The Torch

March 29, 2013

A bi-weekly report from the Coalition of Higher Education Assistance Organizations

COHEAO News

- **2013 COHEAO Mid-Year Conference—Registration Now Available**
  Registration is now available for the COHEAO Mid-Year Conference. Click here to register!
- **April 4 COHEAO Webinar—HIPAA, GLBA, & Red Flag Rules: Best Practices in Security Policies**
  COHEAO will be a hosting a webinar on information security and how to remain complaint with federal regulations. Click here to register!

Congress

- **Passage of FY2013CR, Budget Resolutions Sets Stage for Complicated (& Partisan) FY2014 Debate**
  Congress passed a continuing resolution for the remainder of the year and is poised to pass budget resolutions which represent entirely different visions on the role of government.
- **Reps. Karen Bass, Frederica Wilson and 34 Other House Democrats Introduce "Student Loan Fairness Act"**
  Rep. Karen Bass (D-CA) has introduced the "Student Loan Fairness Act," H.R. 1330.
- **Tester, Baucus Introduce Bill for Pre-Deployment Deferment on Federal Loans**
  According to Sens. Max Baucus and Jon Tester, both Montana Democrats, the military deferments in the federal loan program fall short in one critical area—pre-deployment or, essentially, boot camp.

White House & Administration

- **Bloomberg: Administration Cuts Collection Contracts in Effort to "Aid Borrowers"**
  Last week brought yet another story from Bloomberg disparaging collection efforts in higher education, this one on a reduction in contracts.
- **CFPB Announces Public Expansion of Complaint Database to Include Student Loans**
  The Consumer Financial Protection Bureau (CFPB) announced March 28 that it will open much more of its complaint database to the public, offering information on more than 90,000 complaints on financial products and services, including private student loans.
- **ED Launches New Repayment Features on Studenloans.gov Website**
  The Department of Education has launched two new features on its StudentLoans.gov website.

- **Treasury Department (Officially) Releases Report from President's Advisory Council on Financial Capability**
  Though the document was presented to the President on January 29, the Treasury Department officially released the report of the President's Advisory Council on Financial Capability (PACFC) last week.
- **Bergeron to CAP, Concerns over "Leadership Vacuum" in Higher Ed at Department Increasing**
  David Bergeron will be taking a job with the Center for American Progress and there are concerns over a leadership void in higher education at the Department.
- **Department of Ed Loses in Court Again on Gainful Employment Rule**
  Rudolph Conteras, a US District Court Judge in Washington, DC, rejected the Department of Education's effort to continue with data collection while it continues to mull its options for an appeal of his first rejection of the "Gainful Employment" program measures and regulations.
- **ED Offers Guidance on Competency-Based Higher Ed**
  Last week, the Department of Education published guidance on "direct assessment" or "competency-based" programs.

Industry News

- **TICAS Embroiled in Legal Battle with Department of Ed over Shireman Emails**
  Two organizations which have long been allies, the Obama Administration's Department of Education and The Institute for College Access and Success (TICAS), are stuck in a legal battle over the emails of Robert Shireman.
- **Northern CA Public Radio Examines Student Debt & College Costs**
  "Forum with Michael Krasny," a program on KQED (Northern California public radio), recently devoted nearly an hour to the topic of student debt.
- **Banks Ask for More Flexibility in Working With Private Loan Borrowers**
  The Consumer Bankers Association sent a letter to bank regulators on March 27 that asks them to allow banks more flexibility in offering private loan borrowers forbearances and graduated repayment plans.
- **Sallie Mae Announces New Repayment Options for Its Private Loans**
  At the same time that banks were petitioning their regulators for more flexibility to work with private student loan borrowers having trouble making their loan payments, the largest private loan provider, Sallie Mae, announced new repayment options.
- **Jesuit College Association Announces New Leader**
  The Association of Jesuit Colleges and Universities (AJCU) announced that Rev. Michael J. Sheeran, SJ will take over as president of the association April 1.
- **Buehlmann Heads to Council on Graduate Schools**
  The Council of Graduate Schools (CGS) announced that Beth Buehlmann has been named the Council's Vice President for Public Policy and Government Relations.
- **Inside Higher Ed Polls Parents on College, Finds Concerns over Costs, Outcomes**
  Inside Higher Ed released a survey of parents last week.

Attachments

- **COHEAO Commercial Members**
- **Board of Directors**

COHEAO News

2013 COHEAO Mid-Year Conference—Registration Now Available

Registration is now available for the COHEAO Mid-Year Conference. Click here to register!

The conference is set for July 28-30, 2013 at the Hotel Monaco, the same location as the successful Mid-Year Conference in 2011—right downtown, in the Loop, a short distance from the famed Miracle Mile, the Navy Pier and many other attractions that make Chicago famous.

Most important, however, will be the comprehensive, useful agenda that will offer a tremendous amount of useful information for the attendees. The agenda will include reports on the latest activities that affect Perkins Loans and other campus-based accounts receivable, with emphasis on financial literacy programs, the Consumer Financial Protection Bureau and many other topics. A preliminary agenda and additional information will soon be available on the COHEAO website.

