

**Testimony of Commissioner Lorelei Salas
New York City Department of Consumer Affairs**

**Before the
New York City Council Committee on Consumer Affairs and Business Licensing**

**Hearing on
Introduction 52-2018**

October 25, 2018

Good morning Chairman Espinal and members of the committee. My name is Lorelei Salas and I am the Commissioner of the New York City Department of Consumer Affairs (DCA). I would like to thank the committee for the opportunity to testify on Introduction 52-2018 (Intro. 52), a bill that would prohibit companies from charging a fee for student debt relief already provided without charge by the federal government unless specific disclosures are made and create a private cause of action for consumers harmed by violations of the law. I will first discuss DCA's recent work to identify the challenges impacting student loan borrowers and better protect and promote their financial health.

DCA Action

DCA's mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. Fulfilling that mission requires us to reach out and listen to New Yorkers about the issues that affect their ability to control their financial lives and plan for their futures. Through that outreach work, we heard a lot about one issue that weighs on the minds, and budgets, of many New Yorkers: student loan debt. We decided to dig into this issue to learn more about how student loan debt affects average New Yorkers.

In December 2017, DCA released a report, *Student Loan Borrowing Across NYC Neighborhoods*, in partnership with the Federal Reserve Bank of New York. The report found that there are approximately one million student loan borrowers in New York City and that fourteen percent are 90 days or more past due on their loans. Carrying student loan debt proves to be enormously consequential to individual and family financial health. For example, this debt reduces a borrower's ability to save for the future, build assets like home equity, and causes financial and emotional distress that can impact many aspects of a borrower's life. Strikingly, these effects hold true even for those borrowers who are current on their loan payments. The consequences are even more serious when a borrower enters delinquency and default.

Our 2017 report was just the first step to investigating the student loan debt problem in our city. At the beginning of this year, we put the findings from our report to work by launching student loan debt clinics to help New Yorkers understand their student loans and how to repay them. In partnership with the Bedford Stuyvesant Restoration Corporation, Phipps Neighborhoods Opportunity Center, and the New York Legal Assistance Group, DCA's Office of Financial Empowerment hosted clinics in Melrose in the Bronx and Bedford-Stuyvesant in Brooklyn, two

neighborhoods that our report identified as having high levels of student loan debt-related financial distress. At our clinics, trained professionals provided education, student loan literacy, and opportunities for financial and legal counseling. These clinics didn't just help New Yorkers; they also provided valuable lessons about the best way to educate and assist those struggling with student loan debt that DCA can carry forward and share with other organizations.

To better understand how the consequences of student loan debt shape the lives of New Yorkers, we needed to hear them tell their stories first-hand. We started with a series of events in neighborhoods that our report showed the highest rates of student loan delinquency and default—the South Bronx, Mt. Eden, and Highbridge in the Bronx and East New York in Brooklyn. We employed a popular education model to develop conversations about student loan debt where we could both learn and inform. During those conversations, we heard from New Yorkers about obstacles to repayment, confusion about options, and the negative effects student loan debt can have on their lives.

In June 2018, I chaired a public hearing called *Speak Up, Speak Out: A Public Hearing about Student Loan Debt in New York City*. We heard testimony from members of the public, experts, advocates, and legal service providers about this serious and growing problem. Again, we heard about the many barriers to repayment success, including misrepresentations by schools, a lack of trusted and reliable information, and inadequate support for borrowers by student loan servicers contracted by the federal government to handle loan repayment. And, of course, we heard proposals for how governments at every level could help borrowers in New York City surmount these barriers and put themselves on a path to financial health and success. I am very grateful to everyone who participated in our hearing, and I look forward to sharing more about our findings and recommendations with the Council when our full hearing report is released later this fall.

DCA Financial Empowerment Centers are a critical resource for New Yorkers who are struggling to navigate the student loan repayment process on their own. At our centers, professional financial counselors provide free, one-on-one assistance with tackling debt, improving credit, creating and managing a budget, and saving and planning for the future. Counselors have received in-depth training on student loan issues and can help guide New Yorkers through the complex, and sometimes confusing, process of repaying student loans. There are more than 20 Financial Empowerment Centers located across the five boroughs, and any New Yorker can schedule an appointment just by calling 311. Since 2014, our financial counselors have helped more than 1,100 clients take action related to their student loan debt, including checking the status of their student loans, consolidating their student loans or payments, and/or bringing their student loans out of default.

