefer that their personal data not be shared with third parties
 - Apply specific protections to customers' private data in accordance with a written information security plan created by the institution
 - Take steps to ensure that their affiliates and service providers safeguard customer information in their care
- FTC 16 CFR PART 314 - Standards for Safeguarding Customer Information (Effective 5/23/03)
- FTC seeking comments on proposed amendments (3/5/19)
 - Future FSA Audit Requirement!
 - <https://www.ftc.gov/policy/federal-register-notices/16-cfr-part-314-standards-safeguarding-customer-information-0>



Other Fun Stuff



General Data Protection Regulations (GDPR)

- EU General Data Protection Regulations
 - Effective May 25th 2018
 - Even an organization that is not established within the EU can be caught by GDPR if it processes personal data of data subjects who are in the European Union where the processing activities are related "to the offering of goods or services."
 - Aiming to create more consistent protection of consumer and personal data across EU nations.
 - Companies that fail to achieve GDPR compliance are subject to stiff penalties and fines.
 - <https://gdpr-info.eu/>



Rehabilitation Act

- Section 508
 - Congress amended the Rehabilitation Act of 1973
 - Requirement for federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities.
 - Voluntary Product Accessibility Templates (VPATs)



Family Education Rights & Privacy Act

- Federal Family Educational Rights and Privacy Act of 1974
 - 20 U.S.C. §1232g et. seq.
- FERPA gives parents access to their child's education records, an opportunity to seek to have the records amended, and some control over the disclosure of information from the records.
- With several exceptions, schools must have a student's consent prior to the disclosure of education records *after that student is 18 years old.*



Telephone Consumer Protection Act (TCPA)

- The Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*
 - Primary law governing the conduct of calls using automatic dialing systems
 - Think about cell phones in 1991 when this became law
 - Significant penalties for non compliance
 - TCPA applies to all entities – not just collection agencies
 - Only law that applies to both 1st party and 3rd party
- Obtain Prior Express Consent – oral or written



Equal Credit Opportunity Act (ECOA)

- Equal Credit Opportunity Act - Regulation B
 - 15 U.S.C. §1691 et seq.
- Makes it unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status or age.



Resources

CFPB

www.consumerfinance.gov

IFAP

www.ifap.ed.gov

FSA Cybersecurity Compliance

<https://ifap.ed.gov/eannouncements/Cyber.html>

TRACKING BILLS

www.govtrack.us

COHEAO

www.coheao.org

ACA

<http://www.acainternational.org>

NACUBO

<http://www.nacubo.org>



Contact Information

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Questions...