The hotel has offered a very favorable rate for Chicago of $169 per night to COHEAO Conference delegates, so start planning your trip! The rates are available, subject to room availability, three days before and after the conference. The cut off to make reservations is **July 12, 2013**. Please call 1-800-397-7661 and mention the group name "COHEAO Mid-Year Conference 2013" to get their special group rate. You can also make reservations online at: https://gc.synxis.com/rez.aspx?Hotel=26729&Chain=10179&arrive=7/28/2013&depart=7/31/2013&adult=1&child=0&group=12380602698

April 4 COHEAO Webinar—HIPAA, GLBA, & Red Flag Rules: Best Practices in Security Policies

Information security is a hot topic in the news and within the financial aid and student lending communities. COHEAO is pleased to announce it will be a hosting a webinar on this topic and how to remain complaint with federal regulations regarding the protection of personally identifiable information. Click here to register.

Set for Thursday, April 4 from 2:00 PM-3:30 PM ET, this COHEAO Webinar, "HIPAA, GLBA & Red Flags Rules: Best Practices in Security Policies," will assist schools and their vendors alike in remaining compliant with the three main regulations pertaining to protecting the information of students.

With three sets of regulations, those pertaining to information security—the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach-Bliley Act (GLBA), and the FTCs Red Flag Rules—there are several requirements for schools, or anyone dealing with consumer information, must follow in order to remain compliant. In many cases, each individual violation of these rules carries a penalty, and when dealing with data, these individual violations can multiply rapidly. Importantly, many of these laws have ongoing education requirements and this webinar can serve to document such an effort, so this is certainly an event you will not want to miss.

Jeane Olson, Director of Student and Departmental Account Services, Northern Arizona University; Carl Perry, Senior Vice President, Progressive Financial Services, Inc. (and COHEAO Vice President); and Cindy Schick, Vice President for Business Development at NCC Business Services will provide this presentation. With each covering a different aspect of compliance and offering various "tricks of the trade," this webinar will provide you with a knowledge base to not only ensure compliance, but to also better protect your students and customers' information. Register today!

EVENT INFO

- **What: COHEAO Webinar, "HIPAA, GLBA & Red Flag Rules: Best Practices in Security Policies "**
- **When: Thursday, April 4, 2:00 PM Eastern Time**
- **Costs: $49 for COHEAO members/$99 non-members**
- **Registration/Information: http://www.coheao.com/conference-events/upcoming-events/webinars/**

If you would like additional information on this webinar, please contact Wes Huffman (whuffman@wpllc.net, 202.289.3910)

Congress

Passage of FY2013CR, Budget Resolutions Sets Stage for Complicated (& Partisan) FY2014 Debate

Last week, the House passed the continuing resolution (CR) to fund the government for the rest of FY2013 by a margin of 318-109. The continuing resolution cleared the Senate the previous day by a vote of 73-26. The Department of Education, like most agencies, will be funded at FY2012 levels then cut as required under sequestration.

The final bill includes an amendment from Sen. James Inhofe (R-OK) which directs the Department of Defense to fully fund the Tuition Assistance Programs for active duty soldiers, subject to the sequestration cut. Funding for these programs will come from other parts of the Defense budget. The Army, Air Force and Navy subsequently announced that they have re-opened the programs by reprogramming funds from other accounts.

The final bill also includes provisions which allow Javits Fellowship recipients in the Graduate Assistance in Areas of National Need program to receive their final year of funding. The two programs had been consolidated and roughly 100 fellowship recipients were caught in the middle. The FY2013 CR will allow them to complete these fellowships.

The passage of the spending bill for the remainder of the federal fiscal year, which ends on September 30, averts the possibility of a government shutdown in the near term. However, a rigorous spending debate over FY2014 and beyond will continue to be a major theme throughout the rest of this year.

In addition to passing the CR, the House passed the Congressional Budget Resolution (H.Con.Res. 25, aka the "Ryan Budget") before departing for a recess around the Easter holiday. The Resolution, authored by Budget Committee Chairman Paul Ryan (R-WI) passed on a largely party line vote of 221-207. All House Democrats voted against the measure because it cut too much and 10 Republicans voted against it because it did not cut enough. Four Members of Congress, one Republican and three Democrats, did not vote.

The Senate has begun debate on its version of the Budget Resolution (aka the "Murray Budget.") Debate is expected to continue throughout the week on the measure introduced by Budget Committee Chairwoman Patty Murray (D-WA), with votes on amendments to the resolution (the "vote-a-rama") expected to be completed late today. In the end, the Senate Resolution is also expected to pass on a largely party line vote with all or almost all Republicans opposed.

Needless to say, the scenario for FY 2014 is off to a complicated start. President Obama has not yet sent his budget proposal to the Congress – it is now expected April 8. That is usually the first step in the process. The House adopted a budget resolution yesterday that cuts spending well below the agreed upon caps in order to balance the budget in 10 years. Though a budget resolution is just an outline without force of law, the Ryan plan only works if Medicare is converted to a voucher program; Medicaid is converted to a block grant; and all domestic accounts are drastically reduced.

The Senate budget resolution provides funding at the previously agreed upon level contained in the Budget Control Act (signed into law in 2011), calling for new revenues from tax reform and closing loopholes and does not try to eliminate the deficit. It protects education, healthcare and other safety net spending. Though a conference committee will meet to try to agree upon a common plan, the chasm between these two proposals is enormous. They represent entirely different visions about just how big and how helpful the federal government needs to be.

