The Torch

October 10, 2014

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

COHEAO

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Top News

- **ED Plans to Treat Perkins Loans Like All HEA Programs Unless Congress Says Otherwise, Will Provide Additional Guidance in Advance of FSA Conference**
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Congress

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- **Updated FSA Handbook Appendices**
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  Taking note of a summer lawsuit filed by the CFPB, some industry observers are warning debt collection litigation may be the next area of legal trouble for financial institutions.
- **Prominent Economist Calls for New Approach to Accounting for Federal Credit Programs**
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- **New America Foundation Notes Identical Default Numbers from 2006 and Now**
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- **Citizens Releases National Survey on Student Debt**
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Attachments

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

COHEAO

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COHEAO will be hosting a webinar, "Assigning Federal Perkins Loans," on Tuesday, October 14, 2014. This is a webinar you will not want to miss as two industry experts will take you through the ins and outs of signing up for Perkins Loans. Sign up today!

The Department of Education recently changed a few of its assignment procedures, which are in place for the assignment of specific loans where due diligence in servicing and collections is no longer producing results or the loan is eligible for a TPD discharge as well as for the liquidation of Perkins Loans Funds. Set for 2:00 ET on Tuesday, October 14, this is a webinar you will not want to miss. Join Sharon Cameron of Campus Partners and Bob Gallo of the DeVry Education Group to learn more on the rights and responsibilities of campuses and the Department throughout the assignment process. Sign up today!

Top News

ED Plans to Treat Perkins Loans Like All HEA Programs Unless Congress Says Otherwise, Will Provide Additional Guidance in Advance of FSA Conference

On October 1, just like all programs in the Higher Education Act (HEA), the Perkins Loan Program received an automatic one-year extension to operate through September 30, 2015, under section 422(s) of the General Education Provisions Act (GEPA). Prior to the extension, a variety of Federal Student Aid programs, including Perkins Loans, were authorized through September 30, 2014. Perkins is authorized under Section 461(b) of the Higher Education Act (HEA).

The Higher Education Act contains a conflict on the Perkins Loan Program that has caused a great deal of confusion. One section of the law, Section 466, says the program sunsets starting October 1, 2012, while Section 461 says the program is authorized to continue through 2014, like the other federal student aid programs. To resolve the conflict, the Department of Education released guidance in 2011 via Dear Colleague Letter GEN-11-02 declaring the sunset language in Section 466 “outdated” and that the authorization in Section 461 takes precedence since it was the most recent Congressional action on the program.

If Congress does not pass a bill to reauthorize the Higher Education Act (HEA) by the end of FY 2015 (September 30, 2015), an extension to continue the authorization of numerous programs, including Perkins Loans, will be required. That means that the Perkins Loan Program, like other HEA programs, continues without change until Oct. 1, 2015, unless Congress acts between now and then.

COHEAO attended a briefing by several Department of Education officials where a question was asked about Departmental guidance on how institutions should deal with the conflict in the law regarding the future of the Perkins Loan Program. The Department re-affirmed existing guidance and provided some new information.

If Congress, as it did 15 times during the previous HEA reauthorization cycle, simply extends the expiration date of the HEA programs, the Department will consider that to include Perkins, unless

Congress specifically says otherwise. This reaffirms the information provided by a Department official at the COHEAO Mid-Year Conference in early August.

The Department is aware of questions institutions have regarding how to structure award notices to students this coming winter and spring, when award letters go out to students for the 2015-16 academic year. They also are working to be prepared for how to handle a Perkins wind-down should Congress decide not to continue the program. The Department plans to announce their guidance and proposals just prior to the upcoming Federal Student Aid Conference and include sessions on the information at the conference. They plan to inform schools how to handle Perkins awards for the next academic year if Congress has not yet acted by the time award letters are sent to students. The FSA Conference takes place Dec. 2-5, 2014, in Atlanta.

COHEAO will be attending the FSA Conference and has also offered to work with the Department on these issues. COHEAO believes that the Department should recognize that if a program is authorized at the beginning of the school year that schools can make awards for the entire year. This logic applies to the other programs that would expire as of October 1, 2015, and is the practice Congress followed between 2004 and 2008, the last time the HEA was reauthorized.

