



The Student Loan Borrower Assistance Project (SLBA) is a program of the [National Consumer Law Center](#) (NCLC).

POLICY BRIEF

Equity for Government Student Loan Borrowers: Access to Justice for Student Loan Borrowers

Background

Courts have consistently held that there is no private right of enforcement under the Higher Education Act (HEA). In case after case, borrowers, often without the benefit of legal counsel, are unable to enforce their rights.

Congress has created many new and improved options for federal student loan borrowers. Congress and the Administration are also working hard to ensure that loan holders provide quality servicing and collection services. Servicers that do not comply with the law could be eliminated from future student loan contracts. These changes should lead to much-needed improvements, but what about relief for the borrower when the loan holder does something wrong? For example, what if the lender, guaranty agency, or school refuses to discuss loan rehabilitation even when a borrower clearly has a right to such a plan? Currently, the borrower can complain to the Department of Education. Given documented problems with the Department's oversight, this is less than a complete solution even for those borrowers who persist and manage to speak to someone at the Department. Beyond complaining to the Department, it is virtually impossible for a borrower to enforce her rights.

The lack of private enforcement shuts the door on borrowers seeking to access programs that they are entitled to under the Higher Education Act. This glaring problem also undermines the effectiveness of such new programs as income-based repayment because loan holders and servicers are not held accountable when they fail to comply with the law.

Recommended Action

Congress should specify that borrowers and other parties with standing have a private right of action to enforce the HEA.

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