HCM STRATEGISTS

To: Ohio Cradle to Career Network

From: Kaitlin Bressler, Juana H. Sanchez and Malia Sieve, HCM Strategists

Date: December 23, 2020

Subject: National Review of State and System Level Institutional Student Debt and Transcript Withholding Policies

This memo is a follow-up to a memo produced for the Cradle to Career (C2C) Network dated March 23, 2020 (see appendix) that focuses on Ohio's process for addressing institutional student debt. Institutional student debt refers to tuition and/or fees owed to an institution of higher education, as opposed to non-payment of state or federal student loans. The March 23 memo argues that Ohio must address its institutional debt collections process that both prevents adult students from re-enrolling in postsecondary education and limits institutions' abilities to provide flexible options for students who owe debts. This work also builds on Policy Matters Ohio's report titled *Collecting Against the Future* that recommends Ohio "eliminate the law requiring schools to send debt to the [Attorney General's Office], allowing schools more time to collect debt on their own or institute debt-forgiveness and re-enrollment initiatives."[1]

C2C Network discussions questioned whether Ohio's laws are unique when compared to other states. There is limited research on state policy and no comprehensive scans across states to conduct such an assessment. Ithaka S+R recently released a report titled *Solving Stranded Credits: Assessing the Scope and Effects of Transcript Withholding on Students, States, and Institutions* that begins to look at the scope of the problem of institutional debt and transcript withholding.[2] HCM's research intends to describe the national landscape of institutional student debt collection policies and provide leaders in Ohio with a better understanding of how other states address institutional student debts from a policy perspective.

Addressing institutional debt is a critical issue in helping states think about how to close equity gaps, serve adult students, develop a skilled workforce, strengthen intellectual capital and meet their attainment goals. To help Ohio's C2C Network advocate for improved student outcomes, HCM Strategists researched each state's laws and regulations governing the collection of institutional student debt. In addition to the findings of this 50-state policy scan, HCM conducted a deeper analysis into a subset of states to examine state laws or regulations regarding transcript withholding/release for students with institutional debt or unpaid student accounts.

[1] Policy Matters Ohio, "Collecting Against the Future: Student-debt practices undermine Ohio's higher education goals," February 2020. Available at: https://www.policymattersohio.org/files/research/collectagainstfuture1.pdf

[2] Ithaka S+R, "Solving Stranded Credits: Assessing the Scope and Effects of Transcript Withholding on Students, States, and Institutions," October 2020. Available at https://sr.ithaka.org/wp-content/uploads/2020/10/SR-Report-Solving-Stranded-Credits-100520.pdf

HCM's research found that that while Ohio is not alone in having a mandate that institutions of higher education turn over debt for collection, its policy approach does stand out for its specificity as to when debt must be referred, for its broad reach across institutions and debts of varying sizes and for the limited flexibility granted to institutions in the law.

Methodology

HCM conducted a scan of publicly available information online to better understand the state policy landscape. This included existing state statute, constitutional language, state taxation codes and state agency websites. Where state-level policies were not found, HCM looked to higher education system and institution websites to understand their policies and to determine if they explicitly referenced state laws. Where no direct or indirect references to state law were found, HCM indicated that the state does not have laws around institutional debt collection.

After completing the online scan, HCM then conducted follow-up conversations with national and state experts working on the issue of institutional debt in Louisiana, Indiana, Michigan and Minnesota. These individuals include:

Name	Title and Organization	Topic/Area of Expertise
Shelly Auldrich	MN Reconnect Program Manager at Minnesota State Colleges and Universities	MN Reconnect debt-forgiveness program and the transcript withholding legislation
Dwayne Bowie	Vice President for Enrollment Management at the University of Louisiana-Lafayette	Louisiana's debt referral and transcript withholding laws
Melanie D'Evelyn	Director of Detroit Drives Degrees at the Detroit Regional Chamber Foundation	Michigan policy environment, debt-forgiveness programs in Michigan and sharing Michigan's best-practices with institutions in other states
Meredith Fergus	Research and Statewide Longitudinal Education Data System Manager at the Minnesota Office of Higher Education	MN Reconnect debt-forgiveness program and the transcript withholding legislation
Jim Henderson	President of the University of Louisiana System	Louisiana's debt referral and transcript withholding laws
J.D. Lux	Assistant General Counsel at Ivy Tech Community College	Indiana's state tax intercept program and Ivy Tech's Fresh Start 2020 debt-forgiveness program
Rebecca Maurer	Counsel and Program Manager, Student Loan Law Initiative at the Student Borrower Protection Center	National landscape of transcript withholding laws

Tom Skidmore	Assistant Vice President, Cash/Debt Management at Ivy Tech Community College	Indiana's state tax intercept program and Ivy Tech's Fresh Start 2020 debt-forgiveness program

Ohio Collections Process

As described in HCM's March 23 memo, Ohio state law requires Ohio's 36 public institutions of higher education to refer past-due student debt to the Attorney General's Office (AGO) 45 days after the amount is due or within 10 days of the beginning of the next academic term, whichever is later.[3] Ohio state law does not specify a minimum amount of debt to be certified to the AGO. Policy Matters Ohio found that the average value of certifications was in the range of $1,500. Once debt is referred to the AGO, the agency contracts with third-party collectors to attempt to collect against the debt. When these efforts are unsuccessful, state law gives the AGO authority to deduct these debts from state tax returns.

National Landscape

After completing the 50-state scan of publicly available online information, HCM analyzed the collected data to identify for each state if there was:

1. A state policy regulating institutional debt collections processes;
2. A requirement for institutions to refer debt to outside entities, such as third-party collections agencies, the Attorney General's Office, and/or another state agency;
3. A minimum amount of debt that could/should be referred for collection; and
4. A minimum amount of time before debts could be referred to outside entities.

