

COLLECTIONS

ADMINISTRATIVE WAGE GARNISHMENT:

Comment (David Hammond, ED-Atlanta DCS) (S): The only change is that student aid cannot be garnished. Atlanta DCS does AWG hearings. He will e-mail the spreadsheets to GLOS for distribution. (Shared with GLOS that day and e-mailed to San Francisco participants the following morning.)

Q (A): Does the borrower contract with you to do AWG especially those borrowers who have a hardship?

A (A): Yes, we have a pilot project to help borrowers establish a repayment program which is probably cheaper than what an administrative court would demand. Most of the cases we handle have a hardship situation and we can help those borrowers.

Q (A): Do you have to do a face-to-face with the court?

A (A): No, only in New York do we have to do a face-to-face. Once we give notification of pending garnishment, the borrower shows up.

Q (A): Why can't we do all the loans including state loans whenever we set up wage garnishment for a borrower?

A (A): Treasury Offset Program limited us from doing the entire package. DCS will get back on this issue to see if it is being reconsidered in neg-reg.

Q (A): Can wage garnishment go up to or exceed 25 percent of the borrower's pay?

A (A): It is still limited to 25 percent. The employer also has to look at all the creditors that have to be paid through wage garnishment and they can have some influence on what percent rate is set for repayment.

Q (A): Is there a way to notify the borrowers of their responsibility to repay their loans through wage garnishment?

A (A): Texas sends all of its borrowers a handbook on the requirements and responsibilities for repaying the loan. It tells the borrower why they must repay the loan and the repercussions for not paying. It has worked very effectively.

Q (A): Can self-employed fall under non-compliant?

A (A): Yes, and those accounts should be assigned to DCS.

Q (B): Are AWG payments considered in regaining Title IV eligibility?

A (B): (Gary, DCS) No, they're not voluntary. I think if you're paying above and beyond what that is then you can get reinstated.

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ASSIGNMENT OF LOANS:

Q (C): Can ED take voluntary assignment loans?

A (C): ED would discuss and negotiate about taking accounts. The discussion on ED's side is what accounts ED would take. DCS will get clarification to GAs on voluntary assignments as to loans and the criteria that would be acceptable and/or eligibility criteria for taking loans.

Q (A): If you have federal employees who do not pay on their loans, can you have them assigned to account maintenance?

A (A): Yes, you can have them assigned to account maintenance for collection of the debt probably through wage garnishment.

Q (A): Reconciling with DCS, whenever I am asked to provide balances and supporting data I am at a loss of what to tell the borrower.

A (A): The assignment process should provide you with a loan data base report that we have accepted assignment and whatever errors are there in the account.
Call 800 935-7709 if you are having problems.

Q (A): What if there has been no activity on an account?

A (A): We would love to assign all the accounts, but if you have a concern call and DCS will see what they can do to get the account assigned for collection/repayment.

Q (A): Can we get a copy of the report to see if the student is having a hardship in paying their loan?

A (A): Standard Applicable report that comes from the Department of Labor, IRS and other various agencies and you may receive a copy by contacting DCS.

Q (A): Voluntary assignments, I only know of age basis assignments. Are there others.

A (A): Give DCS a call concerning the account you want to be voluntarily assigned. Also, look at the report to make sure that DCS did accept the assignment.

ED Comment (B): (Pam Eliadis, ED) We're working on reconciling NSLDS and Debt Collections' data. The problem is where either a GA assigned the loan to Debt Collection, whereas NSLDS still had the underlying ones as separate loans. So we're working with Debt Collections right now in order to try to reconcile some of these differences to get rid of some of the duplicates.

ED Comment (B): We're currently working on assignment tape layout and that's also for our reporting to NSLDS so once we test that we will advise all the Guarantee Agencies when the assignment tapes should change, but right now just keep doing what you're doing. Don't change anything until you hear from us on that. Also if you are planning on assigning something to us we would like to know your schedule, like how many loans you're paying besides this so we'll know in planning how the acceptance can be taken. Voluntary assignments, as long as the accounts meet the basic criteria that are in the

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mandatory assignment packet, you can send it to us. We'd be glad to take voluntary assignments.

ED Comment (B): If you've got loans in your portfolio that are just two years old and for whatever reason you've just decided that you just don't do well with those and you'd just [rather] not have them in your portfolio, you can go ahead and assign those.

