The Torch

August 16, 2013
A bi-weekly report from the Coalition of Higher Education Assistance Organizations

COHEAO News

- **COHEAO Implementing New Online Community, Membership and Registration System**
  COHEAO is pleased to announce we will be upgrading our online, membership, and registration systems.
- **COHEAO Responding to New Regulations**
  This week, new Perkins Loan regulations were front and center for COHEAO.

Congress

- **President Signs Interest Rate Modification Into Law**
  On August 9, President Obama signed the Bipartisan Student Loan Certainty Act into law. Loans made on or after July 1, 2013 now feature interest rates tied to the 10-Year Treasury yields.
- **Merkley Plans to Bring "Pay It Forward" Program to National Level**
  The day President Obama signed the Bipartisan Student Loan Certainty Act, Senator Jeff Merkley (D-OR) said "it's clear the old models aren't working anymore" and announced plans to introduce legislation for a deferred tuition model, largely based off of the "Pay It Forward" program in Oregon.
- **Alexander, Crapo Write CFPB Seeking Time for Private Lenders to Comply with New Disclosures**
  Senator Lamar Alexander (R-TN)and Sen. Mike Crapo (R-ID) wrote the CFPB seeking additional time for private student lenders to time to update disclosures to account for the recent decrease in federal loan interest rates.

White House & Administration

- **ED Announces More Lenient Appeals for Those Denied PLUS Loans**
  In a letter first obtained by the *Associated Press*, Secretary of Education Arne Duncan wrote Congressional Black Caucus Chair Marcia Fudge (D-OH) on changes to Parent PLUS Loan eligibility.
- **President Obama Plans Bus Tour on College Affordability**
  Next week, the President is scheduled for a two-day bus tour through Pennsylvania and New York to discuss college affordability. The tour marks the President's first campaign-style event since the election.

- **Kanter to Step Down from Under Secretary Post**
  Martha Kanter, Under Secretary for Education, announced to colleagues this week that she will be stepping down this fall.

- **ED & VA Launch "8 Keys to Success" Program**
  The Department of Education (ED) and the Department of Veterans Affairs (VA) announced "a challenge to education institutions to adopt best practices supporting educational success."
- **CFPB Provides Additional Federal Loan Data, Unhappy With Lack of IBR Selection**
  In a blog post last week titled, "A Closer Look at the Trillion," CFPB Student Loan Ombudsman Rohit Chopra offered additional data on the federal student loan programs.

Industry News

- **Sallie Mae Discloses FDIC Enforcement Action on SCRA and Reg B**
  In a recent 10-Q filing, Sallie Mae disclosed it was facing an investigation from the FDIC on the Servicemembers Civil Relief Act (SCRA) and Regulation B of the Equal Credit and Opportunity Act (Fair Lending).
- **New America Foundation Explores Grad PLUS + LRAP "Loophole" at GULC**
  The New America Foundation alleged elite law schools are taking advantage of the combination of the unlimited lending in the Direct Grad PLUS Loan Program, Pay as You Earn repayment, and Public Service Loan Forgiveness.

Attachments

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

COHEAO News

COHEAO Implementing New Online Community, Membership and Registration System

COHEAO is pleased to announce we will be upgrading our online, membership, and registration systems. We understand many of you have had difficulties with our registration and payment website and we are really looking forward to this upgrade.

The new system is scheduled to be in place this fall. It will also allow COHEAO members, our task forces and committees to more efficiently communicate online.

In the meantime, if you have yet to pay your dues for 2013-2014, it is critically important you do so before we make this conversion. If you need an invoice or are unsure if you are paid for 2013-2014 year, please send an email to whuffman@wpllc.net

COHEAO Responding to New Regulations

Last year, the Department of Education convened negotiated rulemaking for a host of issues related to student aid and student loans, including Perkins Loans. COHEAO President Maria Livolsi and COHEAO Past-President Bob Perrin served as negotiators.