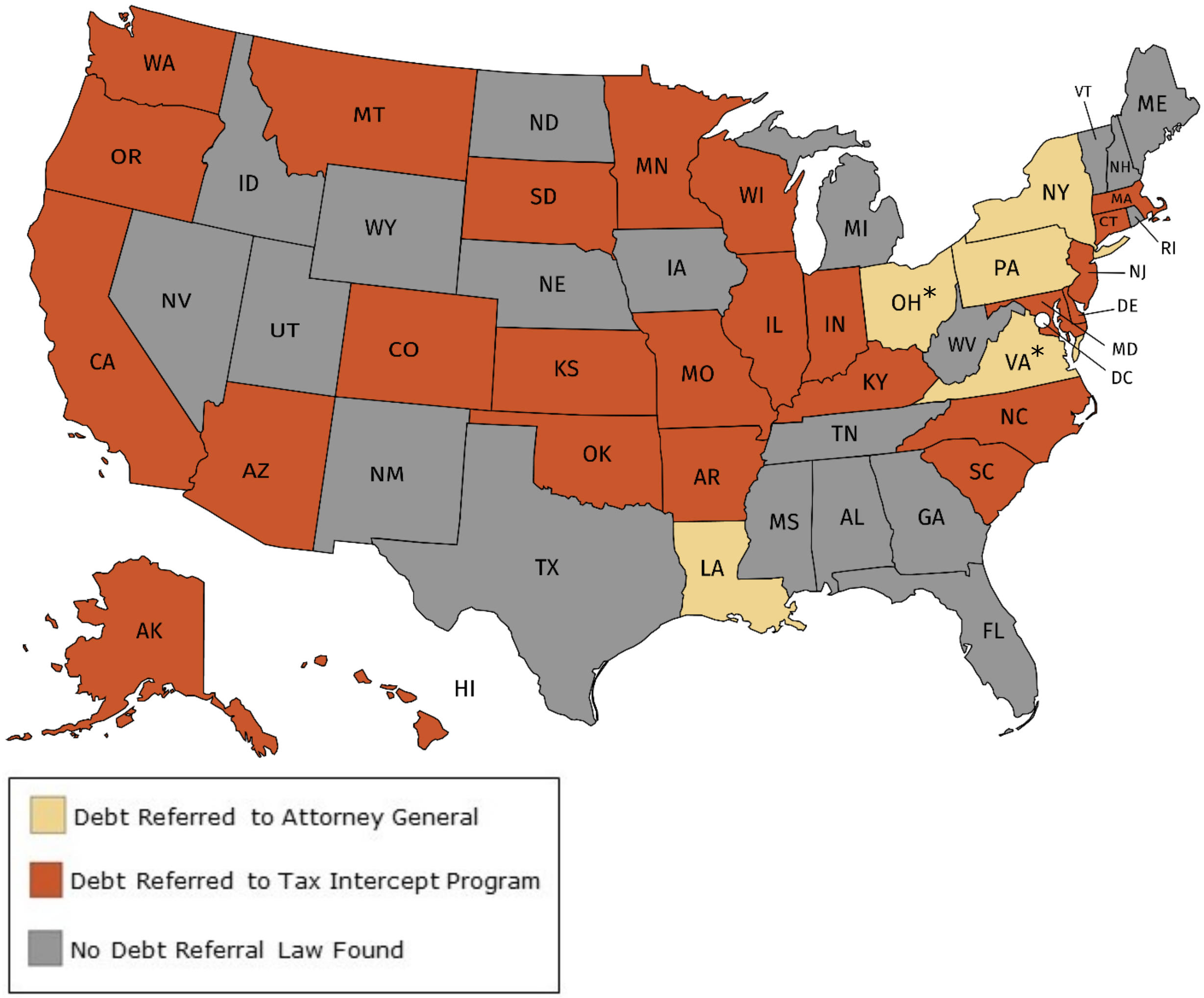
State Policies Regulating Institutional Debt Collections Processes

HCM segmented states into the following three categories (with overlap in two states):

- State refers debts to the Attorney General's Office (5 states),
- State refers debts to a state income tax intercept program (27 states), or
- No state laws concerning the referral of institutional student debt were found (20 states).

[3] See ORC 131.02 - Collecting amounts due to state: http://codes.ohio.gov/orc/131.02

Institutional Student Debt Referral



*Ohio and Virginia employ tax intercept programs in addition to collections efforts by the AGO.

In addition to Ohio, Louisiana, New York, Pennsylvania and Virginia all have laws that allow or mandate some level of institutional debt to be turned over to the AGO. The laws in Louisiana are the most like those in Ohio and *mandate* that institutions must refer debt to the AGO 60 days after the amount is due,[4] which in practice means the debt is due 60 days after the semester is over.[5] In New York, the AGO has a Student Recoveries Unit that recovers only tuition and fees owed to State University of New York (SUNY) institutions.[6] SUNY institutions *may* refer delinquent debt over $500 to the AGO 31 days after the start of the semester, but they also have the *option* of referring debts to outside collection agencies first. This policy approach differs from Ohio state law by offering institutions flexibility on the front-end to determine when to refer debt to the AGO. In Pennsylvania, institutions may, but are not required to, refer debts over $100 to the AGO once the debts are 90 days delinquent. Debts under this threshold are dealt with at the institutional level. Similarly, Virginia law only mandates that institutions turn delinquent debts to the AGO after 90 days if the debt amount is greater than $3,000. For debts under $3,000, institutions in Virginia

[4] See RS 47:1676 - Debt recovery: http://www.legis.la.gov/legis/law.aspx?d=861189
[5] See University of Louisiana at Lafayette Office of the Bursar: https://bursar.louisiana.edu/payments-deadlines/attorney-general-2
[6] See NY Attorney General Student Recoveries Unit: https://ag.ny.gov/civil-recoveries/student-recoveries-unit

use collection agencies to collect on these debts in conjunction with referring the debts to the department of revenue (as explained below).

HCM found that 27 states have laws allowing institutions to refer debts to state income tax intercept programs. These programs, also called tax "set off" or "offset" programs, allow state agencies, including public higher education institutions, to refer debts to the state's department of revenue (DOR) or similar agency. The DOR will then cross reference the list of debtors with its list of who the state owes an income tax refund. If the DOR finds a match, it will intercept the tax return (only up to the amount of debt owed) and send it to the state agency or institution to which the debt is owed. While Ohio and Virginia have laws mandating that institutions turn debt over to the AGO, they also employ tax intercept programs.

In the remaining 20 states, HCM did not find any evidence of state laws governing institutional debt or how institutions must respond to these debts. In these states, HCM found that institutions frequently create their own processes and timelines and use third party collections agencies to collect delinquent debts. In some of these states, creative institutional responses are beginning to emerge as noted on page 8 within the Debt Forgiveness section of this memo.

Requirements for Institutions to Refer Debt to Outside Entities

The state laws in the five states that refer debt to AGOs include clear language requiring institutions to refer their debt. However, among the 27 states with tax intercept programs, HCM found a wide variation in how the laws are written. Many states use words like *may* when referring to the options public institutions have as state agencies to refer debt to external entities. While laws in many states contain permissive language that makes it clear that programs are voluntary, while others use words like *shall* or *must* that require participation.

For example, in Indiana, the law states, "if a debtor owes a claimant agency a certified delinquent debt that agency *is entitled* to have the department set off the tax refund against the delinquent debt."[7] In speaking with individuals familiar with the process in the state, HCM found that while this wording allows institutions to take advantage of the program, such as Ivy Tech Community College, many institutions do not use the tax intercept program in the state. We even heard that many institutions did not know tax interception was an option. The permissiveness of the law's language means that processes for referring debt can vary widely from institution to institution within the same state.