Reps. Karen Bass, Frederica Wilson and 34 Other House Democrats Introduce "Student Loan Fairness Act"

Rep. Karen Bass (D-CA) has introduced the "Student Loan Fairness Act," H.R. 1330. Rep. Frederica Wilson (D-FL) was a named cosponsor, and in all, the bill includes 35 cosponsors, all House Democrats. Below is a summary from Bass' press office:

This new legislation will be a combination of two bills from the 112th Congress: Rep. Hansen Clarke's Student Loan Forgiveness Act (H.R. 4170), as well as The Graduate Success Act (H.R. 5895).

*This legislation would establish **a new "10-10" standard for student loan repayment as the new standard repayment plan**. In the "10-10" plan, an individual would be required to make ten years of payments at 10% of their discretionary income, after which, their remaining federal student loan debt would be forgiven.*

*The Student Loan Fairness Act would also **combat crushing interest rates of public and private loans** by capping federal interest rates at 3.4% and allowing existing borrowers whose educational loan debt exceeds their income to convert their private loan debt into federal Direct Loans, then enrolling their new federal loans into the 10/10 program.*

*This bill works to **jumpstart the economy and adds to the public service workforce** by rewarding students who enter public service professions and work in underserved communities with a reduced period for loan forgiveness.*

*The Student Loan Fairness Act also **sends a lifeline to student borrowers who have fallen on difficult times**. The bill seeks to ensure that no one will be pushed into poverty because of illness or loss of their job and extends interest-free deferments to unemployed borrowers of unsubsidized federal student loans and those enrolled in the "10-10" repayment plan. It also seeks to replace the current, 10 year "Standard Repayment Plan" for the full amount of the loan balance with the "10-10" plan as the default repayment option for borrowers entering repayment.*

The final component of the legislation ***promotes financial responsibility in higher education*** *and incentivizes students to be mindful of educational costs and for colleges and universities to control tuition increases.*

H.R. 1330's prospects for passage are thought to be minimal due to the governmental costs probably associated with the bill but it could influence the debate on Higher Education reauthorization as that unfolds.

Additional information on the legislation is available online: **http://bass.house.gov/bill/student-loan-fairness-act**

Tester, Baucus Introduce Bill for Pre-Deployment Deferment on Federal Loans

According to Sens. Max Baucus and Jon Tester, both Montana Democrats, the military deferments in the federal loan program fall short in one critical area—pre-deployment or, essentially, boot camp. *The Missoulian* reports:

Natalie Jennings' son left for the Marine Corps Recruit Depot in San Diego in 2011 for 10 weeks of boot camp.

Before his departure, the aspiring Marine had attended North Dakota State University before transferring to Montana State University Billings. He'd accumulated three years in student loan debt and the payments were coming due.

The problem was that while in Marine Corps boot camp, he had no means to pay the bill. And the Department of Education – adhering to current law – had no way of forbearing the Marine's debt until a later date.

"He had no ability to take care of what he needed to take care of," said Jennings, a single mother living in Logan. "I had to go take a second job at night so I could pay his student loans while he was in boot camp, so it wouldn't ruin his credit."

Frustrated with current policies, Jennings contacted the Department of Education looking for help. Without success, she began writing letters, suggesting that the regulations on student loans were unfair to the nation's service members, including her son.

Sens. Jon Tester and Max Baucus, D-Mont., agreed, and on Thursday they introduced their Service Member Student Loan Relief Act to help future veterans avoid similar situations.

Under current law, borrowers of student loans offered through the Department of Education who are called to active duty during wartime or a national emergency, can defer their payments.

The law also allows service members to defer payments for 180 days after the demobilization process — a point when the military operation officially concludes.

But current policies neglect the pre-mobilization phase. Tester, who serves on the Senate Armed Services Committee, said the new legislation, Senate Bill 634, takes into account the disruption that relocation and predeployment training can have on service members.

In its current form, the Tester-Baucus legislation would allow for a deferment from the time they receive alert orders up to 180 days before the first day of service.

The full article, as well as the text of the legislation, is available online: http://m.missoulian.com/service-members-student-loan-relief-act/pdf_b57ca54a-927b-11e2-8ae4-0019bb2963f4.html?mobile_touch=true

White House and Administration

Bloomberg: Administration Cuts Collection Contracts in Effort to "Aid Borrowers"

John Hechinger, a reporter for *Bloomberg News*, wrote another of a series of articles painting collection of federal student loans in negative light. The latest was on a change in the Department of Education contracts for collecting defaulted federal loans that reduced agency commissions. Excerpts from the story are below:

Under Education Department contracts, collection companies rehabilitate a defaulted loan by getting a borrower to make nine payments in 10 months.

The law mandates no minimum payment for a borrower to enter a rehabilitation program, and collection companies may take borrowers' finances into account.

Yet, under the old contract, the companies received a much higher commission if borrowers made a minimum payment of 0.75 percent to 1.25 percent of the loan each month, depending on its size.

For example, a $20,000 loan would require payments of about $200 a month for the collection company to get its full commission. Then, the collector would receive 16 percent of the loan amount -- or $3,200. If the payment fell below that figure, the collector got an administrative fee of $150.

