



# **NEW YORKERS FOR RESPONSIBLE LENDING**

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Testimony by  
Carolina Rodriguez  
New Yorkers for Responsible Lending  
Student Loans Workgroup Co-Chair

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## **Introduction**

Thank you for the opportunity to submit testimony for the Legislative Joint Budget Hearing on Higher Education.

My name is Carolina Rodriguez. I am the Student Loans Workgroup Co-Chair for New Yorkers for Responsible Lending, a statewide coalition of more than 160 organizations across New York State that promotes economic justice. My testimony will focus on four issues: the need to pass the Consumer and Small Business Protection Act; end the practice of transcript withholding across all higher education institutions; ensure private student loan borrowers get increased consumer protections; and funding the Education Debt Consumer Assistance Program.

## **It is Essential to Pass CSPA to Protect Student Loan Borrowers and Consumers from Unfair and Deceptive Business Practices**

NYRL's key policy priority is to pass the Consumer and Small Business Protection Act (A2495A/S6414), commonly referred to as CSPA. In summary, this bill would bring New York State in par with 39 other states in increasing consumer protections by reforming our general business law and banning not only deceptive business practices, but also unfair and abusive practices. Passing this bill is imperative as more New Yorkers struggle to deal with the economic impact from COVID, and without a ban on unfair, unlawful, and abusive acts and practices, bad actors can avoid consequences for taking advantage of consumers as long as they do not expressly lie to them. As a result, honest companies are at a competitive disadvantage for treating their customers fairly.

In the student loans arena, this means that student loan servicers would be finally held accountable for steering consumers into the most expensive repayment plan options or into forbearances. It would mean that borrowers would not need to wait to have their Attorney General sue businesses, like Navient, to receive immediate relief and prevent more borrowers from falling victims of unscrupulous practices. Passing CSPA should not be controversial because it essentially brings New York into parity with these other states, and with the federal standards at the Federal Trade Commission and the Consumer Financial Protection Bureau.

Below are some case examples that would have provided relief to borrowers if CSPA was the law in New York:

*A self-employed woman in her early 60s became concerned about her student loan debt becoming unmanageable. A closer look at her loan history showed that her servicer had steered her into forbearances for years instead of offering more favorable repayment options. Her total debt had doubled. Due to her age and the fact she will be retiring in a few years, her options for relief are limited. This legislation would enhance her ability – and that of others in her situation – to hold the student loan servicer accountable.*

*A single mother, who had good credit and no debt, started a degree program at a local community college. She was then lured away from this college to attend a supposedly fast-tracked program at a private school and offered financial aid to complete it. But the promised aid did not really exist, forcing her to take out student loans to pay tuition and other fees. Eventually the program became too expensive, and she had to drop out. Unable to pay her loans, she defaulted, and the debt collector withheld critical information about her options. She was left with no degree, student loans, her credit ruined, and no way to address the harm done by the debt collector's deceptive practices*

### **An Equitable New York Requires That New York State Ban the Practice of Transcript Withholding Across All Higher Education Institutions**

NYRL urges the legislature to support A6938A/S5924A which would ban the practice of transcript withholding across higher education institutions in New York State. Higher education institutions withhold a student's transcript to collect debt students may owe directly to a school.<sup>1</sup> But withholding a student's transcript is just the last of many tools available to schools looking to recoup monies owed to them and an ineffective one at that. Institutions use standard debt collection practices available to all private debt creditors with much more success. Students who fail to pay outstanding bills to colleges and universities face collection calls, negative credit reporting, re-enrollment denial, lawsuits, wage garnishment and bank restraints.

While the two major public higher education institutions in New York State—CUNY and SUNY—have officially banned the practice recently, we must ensure that all higher education institutions do so as well without undue delay. To do otherwise is to continue to put at risk New Yorkers' ability to resume or complete their education, which prevents them from achieving the upper economic mobility needed to have a livable wage. **To be clear, A6938A/ S5924A does not change an institution's ability to continue their standard debt collection practices.** The only thing it does is to eliminate one ineffective and extremely damaging collection tool that is adversely impacting first generation, minority, and lower-income college students.

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<sup>1</sup> Jon Marcus, Colleges are withholding transcripts and degrees from millions over unpaid bills, The Hechinger Report (Mar. 22, 2021), <https://hechingerreport.org/colleges-are-withholding-transcripts-and-degrees-from-millions-over-unpaid-bills>.

## **Private Student Loan Borrowers Need Increased Consumer Protections**

NYRL urges the legislature to support and pass A6226A/S5136A. This bill is essential to provide New York private student loan borrowers with the protections needed and to ensure that private student loan companies operate fairly and transparently.

An increasing number of New Yorkers are having to resort to private student loans to finance their higher education. Many of these borrowers are older adults co-signing on a student's debt, risking their own financial security in the process. Private student loans typically have less favorable terms and carry few safeguards when borrowers experience financial hardship. This situation puts the holders of these loans at greater risk for delinquency and default.