Conversely, in Minnesota, the law states that delinquent debts "*must* be referred to Minnesota Department of Revenue, Collection Division for collection." Conversations with individuals familiar with the process in Minnesota confirmed that, unlike in Indiana where participation in the intercept program is voluntary, all public institutions are mandated to turn over their debt once it is delinquent for 121 days. While HCM heard that institutions do follow the state law, some are able to create more time for students to pay their debts by adjusting the timeline of when the payment is due, thus delaying when the institution has to turn the debt over to the DOR.

[7] See IC 6-8.1-9.5-2 - Debt owed to claimant agency; agency's entitlement to debtor's refund: http://iga.in.gov/legislative/laws/2018/ic/titles/006/#6-8.1-9.5

Minimum Amounts of Debt for Referral

HCM found that most state laws are not clear or specific about the minimum amount of debt required to be referred to the state AGO or outside agencies. Ohio state law does not specify a minimum amount of debt for institutions to refer to the AGO.

HCM found laws in seven states that specify a threshold for the amount of debt institutions can refer. Montana state law notes that state agencies can refer "any debts" to the DOR.[8] Other state laws include minimum amounts of debts that can be referred to outside agencies. In California the debt must be at least $10 and in Wisconsin the minimum is $20. Arizona and Wisconsin state laws both stipulate that debts must be at least $50 to be referred to the DOR and in Pennsylvania, the minimum amount of debt that can be referred to the AGO is $100. In Virginia, debts over $3,000 are referred to the AGO while debts less than $3,000 are referred to collections agencies and the DOR. HCM did not find minimum amounts stipulated in state code for any other states.

Where state law is unclear about the minimum amounts of debt institutions can refer, HCM's research found that institutions create their own policies. For example, South Dakota's state law is silent on the minimum amount of debt institutions can refer, but the South Dakota Board of Regents' policy is for institutions to put a hold on student accounts with a balance of $250 or more.[9] There is interest to increase this threshold to $500 because of concerns that the current amount leads to unnecessary delays in registration.[10]

As the South Dakota example illustrates, the debt threshold becomes important when account holds prevent students from enrolling or registering for classes when they owe very small debts. Even if a student is able to repay their small debt, in the time that they were not able to register, the classes they need to take could have filled, meaning it could take the student longer to complete their degree or transfer to another institution. Particularly for the students most at risk of stopping out, what may seem like small delays or small amounts of debt can have outsized impacts on their successful completion of a degree or credential. All of these barriers delay students' abilities to ultimately find a job with a higher paying wage, typically one of the primary goals of pursuing postsecondary education.

Minimum Amount of Time to Refer Debt

Most state laws are not clear or specific about the minimum amount of time before institutions can or must refer debts to external entities. Based on our review, Ohio law provides students with the least amount of time to pay their debts before the debt is referred to the AGO, with institutions having to refer debts to the AGO 45 days after the amount is due or within 10 days of the beginning of the next academic term, whichever is later.

HCM found that only six states, including Ohio, have laws that specify how long institutions have to wait to refer debt to outside agencies. Louisiana law stipulates that institutions must turn over debts to the AGO once they are delinquent for 60 days, and Pennsylvania law allows institutions to refer debts to the AGO once they are 90 days past due. Minnesota provides institutions with 121 days before they must refer debt to the DOR, and Alaska provides institutions with 180 days before they can turn over debt.

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[8] See MCA 17-4-105. - Authority to collect debt – offsets: https://leg.mt.gov/bills/mca/title_0170/chapter_0040/part_0010/section_0050/0170-0040-0010-0050.html

[9] See SBOR Academic Affairs Council Minutes, September 2020: https://www.sdbor.edu/administrative-offices/academics/aac/Documents/2020/2020-09-AAC/3_F_AAC0920.pdf#search=delinquent%20student%20accounts

[10] Ibid

Transcript Withholding

The vast majority of institutions use the withholding of student transcripts to leverage repayment of institutional debt. This blocks students from accessing their official transcripts to demonstrate that they have taken courses or obtained a certificate or degree when transferring to another institution, obtaining a license, or applying for a job. Even if a student wants to enroll at another institution while working to pay down their debt, transcript holds can effectively prevent them from doing so. While a student may be able to enroll, their inability to produce an official transcript can prohibit them from having their previously completed college credit transferred and recognized by their new institution. Thus, credits that they successfully completed and paid for are held "hostage."

As the Ithaka S+R report referenced above explains, "nearly all (98 percent) of the 410 respondents to a 2016 survey from the National Association of College and University Business Officers (NACUBO) indicated that they hold transcripts as a debt collection tactic."[11] Despite the fact that transcript withholding is so common, there are currently no federal laws regarding the practice.[12] As of December 2020, only California, Louisiana and Washington have passed laws regulating the withholding of transcripts. However, this is an area that state leaders are increasingly interested in addressing.

California was the first state to pass a law barring the institutional practice of transcript withholding. Governor Gavin Newsom signed Assembly Bill 1313 in October 2019, which created the Educational Debt Collection Practices Act[13] effective January 1, 2020.[14] The act prevents all public and private postsecondary schools in the state from refusing to provide a transcript because a student owes a debt, conditioning the provision of a transcript on the payment of a debt, charging a fee for obtaining a transcript or otherwise using transcripts as a tool for debt collection. It may be of interest to Ohio that California's Attorney General, Xavier Becerra, was involved with and sponsored the bill,[15] which provided the bill with credibility and helped with its passage. Attorney General Becerra spoke out against the practice of transcript withholding, explaining that "students with debt are currently in a Catch-22. They can't access their transcripts if they have school debt, which limits opportunities that would help them address the debt."[16]

Louisiana also passed a transcript withholding law but it is not as strong as the California law. Governor John Bel Edwards signed House Bill 676 in June 2020 which created Act 334 effective August 1, 2020.[17] The act allows the public postsecondary education management boards that oversee the four public university systems (Louisiana Community and Technical College System, Louisiana State University System, Southern University System and University of Louisiana System) to adopt policies to prohibit the institutions under their supervision and management from withholding transcripts due to debts. Due to push back from Tulane University and Loyola University New Orleans, Act 334 does not prevent private

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[11] Ithaka S+R, October 2020.

[12] Maurer, R., "Withholding Transcripts: Policy, Possibilities, and Legal Recourse," November 2018. Available at: http://dx.doi.org/10.2139/ssrn.3288837

[13] See AB-1313 Higher education: prohibited debt collection: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1313

[14] See Consumer Finance Monitor, CA enacts law prohibiting postsecondary schools from withholding transcripts as debt collection tool, October 2019: https://www.consumerfinancemonitor.com/2019/10/10/ca-enacts-law-prohibiting-postsecondary-schools-from-withholding-transcripts-as-debt-collection-tool/

[15] See Press Release Attorney General Becerra and Assemblymember Rivas' Bill Prohibiting Schools from Withholding Student Transcripts Moves Forward, April 2019: https://oag.ca.gov/news/press-releases/attorney-general-becerra-and-assemblymember-rivas%E2%80%99-bill-prohibiting-schools

[16] Ibid

[17] See HB-676 Higher Education: Prohibits a public postsecondary education institution from withholding certain student services for financial reasons: http://www.legis.la.gov/legis/BillInfo.aspx?s=20rs&b=HB676&sbi=y

institutions in Louisiana from withholding transcripts because students owe debts.[18] As of December 2020, HCM did not find evidence that the management boards had enacted regulations preventing their institutions from withholding transcripts.

