Complaints Soar Over Student-Loan Collections
Kelly Field

The first time Ronald L. Collier got a call from a debt collector, he was stunned. Mr. Collier, a retired minister who attended seminary in the 1980s and 90s, says he was sure he had paid off his student loans years earlier.

The next time a collector called, Mr. Collier argued that there had been a mix-up, that the debt was actually his son's. Ronald L. Collier Jr., he explained, had dropped out of mortuary school in the 90s.

The third and fourth times--and nearly every time since--he ignored the call or hung up. These days, four years after that initial call, his phone rings several times a day, starting at 8 a.m. and lasting until 9 at night. Once he got a message that simply said, "We know you're there." "You feel powerless, completely powerless," says Mr. Collier, who turned 70 last month.

Over the past five fiscal years, the number of complaints filed against agencies collecting on behalf of the U.S. Department of Education has grown by 45 percent, according to data obtained by The Chronicle. The Federal Trade Commission, which oversees the entire industry, received 142,743 complaints involving debt-collection companies last year, though only some involved student loans.

Consumer advocates blame the rise in complaints on weak federal oversight and corporate greed. They complain that the federal government doesn't do enough to curb abuses generally, and that the Education Department's pay structure encourages collection agencies to demand stiff payments even when the debtor qualifies for a lower amount.

The critics support efforts by the government's new Consumer Financial Protection Bureau to step up federal supervision of the debt-collection industry. And they want the Education Department to change how it pays collection agencies.

"The focus has been on dollars collected and not on borrower rights," says Deanne Loonin, a lawyer with the National Consumer Law Center. "They don't tell people to break the law, but they have an incentive system that may lead people to do that."

During the past fiscal year, which ended on September 30, the department's 23 contractors took home $346-million in commissions and millions more in bonuses.

The department says it takes its oversight role seriously and strives to strike a balance between helping distressed borrowers and recovering taxpayer dollars.

Sallie Mae, which owns Mr. Collier's loan as well as the collection agency that has been calling him, says it follows federal and state laws when collecting on student debts. A company spokeswoman says there's no evidence that Mr. Collier is being pursued over his son's debt, and suggests that he consider rehabilitating his loan to clear his credit. "We have helped thousands of student loan customers in default get back on track to fulfill their obligations," the company said in a statement.

The White House, meanwhile, wants to make it easier for debt collectors to contact borrowers like Mr. Collier on their cellphones. In a deficit-reduction plan released last fall, President Obama proposed letting collectors use automated dialing to call delinquent debtors' cellphones, a method they already use to call land-line phones. A spokeswoman for the Office of Management and Budget said the provision would help the government recover millions of dollars in overdue student-loan debt.

More than $73-billion in federal student loans are in default. Last year collectors recovered only 20 percent of the defaulted student-loan volume, and only 11.5 percent of the money owed to the Education Department.

Federal Oversight

Until recently the task of enforcing federal debt-collection law fell largely to the Federal Trade Commission. That changed in the wake of the 2008 financial meltdown, when Congress created the Consumer Financial Protection Bureau. Now both the commission and the bureau have the authority to take action under the Fair Debt Collection Practices Act, a 1977 law that prohibits deceptive, unfair, and abusive collection tactics and places limits on when and how debtors can be contacted. In January the two agencies signed a memorandum of understanding in which they pledged to share consumer complaints and coordinate law-enforcement and rule-making efforts.

Last year the trade commission brought or resolved seven cases against debt-collection companies, its highest number ever. Two of the cases resulted in civil penalties of $2.5-million or more, a record amount. Both cases involved contractors that worked for the Education Department, among other clients, but the department says neither involved student loans.

Still, the cases represent only a tiny fraction of the cases contained in the commission's database, which includes complaints forwarded from state attorneys general, a handful of police departments, and dozens of better-business bureaus. Borrower advocates say the commission typically acts in only the most egregious of cases, when there is a well-established pattern of abuse.

Richard Cordray, director of the new consumer-protection bureau, says the government needs the power to stop such abuses earlier. He wants his agency to have the authority to monitor debt collectors continuously, not just when they are accused of breaking a law. In February he announced a proposed rule that would make collectors with more than $10-million in annual receipts subject to the bureau's supervision. "Debt collectors have gone unsupervised by the federal government for too long," he said at a news conference.

