The Torch

April 25, 2014

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

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Register Today for the COHEAO Mid-Year Conference—August 3-5, Denver

Online registration is now open for the COHEAO Mid-Year Conference. Register today! Set for August 3-5 at the Grand Hyatt Denver, the COHEAO Mid-Year Conference is the premier summertime event for campus loan administrators and student financial services professionals.

The COHEAO Mid-Year Conference is a unique event that offers deep insights on the most pressing legislative and regulatory issues facing campus professionals as well as training on the basics of program administration. Our Agenda Committee is diligently putting together an informative and engaging conference program based on ideas and suggestions from COHEAO members and past conference attendees. In addition to updates on the Congress, the CFPB, and the Department of Education, sessions at the COHEAO Mid-Year will address financial literacy and higher education, the use of debit cards on campus, UDAAP enforcement, and much more. A preview of the conference program is available online

The COHEAO Mid-Year will be held at the Grand Hyatt Denver, a modern, comfortable hotel located in the heart of the city. COHEAO has negotiated a fabulous rate of $169 for conference attendees. Whether it is catching a game at nearby Coors Field, a visit to the Rocky Mountains, or any of the other fun activities Denver has to offer, the Grand Hyatt Denver is a perfect location for tacking a summer vacation onto a business trip.

Go ahead and sign up today. This is a conference you won't want to miss.

COHEAO Mid-Year Conference at a Glance

When:	**August 3-5, 2014 (Conference Programming August 4 & 5)**
Where:	**Grand Hyatt Denver**
Registration:	**http://goo.gl/hE1mVy**
Additional Info:	**http://goo.gl/ZjfljU**
Costs:	**$460 for all COHEAO members ($510 after July 11)** **$560 for institutional & organizational non-members ($610 after July 11)** **$1,610 for commercial non-members ($1,660 after July 11)**
Conference Hotel:	**Grand Hyatt Denver**
Hotel Registration:	**Click here for online registration** **Call (402) 592-6464 and mention COHEAO.**
Hotel Rate:	**$169 (Market rates after July 11)**

Sign up Today for the April 29 Webinar on the 2014 COHEAO Financial Literacy Whitepaper

Join us for a discussion on the newly released COHEAO financial literacy whitepaper: "Financial Literacy in Higher Education: The Most Successful Models and Methods for Gaining Traction." Set for Tuesday, April 29 from 2:00-3:30 PM ET, this webinar will bring the paper to life and focus on what's being done in financial literacy on campuses today along with implementation tactics for increasing student success with the goal of lowering student loan default rates.

Three of the whitepaper's co-authors Kris Alban, Vice President, iGrad; Sharon Lechter, best-selling author and CEO of Pay Your Family First; and Sonya Britt, Program Director of Personal Financial Planning at Kansas State University are guest panelists in this special National Financial Literacy Month webinar.

> **What:** **COHEAO Webinar, "Financial Literacy in Higher Education: The Most Successful Models and Methods for Gaining Traction"**
> **When:** **Tuesday, April 29, 2:00 PM-3:30 PM ET**
> **Costs:** **$49 for COHEAO Members/$99 for Non-Members**
> **Who:** **Kris Alban, iGrad; Sonya Britt, Kansas State University; Sharon Lechter; Pay Your Family First**
> **More Info:** **https://coheao.site-ym.com/events/event_list.asp#**

Special Attachment: "The Bradley Case, a Rehash of Old Law"

Included with today's edition of *The Torch* as a special attachment is analysis of the *Bradley v. Franklin Collection Services, Inc.* case prepared by David Stocker of ACSI, Inc. The case, heard in the Eleventh Circuit Federal Court of Appeals, which includes Alabama, Florida and Georgia, has garnered significant attention within the industry in recent weeks. COHEAO would like to thank David for providing this analysis.

Congress

FY 15 Education Budget the Focus as Set to Return from Recess

The House and Senate will return from a two-week recess next week. As they return, Secretary of Education Arne Duncan will be appearing before committees in both chambers.

On Tuesday, Duncan will testify before the House Education and the Workforce Committee. On Wednesday, he will appear before the Senate Labor-HHS-Education Appropriations Subcommittee. The focus of these hearings is the FY 15 budget proposal, but it provides those serving on the committees the opportunity to ask the Secretary about any number of topics under his purview.