Washington's Governor signed a transcript withholding law in March 2020 modeled on California's law.[19] In conversations with individuals involved in the legislation, HCM heard that backlash from institutions led to the law only allowing for students to receive transcripts for reasons other than re-enrolling at the same institutions where they owe debt. The law allows students who owe debts to receive transcripts to apply for jobs, transfer to a new institution or apply for financial aid.[20]

More states are gaining interest in prohibiting transcript withholding. The Minnesota Office of Higher Education (OHE) is interested in introducing such a bill in the upcoming legislative session. The Minnesota bill would look like Washington's in that it would prevent institutions from withholding transcripts if students need the transcript to transfer or find a job but not to re-enroll at the same institution where they incurred the debt.

Debt Forgiveness

HCM also looked at programs across the country that allow students who owe debts to institutions to re-enroll despite their outstanding debt. In exchange for re-enrolling and meeting program-specific criteria, institutions will forgive some level of the student's debt. One of the most prominent examples of this is Wayne State University's Warrior Way Back program that forgives up to $1,500 of student debt over three semesters or upon successful graduation.[21] Wayne State has seen a significant return on their investment in this program. For the 2018-2019 fall and winter terms, Wayne State forgave $39,000 in past-due debts and netted $373,000 in tuition and fees paid by students participating in the program.[22] HCM spoke with individuals familiar with the program and learned that they were able to implement the program because Michigan does not have any laws mandating how institutions deal with their delinquent debts. Since institutions in Michigan, such as Wayne State, are not constrained by state laws, they are able to adjust their debt practices internally to allow students who owe debts to re-enroll.

As mentioned above, Ivy Tech Community College chooses to participate in Indiana's state income tax intercept program. As part of the program, Ivy Tech must have an appeal process where students can contest their debt. During these appeals, Ivy Tech officials heard from students that owing money to the school was a barrier to re-enrolling. Based on these interactions and declines in enrollment, even prior to the COVID-19 pandemic, Ivy Tech sought ways of re-enrolling students who were close to graduating. They created the Fresh Start 2020 program for students previously unable to re-enroll because they owed a debt between $50-$1,500.[23] If students successfully complete the program and obtain a degree, then Ivy Tech will waive their debt.[24] Ivy Tech is able to reach out to the DOR and ask that it stop interception of income tax for students who are enrolled in this program. Additionally, due to the pandemic, Ivy Tech suspended its tax intercept activities so any student whose 2019 income tax return would have been withheld received their returns. Ivy

[18] See The Tulane Hullabaloo, Amendment would exempt Tulane, private universities from proposed bill, May 2020: https://tulanehullabaloo.com/53372/news/amendment-would-exempt-tulane-private-universities-from-proposed-bill/

[19] See HB 2513 - Prohibiting the practice of transcript withholding and limiting the practice of registration holds at institutions of higher education as debt collection practices: https://app.leg.wa.gov/billsummary?BillNumber=2513&Year=2019

[20] Ibid

[21] See Wayne "State" University, Warrior Way Back: https://wayne.edu/warriorwayback

[22] uAspire, "Beyond the College Bill The Hidden Hurdles of Indirect Expenses," June 2020. Available at: https://www.uaspire.org/BlankSite/media/uaspire/Beyond-the-College-Bill.pdf#page=39

[23] See Fresh Start 2020: https://www.ivytech.edu/files/Fresh%20Start%202020%20FAQ.pdf

[24] Ibid

Tech chooses to use the state's tax intercept program and can work within the confines of the state law to offer flexible debt forgiveness solutions.

Like Indiana, Minnesota also wants to increase enrollment, especially for adults, through their adult promise program called Minnesota Reconnect, which encourages adults to re-enroll in postsecondary education. Through Minnesota Reconnect, students with delinquent debt can access up to $1,000 in state funding to pay down or off that debt. Also like Indiana, Minnesota has a state income tax intercept program; however, while Indiana's program is voluntary, Minnesota's is mandatory. This adds an additional complication. Institutions are able to easily recall debts that have not yet gone to the DOR, so those students are able to re-enroll. The Minnesota Reconnect program encountered one student whose debt had already been referred to the DOR and that student will have to wait until the DOR refers the debt back to the school to re-enroll. Also as part of the Minnesota Reconnect program, students work with a campus navigator to help them from enrollment through completion. Because Minnesota's tax intercept laws are more stringent, the Minnesota OHE had to work with many different organizations to implement its Reconnect program.

Conclusion

Although there are only four states in addition to Ohio that mandate or allow referral of institutional student debt to state AGOs, HCM found that 30 states have some form of laws allowing institutions to refer debt to outside agencies. This means that while Ohio is not alone in having a mandate, its policy approach does stand out for its specificity as to when debt must be referred, for its broad reach across institutions and debts of varying sizes, and for the limited flexibility granted to institutions in the law. States like Indiana, Michigan and Minnesota either do not have debt referral laws or are able to work within their state debt referral laws to create promising debt-forgiveness models that allow students to re-enroll and complete degrees.

Given that institutional student debt is a new area of inquiry in most states, this work has created more questions than it has answered. Some questions for further exploration include:

- What is the scope of impact of institutional student debt on credential completion, time to degree and overall debt burden? Given the lack of oversight and agency at institutions, are there inequities by race/ethnicity and income seen in which students' debts are more likely to be referred to outside agencies?
- Given the vagueness of many of these laws, how often are debts actually referred to outside agencies state to state?
- Are there some institutional student debt collection processes/practices that make it easier or harder for students to navigate?

Some policy questions for Ohio stakeholders to consider:

- Do institutions that manage debt collections locally (either in-house or working directly with a third-party collection agency) see higher success rates in capturing account balances? Is the cost of debt collection lower when managed at the institutional level versus at the state level? Does the flexibility of controlling debt at the institutional level provide more benefits to students who want to continue their education?
- As more states move to restrict transcript withholding, what impact have they seen on enrollment trends, particularly for adult students, low-income students and racially minoritized and historically underrepresented students?
- How are debt forgiveness approaches funded? What is the average return on investment seen across "early adopter" institutions?

