



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

January 21, 2016

Jedd Bellman  
Assistant Commissioner  
State of Maryland  
Department of Labor, Licensing, and Regulation  
Office of the Commissioner on Financial Regulation  
500 North Calvert, Street, Suite 402  
Baltimore, MD 21202

Re: Student Loan Servicers

Dear Mr. Bellman:



In your December 30, 2015 letter to the Secretary of Education, you requested the Department of Education's thoughts or comments as to whether third-party student loan servicers collecting on behalf of the Department under the Direct Loan program are subject to the Maryland Collection Agency Licensing Act ("MCALA"), Annotated Code of Maryland, Business Regulations Article Section 7-101, et seq.

The Department contracts with a number of entities that perform servicing activities related to non-defaulted student loans held by the Department ("loan servicers"). Those loan servicers perform various activities on behalf of the Department related to loans made under three loan programs: the Federal Family Education Loan Program, title IV, part B of the Higher Education Act of 1965 ("HEA"), as amended; the Federal Direct Loan program, title IV, part D of the HEA; and the Perkins Loan program, HEA title IV, part E. The loan servicing contracts are publically available at the following website: <https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/loan-servicing>.

Loan servicers perform a variety of functions. For example, they assist borrowers to select repayment plans, send monthly bills to borrowers, process requests for deferment or forbearance of repayment, respond to correspondence from borrowers, and process applications for loan discharge or consolidation. Servicers also report information about loans to credit reporting agencies and send letters and make other contacts with borrowers who have missed payments to remind them of their obligations.

If a borrower defaults on his or her loan, the loan servicer transfers the loan to the Department's Debt Management and Collection System ("DMCS"). After the loan is transferred, the Department may refer it to one of a number of private collection agencies ("PCAs") under contract with the Department. Those contracts are available at: <https://studentaid.ed.gov/sa/about/data-center/business-info/contracts/collection-agency#>.

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PCAs perform functions specific to borrowers in default status, including negotiating repayment schedules with borrowers, assisting borrowers with rehabilitation and consolidation of their loans, and recommending that the Department pursue administrative wage garnishment or litigation against borrowers who meet criteria specified by the Department.

Neither loan servicers nor PCAs are authorized to file suit against borrowers. Instead, the U.S. Department of Justice files collection actions on behalf of the Department.

The MCALA generally regulates persons doing business as collection agencies in the State of Maryland. See BR § 7-301(a). As relevant to loan servicers and PCAs, MCALA provides that the term “Collection agency” means “a person who engages directly or indirectly in the business of: (1)(i) collecting for, or soliciting from another, a consumer claim.” BR § 7-101(c)(1)(i). Collection agencies are subject to supervision and licensing by the State Collection Agency Licensing Board.

If the State determines that loan servicers or PCAs are “collection agencies” under MCALA, the Department does not believe that the State’s regulation of those entities would be preempted by Federal law. Further, such regulation would not conflict with the Department’s contracts with those entities, which provide generally that loan servicers and PCAs must comply with State and Federal law.

We hope that this information is helpful. If you have questions or would like additional information, please contact me at [REDACTED] or [REDACTED]

Sincerely,



Vanessa A. Burton

Attorney

Division of Postsecondary Education