Unfortunately, some actors seek to exploit students and borrowers for their own gain. Last week, I announced that DCA has filed a complaint in state court against Berkeley College— one of the largest for-profit colleges in New York State with approximately 4,000 students— alleging violations of the Consumer Protection Law and debt collection rules. In addition to educating consumers, DCA is committed to using all the tools at our disposal to hold companies who prey on the hopes and dreams of consumers seeking higher education accountable.

Of course, it is important to recognize that student loan debt is a national, not just a New York City, problem. According to recent reporting, total student loan debt in the United States is over \$1.5 trillion and students who earned bachelor's degrees in 2016 left school with an average debt load of over \$30,000. But the story doesn't end with students- parents are also taking on increasing levels of student debt to help pay for their children's educations. The federal Consumer Financial Protection Bureau has handled more than 60,000 complaints related to student loans since 2011.

Student loan debt- and its consequences- do not fall evenly. In 2015, the research organization Demos found that despite having lower rates of college completion, young Black households are far more likely to carry student loan debt than their White counterparts. Gender also plays a role- earlier this year, the American Association of University Women found that women hold nearly two-thirds of the outstanding student loan debt in the country and many struggle to pay back their loans, likely due in part to the fact that women still earn less than men on average. Tackling the student loan debt crisis is just as much about equity as it is about opportunity. DCA is committed to helping New Yorkers affected by student loan debt and we look forward to partnering with the Council to do so.

Introduction 52

I will now turn to the bill before you today. Intro. 52 is intended to address one piece of the student loan debt problem by banning businesses from charging for services that are available free with a simple phone call to the federal Department of Education (DOE) or a borrower's loan servicer. Intro. 52 would allow companies to continue charging for student loan debt relief services if they make certain disclosures about the availability of free services from the DOE. The bill would also create a civil right of action for consumers who are harmed by a company that fails to comply with the law.

A complaint filed by Attorney General Barbara Underwood last month vividly demonstrates the ways in which these companies can harass, deceive, and harm consumers. The complaint describes how companies, both through advertising and in communication with borrowers, misrepresent the qualifications of their salespeople, the prices they charge, the results they can obtain for consumers, whether the company is affiliated with the government, whether a consumer can obtain a service on their own, and the programs for which a consumer is eligible. The complaint also alleges that these practices resulted in real consumer harm. For example, one consumer decided to take on thousands of dollars of debt to pursue a graduate degree because a student loan debt relief company assured her she qualified for a forgiveness program that would wipe out her debt when, in fact, she did not. As a result, the consumer was left to figure out how to repay thousands of dollars in loans she counted on being forgiven for a degree she wouldn't have pursued if she'd known the truth.

I commend the Council for moving quickly to focus attention on the problems caused by student loan debt relief companies. DCA supports the effort to prohibit these companies from charging for services available for free from the federal government. I would like to offer a few suggestions on this bill for the Council's consideration.

First, we are interested in hearing more from the Council about why the broad safe harbor through disclosure is necessary and desirable. DCA understands that in some cases, a consumer may wish

to pay an experienced third party to help them navigate complex government programs, even if the services are available for free. However, the DOE itself warns the public about student loan debt relief companies, saying on its website that “[o]ften these companies are charging for services you can easily manage yourself,” and, according to the Federal Trade Commission (FTC), “there’s nothing they can do for you that you can’t do yourself for free.” The FTC has acted against many of these companies and maintains a list of more than 400 entities that are banned from providing debt relief services. We hope to work with the Council to refine the bill strike an appropriate balance between the availability of services that are helpful to consumers and the prohibition of those that are harmful.

Second, we suggest clarifying that DCA is authorized to pursue restitution on behalf of consumers when we bring enforcement actions in an administrative tribunal. The bill already makes this remedy available to consumers who pursue a civil cause of action and it would be helpful to make clear that these remedies are available in agency actions taken pursuant to these provisions as well.

Finally, if the disclosure safe harbor remains in the bill, the Council should consider requiring that the disclosure be signed by consumers and a copy retained by the student loan debt relief services company. The bill should also create a rebuttable presumption that a company did not provide the disclosure if they are unable to produce a copy signed by the consumer. These requirements will create a record showing that consumers received and acknowledged the document and will help DCA hold businesses accountable.

Thank you for this opportunity to offer comments on Intro. 52. We look forward to working with the Council as this bill moves through the legislative process. At this time, the Law Department is still reviewing the proposal.

Conclusion

Thank you for the opportunity to testify today and offer insight into DCA’s ongoing work to help New Yorkers struggling with student loan debt. As always, we look to the City Council as an important partner on this critical issue. I am happy to answer any questions you may have.

Do you have student loans?