The hearings come at a critical time for the early stages of HEA reauthorization. Reports indicate staffers in the House and Senate are actively working to craft a bill. This election year, it is highly unlikely both chambers will pass legislation to reauthorize HEA, the proposals put forward this year will shape the debate going forward.

CBO Offers Insights on Student Loan/Student Aid Programs

The Congressional Budget Office (CBO) released its updated budget estimates for 2014-2024 as well as its score of the President's proposed budget. Both reports included documents specific to postsecondary education.

The CBO score for the President's budget request helps determine prospects for viability of its various ideas. The Office of Management Budget (OMB) is responsible for the estimates on the President's budget, but the official score for Congress comes from CBO. There are some differences in methodology which can lead to wide variances in estimates and diminish the prospects for certain aspects of the proposal from becoming law.

The differences between CBO and OMB were underscored by the CBO score on proposed changes for student loans. The Administration expected a fairly large amount of savings from converting Perkins Loans to Direct Lending, but the number was a little over half of OMB projections (CBO: $1.81 billion in savings 2014-2019, $3.44 billion in savings 2014-2024; OMB: $3.78 billion savings in 2014-2019, $6.33 billion in savings 2014-2024).

The President's budget acknowledged a cost for the expansion and reform of Income Based Repayment, but CBO scored the cost as more than twice that of OMB (CBO: $9.51 billion cost 2014-2019, $8.18 billion cost 2014-2014; OMB: $7.27 billion cost 2014-2019, $3.55 billion cost 2014-2024).

Earlier in the week, CBO released its updated baseline projections for 2014-2024. This did not score any proposals, but did offer a glimpse at the CBO's assumptions. CBO projects revenues from the Direct Loan program at roughly $9-$13 billion per year, with roughly $120 billion in net revenues, or negative subsidy, projected to come in by 2024.

Of course, as this estimate would put the Department of Education on par with many of the top private firms in the US in terms of "profit margins," these estimated revenues drew a considerable amount of attention. As FFELP participants' involvement in the federal loan programs continues to wind down, the Department of Education continues to receive the brunt of criticism for these "profits."

"This is a profit-making machine for the Education Department," Chris Hicks, who leads the Debt-Free Future campaign for Jobs With Justice, told the *Huffington Post*. "The student loan program isn't about helping students or borrowers -- it's about making profits for the federal government."

White House and Department officials are not fans of the term "profit," perhaps because CBO, OMB, and GAO have all indicated these numbers are simply estimates and can vary wildly. For example, CBO estimated last summer that these same "profits" would be north of $180 billion.

Beyond the supposed "profits," the CBO estimates did provide some very useful information. In addition to quantifying subsidy rates by type of loan (though the anticipated revenues from Grad PLUS seem exceptionally high), the report offered CBO's forecast on interest rates. For the upcoming academic year, CBO expects undergraduate Stafford loans to be priced at 5.09%, graduate Stafford loans to be priced at 6.64%, and PLUS loans to be priced at 7.64%.

Each of these rates is fixed for the life of the loan, but based off of the rate for 10-year Treasuries in the May auction. This year, CBO expects the underlying 10-year Treasury to be set at 3.04%. However, it is worth noting that 10-year Treasuries have yet to hit that rate this year—they have been around 2.70% for some time and the highest rate this year is 3.01%.

- The CBO report on the President's FY2015 budget request is available online: **http://www.cbo.gov/publication/45230**
- The CBO report on updated 2014-2024 baselines is available online: **http://www.cbo.gov/publication/45229**

Senators, Rep. Miller Write Secretary Duncan on Campus Debit Cards

A letter from multiple Senators, spearheaded by Sen. Elizabeth Warren (D-MA) and Rep. George Miller (D-CA), was sent to Secretary Duncan urging more stringent requirements for debit cards tied to accounts in receipt of Title IV funds. The letter comes during the third round of negotiated rulemaking on cash management issues, including Title IV refunds, among other topics.

This round of negotiations concludes today. A fourth and final round is scheduled for May.
For the letter, see:
http://www.warren.senate.gov/files/documents/debit%20card%20letter%200423.pdf

Senators Warren and Brown, Tout Re-Fi Legislation over Recess

During recess, Sen. Sherrod Brown (D-OH) and Sen. Elizabeth Warren (D-MA) called for the passage of legislation to allow student loan borrowers to refinance their student loans.

