NCLC®
NATIONAL CONSUMER LAW CENTER®

SLBA Student Loan Borrower Assistance

FOR IMMEDIATE RELEASE:
September 3, 2014

Contacts: Persis Yu, pyu@nclc.org or
Jan Kruse jkruse@nclc.org, 617-542-8010

Report: Student Loan Borrowers Lose in Department of Education Partnership with Private Debt Collectors

Download the report with borrower stories, charts and tables, and U.S. Department of Education documents regarding its use of private debt collection agencies obtained through NCLC's Freedom of Information Act lawsuit at: http://tinyurl.com/ngdabp8

(BOSTON) *Pounding Student Loan Borrowers: The Heavy Cost of the Government's Partnership with Debt Collection Agencies*, a report produced by NCLC's Student Loan Borrower Assistance Project, finds that the U.S. Department of Education heavily favors high pressure student loan collection and debt collector profits to the detriment of millions of financially distressed borrowers seeking help. "The government's use of debt collection agencies is short sighted in that promoting paths to success for struggling borrowers, especially those who are low income, is ultimately less costly for taxpayers than hammering them with the rest of their lives with draconian collection tools," says National Consumer Law Center attorney and co-author Persis Yu.

Key Findings

The Collection Agency Contractor System Costs Taxpayers Billions and Sets Up Conflicts
The Department of Education estimates that in 2014, taxpayers and student loan borrowers will pay over $1 billion in commissions to private student loan debt collectors, growing to over $2 billion by 2016. Low-income borrowers are especially harmed because the government often seizes benefits, such as the Earned Income Tax Credit, that are aimed at promoting economic mobility. Additionally, the Department hires debt collectors not only to collect on student loan debt, but also to communicate with borrowers about options to help borrowers address and resolve the debt, creating a conflict of interest.

Government Incentives Drive Collection Agency Behavior
Changes made to the compensation system in July 2012 demonstrate that the options collection agencies offer to borrowers are driven by the fees the government pays, not by the law. Loan "rehabilitation" is an important way for a student loan borrower to get out of default. Before July 2012, the government paid a much higher fee to a collection agency that arranged for a loan rehabilitation that required payments that did not take the borrower's income into account than for one that did. Even though borrowers have long been entitled to more affordable rehabilitation payments based on the borrower's financial circumstances the government's collection agencies almost never arranged them until the government equalized the fee structure in July 2012. ***Bottom line: money, not the law, drives collection agency behavior.***

Government's Private Collection Agency Evaluation System Harms Borrowers
The Department rewards collection agencies based on the total amount of money collected from student loan borrowers, regardless of the harm caused to borrowers and regardless of legal compliance. Ironically, this same system, which lets collection agencies break the law without consequence, imposes severe consequences on borrowers when they get into trouble and fall behind on their payments. The Department evaluates its collection agencies with a metric called the Competitive Performance and Continuous Surveillance (CPCS) score. The Department uses the CPCS score to determine the allocation of new accounts, instilling fierce competition among contractors for hundreds of millions of dollars in commissions. The three contractors with the highest score receive additional performance compensation which can add up

to several million dollars a year for the top contractor. NCLC found the following problems with the Department's evaluation system:

- There is no relationship between the Department's scores and the volume of borrower complaints about a collection agency's tactics;
- The Department has never deducted points from a collection agency for complaints;
- The Department failed to use the performance category that incorporates borrowers' experiences; and
- The Department has given collection agency NCO Group, Inc. the highest rank several times in recent years, despite NCO's legal troubles with federal and state regulators

Oversight of Debt Collectors Is Inadequate and Violation of Federal Law Is Widespread
In 2014, separate reports by the U.S. Government Accountability Office (GAO) and the Department's Office of the Inspector General found that Department of Education oversight of its collection agencies was insufficient. Specifically, the Inspector General found that the Department's Federal Student Aid office failed to monitor borrower complaints against its collection agencies and it neglected to take corrective action against those agencies when they did not improve. As a result of its inadequate supervision, the Department of Education's Federal Student Aid office failed to ensure its collection agencies abided by federal debt collection laws and the terms of their contractual agreements. The government's use of private collection agencies is also incompatible with the equal access goals of the Higher Education Act and the goal of giving borrowers fresh starts.

Key Recommendations

1. **Eliminate the use of private collection agencies and move toward a comprehensive and individualized counseling model.** In deciding how to work with borrowers in default, the Department should study alternatives and create pilot projects with empirical research to test these options. The goal of this model should be to match the borrower with the right program based upon his or her circumstances, not just to collect the most money for the Department.

2. **Reform the debt collection agency evaluation system so that performance is about more than dollars collected.** The evaluation system should ensure that government contractors follow the law and act in the best interest of student loan borrowers.

3. **Congress and the President should improve the Department of Education's oversight of collection agencies and require the Department to make public information about how performance is tracked and the results**. The Department's Office of the Inspector General and the Government Accountability Office (along with Congress and the general public) should continue to monitor the Department's oversight.

4. **Improve transparency and provide public information about the private debt collectors' performance, including complaints and any investigations or disciplinary actions taken against private debt collectors and the cost of outsourcing to them.**

5. **Improve the complaint system so that student loan borrowers can easily file complaints about collection agencies.** The Department should follow the lead of federal agencies, such as the Consumer Financial Protection Bureau, and create user-friendly complaint systems with easy to find instructions and contact information.

###

Since 1969, the nonprofit **National Consumer Law Center**® (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. **www.nclc.org**

NCLC's **Student Loan Borrower Assistance Project** provides information about student loan rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens, and make loan repayment more manageable. **www.studentloanborrowerassistance.org**