- Is there an optimal time before debt should be sent to AGO? What calculations have gone into creating such timeframes or deadlines? Are they driven by concerns for institutional efficiency, by an interest in supporting student success and completion, or by other motivations?
- To what extent is barring transcript withholding a priority advocacy area? What state and institutional goals would be served by changes to practices and policies around transcript withholding? Who would benefit the most from a ban on withholding, and who would be harmed?

As the C2C reviews these findings, HCM suggests a discussion of the following:

- If the AGO's role in the collection of institutional debt is to remain enshrined in state law, should Ohio lawmakers consider providing greater flexibility to institutions regarding:
  - Whether institutions *must* or *may* refer debt to the AGO?
  - The length of time after a debt becomes delinquent that it is referred for collection?
  - The minimum level of debt to refer for collection?
- Should Ohio lawmakers consider banning or limiting the practice of transcript withholding by institutions seeking to leverage transcripts as a means to force repayment of debt?

Appendix:
March 23, 2020 Memo
Improving Ohio's State Collections Process for Past-Due Student Accounts

To: Ohio Cradle to Career Network

From: Lara Couturier, Juana H. Sanchez, and Malia Sieve, HCM Strategists

Date: March 23, 2020

Subject: Improving Ohio's State Collections Process for Past-Due Student Accounts

To sustain economic growth and compete on a global stage, Ohio must close its pronounced "talent gap," the gap between its existing supply of skilled workers and the number of skilled workers needed to meet labor market demand. In Ohio today, a full 64% of jobs require some type of postsecondary credential.[1] Yet, just 45.5% of Ohioans ages 25-64 hold a postsecondary credential of value.[2] Attainment rates are even lower for historically marginalized or minoritized communities of color: just 27% of African Americans and Hispanics in the state hold a postsecondary credential.[3]

State leaders recognize the economic and equity imperative to increase postsecondary attainment and are working with urgency to bring more Ohioans into high-skill, high-wage jobs. State leaders recognize that this will require creative strategies to reach beyond the traditional high school age population, whose numbers are declining.[4] Significant efforts are thus underway to re-enroll "stopped out" students, those Ohio adults who have started—but not completed—a postsecondary credential. These include state-led initiatives like Finish for Your Future, as well as regional collective impact efforts led by the Ohio Cradle-to-Career (C2C) network of nonprofit organizations and their higher education partners.

From these efforts, a multitude of policy barriers have been diagnosed and potential solutions have started to take shape, including ideas for redesigning state financial aid and developing reverse transfer pathways. Interviews that HCM Strategists conducted with 17 stakeholders across the state reveal that the **strongest consensus calls for changing the institutional debt collections process**. Stakeholders feel strongly that existing state and institutional policies both hinder adults from re-enrolling *and* unduly tie the hands of institutions of higher education (IHEs) that are seeking to serve stopped-out students.

This memo seeks to inform a group of state leaders who are coming together on March 25, 2020 to discuss this issue and identify solutions. The memo opens with an overview of the current collections process and provides nine recommendations for improvement, including two recommendations that could be implemented under current state law, five that require legislative action, and two where further information or research is needed. In addition to a set of stakeholder interviews conducted in spring 2019 and winter 2020 (see Appendix I),

[1] Ohio Department of Higher Education, "The Case for an Attainment Goal," May 2017. Accessed at: https://www.ohiohighered.org/sites/ohiohighered.org/files/uploads/Link/attainment-framing-paper_FINAL-05092017.pdf
[2] Lumina Foundation, "A Stronger Nation: Learning beyond high school builds American talent," February 2020. Accessed at: http://strongernation.luminafoundation.org/report/2020/#state/OH
[3] Ibid
[4] Western Interstate Commission for Higher Education, "Knocking at the College Door: Projections of High School Graduates," 2016. Accessed at https://knocking.wiche.edu/state-profiles

HCM Strategists drew upon various information sources, including: a 2017 report by the Ohio Attorney General's Student Loan Debt Advisory Group; 2018 recommendations from the Inter-University Council (IUC); 2019 recommendations from the Higher Education Compact of Greater Cleveland; reporting by the *Columbus Dispatch* and Policy Matters Ohio; and a forthcoming 2020 report from the Finish for Your Future policy work group.

I. Overview of the Current State Collections Process

Current state law requires Ohio's 36 public institutions of higher education (IHEs) to certify debt from past-due student accounts[5] to the Ohio Attorney General's Office (AGO) within 45 days of the payment deadline or within 10 days of the start of the subsequent academic term, whichever is later.[6] In other words, if a student fails to pay the balance on their account by the specified date, the institution must send this balance to the AGO for collection. As of FY 2019, the AGO held 390,000 such accounts in its active database, totaling $735.6 million.[7] Between FY 2015 and FY 2019, IHEs certified 219,285 accounts with an average value of $1,500.[8]

The state's collections process can be quite long and involve multiple contracted actors. Once the AGO receives the student account, the AGO attempts collection efforts for 120 days, passing on a 10 percent fee to the student debtor to cover state collection costs.[9] If these efforts are unsuccessful, the AGO will refer accounts to a third-party collection agency, adding a 21 percent[10] fee to cover the agency's cost. When these efforts prove unsuccessful, the AGO will refer accounts to an outside special counsel (adding a fee of up to 33 percent); special counsel can seek court judgement against student debtors to garnish wages, seize bank accounts, place liens on real estate and initiate foreclosure.[11]

If an account remains uncollectible after all these efforts, the IHE may then request that the AGO write off the debt. Without this expressed request, the AGO will keep the account in its active database for "soft" collections efforts, during which time the state can still seize a student debtor's state tax refund and any lottery winnings. Per state law, the AGO cannot cancel debts until 40 years have passed.[12] By our estimation, four academic years can pass from the time that a student account becomes past-due and referred to the AGO to the time that the account can be written off by the IHE (see Appendix II).

Even with these aggressive efforts, the state collections process yielded just over $50 million per year between FY 2015 and FY 2019.[13]

It is likely that the cost to students and to IHEs is far greater. Both public and private IHEs in Ohio frequently prohibit students with past-due accounts from registering for courses and

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[5] Past-due student accounts generally include tuition balances, as well as fees for late payment. In general, these accounts do *not* reflect federal or private student loans that a student may have taken out.
[6] See ORC 131.02 - Collecting amounts due to state: http://codes.ohio.gov/orc/131.02
[7] Policy Matters Ohio, "Collecting Against the Future: Student-debt practices undermine Ohio's higher education goals," February 2020. Available at: https://www.policymattersohio.org/files/research/collectagainstfuture1.pdf
[8] Ibid
[9] As reported by Policy Maters Ohio. However, state law appears to permit the AGO to assess up to 11% of the amount collected to a debtor in order to cover expenses incurred by the AGO. See ORC ORC 109.081 - Attorney general claims fund: http://codes.ohio.gov/orc/109.081
[10] Policy Matters Ohio, 2020.
[11] Ohio Attorney General's Student Loan Debt Advisory Group. June 2017 Report.
[12] ORC 131.02
[13] Policy Matters Ohio, February 2020

obtaining official transcripts or diplomas, as a matter of institutional policy.[14] This is intended to keep students from moving to another IHE without first resolving their past-due accounts. These policies can indeed succeed in keeping students out, though quite counterintuitively, this derails students from completing the postsecondary credential they need to access higher-wage employment and the career advancement opportunities that would enable them to pay down past debts. By barring students from re-enrolling, IHEs may be losing more dollars in the form of foregone tuition revenue.