Know your rights
and responsibilities

Repaying your student loan debt can be confusing. But paying late—or not at all—can have long-lasting and serious consequences. Below are tips to help you plan and protect yourself.

FEDERAL STUDENT LOAN DEBT

- **Make sure you know how much you owe, the terms of your loans, and your loan servicer.**

Visit studentaid.ed.gov to:

- [Create your Federal Student Aid \(FSA\) ID.](#)
- Once you have your FSA ID, log in to the [National Student Loan Data System \(NSLDS\)](#) to find out how much you owe.
- Using NSLDS, you can find out who owns your loans. Even if you have loans from the federal government or your college or technical school, those loans may be managed by another company called a Student Loan Servicer. These companies collect payments and manage repayment. Your loan servicer will be your primary point of contact in repaying your loans and answering questions you may have. You should contact your loan servicer who can help you pick a payment plan, consolidate, or address other needs.

PRIVATE STUDENT LOAN DEBT

- **Keep all original documents.** These loans will not be in your NSLDS report but might be available on your credit report, which you can get at annualcreditreport.com.

Note: Unlike federal student loans, private loans may not offer as many options for repayment as federal loans.

ALL STUDENT LOAN DEBT

- **Make sure you understand all of the terms in your student loan paperwork.** Loan terms include the interest rate on your debt and the number of years you have to pay back what you owe. Visit StudentLoans.gov for a helpful [Glossary](#).

Important: If you're considering refinancing or consolidating your private student loans, be sure you understand the terms of any new refinance or consolidation loan.

- **Know your payment start date so you don't miss any payments.** Some private student loans require you to make payments while you're in school. Federal student loans and most private student loans allow you to defer payment while you're in school and begin making payments six months after graduation.

Reminder: Your loan may still accrue interest even if the payments are deferred. This is the case with unsubsidized federal loans.

If you used a cosigner:

- **Make sure you and your cosigner agree on who will make payments for the remainder of the loan term.** Your cosigner is responsible for paying the debt if you fail to pay the loan. You may be able to release your cosigner once you have sufficient income to cover the loans on your own.

REPAYMENT AND CONSOLIDATION OPTIONS

- You can get an estimate of your payment plans and options using the [Repayment Estimator tool](#) at StudentLoans.gov. Log in to the Repayment Estimator using your FSA ID or simply enter estimates. You will see the various payment plans and your options. You still must contact your loan servicer to pick a plan.

If you want to lower the monthly payments on your federal student loans:

- There are several [income-driven repayment plan options](#), which tie your monthly loan payment to your income. All programs have free applications that you can complete online. Learn more at [studentaid.ed.gov](#).

If you want to use Loan Forgiveness:

In certain situations, you can have your federal student loan forgiven, canceled, or discharged, which means that you no longer need to repay your loan.

- The **Federal Perkins Loan Program** offers loan forgiveness for those in certain professions such as firefighting, law enforcement, nursing, teaching, and social work. Learn more about this [program](#), including eligibility requirements, at [studentaid.ed.gov](#).
- The **Public Service Loan Forgiveness (PSLF) Program** forgives the remaining balance on your Direct Loans after you have made 120 qualifying monthly payments under a qualifying repayment plan while working full-time for a qualifying employer.
 - Make sure you understand [which jobs qualify](#) for PSLF and [which loans are eligible](#). Visit StudentLoans.gov for a list and for the form you need to submit. If you decide to participate in the program, your employer will need to [certify your employment](#) in order for you to qualify for loan forgiveness, which kicks in after 120 qualifying loan payments.

Note: New York State offers other loan forgiveness programs for those in certain professions such as farming and social work. Eligibility requirements for these forgiveness programs vary. Learn more at [hesc.ny.gov](#).

Reminder: If you enroll in a debt forgiveness program, you may owe taxes on the debt that is forgiven. PSLF is not considered a taxable event by the Internal Revenue Service (IRS).

If you want to take advantage of the options for deferment and forbearance of your federal student loans:

- Deferment and forbearance allow you to temporarily stop making payments on your loans.

Reminder: Depending on the type of loan, the interest may still accrue when you are not making payments. If making your monthly loan payments is a struggle, enrolling in an income-driven repayment plan may be more affordable in the long run than deferment or forbearance.

