



# NEWSLETTER

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## SENATOR KENNEDY QUESTIONS COLLECTION TACTICS

- BROOKE HEATH

Last week, Senator Edward Kennedy (D-MA) announced that he had sent letters to the CEOs of Sallie Mae and Nelnet regarding the tactics they use in their collection processes. Senator Kennedy, who is also Chairman of the United States Senate Health, Education, Labor, and Pensions Committee, said that many of the tactics used by the companies in question are prohibited by federal law and regulations.

According to the *Washington Business Journal*, Kennedy says his office has acquired information suggesting that Sallie Mae may have implemented the following tactics in its collection process:

- Attempting to collect debts not owed.
- Firing employees who attempt to help borrowers obtain correct information about their loan status.

- Instructing employees to give borrowers "the run around" rather than providing them with correct information on their loan status.
- Intentionally sending loan-payment notices to an incorrect address to force a borrower's account into default.
- Telling a borrower's spouse that the borrower would go to jail if he didn't pay—a blatantly false assertion.
- Putting a borrower who lost his home in a natural disaster into default, adding substantial default and collection fees to his loan balance, taking tax refunds, and garnishing his wages—all in violation of guidance from the Secretary of Education.
- Regularly calling borrowers at work after being instructed to stop.
- Using abusive and profane language to intimidate borrowers.

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## ARIZONA SUPREME COURT WILL RULE ON CASE AGAINST TUITION INCREASES

- BROOKE HEATH

Last week, the Arizona Supreme Court agreed to hear a case filed by former University of Arizona students who claim that tuition increases for in-state students are unconstitutional. The lawsuit against the Arizona Board of Regents was initiated after a \$1,000 tuition raise in 2003 increased in-state tuition by nearly 40%.

The former students claim that this tuition increase was in direct violation of the state's constitutional mandate, which states that "university and all other state educational institutions shall be as nearly free as possible," according to the *Arizona Daily Wildcat*.

The board of regents approved the tuition increase in 2003, claiming that it was required to help offset rising costs and provide additional financial aid to students.

"Part of that capacity is to ensure that enough financial aid is available to students who

can't afford higher tuition rates," said Nancy Tribbensee, general counsel for the Arizona University system and a staff member of the Arizona Board of Regents.

But according to John Kromko, one of the four former University of Arizona students who initiated the lawsuit, the money was not only used to improve education directly but also for scholarships, research, and building construction.

"It's right to give scholarships, but it's not right for university students to pay for those," he said. "The regents and the universities have not taken any steps to ensure that tuition is as low as possible."

A court determined in November that the students were allowed to take legal action against the board of regents regarding their choice to raise tuition. The board of regents

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then disputed the outcome and appealed to the Supreme Court. The court has yet to determine whether the board of regents can, indeed, be sued for the tuition hikes.

"Now it looks like it's finally going to get decided," said Kromko. "I think this is a vital state matter that really needs to

*Senator Kennedy Questions Collection Continued from page 1*

In his letter to Tim Fitzpatrick, CEO of Sallie Mae, Kennedy wrote, "I am concerned that several private lenders may be engaging in harsh and inappropriate tactics with regard to borrowers whose payments are overdue."

According to the press release issued by the Senator's website, Kennedy also notified Michael S. Dunlap, CEO of Nelnet, Inc., that he had received information indicating that Nelnet was

be decided by the Supreme Court."

If the Arizona Supreme Court does rule that it is lawful to sue the regents, the initial case will be reconsidered by the trial court. However, if the Supreme Court decides that the board of regents cannot be sued for the increase in tuition, the case will die.

utilizing the following practices:

- Refusing to provide loan and payment history information to defaulted borrowers.
- Inappropriately consolidating a borrower's loans without the borrower's consent.

In both letters, Kennedy requested the two CEOs' cooperation in providing information and documentation on their companies' collection procedures and policies concerning federal student loans.

## NEWS IN BRIEF

### **CUOMO TESTIFIES REGARDING INVESTIGATIONS, CRITICIZES DEPARTMENT OF EDUCATION**

Testifying regarding his investigations into the student lending industry, New York Attorney General Andrew Cuomo spoke before the United States House of Representatives' Committee on Education and Labor. Cuomo criticized the Department of Education for taking a lackluster stance on issues relating to the student lending industry. He said that dishonest lending practices have persisted over the years in part "because the U.S. Department of Education has been asleep at the switch." Cuomo also hinted at possible criminal charges against financial aid administrators involved in "kickback schemes." Cuomo used harsh words in his speech and claimed he had discovered institutions engaging in controversial practices such as sharing revenue with lenders based on loan volume. He spoke of finding conflicts of interest connected with colleges' selections of preferred lenders as well as discovering that some financial aid officials held stock in loan companies to which they referred students. The attorney general stated that he was examining relationships between credit card companies and college students. In a separate development, Johns Hopkins University agreed to adopt Cuomo's code of conduct. The university will also end its use of preferred lender lists.

### **SPELLINGS FORMS TASK FORCE TO EXAMINE LENDER ISSUES**

Formed by U.S. Secretary of Education Margaret Spellings, a federal task force will examine student lending issues. The task force will look into matters such as the provision of

kickbacks to schools for including lenders' names on preferred lender lists. It will also focus on prohibited inducements and the National Student Loan Data System (NSLDS), which has allegedly been mined by lenders for student information. The internal task force includes officials from the Department of Education's Office of Postsecondary Education and Office of the General Counsel, as well as Federal Student Aid. Spellings has directed the team to "review and build on the negotiated rulemaking committee's work" and report back to her by May 31 with recommendations for new regulations.

Although Sen. Edward Kennedy commended Spellings' move, U.S. Rep. George Miller was not so pleased; he said Spellings should do more than form a task force and insisted that she temporarily ban the use of preferred lender lists.

### **MCKEON INTRODUCES FINANCIAL AID ACCOUNTABILITY AND TRANSPARENCY ACT**

Rep. Howard P. McKeon, senior Republican on the House Education and Labor Committee, has introduced the Financial Aid Accountability and Transparency Act. The new act is slated to delineate a code of conduct barring financial aid officers from receiving perks from lenders. If passed, the act would require colleges to disclose how they select their preferred lenders. McKeon's legislation would also require schools to disclose to students why they participate in the government's direct lending program. Earlier this year, McKeon introduced a bill that proposed providing parents and students with better disclosure of college costs. McKeon stated that the financial aid system exists to serve students

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and that more accountability in the industry would soon restore students' trust in its vital programs.

## **NASFAA APPROVES RESOLUTION FOR CODE OF CONDUCT**

The National Association of Student Financial Aid Administrators (NASFAA) has passed a resolution to develop a code of conduct for financial aid officials. The organization will outline regulations that will explain to its members and their institutions how to meet the guidelines of the NASFAA "Statement of Ethical Principles." The resolution, which was

approved by the NASFAA board of directors during its April 21–23 meeting, also stated that NASFAA itself would review its relationships with lenders as well as take measures to alter its policies and practices and ensure that it abides by the "Statement of Ethical Principles." The resolution establishes a procedure for informing, educating, and advising financial aid officers on how to abide by the NASFAA code of conduct. It also calls on members to review their institutions' current practices, ensuring that financial aid decisions, especially those involving educational loans, are free from bias and conflicts of interest.