

U.S. Department of Education's Plan to Protect Servicers and Debt Collectors that Lie to Borrowers

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Boston - The U.S. Department of Education's announcement that federal law preempts state efforts to stop unfair and deceptive actions by federal student loan servicers is merely a flawed attempt to shield servicers and debt collectors from the consequences of their illegal actions, according to advocates at the National Consumer Law Center.

"The Education Department's purported guidance is contrary to recent court decisions in Massachusetts and Washington and is an outrageous effort to protect unfair and deceptive actions by student loan servicers and to deprive borrowers of their right to prompt, accurate, and timely service on their student loans," **said Persis Yu, staff attorney and director of the National Consumer Law Center's Student Loan Borrower Assistance Project.** "Servicers and collectors who mistreat student loan borrowers and steer them into inappropriate payment plans should not be above the law," she added.

The Department's guidance (see page 16) states that "State servicing laws [that] attempt to impose new prohibitions on misrepresentation or the omission of material information ... run afoul" of federal law. "The idea that stopping misrepresentations conflicts with federal law or is too costly to taxpayers should be taken as a slap in the face to the 43 million taxpayers who also owe federal student loan debt," **Yu stated.**

It is well established that the Higher Education Act does not "preempt the field"—in other words, it does not override state laws that provide additional protection to student loan borrowers, as long as those laws do not actually conflict with federal law. The Conference of State Bank Supervisors wrote in a letter to Education Secretary Betsy DeVos that the effort to override state protections "runs counter to the Congressionally mandated state federal balance in financial regulation and exceeds the Department's authority."

"States have a critical role to play in protecting student loan borrowers. With the Education Department inappropriately siding with servicers over borrowers, the role of states is now more critical than ever," Yu said.

Related Links

- NCLC Letter in Support of An Act Establishing A Student Loan Bill of Rights (Massachusetts S129), July 18, 2017
- NCLC Comments to CFPB on Proposal to Collect Student Loan Servicing Data (Federal and Private), April 24, 2017
- NCLC, Pounding Student Loan Borrowers: The Heavy Costs of the Government's Partnership with Debt Collection Agencies, 2014