QUICK TIPS ONCE YOU HAVE STUDENT LOANS

FREE HELP

- **Get free professional financial counseling at an NYC Financial Empowerment Center.** If you're considering taking out additional student loans, want help repaying student loans, or are having trouble with a debt in collections, a financial counselor can help you review your options. Counselors can also help you create a budget, reduce your debt, negotiate with your creditors, understand your credit report, improve your credit score, and more. Call 311 to schedule an appointment near you or visit nyc.gov/dca to book an appointment online.
- **Get a free copy of your credit report and review it carefully.** Go to annualcreditreport.com or call toll-free 1-877-322-8228.

OTHER RESOURCES

- The **Consumer Financial Protection Bureau (CFPB)** has tools and resources to help you make informed financial decisions about paying for college. Visit consumerfinance.gov.
- **Federal Student Aid**, a part of the U.S. Department of Education, is the largest provider of student financial aid in the nation. Visit studentaid.ed.gov for information about FAFSA and student loan forgiveness and relief programs.
- The **Department of Consumer Affairs (DCA)** licenses debt collectors. Read DCA's [Debt Collection Guide](#) to know your rights and debt collectors' responsibilities when they seek to collect money. Visit nyc.gov/dca or call 311 to get the guide, check if a debt collector is licensed, or file a complaint. To file a complaint, you must live in New York City. The business can be located outside of the city.



BEWARE OF...

Student Loan "Debt Relief" Scams

Scammers take advantage of students by falsely promising loan forgiveness through federal programs that don't exist and charging students high up-front and ongoing fees for services that are freely available. You do not have to pay to enroll in loan forgiveness or income-driven repayment plans.



Bill de Blasio
Mayor

Consumer
Affairs

Lorelei Salas
Commissioner



NEW YORK LEGAL ASSISTANCE GROUP

The NYC Department of Consumer Affairs (DCA) protects and enhances the daily economic lives of New Yorkers to create thriving communities. Within DCA, the Office of Financial Empowerment (OFE) focuses on initiatives that educate, empower, and protect residents and neighborhoods with low incomes so they can improve their financial health and build assets.



October 25, 2018

Committee on Consumer Affairs and Business Licensing
New York City Council
City Hall Park
New York, NY 10007

Re: Proposed Int. No. 52
Prohibition on Student Debt Relief Services Regarding Federal Loans for a Fee

My name is Ayana Robertson and I am the Associate Director at Brooklyn Legal Services, a program of Legal Services NYC. I present this testimony on behalf of Legal Services NYC regarding Proposed Int. 52. First, we would like to thank the Council for its leadership in providing strong consumer protections for all New Yorkers.

Legal Services NYC (LS-NYC) is the largest civil legal services provider in the country with offices in the Bronx, Brooklyn, Queens, Staten Island, and Manhattan. For fifty years, LS-NYC has provided critical legal help to low-income residents of New York City. Our organization works to reduce poverty by challenging systemic injustice and helping clients meet basic needs, including housing, education, health care, family stability, and income and economic security. In the student loan context, LS-NYC annually assists over six hundred low-income New Yorkers with consumer debt matters. In 2017, roughly 20% of them sought help with issues related to student debt. Most of these borrowers come to us after student loan collectors have taken their wages, social security payments, or tax refunds, putting them at risk of homelessness and hunger. Many are victims of for-profit colleges and trade schools, which persuade students to borrow heavily to finance their education by promising increased earning potential and job placement, which often turn out to be illusory, or grossly exaggerated.

As of 2016, New Yorkers owed a combined \$86.54 billion dollar in student loans.¹ Although we typically focus on how student loan debt affects young people just starting out in their careers, it is an issue that affects people of all ages. From 2012 to 2017, the number of borrowers in New York State age sixty and older with student loan debt increased by 44%.²

¹ Consumer Financial Protection Bureau, *50 state snapshot of student debt: A nationwide look at complaints about student loans* (Oct. 2017) (available at https://files.consumerfinance.gov/f/documents/cfpb_student-loans_50-state-snapshot_complaints.pdf).

² Consumer Financial Protection Bureau, *Older consumers and student loan debt by state: New data on the burden of student loan debt on older consumers* (Aug. 2017), (available at

People sixty and over and young people with limited financial literacy are often the targets of debt relief agencies, which prey upon consumers in financial distress who don't know where to turn for assistance, and who are more vulnerable to high pressure sales tactics. Although some agencies provide a legitimate service, the majority require borrowers to expend large sums for the convenience of making one monthly payment, with little to no money being passed along to the actual creditors. Instead of lowering the debt with their monthly payments, most will see it increase. When they continue to experience debt collection harassment or are sued by creditors they thought were being paid, consumers attempt to end the contract, only to find out that much of their initial deposit is not refundable.