This week, the regulations were front and center for COHEAO. On Thursday, Norma Carmona of the University of Chicago and Sharon Cameron of Campus Partners gave a webinar on new Total and Permanent Disability regulations, which went into effect on July 1 of this year. A fact sheet prepared by Norma and Sharon is available online: http://www.coheao.com/wp-content/uploads/2013/07/Perkins-Fact-Sheet-for-New-TPD.pdf

Earlier in the week, COHEAO began an exhaustive review of the recently published second package of regulations, which included the majority of the Perkins Loan-specific changes. The changes address loan rehabs, Perkins assignments, and cancellations and deferments. If you have any issues you would like COHEAO to address in our formal comments, please send them to whuffman@wpllc.net. Comments are due by August 28.

The *Federal Register* notice is available online:
http://www.ifap.ed.gov/fregisters/FR072913ProposeRulemaking.html

Congress

President Signs Interest Rate Modification Into Law

On August 9, President Obama signed the Bipartisan Student Loan Certainty Act into law. Loans made on or after July 1, 2013 now feature interest rates tied to the 10-Year Treasury yields. A table of the new interest rates for July 1, 2013-June 30, 2014 is included below:

Loan	Interest Rate
Direct Subsidized Loans (Undergraduates)	3.86%
Direct Unsubsidized Loans (Undergraduates)	3.86%

Direct Unsubsidized Loans (Graduate or Professional Students)	5.41%
Direct PLUS Loans (Parents and Graduate or Professional Students)	6.41%

Cecelia Munoz, the Director of the White House Domestic Policy Council, described the changes as follows:

> *The signing of this legislation is a key victory for students, one in which Members of Congress from both sides of the aisle came together around the important mission of keeping college affordable for American students and their families.*
>
> *Under the new law, nearly 11 million borrowers will see their interest rates decrease on new loans made after July 1, 2013. About 8.8 million undergraduate borrowers will see their rates on new loans drop from 6.8 to 3.86 percent, and about 1.5 million Graduate Unsubsidized Stafford borrowers will see their rates drop on new loans from 6.8 percent to 5.41 percent. Finally, over 1 million Grad PLUS and Parent PLUS borrowers will see their rates on new loans drop from 7.9 percent to 6.41 percent—the first reduction in years*

Chairman John Kline (R-MN) of the House Education and Workforce Committee also praised the legislation, which was signed at a small ceremony at the White House:

> *I'm pleased to join President Obama in the Oval Office for the signing of H.R. 1911. This is a great day – not just for students and their families, but for all Americans.*
>
> *Seeing this bipartisan proposal become law reminds us of what can be accomplished through hard work, compromise, and faith in the legislative process. I look forward to building upon this success as we work toward other shared goals, including raising the bar in the nation's classrooms by revamping federal K-12 law, strengthening job training opportunities for American workers, and improving college affordability and access through the upcoming reauthorization of the Higher Education Act.*

The Department of Education provided guidance on Direct Loan operations with the new rates in the IFAP website at:
http://www.ifap.ed.gov/eannouncements/080913DirectLoanInterestRate2013t2014Eff070113.html

Given the immediate nature of the rate modification and the requirement that private loan disclosures include federal loan interest rates, all private loan applications, including institutional and HHS loans, will need to be modified. The CFPB has yet to provide formal guidance, and it is unclear whether they intend to do so.

Senate HELP Committee Ranking Republican Lamar Alexander (TN) and Banking Committee Ranking Republican Mike Crapo (ID) have written CFPB Director Richard Cordray seeking a "reasonable timeframe" for private student lenders (including institutions of higher education) to make these modifications.

- A blog post from the White House is available online: http://www.whitehouse.gov/blog/2013/08/09/better-bargain-students

- Chairman Kline's statement is available online: http://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=345640

- A fact sheet on the law is available online: http://edworkforce.house.gov/smartersolutions

Merkley Plans to Bring "Pay It Forward" Program to National Level

The day President Obama signed the Bipartisan Student Loan Certainty Act, Senator Jeff Merkley (D-OR) said "it's clear the old models aren't working anymore" and announced plans to introduce legislation for a deferred tuition model, largely based off of the "Pay It Forward" program in Oregon.

The bill would replace federal loans and the debts that accompany them with up-front payment of college costs in exchange for repayment based on the graduate's income.