Speaking at an Ohio high school, Brown touted this "RE-FI" legislation, which calls for the Treasury Department to develop a program for refinancing private student loans with federal loans at no cost to the government. Warren appeared on the "Daily Show" and said she was working on a plan to refinance federal student loans, attempting to craft something more palatable for many of our colleagues than plan to lend at the same rate as the Fed overnight lending window. An excerpt is below:

> WARREN: Kids who can't afford to go to college, their parents can't afford to just write 'em a check so they gotta borrow money, the United States government says we will lend you the money to go to school -- OK, that's a good thing to do -- and then piles onto the interest rates so that the government makes tens of billions of dollars in profits...
>
> *STEWART (laughs): Yeah.*
>
> *WARREN: ... off the backs of kids who are trying to get an education. I think it is obscene for the government to make profits off our kids. (Audience applauds)*
>
> *STEWART: It's crazy! How is, how is that legal? Because that, you know, but that doesn't strike me, so who is lobbying the government to get them more money? That's not even a corporate interest. That's a government inherent internal corruption, is it not?*
>
> *WARREN (emphatically): But that is exactly the point.*
>
> *STEWART: Yeah.*
>
> *WARREN: So to say, which I want to do and I think we're going to propose next month, refinancing those student loans that are outstanding, to bring down the interest rate, cut the interest rate on those student loans.*
>
> *STEWART: Right.*
>
> *WARREN: In order to be able to do that, we've got to find someplace else in the budget to find that money. My view is, we ought to close a couple of those loopholes, make billionaires pay just as much in taxes as their secretaries do. But the lobbyists won't let that happen.*

Warren's full interview with Jon Stewart is available online:
http://thedailyshow.cc.com/episodes/hk9p5m/april-22--2014---elizabeth-warren
A press release from Brown's office is available online: http://goo.gl/NA4G7Z

White House & Administration

At Neg Reg, Negotiators Find Common Ground, Albeit Slowly

This week, the Department of Education convened the third round of negotiated rulemaking on program integrity issues. Three sets of issues have proven the most contentious in these negotiations—cash management issues, state authorization for distance education programs, and the definition of "adverse credit" for PLUS Loans.

Negotiators are finding common ground, but these discussions are moving at an incredibly slow place, even by the standards of negotiated rulemaking. A fourth session is scheduled for May 19-20. It was initially envisioned to address PLUS Loan issues, but now includes continued discussions over parts of the state authorization regulations as well as an in-depth look at the cash management issues, including the distribution of Title IV funds via debit cards and "sponsored accounts" with financial institutions.

Much of Wednesday's discussion focused on cash management, debit cards, and "sponsored accounts" and the relationships between financial institutions and institutions of higher education. Following several caucuses among various stakeholders, including consumer representatives and lender/servicer and third-party vendor representatives, it appeared these divergent groups were beginning to find common ground.

A proposal crafted by the industry representatives was put forward at the table by University of Wisconsin Credit Union President Paul Kundert. The language of the proposal, as well as the reactions of the consumer representatives, showed the plan sought to address consumer and industry concerns. The response of Chris Lindstrom of PIRG, who said it was a "very good start," suggests the proposal has the potential to thread the needle.

The plan requires sacrifices from industry players in the campus card market, but it moves away from proposals put forward by the Department and consumer groups which would have, at best, presented a significant burden on the private section. The negotiators who did not participate in the caucus, such as school representatives, were also somewhat supportive, but it is difficult to discern its viability as the discussion on the proposal hardly moved beyond definitions and its first few provisions.

Negotiators asked numerous questions on the basic definition of a "sponsored account," and offered numerous ideas to make it clearer. The school representatives wanted an improved definition of what is and what isn't a sponsored account. A new definition was provided by Tom Levandowski of Wells Fargo and seems to provide additional clarity.

The Department remained largely silent during these discussions as school and other representatives peppered Kundert with questions, but provided some feedback today. The Department's negotiators indicated some provisions were highly problematic from their perspective, but also indicated a willingness to work from the proposal as a base document. The proposal relies on consumer choice and transparency and sought to provide students with all of their options for the receipt of Title IV funds, including their existing checking or savings account. The Department indicated the option for deposit into an existing account needed to be provided before listing alternatives.

Another issue where the Department indicated it intended to hold a firm position was overdrafts relating to debit cards. ED's negotiators said overdraft charges for bounced checks were acceptable, but suggested the financial institution would need to cover any overdraft charges resulting from card usage with "sponsored accounts."