That differential provided an incentive for collectors to insist on the amount triggering the commission and fail to tell borrowers they could pay less, [the National Consumer Law Center's Patricia] Yu said. Under the new contract, borrowers with high debts and low incomes could get back on track while making payments of as little as $5 a month, while collectors could still make their commission.

The new commission schedule is part of an Obama administration effort to give borrowers a break as student loan debt surpassed $1 trillion amid skyrocketing tuition costs. As of last year, 5.7 million student-loan borrowers were in default, generally meaning they have failed to make payments for 270 days or more.

…

The Education Department wants to provide "flexible repayment options" while maintaining "a reasonable balance between borrower and taxpayer interests," spokesman Chris Greene said in an e-mail.

Twenty-two collection companies work directly for the Education Department…Most of the same outfits have contracts with state guarantee agencies that also chase student-loan borrowers on the *government's behalf. The contract change applies only to collectors working directly for the federal government.*

Former debt collectors told Bloomberg News they worked in a "boiler-room" environment, where they could earn bonuses of thousands of dollars a month, restaurant gift cards and even trips to foreign resorts if they collected enough from borrowers. In the year ended in September 2011, the department received 1,406 complaints against the debt collectors it hires, up 41 percent from the year before.

Debt collection companies said they follow federal laws and use all available tools to recover money for taxpayers, helping to make sure future college students have access to financial aid. The companies helped the Education Department recover $13.1 billion in defaulted loans during the year ended Sept. 30.

The full story is available online: **http://www.bloomberg.com/news/2013-03-19/obama-cuts-student-debt-collector-commissions-to-aid-borrowers.html**

CFPB Announces Public Expansion of Complaint Database to Include Student Loans

The Consumer Financial Protection Bureau (CFPB) announced March 28 that it will open much more of its complaint database to the public, offering information on more than 90,000 complaints on financial products and services, including private student loans.

"By sharing these complaints with the public, we are creating greater transparency in consumer financial products and services," said CFPB Director Richard Cordray at a field hearing in Des Moines, Iowa, where he announced the expansion of the CFPB Consumer Complaint Database. "The database is good for consumers and it is also good for honest businesses. We believe the marketplace of ideas can do great things with this data."

According to the CFPB, the publicly available database is expanding from about 19,000 credit card complaints to more than 90,000 complaints on mortgages, student loans, bank accounts and services, other consumer loans, and credit cards.

The database allows the public to see what consumers complained about and why, as well as how and when the company in question responds. It has more than one million data points, covering approximately 450 companies. It includes the type of complaint, the date of submission, the consumer's ZIP code, and the company that the complaint concerns. The database also includes information about the actions taken on a complaint by those companies – whether the company's response was timely, how the company responded, and whether the consumer disputed the company's response. A consumer's identity and other personal information is not included in the data.

The database allows users to easily track, sort, search, and download information. The data is also available via API (application programming interface), which allows developers to build applications, conduct analyses, and perform research. Consumers can build their own visualizations, charts and graphs. The data can also be embedded on other websites and shared through social media.
The live database updates daily.

The full announcement can be found here: http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-releases-largest-collection-of-federal-consumer-financial-complaint-data/ .

ED Launches New Repayment Features on Studenloans.gov Website

The Department of Education has launched two new features on its StudentLoans.gov website: a "Complete Counseling" webpage and a new "Repayment Estimator" that lets borrowers compare what their monthly payment amounts would likely be across all seven repayment plan options.

Both features are part of the Obama Administration's ongoing effort to make college costs more transparent and help students make informed decisions at every step of the process – from selecting a postsecondary institution to financing their education to repaying their loans.

The announcement builds on the Education Department's previous initiatives to carry out the Presidential Memorandum of June 7, 2012, which called on the Secretaries of Education and the Treasury to improve information available to borrowers about their student loan repayment options. Last July, the Department unveiled the Financial Awareness Counseling Tool (FACT) – an interactive loan counseling tool that covers topics ranging from managing a budget to avoiding default. The Complete Counseling Web page combines a number of resources, including FACT, into one comprehensive site.

The Education Department has already begun to receive feedback on the Complete Counseling site, and it is planning to release an upgraded version later this year. Federal student loan borrowers can access both of the new resources today by signing in to their accounts at StudentLoans.gov.

Treasury Department (Officially) Releases Report from President's Advisory Council on Financial Capability

Though the document was presented to the President on January 29, the Treasury Department officially released the report of the President's Advisory Council on Financial Capability (PACFC) last week.

The report covers many of the challenges and opportunities in financial capability. Further, it clearly defines "financial capability"—as opposed to "financial education" or "financial literacy"—by the "three-legged stool" approach. According to the report, "financial capability" consists of the following three "legs":

> *1) Financial education (formal and informal) that delivers the basic understanding;*
> *2) Regulation and consumer protection that assure some minimal ability to rely on available products and services; and*
> *3) Thoughtful design of options – what behavioral economics has come to call "choice architecture" – in a way that facilitates the successful application of what has been learned.*

The Council had four subcommittees—Youth, Partnerships, Underserved and Community Empowerment, and Research and Evaluation. Though higher education received relatively little specific attention, there are portions of the document which will be most useful for campus-based financial educators.

