

Attempted communication. The term “attempted communication” means any act to initiate a communication or other contact about a debt with any person through any medium, including by soliciting a response from such person. An act to initiate a communication or other contact about a debt is an attempted communication regardless of whether the attempt, if successful, would be a communication that conveys information regarding a debt directly or indirectly to any person. A limited-content message is an attempted communication.

Clear and conspicuous. The term “clear and conspicuous” means readily understandable. In the case of written and electronic record disclosures, a clear and conspicuous statement, representation or element being disclosed is of such location, size, color and contrast to be readily noticeable and legible to consumers. In the case of oral disclosures, a clear and conspicuous disclosure is given at a volume and speed sufficient for a consumer to hear and comprehend it. In any clear and conspicuous disclosure, any required modifications, explanations or clarifications to other information are presented in close proximity to the information being modified, in a manner so as to be readily noticed and understood.

Covered medical entity. The term “covered medical entity” means a health care entity that is tax-exempt under federal or New York State law or qualifies for distributions from the Indigent Care Pool from the State of New York or any other such fund or distribution allocated to reduce the charges of medical services by granting financial assistance, through a financial assistance policy, to patients based on need or an inability to pay.

Electronic communication. The term “electronic communication” means communication by electronic means including, but not limited to, electronic mail, a text message, or instant message, rather than oral communication in person or by telephone, or hard copy communication by mail.

Electronic record. The term “electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.

Financial assistance policy. The term “financial assistance policy” means a program to reduce or eliminate charges for medical services provided which was established by a nonprofit hospital or health care provider.

Itemization reference date. The term “itemization reference date” means any one of the following dates: (1) on revolving or open-end credit accounts, the date of the last written notification sent to the consumer which lists the total amount of the outstanding debt asserted to be owed by the consumer on or before the charge-off date of the debt; or (2) on closed-end accounts, either the date of the last payment, if such date is available, or the date of the last written notification sent to the consumer which lists the total amount of the outstanding debt asserted to be owed by the consumer on or before the charge-off date of the debt.

Language access services. The term “language access services” means any service made available by a debt collector to consumers in a language other than English. Language access services include, but are not limited to, the use of:

- (1) collection letters using a language other than English;
- (2) customer service representatives who collect or attempt to collect debt in a language other than English;
- (3) a translation service for the collector’s website or for written communications; and
- (4) a service that interprets phone conversations in real time.

Limited-content message. The term “limited-content message” means an attempt to communicate with a consumer by leaving a voicemail message that includes all of the following content, which may include other content allowed by federal law, and that includes no other content:

(1) A business name for the debt collector that does not indicate that the debt collector is in the debt collection business;

(2) A request that the consumer reply to the message;

(3) The name of the natural person whom the consumer can contact to reply to the debt collector; and

(4) A call-back telephone number that is answered by a natural person.

Original creditor and originating creditor. The terms “original creditor” or “originating creditor” means any person, firm, corporation, or organization who originated the debt, including by extending credit and creating the debt.

Section 4. The definitions for “Communication” and “Debt collector” in Section 5-76 of Part 6 of Subchapter A of Chapter 5 of Title 6 of the Rules of the City of New York are amended to read as follows:

Communication. The term “communication” means the conveying of information regarding a debt directly or indirectly to any person through any medium, including by electronic means. The term communication excludes a limited-content message.

Debt collector. The term “debt collector” means [an individual who, as part of his or her job, regularly collects or seeks to collect a debt owed or due or alleged to be owed or due] any person engaged in any business with the principal purpose of which is the collection of any debts or who regularly collects, or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another person. The term does not include:

(1) any officer or employee of the United States, any State or any political subdivision of any State to the extent that collecting or attempting to collect any debt owed is in the performance of [his or her] their official duties;

(2) any person while engaged in performing an action required by law or regulation, or required by law or regulation in order to institute or pursue a legal remedy;

(3) any individual employed by a nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors; [or]

(4) any individual employed by a utility regulated under the provisions of the Public Service Law, to the extent that New York Public Service Law or any regulation promulgated thereunder is inconsistent with this part; or

(5) any person while performing the activity of serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt, or serving, filing or conveying formal legal pleadings, discovery requests, judgments, or other documents pursuant to the applicable rules of civil procedure, where such person is not a party, or providing legal representation to a party, to the action.

Where a provision of this part limits the number of times an action may be taken by the debt collector, or establishes as a prerequisite to taking an action that the debt collector has received or done something, or prohibits an action if the debt collector has knowledge of or reason to know something, the term “debt collector” includes any debt collector employed by the same employer.