Because federal student loan borrowers are eligible for a variety of hardship resolutions that are free of charge under US Department of Education regulations and enacted legislation, there is little practical or financial justification for debt relief services related to student loan debt. Nonetheless, debt relief agencies have charged hundreds of thousands of dollars for completing applications the borrower could have accessed for free.

For example, one of our clients consulted with a non-profit debt relief company regarding her student loan debt which charged \$75.00 to help her create a password to access the National Student Loan Debt Database, a free government website that allows students to access their student loan history.

Another client paid hundreds of dollars to a for-profit debt relief company with the understanding it would be used to pay down her debts, including student loans. She had made great financial sacrifices to make the minimum monthly payments on her debt in order to preserve her credit score. To her dismay, after enrolling with the company, she began to receive letters from debt collectors and was sued in court. The debt relief company had not made any payments, and although we helped her get a refund of the money she had deposited, her credit score plummeted.

We commend the City Council for seeking to protect low-income New Yorkers struggling with student debt. Based on our experience with clients, we have several suggestions we believe would make the legislation even stronger.

Proposed Int. 52 aims to address one of the most widespread abuses of debt relief programs by requiring them to disclose the availability of free programs to eligible borrowers. However, as written, "debt relief" agencies could bury the disclosure within pages of other fine print or phrase it in a way that is unclear or ambiguous. By the time consumers apply to a debt relief service for assistance, they are often in deep financial distress, worn out by debt collector harassment, and desperate. This makes it extremely unlikely that they will read through the multipage contracts and any proposed disclosure carefully. Given that such disclosures are often written in technical jargon, their meaning is often obscure, even to someone not operating under the same pressures

https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201708_cfpb_older-consumers-and-student-loan-debt-by-state.pdf).

as our clients. In addition, many of our clients are limited English proficient and will receive no benefit from a disclosure only available in English.

Requiring disclosures to be given in the language in which the debt relief agency has communicated with the borrower and as a stand-alone document written in a larger font than the text of the rest of the agreement would increase protections for consumers. By way of comparison, New York state and local laws governing foreclosure and credit consumer transactions impose similar requirements. In the foreclosure context, the summons and complaint must be accompanied by a notice on a separate piece of colored paper containing statutorily required language in font size fourteen or larger.³ It also refers homeowners to non-profit organizations that can help protect their home. In court cases based on consumer credit transactions, the summons and complaint must indicate in bold large font that it is a consumer credit transaction, notify consumers of the consequences of failing to appear, encourage them to consult with an attorney, and provide a warning in both English and Spanish. New York State Department of Finance rules require debt collectors to disclose when the statute of limitations on a debt they are attempting to collect may have expired.⁴

Requiring debt relief companies to provide the disclosure as a stand-alone document will catch the consumer's attention in a way that a notice buried in fine print in a much longer document will not. Making the disclosure available in the language in which the debt relief agency communicated with the consumer will give LEP borrowers the same level of protection afforded to other consumers. To make sure that the notice is easily understandable, it is a best practice to mandate specific language to be contained in the notice. This will ensure the notices are clear and consistent, and provide debt relief agencies with certainty that the notices they give to consumers comply with the law.

We have also seen success where the disclosures have also included additional resources for the consumer. As written, the disclosure directs borrowers to the website and phone number for the Department of Education. However, borrowers often seek out these "debt relief" services after frustrating encounters with Department of Education contracted servicers of their student loans, who regularly provide incomplete or inaccurate information.⁵

New York City provides free financial counseling through the Department of Consumer Affairs' Financial Empowerment Center, including assistance related to student loan debt. Because most consumers with student loans also have other forms of debt, the student loan debt often cannot be resolved without examining the borrower's total debt burden. Counselors in the Financial Empowerment Center have the expertise to do a holistic assessment of the borrower's financial health and help them come up with a strategy to reduce debt overall. It is easily accessible through 3-1-1, a portal that most New Yorkers are familiar with and trust. Including it as a resource in the notice would be appropriate and helpful to consumers.

³ R.P.A.P.L. § 1303

⁴ 23 N.Y.C.R.R. § 1.3(b).

⁵ Consumer Financial Protection Bureau, Monthly Complaint Report: Vol. 22, April 2017 (available at https://files.consumerfinance.gov/f/documents/201704_cfpb_Monthly-Complaint-Report.pdf).

Finally, increasing the civil penalties for violations of the statute would serve as a deterrent. Most of these debt relief companies charge hundreds or thousands of dollars in up-front fees to borrowers, in addition to ongoing monthly charges.⁶ Given the profits involved, a \$500 fine will have very little impact. Requiring the disgorgement of profits, in addition to civil fines, would serve as a more effective deterrent to potential violations.