The Youth Subcommittee was one of the most active on the Council. In addition to the development of two websites aimed at young people (www.moneyasyourgrow.gov) and a yet-to-be launched website for implementing these programs into everyday curricula (www.moneyasyoulearn.gov), the Department of Education is attempting to implement the recommendation of a public service campaign on Title IV availability and information surrounding www.studentaid.gov.

The report also speaks to the question of efficacy—noting there are numerous financial education providers, but very few assurances their programs "work." Accordingly, the report recommends that Treasury develop a "What Works" for financial capability similar to the efforts of the Department of Education. It also calls for additional research in this area.

"The report emphasizes the importance of research and the need to establish a baseline understanding of financial knowledge, particularly among young people. Financial education will not be successful unless we have a rigorous evaluation of metrics and testing to determine what actually works to change financial behavior. Last year, the Department of Education funded the Program for International Student Assessment (PISA) financial literacy module. PISA is the first ever international examination of high school students' financial knowledge. The results, to be released next year, will give us a baseline picture of what high school students know about personal finance, and it will help us understand how our youth compare to their peers around the world," Deputy Assistant Secretary Melinda Kolde wrote in a blog post announcing the report.

In its role chairing the Financial Literacy and Education Commission (FLEC), a collection of 21 government agencies with ties to financial literacy and education, Treasury is expected to take the lead in coordinating efforts across multiple agencies on these issues.

- Kolde's blog post is available online: http://www.treasury.gov/connect/blog/Pages/President%E2%80%99s-Advisory-Council-on-Financial-Capability-Releases-Final-Report.aspx
- The full report is available online: http://www.treasury.gov/connect/blog/Documents/PACFC%20Final%20Report%202013.PDF

Bergeron to CAP, Concerns over "Leadership Vacuum" in Higher Ed at Department Increasing

David Bergeron, a career Department of Education employee with 35 years experience currently servicing as Acting Assistant Secretary for Postsecondary Education, will be taking a job with the Center for American Progress.

Bergeron's move comes on the heels of several key departures by the political staff at the Department as well as a year after his long-time colleague, Dan Madzelan, also retired. The *Chronicle of Higher Education* noted the lack of leadership at ED. An excerpt is below:

When Mr. Bergeron leaves, the department will be short a deputy under secretary (Georgia Yuan left in December), two assistant secretaries (Mr. Bergeron and Ms. Martin), and a deputy assistant secretary for postsecondary education (also Mr. Bergeron). The agency has lacked a leader on community-college issues for more than a year, since Frank Chong left to become president of Santa Rosa Junior College.

Second-tier staff members who might have moved up are also moving on. Ajita Talwalker, a senior policy adviser who formerly worked at the Institute for College Access and Success, is reportedly replacing Zakiya Smith as the White House's top higher-education adviser, after Ms. Smith left for the Lumina Foundation. And Ben Miller, another policy adviser who worked with Ms. Martin, is returning to his roots at the New America Foundation.

The department's statistics arm has also lost several key employees, including Elise Miller, a postsecondary-program director who went to the Bill & Melinda Gates Foundation, and Thomas Weko, an associate commissioner for postsecondary studies who moved to another office at the department.

Meanwhile, Robert Gordon, who oversaw education issues at the Office of Management and Budget before becoming its executive associate director in 2011, has left for the Brookings Institution.

The good news, at least according to fans of President Obama's postsecondary agenda: James Kvaal, who helped lead a crackdown on for-profit colleges, is set to return to the White House, reportedly as a deputy director of the Domestic Policy Council. Mr. Kvaal, who replaced Robert Shireman as deputy under secretary in 2010, left a little over a year later to work on the Obama re-election campaign.

The full article is available online: **http://chronicle.com/article/Exodus-of-Key-Officials-at/138091/**

Department of Ed Loses in Court Again on Gainful Employment Rule

Rudolph Conteras, a US District Court Judge in Washington, DC, rejected the Department of Education's effort to continue with data collection while it continues to mull its options for an appeal of his first rejection of the "Gainful Employment" program measures and regulations.

Last year, Conteras struck down portions of the Gainful Employment regulations in ruling on a complaint brought by the Association of Private Sector Colleges and Universities (APSCU). In that ruling, Conteras said the Department's loan repayment metric under GE was defined arbitrarily and, since all three requirements—loan repayment and two debt to income metrics—are intertwined, the full package of reporting and enforcement requirements could not move forward.

In response, the Department filed a motion to amend (not an appeal), to seek to continue collecting data and enforce other parts of the regulations. In this motion, the Department said it would not include any additional "identifiable student information" in this data collection. However, Conteras ruled the continued data collection efforts would be in violation of the last reauthorization of the Higher Education Act (HEA), which in 2008 prohibited the creation of a "student-unit record system."

Privacy advocates and virtually all of higher education, both the traditional and for-profit sectors, were supportive of this provision when it passed in 2008. It was written, at least in part, in response to a call from a George W. Bush Administration Blue Ribbon Commission on higher education for such a system.

The gainful employment regulations are now in serious limbo. The Department of Education indicates it continues to consider all options with the assistance of the Department of Justice, including an appeal. However, Conteras ruling against the motion to amend brings further questions to ED's prospects for success in appealing the initial ruling that struck down GE.

