The government has a number of aggressive collection tactics it can take if you are in default on a federal student loan, which usually means you have not made payments for at least nine months. The next section describes methods to avoid those tactics completely by getting your loan out of default status.

**Denial of New Student Loans and Grants.** If you’re in default, the government can deny you new federal student loans and grants.

**Your Credit Report.** Most student loan defaults appear on your credit report for seven years. Perkins Loans may be reported until repaid in full, and then for seven years from the date of default.

**Aggressive Collection Agency Contacts.** Most student loan debt collection is by private agencies hired by the government or other loan holders. Private debt collectors are likely to be aggressive and to not inform you of options that would help you out, such as loan cancellation rights or affordable repayment plans. In general, you have the same rights to deal with student loan debt collectors as with any other debt collector—as detailed in Chapter 2[1]. Complain about problems with student loan debt collectors to the Department of Education at https://feedback.studentaid.ed.gov/[2] and the Consumer Financial Protection Bureau at https://consumerfinance.gov/complaint/[3].

**Collection Fees.** When you are in default, a large portion of anything you pay to a collection agency on the loan is applied to high collection fees and not to pay off your loan—fees can be as high as 25% of your payment (less in some cases). Fees on Perkins Loans can be as high as 40%.

**Tax Refund Offsets.** When in default, the government can intercept your tax refund, including your earned income tax credit. The only sure-fire way to avoid this is not to have a tax refund due by lowering your withholding or any estimated tax payments you make. If your joint tax refund is seized, your spouse can recover some of the amount by filing IRS Form 8379, a simple form available at www.irs.gov[4].

You have the right to be notified before your tax refund is taken. You can contest the taking by checking appropriate boxes on the form (for example, the school closed or the school failed to give you a refund), by returning it immediately and by asking for a hearing. Send the form back return receipt requested as proof that you sent it. Do this every year that you get a notice. If you receive notice only after your tax refund is offset, you can contest the offset after the fact.

**Wage Garnishment.** When in default on a federal student loan, the government can garnish part of your wages without first obtaining a court judgment. The first $217.50/week of “disposable pay” (basically your take-home pay) is protected from garnishment. If your disposable pay is less than $256/week, the government can take the amount that exceeds $217.50/wk. If you make more than $256/week, it can take 15% of the pay.

There are a number of ways to stop student loan garnishments:

1. Request a hearing and explain why you think you need not repay the loan.
2. Ask for a repayment agreement, especially before the wage garnishment begins.
3. Explain you lost your old job against your wishes and have not been continuously employed in a new job for a full year.
4. If you enter a rehabilitation plan (discussed later in this chapter), the garnishments stop after your fifth on-time rehabilitation payment.

**Federal Benefit Offsets.** The government can seize part of certain of your government benefits, including Social Security, Social Security Disability, certain railroad retirement benefits, and Black Lung Part B benefits. Some benefits are exempt from seizure, including Supplemental Security Income (SSI), Veterans benefits, and Black Lung Part C. To find out which benefits can be seized or are protected, go to https://www.fiscal.treasury.gov/[5].

For benefits the government can seize, the government cannot touch the first $750 a month. If your monthly benefits are under $832 a month, it can seize the amount that is left after $750 is protected. If your benefits are over $832 a month, it can seize 15% of your benefits.

You should also receive a notice warning you that your benefits are going to be taken, with information about your right to request a hearing with the agency that is collecting the money. Request a hearing if you think you have defenses to repayment or if you are facing financial hardships.
Lawsuits. There is no time limit for the government to sue you to collect on federal student loan debt. If you are sued, you may have defenses and you can resolve the lawsuit by getting out of default (as discussed below) and resuming payments, or by applying for loan cancellation or discharge.

License Revocations. Some states allow professional and vocational boards to refuse to certify, certify with restrictions, suspend, or revoke your professional or vocational license, or even fine you if you default on a state-guaranteed student loan. Some states may allow for suspension or revocation of your driver’s license, too. Some states also apply these policies if you are in default on federal student loans.

Source: National Consumer Law Center, Surviving Debt [50th NCLC Anniversary Edition], updated at www.nclc.org/library
Source URL: https://library.nclc.org/sd/1305

Links
[1] https://library.nclc.org/nclc/link/SD.02