ED Comment (B): One of the things I'd like to bring to your attention, we sent out a letter, it's dated February 24, 1999 and it's signed by Jack Reynolds for Tom Pestka, who's the director of the Debt Collections Service. And basically the letter was sent out to give you some additional guidance on assignments [be]cause you'd received a letter from Larry Oxendine, dated October 19th, and it asked for some additional paperwork. And basically we got the letter we realized that the information that was being asked for, more so supported the cohort default rate information, more so than what we needed for assignment. So the letter goes through telling you that we don't really need that paperwork and you don't need to submit it to us. So people working collections, if you're not aware of the letter we can make sure that you get a copy today. Also in that same packet is some information on write-off on the write off authority and all that. The document hasn't been updated in a while, so if you still have the document from January 21st 1994, it still stands. I think Gary may say a little bit more about that. And the only other thing about when you're submitting documentation to the Department just remember that ... it's okay it has been accepted, that the turnaround is real short so one of the things that we wanted to tell you about is, I think you can send up to 5000 records, just remember two weeks after it's accepted you have to send the hard copies in. So if you really can't do the hard copies on 5000 you might want to limit it. That's one thing we'd like for you to know because that paperwork is expected to be in within two weeks after the acceptance.

CALCULATIONS:

Q (S): How often is information (average expenses per city/state) updated?

A (S): (David Hammond, ED) Don't have a schedule. Can get one.

Q (S): Can you share the location of the city/county standards?

A (S): (David Hammond, ED) Will get information on the Department of Labor website.

Q (S): Can this spreadsheet be used to determine reasonable and affordable payment?

A (S): (David Hammond, ED) Yes, could be used for that. But there are lots of discussions regarding the definition of "reasonable and affordable." ED has its own definition; borrowers have own definitions. Need to discuss the definition so all would be on the same page. Will be more customer-oriented. Will get information out as it unveils for us.

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Q (A): Are you scoring the individuals before setting the repayment schedule? Do you have guidelines that can be shared?

A (A): Yes, we look at the individual and score them based on their income and increases in their cash flow to see what sort of payment they can be charged. Yes, we can share our guidelines with you upon request.

Q (A): Can we get a copy of the hardship calculator?

A (A): Yes, give me your email address and call and I will send it to you.

Q (S): Is portfolio scoring only done within the 45-day period?

A (S): (David Hammond, ED) No, this is continually done even with accounts that are outsourced.

Q (S): At one time, ED was charging a monthly administrative fee on internal accounts of \$2-3 a month, then quit for awhile. Will this start again?

A (S): (David Hammond, ED) No, system changes are costly.

COLLECTION COSTS:

Q (S): Is the 25% fee cap related to actual cost? (In reference to David Hammond's presentation regarding some promissory notes having a 25% cap and the lawsuit with Legal Services in New York.)

A (S): (David Hammond, ED) Actual cost is approximately 20%. As a heads up, make sure GAs look at their systems in calculating collection costs. Make sure it is under the cap.

Q (S): Why charge the collection fee if it is not the true cost? What is the philosophy behind this?

A (S): (David Hammond, ED) It is our true cost. Our cost is relative to a lot of different things.

Q (S): How do you determine it is going to be 25%? Is there an expense formula to arrive at 25%?

A (S): (David Hammond, ED) Yes and no. ED has deficit on some accounts. Can't pass on all collection costs. Try to have an average of collection costs passed on to the borrower. To the degree that the government can, I'll say "yes." In real world accounting and finance, I'll say "no," don't think can pass on all collection costs.

Q (S): What are the collection agency costs?

A (S): (David Hammond, ED) Now, 23% of the 25% is paid by ED to the collection agency.

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Q (S): So costs would probably not drop below the 25% threshold if the amount is driven by the promissory note? We are allowed to charge collection fees not to exceed the lesser of what ED charges or our actual collection costs. What is the official rate?

A (S): (David Hammond, ED) Probably best way to address question is due to promissory note language. Can never go above 25%.

Q (S): From what you're telling me, you're not using the calculation formula that you're asking us to use. You're really being driven by the terms of the p-note and that tells me that I probably don't have to worry so much every January whether or not the rate is going to change from 25% to 20% or 17% or whatever because you're being driven by the terms of the p-note which is 25%, until you're sure you think you got all those through the system.