Though there appears to be some level of a "meeting of the minds" among industry and consumer negotiators, numerous questions remain and it still appears to be an uphill climb toward consensus on these issues. A working group of financial institutions, third party servicers, consumer groups and others thoroughly discussed this in caucus sessions. ED seems inclined to work from this document, but each of the Departments concerns has the potential to derail the momentum toward consensus because of the variety of viewpoints among the stakeholders involved in the working group.

The negotiators did not have an opportunity to discuss PLUS Loan issues during this session. Pamela Moran, one of the Department's negotiators, expressed concern at the pace of negotiations on this issue. Noting the group was "behind the curve" on the PLUS issues (and really all of the issues), Moran urged the negotiators to provide information to the Department by April 30 in order for it to be considered in advance of the next round of negotiations.

The Department will be providing proposed language on distance education, cash management & Title IV "refunds," and PLUS Loans at least one-week in advance of the May 19-20 negotiations. This week's effort showed great signs of progress, but the pace of the negotiations suggests total consensus remains somewhat unlikely.

- The Department's Program Integrity Negotiated Rulemaking web page, which includes materials associated with the negotiations and is updated on a regular basis, is available online: http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/programintegrity.html
- The proposal on "sponsored accounts," Title IV refunds, and debit cards is available online: http://www.edcentral.org/wp-content/uploads/2014/04/2014-04-24-13-48.pdf

CFPB Warns of "Accelerated Default" with Death or Bankruptcy of Co-Signers

On April 23, the CFPB issued its semi-annual report on private student loans. This report focused on co-signer issues, specifically cases of "accelerated default" with the death or bankruptcy filing of the co-signer.

The report, written by Student Loan Ombudsman Rohit Chopra, states "acceleration seems to be used by the bulk of industry participants." The CFPB has yet to quantify the number of these complaints, but indicated it has received such complaints since it began the intake process over a year ago.

Several student lending trade associations have conducted informal polls of their members, all of which suggest acceleration to default is an extremely rare occurrence. CBA President Richard Hunt issued the following statement on the report, ""When tragic circumstances occur, CBA members work with their customers carefully and compassionately. For example, it is common practice for student loan lenders to release cosigners from loan obligations upon the death or permanent disability of a student borrower. We are not aware of lenders accelerating the payment of a loan in good standing upon the death or permanent disability of a cosigner as a typical practice and believe it to be a rare occurrence."

It seems that many consumer loan contracts include this clause, but the degree in which it is actually used appears to be relatively minimal, at least according to informal polling from multiple student loan trade associations. The report also discussed difficulties primary borrowers face in obtaining a cosigner release and offered a "consumer advisory" on these matters.

- For the full report, see: **http://files.consumerfinance.gov/f/201404_cfpb_midyear-report_private-student-loans-2014.pdf**
- For the consumer advisory, see: **http://www.consumerfinance.gov/blog/consumer-advisory-co-signers-can-cause-surprise-defaults-on-your-private-student-loans/**

ED Plans to Change Evaluations of Federal Student Loan Servicers

In a letter last month to Congress, Tom Skelly, the U.S. Department of Education's acting chief financial officer, wrote that officials are planning to change how they evaluate companies that manage the loan payments of the more than 26 million borrowers of federal direct student loans. The four main loan services—Sallie Mae, PHEAA, Nelnet, and Great Lakes Higher Education Corp.—receive new borrower accounts based on how they score, relative to each other, on two default metrics and three customer satisfaction surveys under the current measures.

In the letter, Skelly says the department is "in the final stages of developing revised performance metrics," and outlines the multiyear plan to create metrics and pricing models that are consistent across the four main services and the several other servicers. Skelly added, "we strongly believe that competition among a small group of experienced, highly qualified servicers—whether for-profit or not-for-profit—is the best way to drive improved performance and value for taxpayers."

Concerns that the Education Department does not adequately oversee its contracted loan servicers have been raised by consumer advocates and some members of Congress; many have additionally claimed that the servicers do not do enough to help struggling borrowers.

The plans for additional metrics offer some hope for the not-for-profit servicers (NFPs) that have yet to be "on boarded." However, the letter's reference to "a small group of servicers," is likely to be a cause for concern for the NFPs. The new performance metrics will be finalized later this year.