We thank the City Council for its work to protect consumers and for giving us this opportunity to testify.

For more information on this testimony, please contact:

- Mary McCune, Senior Staff Attorney, Manhattan Legal Services, 646-442-3143, mmccune@lsnyc.org
- Ayana Robertson, Associate Director, Brooklyn Legal Services, 718-237-5570, amrobertson@lsnyc.org

⁶ Federal Trade Commission, *FTC, State Law Enforcement Partners Announce Nationwide Crackdown on Student Loan Debt Relief Scams* (Oct. 13, 2017) (available at <https://www.ftc.gov/news-events/press-releases/2017/10/ftc-state-law-enforcement-partners-announce-nationwide-crackdown>).

**Testimony of College and Community Fellowship
before the
New York City Council Committee on Consumer Affairs and Business Licensing
concerning
Int. 005—Banning companies that charge a fee for “student debt relief” already provided
by the federal government**

October 25th, 2018

Good morning Chairperson Espinal, and members of the Council Committee on Consumer Affairs and Business Licensing. My name is Jordyn Rosenthal and I am the Senior Associate of Policy and Advocacy at College & Community Fellowship. I would like to thank the committee for holding this hearing and inviting public testimony in regards to Introduction 0052.

College & Community Fellowship is a nonprofit that partners with women with criminal convictions to help them earn their college degrees so that they, their families, and their communities can thrive. We have worked on a range of policy and legislative issues related to incarceration and advocate for policy that addresses the root causes of incarceration, improves conditions within prisons, and supports women in reentry.

Our direct service work is a holistic and comprehensive approach to supporting women with criminal convictions in receiving their college degrees. This includes aggressive education around funding streams for college, including student loans, and student loan debt management. We began tracking data around student loan debt for our students in 2014. In that time, we have helped 232 women earn college degrees – the total student loan debt for these women since we began keeping this data has totaled \$3,991,276. Thanks to our counseling, scholarships, and existing Pell Grant and TAP programs, 117 of the 232 women did not have student loans. Of the 115 that did accrue some form of debt, the average debt was \$34,706.75. This number is nearly in line with the national average student loan debt, which is around \$37,000.¹

Our work with justice involved women has taught us a few key lessons. First, I must stress that qualitatively, we can attest to the fact that women who are the most impacted by the justice system are from under resourced and marginalized communities, and many of them are of color. This is reflected in the data: “people of color make up 37% of the US population but 67% of the prison population”.² This is not necessarily due to people of color committing crimes at higher rates. For example, drug usage rates are similar in white and black populations, yet blacks

¹ Andrew Prentis “The history of student loans and how it affects you today” *Student Loan Hero*, June 5, 2017, available at: <https://studentloanhero.com/featured/history-student-loans/>.

² “Criminal Justice Facts”, *The Sentencing Project*, October 2018, available at: <https://www.sentencingproject.org/criminal-justice-facts/>

experience more than 5 times the justice involvement of whites for drug related offenses.³ Specifically, in the case of women, we see that incarcerated populations suffer high rates of sexual trauma, and are frequently penalized by our justice system when they attempt to defend themselves.⁴ This points to a larger pattern of underserved, marginalized populations, and a justice system that criminalizes rather than supports these marginalized members of society. In our work with women who receive our services, who I stress, are from marginalized communities, we find that many of them lack basic financial literacy. Our program stresses financial literacy precisely because it is such an essential component of ensuring that underserved members of our society are able to thrive. Though our students carry a similar loan debt to the general population, the financial counseling our staff provides ensures that our students do not fall prey to predatory loan services.

Our work has shown us that education is a crucial strategy to sustainably ensuring that people are not siloed into poverty. However, education is becoming increasingly difficult to finance. Current research predicts that if national trends around student loan debt continue, “40% of borrowers may default on their student loans by 2030”⁵. A closer look at the data reveals that the likelihood of default is correlated to race: “nearly 38 percent of all black first-time college entrants in 2004 had defaulted within 12 years, a rate more than three times higher than their white counterparts”⁶. This is not due to some immutable characteristic of race, but rather, the historically discriminatory policies that have made it difficult for communities of color to amass wealth. As a result, currently, the average white family holds 10 times the wealth of the average black family.⁷ The likelihood of default is higher in black populations because marginalized populations lack the resources, both financial and the education required to successfully navigate finances, to successfully navigate the bureaucracy that governs student loans.