A (S): (David Hammond, ED) Right. I don't think we're going to cut out ourselves some money.

Q (S): For example, if a borrower calls about a repayment plan, does ED take collection costs out of every payment?

A (S): (David Hammond, ED) There are no collection costs if it is an in-house account. Collection costs are only assessed when account is sent out to a collection agency.

Q (S): But you (ED) don't give us (GA) that same discretion in the regulations. Even if the borrower enters into a repayment plan with us after the 61st day (for ex.) we are required to charge collection costs whether in-house or sent outside.

A (S): (David Hammond, ED) I got that same question in Chicago. The issue needs to be discussed at the Director's level. Some borrowers are paying forever and have not touched the principal. Some agencies are front-loading costs and adding in to debt and borrower has no opportunity to question cost. Not a good practice to pass on cost if not incurred.

Q (S): So if I'm a defaulted borrower, I'm going to ask my guarantor to subrogate my loan?

A (S): (David Hammond, ED) If you know the process, you are. But I don't know how much in-house collection does, even GAs, if you can't get the borrower into repayment relatively quickly.

Comment on collection costs (Dan Oppermann, ED-SF DCS) (S): New accounts sent to ED go to Greenville then to GSL system. System letters are sent immediately. If borrower gets into a repayment within 45 days, account is kept in-house. (We sometimes hold the account longer if it is not transferred to collection agency.) If, after 45 days, can send account to private collection agency.

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GA Comment (S): Just a clarification on when collection charges to borrower start. If in-house ED, there is no collection cost. If collection agency, there is a cost. Likewise, when GA has loan, government is incurring cost so it is required that we charge a fee. Look at it from this perspective. GA is agent of ED so there's cost associated with that. ED owns the loan.

Q (A): Can the GAs remove the collection costs when negotiating a defaulted loan?

A (A): Yes, you are encouraged to remove or reduce the collection fees when negotiating the repayment of a loan.

Q (A): Can the GAs charge the same collection costs as DCS?

A (A): Look at the promissory note to see what the collection fees are set at. Make sure you use those caps (some go as high as 42.5 percent). The legal community is very aware of the fees and caps. The promissory note sets the cap. Sometimes the loans have fees we can't explain.

ED Comments (B): If you look at our system you still separate it out. We have collection costs over here, but that doesn't really get applied unless we get money. If they ask for a balance, they get the collection costs included, but they're not deducted until the payments come in. Specifically if you haven't got payments on the account when it comes to us, we're not going to count any collection costs that you sent to us. If it's in-house, then we're not going to have to pay a collection agency any costs so in our view we did not incur that 25% collection fee. We basically don't charge the collection fee until we get payments and that's when we take out the collection fee. Because anything could happen we could recall the account from the collection agency and those collection costs go away because the collection agency didn't collect the money.

Q (B): So if somebody calls you for a payment and they had made no other payments before and their balance is \$1000 plus say \$50 in interest, you're going to take just \$1050 you're not going to charge them? (Loan is not with a collection agency.)

A (B): Right we wouldn't charge any collection fee.

Q (B): If it's beyond 60 days?

A (B): Doesn't matter. Well if it's beyond 60 days it's going to be. We don't keep them that long. We would have sent them to a collection agency by then. . . Our general practice is we get loans in-house. We send them a letter. We give them 60 days before we start reporting them to a credit bureau and they can begin payment without any collection costs. But if they go beyond that, then we're telling them that we're referring their account to a collection agency and collection charges are going to be added to their account.

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COMPROMISE AND WRITE-OFF:

Q (D): What is the difference between a write-off and a compromise?

A (D): In a write-off, the Department or loan holder can still pursue collection activity. In a compromise, the loan is considered “paid in full” even if a less than balance due was collected.

A (A): Compromise – once you have accepted the negotiated agreement then you cannot go back and renegotiate the payment or payoff.

Write-off – if the borrower’s status changes such as no longer permanently disabled, then the write-off agreement can be renegotiated. (There is a write-off/compromise procedure to be used as a guideline.)

Q (S): Please clarify the GA director’s power in compromises.

A (S): (David Hammond, ED) (referring to 1994 letter signed by Bob Evans) GA director can forgive up to 100% of the debt.