COHEAO members are strongly encouraged to get involved with our advocacy efforts to preserve the program. Additional information is available on our Advocacy webpage. COHEAO members interested in becoming more involved in advocacy efforts may also contact Jan Hnilica or Karen Reddick.

The advocacy effort will remain ongoing, and we could use the support of every COHEAO member, but in the meantime, schools should continue to operate the Perkins Loan funds in a normal fashion. In addition to GEN 11-02, the Department has continued to encourage schools to maintain a "business as usual" attitude toward Perkins Loans for the upcoming award year.

Congress

Student Loans Continue to Receive Attention on Campaign Trail

Student loans and student debt continue to resonate as major issues in many of the Mid-Term election campaigns. The issue is prevalent in numerous races and has appeared most prominently in Sen. Elizabeth Warren's (D-MA) numerous appearances for Democratic candidates and comedian Bill Maher's "Flip a District" campaign against House Education and Workforce Committee Chairman John Kline (R-MN).

Maher's campaign is not exactly centered on substance; he freely admits he knows very little about John Kline and refuses to support his challenger. However, one of the very few policy examples he cites is Kline's supposed blockage of student loan bills. There is chatter among Democratic supporters in DC that this effort may make Kline vulnerable, but he seems to be fundraising quite well off of the stunt, and it is difficult to imagine Maher having any sway over a significant proportion of voters.

Warren has appeared at many events on behalf of Democrats. She has traveled several times to Kentucky in support of Allison Lundgren Grimes, the challenger to Senate Majority Leader Mitch McConnell. Appearing on the Rachel Maddow Show this week, Warren tried to keep some distance between her and Grimes, explaining that they differ on many issues, but share very similar concerns with student debt.

White House & Administration

OIG Report Raises Info Security Questions on Phase-Down of FFELP

The Department of Education's Office of Inspector General (OIG) issued a report on the Office of Federal Student Aid's oversight of the phase-down of the FFELP loan program. The report raised concerns about oversight of guarantors and debt collectors, particularly on information security matters. The following is from the *Chronicle of Higher Education*:

With regard to debt collectors, the audit found that the department:

- *Allowed required security approvals to lapse, then let debt collectors continue to access its systems without approval. On average, the 22 debt collectors that contract with the department operated without approval for eight months.*
- *Failed to ensure that debt collectors dealt with security weaknesses in a timely fashion. On average, the fixes came 71 days late.*
- *Failed to verify that debt collectors' employees and subcontractors had completed mandatory annual security-awareness training.*

Regarding guarantors, the audit found that:

- *Agreements between the department and guarantors did not contain any requirements for information-technology security.*
- *Oversight of guarantors' security controls was limited to unofficial reviews, with no corrective actions required when deficiencies were found.*

The report offers the following recommendation:

1. Ensure that PCAs systems are reauthorized every 3 years, or as appropriate under new continuous monitoring requirements.
2. Disallow PCA interaction with FSA internal platforms until they have valid authorizations to operate.
3. Discontinue the use of interim authorizations to operate for PCAs and update OCIO-05, "Handbook for Information Technology Security Certification and Accreditation Procedures," to reflect current requirements.
4. Ensure each PCAs meet training requirements and verify their certificates of completion.
5. Ensure that PCAs timely perform corrective actions to resolve system weaknesses and deficiencies.
6. Either amend current GA agreements to include appropriate information technology security requirements, or pursue other alternatives to ensure protection of GA information systems that support Department programs.
7. Ensure that FSA sufficiently oversees GA information technology security to satisfy security requirements under FISMA, and
8. Ensure for all future engagements that FSA provides the OIG audit team with the most current complete and accurate documentation.

The Office of Federal Student Aid disagreed with certain findings and sought to update and clarify certain information in its response to a draft report. FSA also agreed with certain findings of the OIG. The report states the OIG has determined FSA "responsive" where it agreed with the report, but called the attempts to clarify and update “inadequate and unresponsive.” FSA’s full response is included as an appendix to the report.