Conteras' most recent ruling is available online: **https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2011cv1314-35**

ED Offers Guidance on Competency-Based Higher Ed

Last week, the Department of Education published guidance on "direct assessment" or "competency-based" programs.

In some higher education reform circles, this new guidance is considered a "game changer" in terms of completion and higher education. Its impact, however, remains to be seen.

The following is an excerpt from the Department's Dear Colleague Letter, which was signed by outgoing Acting Assistant Secretary for Postsecondary Education David Bergeron:

Generally, 34 CFR 668.10 includes the following requirements:

- *Instead of using credit hours or clock hours as a measure of student learning, instructional programs may use direct assessment of student learning, or recognize the direct assessment by others of student learning. Examples of direct measures include projects, papers, examinations, presentations, performances, and portfolios.*
- *An institution that wishes to award Federal Student Aid (FSA) funds in a program using direct assessment must apply for approval from the Department. The application must specify the equivalent number of credit or clock hours for a direct assessment program (including how equivalencies will be established if students are permitted to take less than the entire program based on an assessment conducted at the outset). The Secretary will use these equivalencies to determine whether the program meets the minimum requirements for an academic year and as the basis for payment period and award calculations.*
- *As a part of its application, the institution must explain how it determined the equivalent number of credit or clock hours for the program, i.e., its methodology for determining these equivalencies.*
- *An institution must demonstrate that its institutional accrediting agency has reviewed and approved its offering of the direct assessment program.*
- *An institution must demonstrate that its institutional accrediting agency or State licensing body has agreed with the institution's assessment of its credit or clock hour equivalencies.*
- *A direct assessment program may use learning resources (e.g., courses or portions of courses) that are provided by entities other than the institution providing the direct assessment program without regard to the limitations on written arrangements between an eligible institution and an ineligible institution or organization under 34 CFR 668.5(c).*
- *Federal Student Assistance (FSA) funds may be awarded only for learning that results from instruction provided, or overseen, by the institution. FSA funds cannot be awarded for any portion of the program based on study or mastery obtained prior to enrollment in the program, or based on tests of learning that are not associated with educational activities overseen by the institution.*
- *Several types of programs and coursework that might otherwise be eligible for FSA purposes are not eligible if they involve direct assessment, including:*
  - *Programs at foreign schools;*
  - *Preparatory coursework required for entry into an eligible program; and*
  - *Courses necessary for an elementary or secondary school teaching credential or certificate.*
- *Remedial coursework measured through direct assessment is not eligible for title IV, HEA program funds. However, remedial coursework offered in credit or clock hours in conjunction with a direct assessment program is eligible for FSA funds.*

- *If the institution plans to make changes to the program that would affect any of the information provided in its application to add a direct assessment program, it must obtain prior approval from the Department by reapplying.*

It is imperative that faculty and academic officials work closely with their institution's financial aid administrators throughout the process of developing a direct assessment program and completing the application for title IV, program eligibility to ensure that all applicable aspects of title IV, program eligibility are addressed and that the program can be operationalized for title IV, HEA purposes. In addition to the criteria in 34 CFR 668.10 listed above, an institution must demonstrate that the program meets the financial aid-related components in §668.10(a). In its application, an institution must explain the method for reasonably equating the direct assessment program to credit or clock hours and related parameters of the program, including minimum weeks of instructional time, payment period, how an academic activity will take place during each week, and the definition of a full-time student. An institution should also address issues such as how it plans to measure satisfactory academic progress (SAP) for students in the direct assessment program and how or whether the financial aid system will be configured to process aid for students in the program.

The guidance was issued in response to a request from Southern New Hampshire University (SNHU). It was initially put in place for Western Governor's University (WGU), but the school was unable to develop a competency-based program under the proscribed regulations. SNHU essentially picked up where WGU left off and was reportedly pressing the Department hard for this guidance.

- The full Dear Colleague Letter is available online: **http://www.ifap.ed.gov/dpcletters/GEN1310.html**

Additional coverage from *Inside Higher Ed* is available online:
http://www.insidehighered.com/news/2013/03/19/feds-give-nudge-competency-based-education

Industry

TICAS Embroiled in Legal Battle with Department of Ed over Shireman Emails

Two organizations which have long been allies, the Obama Administration's Department of Education and The Institute for College Access and Success (TICAS), are stuck in a legal battle over the emails of Robert Shireman, the founder of TICAS who served as Deputy Undersecretary of Education during the early years of the Obama Administration.

The Department of Education's Office of Inspector General (OIG) is seeking the emails to continue an investigation of the Department and its coordination with outside groups in seeking to regulate for-profit colleges through the program integrity regulations. Though those regulations have their own legal questions (see related article), this battle relates to process and how the Department operates.

The legal battle has caught the attention of the higher education trade press. Excerpts from an article from *Inside Higher Ed* are included below:

> *Gainful employment was a market-moving affair, which raised the stakes for department officials and their handling of sensitive information about the rule-making process. Congressional Republicans demanded an investigation into possible leaks. But a subsequent audit largely cleared the department.*

One outstanding thread, however, was whether Shireman had any improper contact with TICAS. He had signed a standard ethics pledge that bars government officials from contact with their former employers on regulatory matters.