GA Comment (S): Just to clarify the procedures. She (Collections Manager) can compromise up to 30% of balance, but GA director has to do any compromise above 30%.

Q (C): Are compromises subject to IRS tax?

A (C): GA writes off debt. Inform borrower of borrower’s responsibility for write-off part of taxes.

Q (D): In negotiating a compromise, can the loan holder reduce the amount to be paid by the collection cost?

A (D): Yes.

ED Comment (B): Now what we did in the letter with respect to write off was, and this letter that you’re referring to is like five years old or something, Bob Evans wrote it that’s how old it is. Basically it had a whole list of criteria for writing off a loan and then it required you, once you wrote it off, to assign it to us, to the Department of Education. So, basically what we did in our letter was say, if you don’t want to continue collection activity on it and it fits one of these criteria then you don’t have to continue collection activity on it, you just put it in offset process and leave it, but don’t send it to us. Or you can just send it to us. Am I saying that wrong? The category had to do with chronically ill, you can just put those in treasury offset, you can discontinue collection activity on it. The other, all the other criteria that’s on that list rather than going through the elaborate process of seeing if it meets the criteria to write it off just assign it to us. Because we’re going to collect on it anyway, we didn’t have a code to determine if it was a write off or whatever, so if you have an account that fits a category that you just don’t think is collectable anymore, it’s still legally enforceable, I’m not talking about something that’s not legally enforceable, you’ve just decided for whatever reason, maybe the guy was just a jerk, you don’t want to talk to him any more, for whatever reason you don’t want to work it anymore, you can simply assign it to us. One-year old, two-year old, three-year old it doesn’t matter. That’s the change that we made in that letter. Hope I didn’t

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confuse you too much with that. Basically we're giving you more freedom to manage your portfolio however you want to manage it. You have to cancel your portfolio you don't want to work; you don't have to jump through all those hoops. If you qualify for write-offs, if you qualify for this, you can just "I don't want to work it anymore," give it to the Department. The compromise, this comes up every now and then, I'm going to go back to that, we get questions like, what's our authority as a Guarantee Agency to compromise, we didn't change that that's still in that letter.

LITIGATION:

Q (B): What do you have to do with self-employed workers? I know we've got a couple of questions in the other sessions about being able to litigate and I was talking to Larry Oxendine several months ago because of some changes in litigation. It's possible that we'll have a blanket lifted of that restriction that Guarantee Agencies now have on litigation. Did Larry say anything to you about that lately?

A (B): (Gary, DCS) They changed it to where a judgment that you get in state court can be assigned to federal court so we raised the obvious question. Can we go back to litigating and we thought about it. We talked to Larry, he thought that yeah, we might want to do something like that it's just that it hasn't come up since then. You get down to the question of the tool that we have, AWG, you don't necessarily want to go back and open the floodgates on litigation anymore. You go back to litigation maybe you narrow the focus to just self-employed workers, sending them an AWG doesn't do anything, unless they're just really strong-willed about it and say okay.

Q (B): You said a minute ago that you thought they're lifting blankets on things like litigation.

A (B): Right now you can with permission. . . . I don't know, possibly yes. With blanket, in other words, changes where you don't have to come every time you want to litigate an individual account, like now you have to come and ask. You get a blanket for a certain category if you get a loan that falls into that category then you can litigate without going and getting individual permission.

PERFORMANCE-BASED ASSIGNMENTS:

ED Comment (B): (Gary, DCS) The performance-based assignments are actually mandatory in nature. As we said the lenders have been there for several years and to kind of give you a history, I was actually out there at the time working with just the guaranteed student loans. We were working with debt collections over coming up with how we were going to measure defaults because the regulations called for a status to be made based on your performance relative to all the other guarantee agencies. In other words, you had this formula calculated by recovery rate and then if you, as a Guarantee Agency, your recovery rate was less than 80% of the national average then you would have been required to assign enough accounts to get your calculations up above 80%. And the

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Department kind of let that go for a couple of years to craft a better way of measuring performance. I'll get to that a little later, but suffice it to say we are going to have performance-based assignments we're just going to do a little bit more to determine what those assignments are going to be based on. We'll still have the current rate calculations that will be published. Everybody will know what the national average is, what your recovery rate is, but they will only be used as an indicator before we decide on whether assignments have to be made. We will look even further into the conditions at your particular Guarantee Agency and things like that. I'll go into that a little bit later, the point is we're working with NCHHELP specifically ... on coming up with the methodology that we will use to develop performance-based assignments.