NYRL members have seen limitless consequences to private student loan borrowers at the hands of bad actors in this industry, large players as well as small. Millions of Americans, and thousands of New Yorkers, including those who manage to complete their education, struggle to repay these loans, which often come with onerous terms and hidden fees. This debt leaves them with the inability to move forward and obtain or maintain financial security. Below are some case examples highlighting the urgent need for this legislation:

*A grandmother had co-signed private student loans for two of her grandchildren. The student loan debt was preventing her from refinancing her home, which she needed to do to obtain a lower mortgage payment. She submitted a request to the lender to be released from the loans and was denied with little to no explanation. She felt betrayed because that same lender had informed her that she would be able to get released once her grandchildren finished school and started making payments. She was never informed about the specific co-signer release requirements and the fact that it is discretionary.*

*A young man had his mother co-sign a private student loan. His mother, a retiree, had to use part of her Social Security retirement to help make payments to avoid defaulting on the loans and ruining her credit. Because he had obtained a payment modification, his mother was not able to be released from the loan, which the lender never disclosed.*

*A client had a motorcycle accident that left him disabled. He was able to get his federal student loans discharged because of the disability but not his private student loans, which his father co-signed. Years later, they are both still dealing with this debt.*

A6226A/S5136A would create a comprehensive set of protections for private student loan borrowers, by establishing strong, fair ground rules that would ensure that private student loan companies and servicers treat borrowers and cosigners fairly. These include banning the auto-defaults in private student loans; allowing private student loan borrowers who become totally and permanently disabled to discharge their loans; requiring private student loan debt collectors to disclose certain information about the debt in the first communication with the borrower and/or cosigner and require debt collectors to have documentation verifying the debt before collecting or attempting to collect it, and more. NYRL views this bill as crucial to mitigate the burden and impact private student loan debt is having on New Yorkers.

## **There Is an Urgent Need to Fund EDCAP to Provide Free and Unbiased Consumer Assistance to Student Loan Borrowers Statewide**

NYRL urges the legislature to support the \$3.5 million funding request to expand the Community Service Society's Education Debt Consumer Assistance Program (EDCAP). In 2019 CSS launched EDCAP with funding from the New York State legislature to help tackle the serious problem of student debt in New York. Through its central helpline and one-on-one counseling and case management services, EDCAP assists individuals in navigating the student loan system.

EDCAP's objective is to ensure borrowers are taking full advantage of all options available to them including, the most affordable repayment plans, federal and state loan forgiveness and discharge programs, default cures and resolution of issues with servicers, lenders and debt collectors. What is unique about EDCAP is that it provides borrowers with an in-depth assessment of their financial situation, accounting for personal objectives, to help develop feasible short- and long- term solutions related to their student debt. Unlike other student debt relief programs that only counsel on student loan options without providing overall financial literacy, all EDCAP Financial Counselors can review and help repair credit reports; create a budget and set financial goals; and develop overall debt reduction plans. As a result, EDCAP becomes a one-stop shop for student debt, both federal and private, and other financial issues. Since its inception in 2019, EDCAP has helped hundreds of borrowers save more than \$2 million and has managed over \$38 million in student loan debt.

To meet the increasing demand for services and expand statewide, EDCAP needs \$3.5 million in this upcoming fiscal year. Governor Hochul has included \$3 million as a funding priority in her budget, and we ask the legislature to maintain its current appropriation of \$500,000 in FY23. Using a "hub-and-spokes" service delivery model with CSS as the "hub" and managing a centralized helpline, EDCAP will allocate most of its funding to community-based organizations (CBOs) and legal services groups throughout New York State to function as the "spokes" and provide consumers with the one-on-one student debt consumer assistance they need in their respective communities.

The need for EDCAP services cannot be understated. Student loan debt has reached \$1.7 trillion in the United States. In New York there are now close to 2.4 million borrowers that owe over \$98 billion combined. One million of those borrowers live in New York City, but the impact of this debt is far from equal. Delinquency and default rates show that low-income communities are bearing the brunt of the crisis: the Bronx (19%) and Brooklyn (15%), for example, have the neighborhoods with the highest rate of student loan delinquency.<sup>2</sup> Added to the complexity of the higher education financing and repayment system are three major events that are already increasing EDCAP's demand for services:

- the current moratorium on federal student loan payments, implemented due to COVID, will expire on May 1, 2022. The resumption of payments, even as borrowers continue to struggle with COVID-related pressures on their income, will increase the need for EDCAP to assist borrowers in managing their debt;

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<sup>2</sup> NYC Dept of Consumer Affairs (NYCDCA), Student Loan Borrowing Across NYC Neighborhoods (December 2017), available at <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/credit-conditions/student-loan-borrowing-nyc-neighborhoods.pdf>.

- about 35 percent of student loan borrowers will experience a servicer transition because major federal student loan servicers are exiting the market. This will surely result in added confusion and financial problems for loan holders as their accounts are transferred; and
- the federal government recently implemented changes to the Public Service Loan Forgiveness (PSLF) program to ensure more borrowers receive the relief promised. However, individuals only have until October 31, 2022, to take the steps necessary to receive relief under the new program modifications. New York has tens of thousands of public servants who could see their debt eliminated if they act on time.

## **Conclusion**

Higher education debt is having a devastating impact on New Yorkers. It is thus vital for New York State to intervene and support common-sense legislation to protect borrowers and provide them with the consumer assistance needed to address the burden of student loan debt.

If passed, CSPA would protect consumers and small businesses in general but also afford advocates additional tools to get fair outcomes on behalf of New Yorkers who fall victims of bad business actors. By banning the practice of transcript withholding across all higher education institutions, we will finally give students a fair shot at resuming or completing their education and attaining upper economic mobility. By affording consumer protections to private student loan borrowers, we will make sure that they do not end up in financial ruin and live in a state of stress because of this debt. Funding EDCAP means that borrowers in New York State will get the help they need to address their student loan debt and not live with this debt for longer than necessary.

Thank you for the opportunity to submit written testimony.