Recognizing that harsh penalties for student debtors may be a lose-lose game, several IHEs are piloting "debt forgiveness" initiatives, including Lorain County Community College, Cleveland State University, Cuyahoga Community College, and the University of Akron. At Lorain, the *Refresh My Account* program offers students the one-time opportunity to clear a past-due account and re-enroll on the condition that they complete financial literacy training and regularly meet with an academic advisor. Over the course of two terms, Lorain County Community College "forgave" $79,975 in past-due accounts but gained $112,249 by re-enrolling students (net gain of $32,274).[15] Cleveland State University, Cuyahoga Community College, and the University of Akron are similarly working with College Now Greater Cleveland to re-enroll students with past-due accounts through the (Re)Connect program. These campuses have successfully re-enrolled approximately six percent of eligible students, collectively yielding $768,822 in net tuition revenue.[16]

Given this evidence, many state leaders have come to a shared conviction that changing the debt collections process would be beneficial in order to reduce financial harm to students and provide IHEs with the flexibility and support they need to devise strategies that are more successful in recouping costs and re-enrolling students. The below recommendations were surfaced in stakeholder interviews and supported in reports produced by the AGO Student Loan Debt Advisory Group, the IUC, the Higher Education Compact of Greater Cleveland, Policy Matters Ohio, and Finish for Your Future.

II. Recommendations Surfaced During the Research

This memo describes nine recommendations that can directly improve debt collections policies and processes in order to facilitate adult re-enrollment. Recommendations are organized as follows: (1) areas that do **not** require changes to state law; (3) areas that require changes to state law; and (4) areas where additional information or research is needed.

Areas that do not require changes to state law

Recommendation #1: Change institutional policies to enable students with past due accounts to re-enroll.

A review of Ohio institutional policies found that most IHEs have policies that prohibit students with past-due accounts from registering in subsequent terms.[17] This policy is frequently communicated to students in college and university catalogs, websites and

[14] Maurer, R., "Withholding Transcripts: Policy, Possibilities, and Legal Recourse," November 2018. Available at: http://dx.doi.org/10.2139/ssrn.3288837
[15] Policy Matters Ohio, February 2020
[16] Ibid. Cleveland State utilized grant funding to clear $100,000 of past-due accounts from the 2017-18 and 2018-19 academic years, resulting in $627,594 tuition revenue from re-enrolling 257 students; Cuyahoga and the University of Akron spent $10,000 each to clear past-due accounts from the 2018-19 academic year, resulting in $48,000 in tuition revenue from re-enrolling 61 students at Cuyahoga, and $213,228 in tuition revenue from re-enrolling 102 students at the University of Akron.
[17] Maurer, R., November 2018.

student account management portals. When a student's account becomes past-due, the bursar's office may place a hold that restricts the student from registering in an upcoming term and may drop the student from courses in which they have already registered. One institutions that provides more flexibility to the student is Wayne State University in Detroit, Michigan, which permits students to register for a subsequent term and can also extend a payment plan to give students more time to pay down their debt.
As noted earlier, there are a few Ohio IHEs pioneering innovative approaches to re-enroll students with past-due accounts. The Ohio Department of Higher Education (ODHE) could elevate these institutions through statewide convenings, communities of practice or other peer-to-peer learning. In addition, groups like the IUC, the Ohio Association of Colleges and Universities (OACC), and the Association of Independent Colleges and Universities of Ohio (AICUO) could provide additional avenues for IHEs to evaluate institutional policies, identify promising practices, and develop standardized language that is responsive to the unique considerations of each segment.

Importantly, the chancellor of the ODHE can incentivize institutions to re-enroll students by changing ODHE administrative rules that govern state share of instruction (SSI) calculations. The chancellor can revise its rules to permit students with past-due accounts to be included in SSI enrollment counts.[18] This would provide additional SSI resources to IHEs, which may be used to reconcile past-due accounts.

- *Finish for Your Future, Policy Matters Ohio and the Higher Education Compact of Greater Cleveland have called for expanding re-enrollment options for students with past-due accounts. ODHE legal counsel has indicated that changes to SSI administrative rules would not require legislation.*

Recommendation #2: Discourage the practice of withholding official transcripts and diplomas from students with past-due accounts.

As another matter of institutional policy, public and private IHEs in Ohio often withhold official transcripts and diplomas from students with past-due accounts until the debt is fully paid. This can inhibit a student from transferring to another institution by limiting their ability to transfer credit for courses for which they already paid and completed. As a result, students can be derailed from completing a degree or credential or forced to repeat courses (creating inefficiencies for students and IHEs by extending time to degree and state costs per graduate). Further, these practices can bar students from obtaining employment if an employer requires an official transcript or proof of degree completion for hiring.

While the federal government has issued guidance encouraging IHEs to withhold transcripts for individuals who have defaulted on *federal loans*, the practice of withholding transcripts for *past-due accounts* is **not** supported by federal law or by Ohio state law.[19] Still, there appears to be confusion in the field about whether IHEs are *required* to withhold transcripts for students with past-due accounts. California recently passed legislation to not only clarify, but to expressly prohibit public IHEs from withholding transcripts for past-due accounts.[20]

[18] Per Ohio Administrative Code 3333-1-02.1, section (b), "Students who have not paid fees for a prior term by the fifteenth day of the present term" cannot be included in enrollment calculations for state share of instruction. Accessed at: http://codes.ohio.gov/oac/3333-1-02.1v1
[19] Maurer, R., November 2018.
[20] See California Civil Code Title 1.6C.7 - Educational Debt Collection Practices: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.6C.7.&part=4.&chapter=&article=

At minimum, the ODHE could issue guidance clarifying state law and encouraging IHEs to reassess their institutional policies. The ODHE could further convene IHEs as noted above to revise institutional policies on transcript release and degree conferral. One compromise that IHEs could consider is releasing transcripts for all terms *except* for the term in which payment is pending.

- *Finish for Your Future, Policy Matters Ohio and the Higher Education Compact of Greater Cleveland have supported ending the practice of transcript withholding.*

Areas that Require Changes to State Law

Recommendation #3: Expand the window of time that IHEs have before they must certify debt to the AGO.

