

LEGAL UPDATES

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Transcript Withholding and Debt Collection: Colleges and Universities Losing Some Leverage under Trending State Laws

Update: On September 29, 2022, the Consumer Financial Protection Bureau issued Supervisory Highlights Student Loan Servicing Special Edition, finding that blanket college and university policies of withholding transcripts from students ‘in connection with an extension of credit are abusive under the Consumer Financial Protection Act.’ Institutional lenders were directed to cease the practice.

In the past, it has been common for an institution of higher education to withhold a student’s transcript when the student had outstanding liability to the school. Bankruptcy and various loan collection laws have long placed some parameters around schools’ ability to do so. A swiftly growing crop of new state laws is taking restrictions a step further, often limiting or halting the practice altogether.

California was the frontrunner, passing its law in October 2019. New York, Illinois, Colorado, Ohio, Oregon, Washington, Louisiana, and Minnesota followed suit. Legislation is pending in several other jurisdictions, including Massachusetts, Virginia, New Jersey, Rhode Island, and Connecticut. Many of these laws place other restrictions on schools, such as the added limitation on credit reporting that appears in the Illinois law.

The Consumer Financial Protection Bureau (CFPB) took issue with transcript withholding in an April 2022 blog post. (The post cross-references a January 2022 CFPB announcement that was cited with approval by the U.S. Department of Education in March 2022.) The CFPB announced that it will begin scrutinizing college and university institutional loan programs. The

CFPB commented, “Particularly because schools have not historically been subject to the same servicing oversight as other lenders and servicers, the CFPB is concerned about students’ experience with institutional loans and the unique debt collection actions that only schools can take against their students.”

Legislators and the CFPB have suggested that these evolving rules are intended primarily to support students as they attempt to complete their educations or secure employment—efforts that often require access to transcripts.

What this means to you

As legislators and regulators remove mechanisms like transcript withholding from school toolboxes, colleges and universities can take other measures to support payment. These include initiatives like using financial responsibility agreements and formal institutional student loans (which are protected from bankruptcy discharge in some circumstances). Regardless of approach, colleges and universities should comply with the array of relevant federal and state laws and ensure they provide clear, accurate information to students about their accounts, indebtedness, obligations, and consequences for failure to pay.

Contact us

Your Husch Blackwell Education and Consumer Financial Services attorneys are tracking transcript withholding and debt collection legal developments. For assistance with these or other student finance considerations, please contact Anne Cartwright, Marci Kowski, Claire Hawley or your Husch Blackwell attorney.