To view the letter, go to: **https://www.documentcloud.org/documents/1106351-ed-dept-tivas-nfp-metrics-report-to-congress.html**

ED Looks for Input on APIs and FAFSA

The Department of Education published a *Federal Register* notice seeking additional information on "the processes by which students get information about, apply for, and finance higher education" noting that it "can be challenging and complex, particularly for low-income and first-generation college-goers."

Fierce Government IT explains: "Application programming interfaces (APIs) can allow third-party developers to build apps and tools that interact with government data and forms. The Education Department says it's interested both in read-only APIs, which would let tools push out information, and read-write APIs that would let users complete forms through third-party tools."

For years, many observers have wondered why the Department would not embrace this new technology. However, when dealing with federal programs and personal data, it is not so simple.

Hence, a relatively detailed request for information. In the RFI, ED indicates it is looking to the use of IRS data for taxpayers as a model. It took a number of years for the two agencies to begin sharing that data.

The full RFI is available online: **https://www.federalregister.gov/articles/2014/04/16/2014-08649/request-for-information-on-the-use-of-apis-in-higher-education-data-and-student-aid-processes**

Industry

Report Shows Slow but Steady Increase in State and Local Support of Higher Education

The "State Higher Education Finance Report" was released this week by the State and Higher Education Executives Officers (SHEEO) showing that state and local support for higher education is slowly increasing since the Great Recession. SHEEO President George Pernsteiner said "there is a slow recovery nationwide in state and local support for higher education, but that is like the national recovery, it is not uniform across the country, so some states are still down… But some states are up, and the data from next year are likely to show an even greater recovery."

The report notes that the national average spending per full-time-equivalent student is $6,105, which is still below the $7,924 average of 2008.

The report also demonstrates the increased burden that climbing education costs have placed on students; Pernsteiner explained, "coming out of each recession, the share students were paying was higher than ever before going into the recession." After the recession in the early 1980s, 23 percent of public college money came from students, yet students are now responsible for 47 percent.

The full report is available online: http://www.sheeo.org/projects/shef-%E2%80%94-state-higher-education-finance

Lumina Papers Raise Additional Questions on Income-Driven Repayment

The Lumina Foundation recently hosted an event on college affordability after it had commissioned 15 papers on the topic. A sub-topic was student loan repayment, which garnered the most attention in the media.

More often than not, a briefing on federal student loan repayment generally means a group of "experts" participate on a panel on how to get more students enrolled in income driven repayment plans. This did not happen with this panel—three of the four papers presented raised stark questions on the sustainability, fairness, and operations of IDR programs.

Among those raising concerns was The Institute for College Access and Success (TICAS). The group's founder, Bob Shireman, has been a leading proponent for income-driven repayment programs for some time. TICAS has previously described IBR and PAYE as means for eliminating all federal loan defaults, so their reticence to auto or default income driven repayment is noteworthy. An excerpt from their report is below:

We found that the complex federal student loan repayment system in the U.S. is clearly ripe for streamlining and improvement, but requiring IDR for everyone could have unintended consequences, and it is certainly not the only way to help more borrowers keep up with their loan payments and avoid default. The vision of all borrowers seamlessly making affordable payments and staying out of default must be tempered with the reality of our country's broader financial aid and higher education systems, as well as the risk of unintended consequences for lower income students. However, no matter how optimally designed or how widely used, IDR alone cannot solve the larger problems of rising college costs and student debt.

In addition to TICAS, Beth Akers and Matt Chingos of the Brookings Institute raised questions on the sustainability of IDR/PAYE as currently written. In their paper, the two Brookings scholars suggest that the costs of IDR plans may be as much as four times greater than estimates. Akers and Chingos acknowledged they were limited by the available data and focused their research on undergraduates. If graduates are factored in, particularly with some estimates attributing one-third or more of all borrowing to graduate students, the taxpayers costs become even more.

Joining Akers on the panel was Jake Gross of the University of Louisville and Brent Evans of the University of Vanderbilt. Gross, along with Nicholas Hillman of the University of Wisconsin, published a paper suggesting that more study is needed and noted that many borrowers may be better off in the long run with the traditional safety nets for federal borrowers—deferment and forbearance. Evans and his team sought to bring lessons from behavioral economics to the discussion. In their paper, they argue that consumers make "suboptimal decisions" when faced with too many choices and advocate for auto-IDR.

All 15 papers from the Lumina event are available online:
http://www.luminafoundation.org/newsroom/ideas_summit.html

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