Current law provides a narrow window for IHEs to attempt collection before they must certify the debt to the AGO. The current window ignores the complex nature of higher education billing processes and restricts IHE's ability to design student-centered approaches to debt management. It is important to note why student account billing does not align neatly to traditional accounts receivable cycles and offer the following explanation.

Students often use external funds (e.g., federal and state aid, private scholarships and loans) to pay for tuition and other costs of attendance. These funds can reach IHEs at different points in the term, making it impractical for IHEs to withhold services (i.e., instruction) until full payment is rendered. In addition, IHEs may offer individual payment plans to help students pay down balances over the course of the term, which is particularly helpful for students who finance all or part of their college costs through concurrent employment (including federal work-study employment). Finally, even when a term has concluded and an IHE receives payment on-time, an account can become past-due if external funding is revoked or forfeited (such as for not meeting academic requirements). Thus, the process to track and collect on past-due accounts will need to vary by student situation.

With more time, IHEs could devise new and creative approaches to managing debt and promoting student re-enrollment, such as the (Re)Connect model. Legislation could amend state law to grant IHEs an expanded window of time to implement these efforts. This would enable IHEs to develop strategies that are more responsive to their students' needs and that may be more successful than the current state process, given the closer relationship that IHEs have with students.

- *There is preliminary consensus among the IUC and OACC that an appropriate window of time is one calendar year, or the start of the same term in the subsequent academic year.[21] Finish for Your Future and the Higher Education Compact of Greater Cleveland also support granting IHEs more time for debt repayment and re-enrollment strategies.*

Recommendation #4: Establish a minimum threshold for the value of past-due accounts that must be certified to the AGO for state collections.

The average amount of all past-due accounts referred to the AGO between FY 2015 and FY 2019 is $1,500. However, the total amount that student debtors must pay back can

[21] Jasinski, B., "IUC-recommended Uniform Standards for the Collections Practices of State Colleges and Universities of Ohio," August 2018.

drastically increase once collection costs are assessed by the state. The high costs of state collection and low rates of success may not justify this process for lower-value accounts. Legislation can amend state law to only require state collection efforts for student accounts above a specified threshold, while granting IHEs flexibility to determine on a case-by-case basis if it is worthwhile to pursue state collections for accounts below this threshold.

- *The IUC has recommended establishing a minimum threshold of $400.*

Recommendation #5: Exclude institutional late fees and interest from state collections to avoid compounding interest.

IHEs may currently charge one-time payment plan enrollment fees and may assess late payment penalties and/or interest on past-due accounts. When certifying debt to the AGO these fees can be included in the total account balance. The AGO assesses interest of 10 percent on all accounts, effectively compounding interest. Legislation can amend state law to specifically exclude institutional late fees, penalties and/or interest rates so that only the principal balance is certified to the AGO.

- *This recommendation was supported by the AGO Student Loan Debt Advisory Group and by the IUC. The OACC has previously recommended that payment plan late fees be permitted to be included in the total amount that is certified to the AGO.*

Recommendation #6: Exempt past-due accounts from being referred to special counsel, thereby permitting IHEs to write-off debt earlier.

Currently, the AGO attempts collection for 120 days before referring accounts to a third-party vendor. This vendor has 237 days to attempt collection before the AGO refers the account to a second vendor. If, after an additional 237 days, these efforts are still unsuccessful the AGO can refer accounts to special counsel. The practice of suing low-income students is particularly egregious as it may take place without students' knowledge.[22] Lawsuits can result in the state garnishing wages, seizing bank accounts and even initiating foreclosure on students' homes. These highly punitive actions can have longer-term financial consequences for students and are contrary to the state's economic interests of moving more Ohioans out of poverty.

State law can be amended to permit IHEs to bypass the special counsel process altogether and deem accounts uncollectible after the two rounds of third-party collection prove unsuccessful. This is the approach used in Georgia. There, IHEs retain debt locally and work directly with third-party agencies to collect on accounts; after two rounds of unsuccessful third-party efforts, IHEs can request state permission to write-off debt. If Ohio were to eliminate special counsel as part of its state collections process, it would provide a comparable timeframe for write-off.

- *The AGO Student Loan Debt Advisory Group recommended that the AGO review its collection efforts for returned, archived and uncollectable accounts in order to find more efficient ways to dispose of hard-to-collect debt. Finish for Your Future has further flagged equity concerns over how the current practice of garnishing wages and seizing state tax refunds through special counsel impacts low-income students.*

[22] Columbus Dispatch, "Student debt can balloon with little notice," August 20, 2016. Accessed at: https://www.dispatch.com/content/stories/local/2016/08/21/student-debt-can-balloon-with-little-notice.html

Recommendation #7: Create consistent exceptions for IHEs regarding the write-off of very small dollar debts and early debt cancellation options.

Currently, the AGO will only write-off debt certified by an IHE when the IHE initiates a request, and only after all state collection efforts—including special counsel—have been exhausted. Further, state law requires the AGO to hold certified debt in its active database for 40 years before it can cancel the debt. Yet, the AGO currently has memoranda of understanding in place with various IHEs that specify conditions in which small-dollar debts (e.g., less than or equal to $25) can be written-off without initiating the state collections process, as well as earlier timelines (e.g., 10 or 15 years) for when certain types of debt can be canceled before the typical 40-year timeframe. State law could be revised to provide these exceptions to all IHEs, which would improve efficiency in the state collections process by enabling the AGO and IHEs to focus on larger accounts.

- *The OACC has expressed support for standardizing these types of exceptions, which the AGO currently negotiates with IHEs directly through memoranda of understanding.*

Areas Where Additional Information or Research is Needed

Recommendation #8: Identify ways to improve the process for IHEs to pull back or buy-back debt that has already been certified to the AGO.

As IHEs step up efforts to re-enroll stopped out students, they are more likely to encounter students who have an account in the AGO's active database. Depending on where that account is in the process—in third-party collection, for example—it may take weeks or months for an IHE to pull back the account, thereby delaying the student's ability to re-enroll. State leaders can bring together the AGO with IHEs to explore where additional flexibilities could be built into the state collections process so that IHEs are able to pull back debt more quickly. In addition, stakeholders might further explore how "buy-back" options can be structured so that IHEs can purchase debt back from the state at a reduced rate. For accounts that are pulled back or bought back at a reduced rate, legislation may be required to permit the AGO to remove state collection fees.

- *The AGO Student Loan Debt Advisory Group recommended that the AGO review its collection efforts for returned, archived and uncollectable accounts in order to find more efficient ways to dispose of hard-to-collect debt. The IUC has recommended that IHEs have 30 days from the date of certification to pull back an account.*

Recommendation #9: Provide competitive grant funding to incentive IHEs to develop and scale initiatives to settle or forgive past-due accounts.