The "Pay It Forward" Guaranteed College Affordability Act of 2013 would allow some or all of students' upfront costs for a two- or four-year college to be covered by program funds. Then upon graduation, students contribute a percentage of adjusted gross income (AGI) for a fixed number of years back into the fund. According to Merkley's office, "Put simply, students would draw from program funds while they are in school, and pay into—or pay it forward—when they graduate." The following are highlights from Merkley's announcement:

- *The bill would establish an alternative to undergraduate federal Direct Loans, providing Federal funding to states that agree to pilot a Pay It Forward model up to the current Stafford loan limits for each student that participates.*
- *States would select schools to participate in the pilot. Students who attend those schools could choose to enroll in the program.*
- *Rather than forcing students to take on expensive debt obligations with fluctuating interest rates adding an uncertain ability to repay, this legislation would open up a new model to guarantee students' ability to afford college repayment based on their income after graduation.*
- *To help students transition from school to employment, an individual's contributions would be deferred until their income rises to a level that payments become affordable.*

Additional information from Merkley's office is available online: http://www.merkley.senate.gov/newsroom/press/release/?id=BB43FDF2-2A1D-4C7C-BA4F-EAC1243F0670

Alexander, Crapo Write CFPB Seeking Time for Private Lenders to Comply with New Disclosures

Senator Lamar Alexander (R-TN), Ranking Member of the HELP Committee, and Sen. Mike Crapo (R-ID), Ranking Member of the Banking Committee, wrote the CFPB seeking additional time for private student lenders to time to update disclosures to account for the recent decrease in federal loan interest rates.

In addition to Alexander and Crapo, several student loan trade associations (CBA, EFC, NCHER, and SLSA) wrote to the CFPB seeking time to update their systems and processes. The Institution for College Access and Success (TICAS) wrote the CFPB seeking to prevent any reprieve for private lenders.

The CFPB acknowledged to reporters that it received the letters but has yet to publicly respond to any of the letters.

White House and Administration

ED Announces More Lenient Appeals for Those Denied PLUS Loans

The Department of Education has again modified its policies for eligibility for PLUS loans to parents of undergraduate students and to graduate students. The latest electronic announcement with links to key previous announcements can be found here: http://www.ifap.ed.gov/eannouncements/081313UpdatetoDirectPLUSLoanReconsiderationProcess.html.

In part the new announcement says: "At this time, we have identified additional applicants (not previously notified) who we believe are likely to be approved if they request reconsideration of the initial Direct PLUS Loan denial. We will begin to notify these additional applicants the week of August 19, 2013, of their opportunity to seek reconsideration. These additional applicants will be identified on each school's PLUS Loan Reconsideration Report.

"The applicant will receive a special communication that will invite the applicant to contact our Student Loan Support Center at 800/557-7394 for more information and will encourage the applicant to request reconsideration of his or her initial Direct PLUS Loan denial if the applicant is interested. The applicant will have received a separate communication informing him or her of the student's opportunity to opt for additional Direct Unsubsidized Loans. The applicant (not the school or the child of a parent applicant) should contact the Student Loan Support Center as soon as possible to avoid the need for an additional credit check. Typically the applicant completes his or her part of the reconsideration process in just a few minutes.

"While we cannot guarantee that these additional applicants will be approved for a Direct PLUS Loan, our experience in conducting this type of special outreach has shown that most such targeted applicants are subsequently approved for Direct PLUS Loans, even if nothing in their credit report has changed."

The change came in apparent response to pressure from Members of Congress and others, particularly supporters of Historically Black Colleges and Universities (HBCUs). Some HBCUs were facing financial problems brought about when PLUS loans were denied to many parents of continuing undergraduate students after the Department modified how it would define "adverse credit history" last year. In a letter to Representative Marcia Fudge (D-OH), ED Secretary Duncan indicated that the Department will be reviewing PLUS Loan eligibility criteria via negotiated rulemaking in spring 2014. In the meantime, the Department will be doubling the amount of the de-minimus exemption to the Department's adverse credit history criteria. Duncan declined to state the amount of the exemption, which allows borrowers to have had past-due debts of small amounts.