ED Comment (B): For FY '99 throughout the year you collected this much, your recovery rate is this. That's only 50% of the National average, so you have to assign half of your portfolio to us. That's why we want to get away from that, we want to go where we see your recovery rate was only 50% let's look at your conditions and your statements. We may have already done that, we mentioned portfolio...I know that NCHHELP right now, I can't remember which entity they were using, they were working with somebody to develop some type of scoring mechanism to determine the expectation. And we're perfectly willing to use whatever sort of mechanism that you come up with to help us make a determination of what a good expectation is for what the default recoveries in your Guarantee Agency should be. But you also have to couple that with what the result is you are getting...also how you are using your collection tools. Even if you are doing a relatively good job if you've got a couple of collection tools that for whatever reason you're not making good use of this is an indication to us that if you made use of these collection tools, that you'd be doing even better and we want an explanation for that as well. And also this would not just be a one-way street, part of it is us sharing information...We have, in the last few months, shared our collection totals with the NCHHELP committee. They see what we've done to date. I mentioned they come to our collection agency and see how we use our collections, what people we hold them responsible for, how we pay them...those types of things. There should be information flowing both ways. We have no fear anymore of sharing all of the things that we wanted to...but we can learn from each other if we do that the only difference is we are responsible for yours but you're not responsible for ours. So we still have the advantage that's not lost on me, but we still have the willingness to share the information with people we feel like that can only serve to help everyone in the long run. But don't forget mandatory assignment has not gone away, you're going to have that. And when we come out that's going to be one of the first things we're checking for...we're going to check to see if people are complaining... Because for some reason the default portfolios of Guarantee Agencies seemed to have jumped quite a bit this year.

Q (S): Is there a new ED benchmark for annual collection for GAs with calculation using 10% of outstanding portfolio balance as of end of prior Federal Fiscal Year? Non performance-based assignment? When will we see exact formula to calculate guaranty agency recoveries? For example, years ago, if 80% of national average, require subrogation of x% of portfolio.

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A (S): (David Hammond, ED) During the partnership discussion in March (another one April 21), recovery rate formula was discussed. (David read from his notes from the Default Committee) “The recovery rate formula will remain a simple calculation using data captured in a quarterly report process (the 1130). The formula consists of a numerator defined as collections for the current year (principal, interest, collection costs, federal and state offsets) ED Form 1130, lines A25, A26, A27. The denominator is defined as the total outstanding claim portfolio (principal and interest) for the prior fiscal year-end ED Form 1130 C1-20. The recovery rate percentage will be used as point of reference and will not be the sole determining factor for increasing subrogation volume as was the case with the old performance monitoring program.”

Q (S): Would like to have a copy of the formula to do projections.

A (S): (David Hammond, ED) Will give copy. Will attach to the e-mail.

Q (D): Will GAs have advance notice on how performance-based assignments are evaluated?

A (D): Yes.

Q (A): Is the quality evaluation complete and can we get a copy of it?

A (A): It is still being worked out by the default committee.

STATUTORY CHANGES:

Q (C): What is the 300-day rule?

A (C): Reinsurance is paid if there is no default claim within 300 days after the 60th day of delinquency.

Q (D): Default aversion fee paid only once per loan, is this correct?

A (D): No. The language speaks to an 18-month period. Actually the way the regs are written it would take almost 24 months before a GA would be eligible for a second 1% default aversion fee. We expect a technical amendment to be published concerning this.

Q (A): What is the guideline for the Default Aversion fee?

A (A): 60 days delinquent, then current for 300 day, on the 361st day you can file for assistance.

Q (A): Timeframe for forbearance, has it been set?

A (A): It is still under discussion by neg-reg.

Q (A): When can the defaulted borrower be brought current?

A (A): Neg-reg still has to define. DCS will be involved.