As a result of burgeoning student loan debt and the pressures that a large debt can place on a person, a cottage industry of student loan relief has sprung up to capitalize on these anxieties. Unfortunately, many of these student loan relief services not only charge exorbitant fees to do services that are already provided by the Federal Government, but many of them do not meaningfully help people deal with student loan debt. Given that many who are vulnerable to incurring student debt also frequently lack the financial literacy education to successfully plan for managing a large debt, we see these services as preying on already marginalized populations. They are a barrier to equity and capitalize on the already underserved members of our society.

³ Jeremy Travis, Bruce Western, and Steve Redburn “The Growth of Incarceration in the United States”, October 2018, available at: <https://www.nap.edu/read/18613/chapter/1>

⁴ Malika Saada Saar, Rebecca Epstein, Lindsay Rosenthal, Yasmin Vafa, “The Sexual Abuse to Prison Pipeline: The Girl’s Story”, *Human Rights Project for Girls, Georgetown Law Center on Poverty and Inequality, Ms. Foundation for Women*, October 2018, available at: http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf

⁵ Judith Scott-Clayton “The looming student loan default crisis is worse than we thought” *Evidence Speaks Reports*, Vol. 2, #34, January 10, 2018, available at: <https://www.brookings.edu/wp-content/uploads/2018/01/scott-clayton-report.pdf>.

⁶ Id.

⁷ Angela Hanks, Danyelle Solomon, Christine E. Weller, “Systemic Inequality: How America’s Structural Racism Helped Create the Black-White Wealth Gap” *The Center for American Progress*, February 2018, <https://www.americanprogress.org/issues/race/reports/2018/02/21/447051/systematic-inequality/>

The student loan debt is something our country will have to manage for years. It has stunted an entire generation, hinders our economic progress, and shows no signs of slowing. The student loan debt relief industry has popped up, in part, because student debt can be so complicated to manage. But our work has shown us that with proper guidance and support, people can successfully manage their debt. Since we began collecting data, we have not had a client who is active in our program default on a loan. If we're going to tackle this problem in a meaningful way, we must stop predatory practices, and implement services that guide people through these bureaucratic processes.

For these reasons, we ask the committee to approve introduction 0052. Thank you again for your time and consideration.



Testimony by the New York Legal Assistance Group (NYLAG)

Regarding Int. No. 52

**Before the New York City Council
Committee on Consumer Affairs and Business Licensing**

October 25, 2018

Chair Espinal, Council Members, and staff, good morning and thank you for the opportunity to speak to the Committee on Consumer Affairs and Business Licensing regarding the proposed bill to protect vulnerable student loan borrowers from businesses offering purported “student debt relief services” for a fee. My name is Danielle Tarantolo, and I am a Co-Director of the Special Litigation Unit at the New York Legal Assistance Group (NYLAG).

NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves veterans, immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, people with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services.

NYLAG’s Consumer Protection Unit helps low-income New Yorkers to combat illegal debt collection practices, identity theft, debt collection scams, creditor harassment, and mortgage foreclosure, and together with the Special Litigation Unit, has served countless clients burdened by student loan debts and injured by scam debt relief services. NYLAG has also brought impact

litigation to protect the rights of these borrowers, including against predatory companies of the type addressed by the proposed bill.

New Yorkers, like so many others around the country, are drowning in student loan debt. As of the end of 2016, there were approximately one million student loan borrowers in New York City—about 15 percent of New York City adults—with an average balance of \$34,900.¹ Payments on these loans can be crushing, a problem exacerbated for New Yorkers who attended for-profit schools, many of which fail to provide a meaningful education and do nothing to improve the borrower’s ability to obtain employment.

As the Committee knows, the U.S. Department of Education offers a variety of programs to help borrowers like these, including Income Driven Repayment and Public Service Loan Forgiveness. These programs are totally free, and require only a minimum amount of paperwork, which can be submitted directly to the Department of Education or to borrowers’ federal student loan servicers. Unfortunately, however, many borrowers are unaware of these programs, or believe (incorrectly) that they are too bureaucratically complicated to access.

These vulnerable borrowers are precisely the victims targeted by student debt relief scammers. These companies approach student loan borrowers, generally either by cold-calling them or by publishing misleading advertisements. The telemarketers advertising these schemes make a series of fraudulent misrepresentations to induce borrowers to sign up for services. The most pernicious of these include that the scam company can provide “forgiveness” of the borrower’s loans, knowing that borrowers will naturally understand this to mean immediate cancellation of their debts—a service the companies do not and cannot provide. The companies

¹ Federal Reserve Bank of New York and the NYC Department of Consumer Affairs/Office of Financial Empowerment. “Student Loan Borrowing Across NYC Neighborhoods.” December 2017. <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/credit-conditions/student-loan-borrowing-nyc-neighborhoods.pdf>

conceal that the services they purport to offer are available for free from the borrowers' servicers. Dangerously, companies do not disclose that certain services they sell to the borrower may in fact be *harmful* to the borrower, not helpful—for example, by increasing their loan balance or interest payments. Whether a particular program will benefit a borrower requires an individualized determination that these scam companies do not, and cannot, make.