In the letter to Rep. Fudge, the Department reported that 95 percent of those denied PLUS loans enrolled in an institution of higher education for the 2012-2013 academic year. However, 20 percent of those denied at Historically Black Colleges and Universities did not continue to enroll at historically black institutions.

Once the news came out, the Department was pressed for more information, such as PLUS default rates and the amount of the de-minimus exemption. The Department declined those requests, stating it does not track PLUS loan default rates, and it would be inappropriate to disclose the deminimus exemption because, as stated by the *Chronicle of Higher Education*, "disclosing the amount could cloud the judgment of the financial-aid administrators who distribute federal aid."

An article from the *Chronicle of Higher Education* is available online: http://chronicle.com/article/In-Victory-for-HBCUs/141133/
National Association of Student Financial Assistance Administrators President Justin Draeger also offered an op-ed for *Inside Higher Ed*, "The PLUS Loan Problem." It is available online: http://www.insidehighered.com/views/2013/08/16/us-should-change-plus-loan-program-protect-borrowers-and-taxpayers-essay

President Obama Plans Bus Tour on College Affordability

Next week, President Obama is scheduled for a two-day bus tour through Pennsylvania and New York to discuss college affordability.

For some time, the Obama Administration has been indicating it plans to offer major proposals on college affordability at some point this year. According to Josh Earnest, a White House spokesman, the tour will focus on policy changes on college access and affordability.

Kanter to Step Down from Under Secretary Post

Martha Kanter, Under Secretary of Education, announced to colleagues this week that she will be stepping down this fall. Kanter had responsibility under Secretary Arne Duncan for government policies affecting higher education, a post made more important because Duncan's background is in elementary-secondary education. Kanter indicated she will "return to academia," but did not provide further details. *Inside Higher Ed* reports on her departure.

> *Kanter, who joined the Education Department in 2009 from her position as chancellor of the Foothill-De Anza Community College District, was said at the time to be the first community college official to reach such a high rank within the agency.*
>
> *During her time at the department, she took an active role in issues that had been near and dear to her as a California community college leader, leading the administration's efforts to bolster two-year institutions (many of which stalled amid budget constraints) and promoting the use of open educational resources to try to lower textbook costs. She has remained highly accessible to higher education officials, who characterized her as someone who fully grasped their issues even as she pursued policies (like the one setting a federal definition of the "credit hour") with which campus leaders vehemently disagreed.*

"She was the one person who really, truly understood what goes on on a college and university campus," said Terry W. Hartle, senior vice president for government and public affairs at the American Council on Education. "She was always somebody who was easy to reach and talk to about the impact the administration's policies might have."

The full article from *Inside Higher Ed* is available online: http://www.insidehighered.com/news/2013/08/14/martha-kanter-leave-education-department#ixzz2c822wQuM

ED & VA Launch "8 Keys to Success" Program

The Department of Education (ED) and the Department of Veterans Affairs (VA) announced "a challenge to education institutions to adopt best practices supporting educational success."

President Obama introduced the "8 Keys to Success" on Saturday at the Disabled American Veterans National Convention in Orlando, Fla. More than 250 community colleges and universities across the country are already implementing the "8 Keys to Success."

"We're announcing what we call '8 Keys to Success' -- specific steps that schools can take to truly welcome and encourage our Veterans," President Obama said. "And so far, more than 250 community colleges and universities have signed on, and today I'm calling on schools across America to join us in this effort. Let's help our Veterans get that degree, get that credential and compete for the high-skilled jobs of tomorrow."

To help draft the "8 Keys to Success," ED convened more than 100 experts to review approaches that could be scaled and replicated to foster Veterans' success on campus and via distance learning. A wide range of stakeholders participated in the discussions including non-profit organizations, foundations, Veterans service organizations and Veterans who had recently completed postsecondary education in a range of disciplines.

The "8 Keys to Success" include the following:
1. Create a culture of trust and connectedness across the campus community to promote well-being and success for Veterans.
2. Ensure consistent and sustained support from campus leadership.
3. Implement an early alert system to ensure all Veterans receive academic, career, and financial advice before challenges become overwhelming.
4. Coordinate and centralize campus efforts for all Veterans, together with the creation of a designated space (even if limited in size).
5. Collaborate with local communities and organizations, including government agencies, to align and coordinate various services for Veterans.
6. Use a uniform set of data tools to collect and track information on Veterans, including demographics, retention and degree completion.
7. Provide comprehensive professional development for faculty and staff on issues and challenges unique to Veterans.
8. Develop systems that ensure sustainability of effective practices for Veterans.