Updated FSA Handbook Appendices

The Office of Federal Student Aid released updated appendices for the FSA Handbook this week. Many of the documents are useful references and are available online:

- Table of Contents in PDF Format, 203KB, 2 Pages
- Appendix A - Federal Student Aid Glossary in PDF Format, 873KB, 68 Pages
- Appendix B - Acronyms in PDF Format, 150KB, 8 Pages
- Appendix D - Actions a School Should Take When a Current Student Dies in PDF Format, 177KB, 4 Pages
- Appendix E - HEA Table of Contents in PDF Format, 135KB, 14 Pages

Industry

Chronicle of Higher Education Offers One-Sided Look at Internal Collections from the Department of Education

The Chronicle of Higher Education ran an article this week calling for replacement of private companies with government employees for the collection of federal student loans. This follows a “study” by the National Consumer Law Center and comments by Sen. Elizabeth Warren (D-MA) during Senate hearings.

To start, the call is for federal employees to take over collection of defaulted loans. One way to get there is to drop any company that has ever been sued from the Department of Education’s collection contract. As every debt collection company eventually is sued or could be, this would effectively eliminate them all.

The article did include a response from ACA International, but the story was almost entirely made up of comments from NCLC and their allies. Remarkably, it included the insights of a retired Department official who once had responsibility for federal student loan policy, but never addressed whether FSA had the wherewithal to actually collect all federal loans itself.

The article highlights instances where FSA was unable to sufficiently supervise its contractors but remarkably jumps to the conclusion that the government agency having such a difficult time administering contractors would actually be better suited to do all the work internally.

The full article is available online: http://goo.gl/AAbpCG (A subscription with the *Chronicle* may be required)

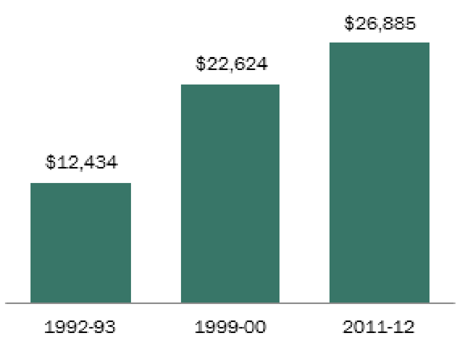
Pew Research Finds Increased Borrowing Across the Board, Particularly Among Upper Incomes

Pew Research issued a report this week indicating that while there has been an increase in student borrowing and debt levels, much of the uptick is at the income spectrum. The report finds roughly 69 percent of students now borrow for college and the median debt levels among borrowers is nearly

$27,000. A chart from Pew on the increase in median debt levels for student loan borrowers is included below:

Typical Total Student Debt for Recent Graduates who Borrowed More Than Doubled

Median amount borrowed, in 2013 dollars



Note: Estimates include bachelor's degree recipients from Title IV eligible postsecondary institutions in the 50 states and the District of Columbia.

Source: Pew Research Center analysis of 1993/94 Baccalaureate and Beyond, and 2000 and 2012 National Postsecondary Student Aid Study

PEW RESEARCH CENTER

The report states that 62 percent of students from families with upper-middle incomes now borrow for college, compared with 34 percent in 1993. An excerpt is below:

> *While graduates from the highest income homes saw a faster rate of increase in borrowing, those from low-income families continue to be more likely to graduate with student loans, with 77% graduating with debt in 2012, compared with 50% of their most affluent peers. And the share of low-income graduates who borrow has also increased in recent decades, rising from 67% to 77% over a period of roughly 20 years. But the rate of increase in the likelihood of borrowing has been much more modest among graduates from the lowest income group than it has among middle- and high-income graduates over the past 20 years.*
>
> *What has changed over the course of roughly two decades then is the pervasiveness of student borrowing across income groups: In the early '90s, only among graduates from low-income families did a majority of graduates finish college with student debt. Now, solid majorities of graduates from middle-income families (both lower-middle and upper-middle) finish with debt, and half of students from the most affluent quartile of families do the same.*
>
> *The Pew Research analysis shows, similarly, that there has been a sharper increase in student borrowing among graduates with more highly educated parents. In the class of 2011-2012, some 61% of students whose parents also had graduated from college left school with some student debt. This represented a 50% increase compared with students from similar backgrounds who graduated*

20 years earlier. The increase in borrowing among students whose parents have less education was significantly smaller, although those students remain more likely to borrow.