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ED Comment (B): We'll talk about the collection receipts as it comes into the agency. Suppose it was a \$100 claim and of that claim \$100 eventually came into the agency as a school late refund. Now we reinsured that money at 95%. What happens we find out the school gets caught in a program review or whatever the case may be and a late refund comes in and eventually lands in the guarantee agency. Now how does that work? . . . How does it affect reinsurance? It makes it 100% that's one of the newer changes in Section 437. We get ...the same category 100% that's disability, bankruptcy, false school, false certification of schools and then we've got it on the refunds. So, that can trip up your accounting, you have to know then that you should have gotten reimbursed 100%.

ED Comment (B) (Gary, DCS): The question is on the 5% complement. What is the thinking that the 5% will go into the Federal fund versus not going in there or being shared in the operating fund? The risk share isn't getting bigger only because of the way that it is setup and you've seen ... what's the penalty for default. It's our money anyway, we lost the 5% on the Federal Fund. We've only reinsured you've paid the claim out at 98% to the lender out of the Federal Fund as it gets reinsured at 95% of that amount the complement is over to the Federal Fund. The Federal Fund is the one that's out the money not the Guarantee Agency Fund. Right? The Federal Fund has a short fall on the reinsurance that doesn't affect the guarantee agency though. It reverses itself in a slow manner, as quickly as you get repayments.

TAX OFFSET:

Q (B): State tax offset - I understand that once an account has been certified for offset it's permanently certified. Federal tax offset - Once an account has been certified they're permanently certified (for that program) until the account is paid in full?

A (B): (Gary, DCS) Or until you take it out. You put it in and it stays there unless some other action is taken to move it. . . . They won't come out just because they're in repayment. If they have some kind of hardship reason they can ask to be removed and we do have a mechanism to remove them. But once you put them in they stay *unless* you take some action to remove them.

Q (B): We can do the action to remove them as an agency?

A (B): (Gary, DCS) Yes. You can ask us, with good reason. There's got to be some kind of hardship.

Q (B): I know with state offset... if something has occurred within 90 days we will release offset for hardship and things like that. I didn't realize that the Feds would release ... payments. I thought the only reason they released was hardship.

A (B): (Gary, DCS) Right don't misunderstand what I said. I said that we *could*. Entering repayment is not a reason for taking them out at all. If we go back and look and we see that that account never should have been placed in that status in the first place, then that's grounds for immediately taking them out and giving their money back.

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ED Comment (B): As a reminder we'd just like to tell everyone that it's no longer necessary to sign the loan to ED before including it in the offset program. An agency should include loans with judgment among these eligible accounts for offset. . . . As far as the Federal Offset Program, we've been notified by Treasury that that won't be included in the . . . program until May or August of 2000. So right now FMS treasury will not be handling the federal salary offset program.

DEPARTMENT OF EDUCATION & GUARANTY AGENCY PARTNERSHIP:

Q (S): (In reference to DCS's Public Awareness Campaign) Does that target both pre- and post-default borrowers?

A (S): (David Hammond, ED) Yes. Encourage borrowers to borrow responsibly and stay in repayment.

A (S): (Dan Oppermann, ED) Target students. Outreach is aimed prior to default.

Q (D): DCS and GA partnership includes what?

A (D): DCS will do assessments of performance without assessing liability. DCS will work with NCHelp on what the assessment review will include.

Q (N): That's one of our big things is finding people.

A (N): To be honest with you, other than inter-agency agreements we can have with other Federal agencies, no...we use the same collection efforts and measures that you guys use. But, I think that through this partnership, we would be able to sit down and figure out a way for us to approach other agencies and for you guys to approach the State agencies to get that employment information.

Q (B): I use your toll free number quite frequently.

A (B): Use 1-800-4FED-AID also. We do have a public awareness initiative where we go out and we give workshops and information to schools and we work real closely with the Educational Opportunity Center. Normally, when we go out we try to invite the Guarantee Agencies to come also because like I said the 1-800-4FED-AID they find out the loan isn't with the Department of Education, that it's with the Guarantee Agency, so we may be seeing you again at one of our events or inviting you to come out and join us. If you have something that's going on and we could come in and talk about our end of it we're glad to do that also.

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MISCELLANEOUS:

Q (C): How can GAs get SSN information?

A (C): ED can obtain the information for GAs from the ED database.

Q (D): What is the telephone number of DCS? (Whom can we call to find out information about borrower status?)

A (D): 1-800-621-3115 (7:00 AM – 7:00 PM EST). There's also a list of numbers in the book.