As part of that ongoing investigation, the Office of Inspector General said it learned of e-mails between Shireman and TICAS about the federal rule-making process, which were sent during his time with the department. Some of Shireman's e-mails were sent from his old TICAS account, according to investigators. Last June the inspector general issued a subpoena asking the group to turn over documentation of any communications with Shireman from that period.

Investigators have not said what, exactly, they are looking for in the e-mails. And the inquiry itself does not imply wrongdoing by Shireman or TICAS, other than Shireman's possible violation of his ethics pledge.

…

Despite its objections, TICAS has submitted a few e-mail transcripts in response to the investigation, some of which were redacted. But the group has largely refused to comply, claiming that the request is overly broad and burdensome and that it exceeds the department's authority. So investigators turned up the heat in February with another subpoena seeking judicial enforcement.

The latest salvo came Friday from TICAS. In a filing in a federal court, the group asked that the inquiry be dropped. It also reiterated claims that the investigation "is unprecedented in its reach, and extraordinary in its chilling effect."

….

TICAS also said investigators are barking up the wrong tree. The inquiry hinges on Shireman's e-mails, yet the Office of Inspector General has not sought documents directly from him, TICAS said it was told by investigators.

The Office of Inspector General, however, said TICAS was holding up an inquiry that is "directly relevant" to the broader investigation of "possible fraud, waste or abuse" within the Education Department.

What happens next is unclear. But neither side appears willing to blink.

The full article from *Inside Higher Ed* is available online:
http://www.insidehighered.com/news/2013/03/26/student-debt-groups-first-amendment-feud-education-department#ixzz2OrqVwnzZ
Additional coverage from the *Chronicle of Higher Education* is available online:
http://chronicle.com/article/Education-Advocacy-Group/138141/

Northern CA Public Radio Examines Student Debt & College Costs

"Forum with Michael Krasny," a program on KQED (Northern California public radio), recently devoted nearly an hour to the topic of student debt. The following is a list of panelists who participated (as listed on the KQED website)

- *George Miller, congressman representing the 11th District of California in the East Bay, and senior Democrat of the House Education and Workforce Committee*
- *Jason Delisle, director of the Federal Education Budget Project at the New America Foundation*
- *Mike Cagney, co-founder, CEO, and chairman for SoFi, a group which connects students and alumni through a social community lending pool*
- *Nancy Coolidge, coordinator for federal and state programs, student financial support at the Office of the President, University of California*

The impetus for the panel was the pending interest rate increase on subsidized Stafford Loans. Rep. Miller described current deliberations over the use of an index for fixed, variable rates, but ultimately predicts 3.4% on Subsidized Stafford Loans extended for one-year.

In the discussion of subsidized Stafford Loans, Rep. Miller, Nancy Coolidge, and Jason Delisle all spoke to the debate around an interest rate cap, particularly the cost-benefit analysis associated with such a move. In this context, Delisle spoke about subsidy costs as well as high-limit (independent student) and no-limit (Grad and Parent) borrowing and moral hazard quite a bit. Congressman Miller suggested the Congress may do the extension for "one more year" while they sort through some of these issues.

Miller also indicated that Congress, or at least Democrats on the Education and the Workforce Committee, are interested in examining articulation agreements/transfer of credit through the college cost prism. While there have been some complaints and statements on transfer of credit in the past, this was one of the more explicit statements of concern on this topic.

The second portion of the show featured SoFi's Cagney and UC's Coolidge as well as calls from listeners. It included a spirited debate on the differences between federal and private student loans.

The full discussion is available in both streaming and downloadable formats online:
http://www.kqed.org/a/forum/R201303261000

Banks Ask for More Flexibility in Working with Private Loan Borrowers

The Consumer Bankers Association sent a letter to bank regulators on March 27 that asks them to allow banks more flexibility in offering private loan borrowers forbearances and graduated repayment plans. The letter was sent to Federal Reserve Bank Chairman Ben Bernanke, Comptroller of the Currency Thomas Curry and Federal Deposit Insurance Corp. Chairman Marty Gruenberg.

In the letter, CBA President Richard Hunt says, "We propose that banks should be granted greater flexibility to work with borrowers experiencing financial difficulty who are recent graduates, or early in their careers, when it is more difficult to enter the labor force and establish financial independence and stability. This could be structured in a way designed to assist borrowers who are looking for their first job, or who are between jobs, during a 3-year period following graduation, while at the same time maintaining adherence to safety and soundness principles at regulated financial institutions."

Two ideas floated in the letter are to allow banks to offer more forbearance opportunities to borrowers who need to pause their private student loan payments during the first three or four years after they leave school and to allow banks to set up repayment plans that start with relatively low, interest-only payments for the early years of repayment and then require higher payments later. The suggestion is that the plans would still result in the loan being repaid during its original term.

According to the letter, the federally regulated banks are not permitted to offer the same level of flexibility in their private loans as is offered to federal student loan borrowers. The three regulators' primary mandates are to ensure the safety and soundness of the banking system, so they require banks to consider loans to be in default after six months of delinquency and to "charge off" the loans. This puts a negative mark on the borrower's credit score.

The letter says, "Safety and soundness principles rightly seek to ensure banks are accurately portraying the status of their loan portfolios and to prevent banks from showing non-performing loans on their books as performing assets. Lenders have found that student loans are unique financial products with characteristics that lead to repayment situations different from other asset classes and that generally do not merit troubled debt restructure (TDR) accounting treatment, but current guidance limits repayment flexibility and forces the adverse TDR treatment.