Given the state's compelling interest to increase the number of skilled workers to ensure a thriving state economy, as well as recent data that suggests a financial return on debt forgiveness programs, state leaders might consider appropriating dollars in the next state budget to competitively award one-time grant funding to individual institutions or regional consortia of IHEs to launch or expand debt "forgiveness" programs. Grant funding might be used to reconcile past-due student accounts and to further evaluate the fiscal effect of reducing this barrier to re-enrollment. The ODHE could spotlight best practices and disseminate lessons learned from grant recipients through convenings, webinars or other peer-to-peer learning opportunities.

III. Additional Considerations
HCM's research surfaced additional considerations that state leaders might consider when undertaking any efforts to improve the institutional debt collections process.

Leveraging IHE networks to inform policy reform and implementation
In addition to the IUC, OACC, and the Association of Independent Colleges and Universities of Ohio, groups like the Ohio Association of College and University Business Officers, the Ohio Bursars Association, and the Ohio Association of Student Financial Aid Administrators can be engaged to support policy design and implementation, to engage campus-level staff and to influence practice on the ground.

Consistency of student communications
Both the AGO Student Loan Debt Advisory Group and the IUC flagged the need to improve the quality and quantity of communications that students receive about debt collections processes, including the costs of state collections.
- The AGO could work with IHEs to develop standardized templates for obtaining expressed consent from students to be contacted via mail, phone and email by IHEs, the AGO and third parties.
- IHEs can identify best practices in institutional debt collections strategies and develop guidelines for student outreach by sector and institution size.
- Similarly, the AGO can solicit input from IHEs on how to improve AGO communications to student debtors, including information about added costs when accounts must be referred to third-party vendors.

Incorporating debt collections information within financial literacy efforts
As state leaders reform the current institutional debt collections process, they should be mindful of how these changes are promoted to students and integrated within existing financial literacy campaigns. In addition, information on debt forgiveness initiatives and programs should be central to efforts to re-enroll stopped out students.

Continuous improvement of AGO practices
The AGO Student Loan Debt Advisory Group recommended several ways to improve transparency and ongoing process improvements. First, the AGO can establish an advisory group that includes IHEs and advocates that advises the AGO on debt intake (e.g., how to code different types of debt, what student demographic information to collect), process improvements, and external communications. Second, the AGO can make available more data and provide annual reports on the number, size and other characteristics of the past-due accounts in its database. This would ensure transparency and better enable policymakers to evaluate the impact of any changes to the state collections process.

State financial aid reform
Finish for Your Future has suggested that state financial aid might be used to pay down past-due accounts. In addition, several stakeholders expressed a desire to make broader reforms to state financial aid programs more responsive to the needs of adult learners. Additional fact-finding and planning would be necessary to determine how state financial aid might be restructured to address debt forgiveness and facilitate adult re-enrollment.

Appendix I: Stakeholders and Experts Consulted

Devin Babcock
Office of Ohio Governor Mike DeWine
NGA Educate for Opportunity

Carol Bonner
Sinclair Community College
Finish for Your Future - Adult Learner Workgroup

Jimmy Clarke
HCM Strategists

Stephanie Davidson
Ohio Department of Higher Education

Mike Duffey
Ohio Department of Higher Education
NGA Educate for Opportunity

Andrew Felberg*
Stark State College

Jack Hershey
Ohio Association of Community Colleges

Becky Jasinski*
Youngstown State University

Bruce Johnson
Inter-University Council

Tom Lasley
Learn to Earn Dayton
Ohio Cradle to Career Network

Dawn Medley
Wayne State University

Maggie McGrath
Higher Education Compact of Greater Cleveland; Ohio Cradle to Career Network

Cindy McQuade*
Inter-University Council

Julie Seltzner
College Now Greater Cleveland

Stephanie Shaw*
Eastern Ohio Education Partnership

Calista Smith*
Scale Strategic Solutions, a division of C. H. Smith & Associates, LLC

R. Michael Snider*
Ohio Association of Community Colleges

Martha Snyder
HCM Strategists

Michael Thomson
Northwest State Community College
Finish for Your Future - Policy Workgroup

Brett Visger
Ohio Department of Higher Education (formerly)

Tom Walsh
Ohio Association of Community Colleges

Byron White
StrivePartnership
Ohio Cradle to Career Network

Derran Wimer
Summit Education Initiative
Ohio Cradle to Career Network

**Last consulted in Spring 2019*

Appendix II: Current State Collections Process Timeline (approximation)

Fall 2016*	**Student Account Becomes Past Due** Occurs when a student fails to meet the payment deadline as set by institution, or when expected aid does not come through for the term. As part of their debt management efforts, IHEs may charge payment plan enrollment fees, late payment fees, or interest, and may place a hold on a student's account in order to bar registration and transcript release.
Spring 2017	**IHE Certifies Debt for State Collections** By law, IHEs must certify past due accounts within 45 days of the payment deadline or within 10 days of the start of the subsequent term, whichever is later. IHEs might add payment plan enrollment fees, late fees, and interest to the total amount that is certified and sent to the AGO for collection.
Summer 2017	**AGO Internal Collection Cycle** AGO adds 10% interest and attempts to collect account for 120 days (~17 weeks or 4 months) before referring for external collection efforts.
Fall 2017	**Third-Party Collections Attempt #1** AGO sends the account to a third-party vendor which may add additional interest of up to 21%. If collection efforts are unsuccessful after 270 days (~39 weeks or 9 months), the account is sent back to the AGO.
Spring 2018	
Summer 2018	**Third-Party Collections Attempt #2** AGO refers the account to a second third-party vendor for another 270 days (~39 weeks or 9 months); if efforts are unsuccessful, the account is sent back to AGO.
Fall 2018	
Spring 2019	**Special Counsel Attempt #1** AGO refers the account to a specialized debt-collection law firm that can obtain court judgement to garnish wages or state tax refund, place lien on real estate or initiate foreclosure. By law, debtor is responsible for these legal fees. If collection efforts are unsuccessful after 270 days (~39 weeks or 9 months), the account is sent back to the AGO.
Summer 2019	
Fall 2019	**Special Counsel Attempt #2** As a final attempt, the AGO can refer the account to a second special counsel. If collection efforts are unsuccessful after 270 days (~39 weeks or 9 months), the account is sent back to the AGO.
Spring 2020	
Summer 2020	**Account Returns to AGO** At this point the institution can deem the account uncollectable and request to the AGO to write it off. If the account is written off, it will be placed in the AGO's archive database. If not, the account will remain in the AGO's active database for "soft" collection efforts (i.e. quarterly debt collection letters). Per state law, the AGO may collect debtor's state tax refund or lottery winnings to offset debt. The AGO can only cancel debt following 40 years from its initial certification.

**Fall/Spring terms are approximated at four months, whereas summer terms are approximated at three months*

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