Additional information is available online: http://www.va.gov/opa/pressrel/pressrelease.cfm?id=2470

CFPB Provides Additional Federal Loan Data, Unhappy With Lack of IBR Selection

In a blog post last week titled, "A Closer Look at the Trillion," CFPB Student Loan Ombudsman Rohit Chopra offered additional data on the federal student loan programs. Below are the charts:

Outstanding balance including accrued interest in billions of dollars

	In-school	Grace	Repayment	Deferment	Forbearance	Default	Other	Total
Direct	133.8 (24%)	40.4 (7%)	237.4 (42%)	75.6 (13%)	48.3 (8%)	30.5 (5%)	3.2 (1%)	569.2 (100%)
FFEL	12.2 (3%)	6.6 (2%)	256.3 (60%)	46.5 (11%)	42.8 (10%)	58.8 (14%)	6.3 (1%)	429.5 (100%)

Number of recipients in millions

	In-school	Grace	Repayment	Deferment	Forbearance	Default	Other	Total
Direct	7.9 (28%)	1.9 (7%)	10.8 (39%)	3.2 (12%)	1.8 (6%)	2.1 (8%)	0.1 (0%)	27.8 (100%)
FFEL	0.9 (4%)	0.5 (2%)	12.9 (56%)	2.3 (10%)	1.6 (7%)	4.4 (19%)	0.3 (1%)	22.9 (100%)

Average outstanding balance including accrued interest in thousands of dollars

	In-school	Grace	Repayment	Deferment	Forbearance	Default
Direct	16.9	21.3	22.0	23.6	26.8	14.5
FFEL	13.6	13.2	19.9	20.2	26.8	13.4

Repayment plan choices by federal direct loan borrowers (Includes loans with known status in repayment, deferment, and forbearance)

	Outstanding balance Billions of dollars	Recipients Millions of recipients	Average balance Thousands of dollars
Standard 10-year plan	139.9	9.84	14.2
Plans based on income	72.3	1.58	45.8
Income-contingent repayment	20.1	0.63	31.9
Income-based repayment	50.9	0.91	55.9
Pay as you earn	1.3	0.04	32.5
Plans not based on income	107.4	3.35	32.1
Extended repayment	62.1	1.63	38.1
Graduated repayment	27.8	1.27	21.9
Extended graduated repayment	17.5	0.45	38.9
Other alternative repayment plan	4.4	0.23	19.1
Total of loans in these plans	**324**	**15**	**21.6**

The dichotomy of the relatively high number of defaults and relatively low number of borrowers making use of repayment plans tied to income caught the attention of the CFPB and others. In the post, Chopra noted all of the repayment plans available for federal borrowers and said, "If borrowers were aware of and able to easily enroll in income-based plans through their servicer, many federal student loan defaults could have been avoided."

Others took notice of the figures as well, but instead focused on the average balances. Borrowers in default carry an average balance of just under $14,500, while borrowers in IBR carry a balance of $55,900. Taking note of this disparity, the New America Foundation and others suggest it is evidence of sophisticated, high-debt borrowers availing themselves to IBR benefits, while those whom the program was intended for—students facing the prospect of default—are not making use of this lifeline.

The CFPB blog post is available online: **http://www.consumerfinance.gov/blog/a-closer-look-at-the-trillion/**

Industry

Sallie Mae Discloses FDIC Enforcement Action on SCRA and Reg B

In a recent 10-Q filing, Sallie Mae disclosed it was facing an investigation from the FDIC on the Servicemembers Civil Relief Act (SCRA) and Regulation B of the Equal Credit and Opportunity Act (Fair Lending). The following is from the company's recent filing:

In July 2013, the FDIC notified the Bank that it plans to replace the existing cease and desist order with a new formal enforcement action that will more specifically address certain cited violations of Section 5 of the Federal Trade Commission Act, including with respect to the Servicemembers Civil Relief Act, and the Equal Credit Opportunity Act and its implementing regulation, Regulation B, which could include civil money penalties and restitution obligations. The Bank has not been notified by the UDFI that it intends to join the FDIC in issuing the new enforcement action. We have made and continue to make changes to the Bank's oversight of significant activities performed outside the Bank by Company affiliates, including in connection with our pursuit of a strategic plan to separate our existing organization into two publicly traded companies. We could be required to, or otherwise determine to, make further changes to the business practices and products of the Bank and our other affiliates to respond to regulatory concerns. Such changes to the business practices and products of the Bank or our other affiliates in response to current or future regulatory concerns and enforcement, or other action by the above referenced or other regulators, which may include civil money penalties and require restitution to customers, could materially and adversely impact our business, financial condition and results of operations.

Enforcing SCRA has certainly been a key area in recent months for federal regulators. Appearing before the Senate Veterans Affairs Committeer, Eric Halperin, Special Counsel for Fair Lending at the Department of Justice, indicated DOJ is actively investigating student lending companies on SCRA matters. In addition, officials at the CFPB indicate that while some lenders have taken special steps to ensure SCRA compliance on student loans, the law remains a major source for consumer complaints.

Sallie Mae's most recent 10-Q filing is available online:
https://investor.shareholder.com/slm/secfiling.cfm?filingID=1193125-13-319383&CIK=1032033

New America Foundation Explores Grad PLUS + LRAP "Loophole" at GULC

In a series of blog posts last week, the New America Foundation alleged the Georgetown University Law Center (GULC) is taking advantage of the combination of the unlimited lending in the Direct Grad PLUS Loan Program, Pay as You Earn repayment, and Public Service Loan Forgiveness. Here is a brief explanation from New America:

…The short explanation is that the school promises to make graduates' loan payments if they use Income Based Repayment or PAYE because those programs limit loan payments and offer unlimited loan forgiveness after 10 or 20 years of payments. Conveniently enough, the federal government will lend graduate and professional students whatever a school charges, plus living expenses. Schools therefore can charge students for the cost of running their own loan repayment program and students take out federal loans to pay for it, but the federal government will ultimately forgive all of the loans. We estimate that the average amount a Georgetown Law grad stands to have forgiven is $158,888.

The posts do not allege any sort of illegal activity on the part of GULC. To the contrary, the posts acknowledge what GULC is doing is perfectly legitimate and many other law schools are doing the same. However, New America also claims this is a massive loophole.

[GULC Assistant Dean for Financial Aid Charles] Pruett and his colleague Phil Schrag have encouraged other law schools to launch programs like Georgetown's, and several have (e.g. Berkeley and Duke). In fact, there is nothing to stop all graduate schools from adopting these schemes and expanding them to graduates beyond those in so-called public service jobs once they understand that the apparent cost of covering a student's loan payments is really no cost at all; nothing prevents a school from simply hiking tuition by the same amount. But those tuition hikes never translate into higher loan payments for student or school—only bigger loan forgiveness after 10 or 20 years under IBR.

This cannot be what most lawmakers had in mind when they created IBR, loan forgiveness for public service, or Grad PLUS loans. Fortunately, they need only make a few tweaks to head off the abuse.

As noted above, Georgetown's combination of IBR/PAYE and its own LRAP program is not anything new. However, a presentation from Pruett and Director of Financial Aid Danae Newman on the particulars of the program was posted online.

Jason Delisle and Alex Holt, two researchers at New America who have previously written on concerns with loan forgiveness and Grad PLUS, located the video and posted it the organization's website. In the presentation, Pruett and Newman offer a candid assessment of the PSLF/Grad PLUS combination. The discussion includes advice against prepayment, tips for lowering one's adjusted gross income (AGI), an acknowledgement the LRAP program is funded by tuition, and concerns that "someone wakes up to what they've done" by 2017, the time when the initial loans will be up for forgiveness.

A blog post from the New America Foundation, "Georgetown Law Is Giving Away a Free Education, and You're Paying for It," is available online: **http://goo.gl/clKJrf**
A follow-up post including video from the actual seminar is also available online: **http://goo.gl/7QFWEf**

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