The fees charged by these scammers are exorbitant—around \$1,300 for many clients with whom NYLAG has spoken. The companies justify these outrageous rates by claiming that they offer a service similar to an accountant or tax preparer, providing “expert” assistance with complex documentation. Nothing could be further from the truth. Enrollment in these programs is exceedingly straightforward, and anyone can seek *free* assistance from his or her servicer. Many of the scam debt relief services work closely with predatory financiers, which loan customers the amount of the steep purchase price at a usurious interest rate, making the financial harm to duped customers even greater. The financing companies compound the injury further by providing negative credit reporting, which impairs borrowers' creditworthiness, carrying a host of additional harms. These schemes have an especially perverse effect on the borrowers most in need of help: every dollar they pay to these companies is a dollar that could have gone, instead, to reducing their loan burdens.

NYLAG's Special Litigation Unit recently brought a lawsuit against several companies engaged in these deceptive practices and their financing partner: *Williams v. Equitable Acceptance Corporation*, 18 Civ. 7537 (S.D.N.Y.). Ms. Williams's experiences are typical of that of many other New Yorkers. The scam debt relief service SLF Center, LLC, called her unsolicited, promising loan “forgiveness” for the price of \$1,300, payable in \$49 monthly installments. Ms. Williams signed up for the service, unaware that she was drawing a new line

of credit extended by SLF's financing partner, Equitable Acceptance Corporation. But SLF, instead of offering loan forgiveness—an impossibility—consolidated her loans and enrolled her in Income Driven Repayment, which had the effect of increasing her interest rate and her ultimate outstanding balance. By the time Ms. Williams realized she had been deceived, she had made multiple payments and her credit had been damaged.

My colleagues and I commend the Council for considering this important bill, and applaud a ban on the provision of these predatory services. We strongly endorse inclusion of the financial penalties set forth in the bill, and the provision for a private cause of action to enforce the bill's requirements. We believe from experience that these features are critically important to making the bill's prohibition effective.

We have concerns, however, that the exception to the ban proposed in section (b) of the bill risks undermining its important effects. One of the critical dangers posed by these scammers is their common practice of providing "disclosures" that actually disclose nothing, or disclose information in a manner designed to be overlooked or ignored by customers. In our experience, when companies can shirk legal requirements by providing a disclosure statement, they simply continue with their unlawful deceptions, and satisfy the disclosure requirement by burying fine print in massive piles of documents. Sometimes these written disclosures directly contradict false statements they have made orally to the customers over the phone, and on which the customer has based an initial decision to purchase the service. The scam companies then push customers to sign these complex documents under extreme time pressure so they will not have enough time to read or understand the information being provided.

We believe that if the bill must contain an exception triggered by disclosures of the type described, every effort must be made to ensure that the disclosure will be effective. At a

minimum, the bill should require that the disclosure be made in at least 16 point font, on a separate page that appears first in any packet of materials provided, and should require initials next to each element, as well as a full signature on a line directly below the disclosures. The bill should also include a requirement that the disclosures be provided orally, in addition to being provided in writing. With these changes, the bill will provide the protections from debt relief scams that New York City consumers deserve.

I want to thank the Committee for holding this important hearing. We appreciate the opportunity to share these comments and to continuing a productive conversation on this critical topic.

Respectfully submitted,

New York Legal Assistance Group

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I intend to appear and speak on Int. No. 52 Res. No. _____

in favor in opposition

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(PLEASE PRINT)

Name: Danielle Tarantolo

Address: 7 Hanover Sq., 18th Fl, NY NY 10004

I represent: New York Legal Assistance Group

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Address: Manhattan Legal Service S

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I represent: BROOKLYN LEGAL SERVICES / LEGAL SERVICES NYC

Address: 105 COURT STREET, 4TH FL, BROOKLYN NY 11201

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Name: Lorelei Sabas, Commissioner

Address: NYC DCA

I represent: _____

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Name: Lucky Adams, Director of City Legis. Affairs

Address: 42 Broadway

I represent: NYC DCA

Address: 42 Broadway