The rule would give the agency oversight over most, and possibly all, of the 23 collection agencies that work for the Education Department. Those agencies were the subject of 5,411 of the complaints filed with the trade commission last year, according to data obtained by The Chronicle through a Freedom of Information Act request, although not all of the complaints involved student loans.

The commission also gathers complaints against collection agencies working on behalf of banks and other lenders holding private student loans and federally backed student loans, but the commission doesn't report those loans separately.

Mark Schiffman, a spokesman for ACA International, an association of debt collectors, says the rise in complaints may be due in part to improvements in technology. The trade commission has a button on its home page that invites debtors to "Report it to the FTC"; there are also smartphone apps for filing complaints. He points out that consumer complaints are up across the board, not just against debt collectors.

"It's misleading to say that collection-related complaints are on the rise," he says. "We know they are, but it's happening in a wide variety of industries."

Taxpayers vs. Debtors

The Education Department, which maintains its own database of complaints, recorded 1,406 complaints against its contractors during the past fiscal year, up from 966 in 2007. The number represents less than a half of a percent of the 3.57 million accounts handled by the department's collectors in that year.

Consumer advocates say, however, that the number of complaints would be much higher if the department made it easier for borrowers to complain. Unlike the trade commission, the Education Department does not have an online complaint form.

According to the department's debt-collection manual, agencies are expected to forward complaints to the department within a day of receiving them. The department investigates each complaint and can take several actions when it finds problems, including taking accounts away from the agencies. More often, though, department officials ask the agency to retrain its collectors or develop an "action plan" to resolve the issue, a collaborative approach more common to business relationships than to oversight agencies.

If a complaint involves allegations of waste, fraud, or abuse, the department's inspector general may investigate the collection agency and refer the case to the Justice Department for prosecution. In one recent case, the government settled for $500,000 with a debt collector whose employees were accused of forging signatures on federal student-loan consolidations in order to receive bonuses from the company, NCO Financial Systems Inc. The guarantor, the New York State Higher Education Services Corporation, also agreed to return $451,000 it had received from the department as a result of the unlawful consolidations. (Though NCO collects loans on behalf of the federal government, the case did not involve government-held loans.)

The Education Department says it monitors a sample of 60 calls per contractor per quarter and is now reviewing the companies' call scripts and conducting site visits. It has 90 employees dedicated to call monitoring, complaint tracking, and performance reviews. But consumer groups say the department isn't doing enough.

Incentives for Abuse?

The Education Department evaluates and compensates collectors largely on the basis of how much they collect on defaulted accounts. Each quarter it ranks agencies according to a weighted average of dollars collected, accounts serviced, and number of "administrative discharges"--a category that includes loans forgiven in cases of borrowers' disability or death. The highest-ranked agencies receive the most new accounts when the department distributes them the following quarter; the top three performers also receive bonuses ranging from 1 to 5 percent of the amount they collected.

The rewards can be substantial, amounting to more than $1-million.

Under the current contract, 70 percent of an agency's ranking is determined by dollars collected. Customer service plays only a bit part. If a collector fails to deal with borrower complaints, the department can dock two points from its score, out of a possible 100.

Commissions are also tied to dollars collected. Collection agencies receive up to 20 percent of regular payments and up to 16 percent of the loan-payoff amount if they "rehabilitate" a loan, getting a borrower to make nine on-time payments toward a debt. Defaulted borrowers who rehabilitate their loans have their credit histories cleared and become eligible for new federal student aid.

But the collection agencies' compensation comes with strings. To qualify for the rehabilitation money, for example, collectors must persuade borrowers to pay 0.76 percent to 1.29 percent of the loan balance each month, depending on the size and type of loan. If the payments fall below those percentages, the collector gets only a $150 administrative fee, instead of a percentage of the payoff amount.

Borrower advocates and lawyers say that differential drives collectors to demand payments pegged to the percentages, regardless of a borrower's ability to pay. Joshua Cohen, a lawyer in Hartford, Conn., says collectors either won't tell low-income borrowers that they are eligible for an income-based payment plan or will insist on the minimum percentage. "They're literally stopping my clients from rehabbing," he says.