"Many times, student borrowers entering repayment are first joining or are re-joining the workforce. Statistics show that people with a college education have far more earnings potential than those without a college education. However, for student loan borrowers, it usually takes time before a career can be launched and financial independence established."

Sallie Mae Announces New Repayment Options for Its Private Loans

At the same time that banks were petitioning their regulators for more flexibility to work with private student loan borrowers having trouble making their loan payments, the largest private loan provider, Sallie Mae, announced new repayment options. Sallie Mae is not regulated by the same federal agencies as are the banks that make private student loans.

The new option for "Smart Option Student Loan" will be available for loans applied for on after April 1 by borrowers attending degree-granting institutions starting in the fall 2013 semester. A "graduated repayment period" will allow graduates in good standing to sign up for one year of interest-only payments, commencing after the six-month grace period already allowed, instead of making full principal and interest payments during that time.

In announcing its new product, Sallie Mae reasoned that college graduates have good prospects but may need time to get on their financial feet.

According to the press release announcing the proposal, "The feature was designed to keep the total cost of the loan low. For example, a freshman borrower who elects in-school deferment on a $10,000 loan with typical loan terms would pay $144 per month for a 10-year repayment term. With the Graduated Repayment Option, the monthly payment would be $89 the first year, then $152 the second year, until it's paid off. The difference in the total cost is less than $400, without extending the length of the loan."

Jesuit College Association Announces New Leader

The Association of Jesuit Colleges and Universities (AJCU) announced that Rev. Michael J. Sheeran, SJ will take over as president of the association April 1. He succeeds Rev. Gregory F. Lucey, SJ, who has served as president since 2011. The AJCU is based in Washington, DC.

Prior to his arrival in Washington, Sheeran was president of Regis University in Denver for 20 years. He was previously Regis' academic vice president and academic dean. A priest since 1957 and a Jesuit since

1970, he holds a Ph.D. from Princeton University and has taught at Regis, Saint Louis University and Regis Jesuit High School.

An AJCU press release quoted Sheeran: "It is a great privilege to lead the Association of Jesuit Colleges and Universities. I'm grateful to Father Lucey for leaving me a small but mighty team who will help me to effectively represent the 28 Jesuit colleges and universities in the United States, especially to Congress and the Administration. Together, we will work to advance the mission of Jesuit higher education: to help students lead exemplary lives and grow in service, faith and justice."

Buehlmann Heads to Council of Graduate Schools

Debra W. Stewart, President of the Council of Graduate Schools (CGS), announced that Beth Buehlmann has been named the Council's Vice President for Public Policy and Government Relations.

Buehlmann brings to CGS more than eight years of experience shaping the development of higher education policy in the U.S. Senate Health, Education, Labor and Pensions (HELP) Committee, and over 20 years of combined leadership experience in the fields of higher education and workforce development. From 2005 until her appointment at CGS, Buehlmann served as the education policy director for the HELP Committee under the leadership of Sen. Mike Enzi.

Buehlmann holds a Ph.D. in Higher Education Administration from Illinois State University and a B.S. in Mathematics Education from Chicago State University. Prior to her work on the HELP Committee, she held the positions of Vice President and Director of the Center for Workforce Preparation at the U.S. Chamber of Commerce, and Director of Congressional Relations in the Washington office of the California State University System. Throughout the 1980s Buehlmann was the chief education staff person for all education and workforce issues for the ranking members on the House Committee on Education and Labor.

Inside Higher Ed Polls Parents on College, Finds Concerns over Costs, Outcomes

Inside Higher Ed released a survey of parents last week. Not surprisingly, concerns over costs and outcomes are increasing.

According to the survey, parents are concerned about the costs they and their children will have to bear. They are also increasingly viewing higher education as a means to a career path, as opposed to the next step in lifelong learning, which is a concern for some educators. An excerpt from *Inside Higher Ed*'s initial reporting on the survey is below:

Study hard, and you'll get into the college of your dreams.

It's debatable whether that advice -- given to generations of American children -- was ever really true. But the first Inside Higher Ed poll of parents of pre-college students suggests that the truer statement today might be "study hard and you can get into the college we can afford," or perhaps "study hard, and we'll help you get into a college that can find you a job."

Only about 16 percent of parents are sure they won't restrict colleges to which their children will apply because of concerns about costs (although another 14 percent said that it was "not very likely" that they would do so), the results show. Parents are also likelier to see vocational certificates than liberal arts *degrees as leading to good jobs for their children -- and they view job preparation as the top role for higher education.*

And at a time that a case before the Supreme Court could limit the way colleges use affirmative action, the poll found that most parents (including most white parents) do not believe that affirmative action is costing their children spots in college.

Parental concerns about paying for college and the importance of college programs that prepare students for jobs appear to grow as children get closer to college age, the poll found.

The online news organization will be hosting a free webinar on April 11. The initial *Inside Higher Ed* story, as well as links for the webinar and a booklet with underlying survey data, is available online: **http://www.insidehighered.com/news/survey/jobs-value-and-affirmative-action-survey-parents-about-college**

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