Juanita Hart, a single mother who works in medical billing, is among those clients. She says collectors have insisted that she pay $277 a month, ignoring her pleas for a more-manageable sum. Ms. Hart, who lost her home and two pets in Hurricane Irene last summer, says she lives off $100 to $150 a week after covering the cost of rent and life and health insurance. Mr.

Cohen, her lawyer, estimates that she would qualify for a $65 payment under income-based repayment.

"I am willing to pay--just work with me," says Ms. Hart, who is 44. "I don't think they understand. Or maybe they do, and I'm just a number."

Once, she says, she commented to a collector that she would be worth more dead, given her life-insurance policy. Laughing, he replied, "You should probably take care of that, then." Diversified Collection Services, the contractor that Mr. Cohen says is collecting on her loan, did not return calls seeking comment.

New Rules

Herman De Jesus, a senior program associate with the Neighborhood Economic Development Advocacy Project, in New York City, says some collection agencies ignore the department's requirement that they base rehabilitation payments on borrowers' "total financial circumstances."

"They'll tell folks that this is the minimum, that they can't go below this threshold or it won't count toward rehabilitation," he says.

In other cases, collectors don't tell clients that they can consolidate their loans and bring them out of default. Or, if they do mention consolidation, they "will make it seem like it's the worst option under the sun," Mr. De Jesus says. Under the department's contract, collectors receive only a 2.75-percent commission for loan consolidations.

Chris Greene, a spokesman for the Education Department, says it is considering changing its commission structure to ensure that collectors are "resolving defaults in a way that better balances the rights of the borrower while protecting taxpayer resources."

The department has also agreed to bar collectors from basing rehabilitation payments on borrowers' loan amounts.

Under the new rules, collectors will have to use a standard form to collect information about borrowers' income and expenses. If a borrower objects to the resulting payment, the collector will be required to offer an income-based alternative.

Ms. Loonin, the consumer-advocacy lawyer, fought for the change as a member of the committee that crafted the new rules. She says the changes will go a long way toward protecting borrowers in default.

Still, she sees the department's continued focus on dollars collected as "shortsighted." More emphasis on customer service, she argues, would benefit both borrowers and taxpayers in the long term.

"If borrowers are treated properly and put into payments they can truly afford, then they're going to succeed and continue to pay their loans," she says. "And that's better for taxpayers, too."

Mr. Collier, meanwhile, is combing through boxes of old documents, searching for proof that he paid the loan. He's hired a lawyer to help him but doubts that he could manage the $15,000 that it would take to file a lawsuit disputing the debt.

Complaints Show Anger With Collectors' Methods

Last year the FTC received 142,743 complaints against debt collectors. Following are the top categories of complaints (complaints can fall into more than one category).

Collector made repeated calls: 40.4 percent

Collector misrepresented character, amount, or status of debt: 39.6 percent

Collector threatened illegal or unintended action against borrower: 30.2 percent

Collector failed to provide written notice of the debt: 26.2 percent

Collector falsely threatened borrower with arrest or property seizure: 23 percent

Source: Federal Trade Commission

Complaints Against Debt Collectors Jump

Over the past five years, complaints against debt collectors have risen significantly. Complaints filed with the U.S. Department of Education against the 23 companies that collect on federal student loans are up 45 percent; complaints filed with the FTC against those companies have increased by 28 percent, though not all involve student loans.

	Ed Dept	FTC
2007	966	4,217
2011	1,406	5,411

SOURCES: FEDERAL TRADE COMMISSION; U.S. DEPARTMENT OF EDUCATION

Ronald Collier, 70, has been getting calls from collection agencies nearly every day for four years, he says. He had students loans from the 80s and 90s but says he paid them off: "You feel powerless."

Fonte: Chronicle of Higher Education, 11 May 2012, Vol. 58 Issue 36, pA3-A4, 2p. [Base de Dados]. Disponível em: < http://web.ebscohost.com/ehost/detail?vid=3&hid=7&sid=973d6f3e-f1eb-4a25-96769bdad89ac0e0%40sessionmgr10&bdata=Jmxhbmc9cHQtYnImc2l0ZT1laG9zdC1saXZl#db=tfh&AN=75194744>. Acesso em: 30 May 2012.