Additional information on the report is available online:
http://www.pewsocialtrends.org/2014/10/07/the-changing-profile-of-student-borrowers/

Industry Observers Warn Debt Collection May Be Next CFPB and/or Litigation Front for Financial Institutions

Taking note of a summer lawsuit filed by the CFPB, some industry observers are warning debt collection litigation may be the next area of legal trouble for financial institutions. The following is an excerpt from the *American Banker*:

While the CFPB only sued the debt-collections firm, it may soon proceed to filing suits against banks, said Peter Holland, an adjunct law professor at the University of Maryland.

"Should banks be concerned? Absolutely," said Holland, who also represents consumers in litigation with debt collectors. "Banks are the headwaters. They're the ones that sent the accounts to Hanna (& Associates, a law firm that collects debt which was sued by the CFPB) where the affidavits are not correct, where the paperwork is not there."

…

The alleged debts were incurred by consumers primarily for personal, family or household purposes. If the CFPB believes that a bank sent erroneous information to a debt collector, it could sue the bank, said Leslie Tayne, a Melville, N.Y., attorney who represents consumers in litigation with debt collectors.

“Banks could be liable if they're not paying attention to what's going on," Tayne said. "You can't just dump hundreds of thousands of accounts on a debt-collection firm and say, 'Go do what you have to do.'"

…

Although not named in the CFPB's lawsuit, numerous other banks have hired Hanna & Associates to pursue debts, on everything from credit-card debt and car loans, to auto loans and student loans, according to state court records.

The full article is available online: http://www.americanbanker.com/issues/179_190/banks-could-be-next-target-in-debt-collection-litigation-1070313-1.html (Registration with *American Banker* may be required)

Prominent Economist Calls for New Approach to Accounting for Federal Credit Programs

Donald Marron of the Urban Institute issued a report calling for a new approach to accounting for federal credit programs, “Expected Returns Accounting.” Marron, a prominent economist who held various government posts during the George W. Bush Administration, argues that Federal Credit Reform Act accounting underestimates government costs while Fair Value accounting overestimates them. The following is from Marron's colum, "The $300 Billion Question: How Should Congress Budget for Federal Lending Programs?"

For those reasons, I believe we should replace both approaches with a more accurate budgeting method, which I call expected returns. As the report and brief describe, the expected-returns approach forecasts the fiscal effects of a loan by projecting the government's expected returns year by year, rather than collapsing them into a single value at the time the loan is made, as both FCRA and fair value do.

Expected returns accurately tracks the fiscal effects of lending over time, thus avoiding both fair value's missing-money problem and FCRA's magic-money-machine problem. It also provides a natural framework for reporting the fiscal effects of lending and the subsidies to borrowers. Expected returns would give policymakers and the public a more accurate assessment of federal lending than either of the approaches we use now.

It is unclear how student loans would score under this new approach. However, with the appropriate estimates, Expected Returns Accounting would appear to recognize the government costs of loan forgiveness programs.

Marron' full column is available online:
http://dmarron.com/2014/09/29/the-300-billion-question-how-should-congress-budget-for-federal-lending-programs/
Additional information on the full report is available online:
http://www.urban.org/UploadedPDF/413245-a-better-way-to-budget-brief.pdf

New America Foundation Notes Identical Default Numbers from 2006 and Now

Jason Delisle of New America Foundation published a blog post comparing federal Stafford loan default numbers published in 2006 and now. It notes the near identical data and a general lack of concern with a so-called "student debt crisis" eight years ago. An excerpt is below:

Remarkably, there is almost no noticeable difference in defaults as a share of the portfolio between now and then. In fact, if the percentage share is not displayed to the first decimal place, there is no change in the share of the portfolio in default (as measured in loan value). The value of loans in default is a constant 9 percent of all outstanding federal student loans in 2006, 2013 and 2014.

The full blog post, "Was There a Student Loan Crisis in 2006?," is available online:
http://www.edcentral.org/student-loan-crisis-2006/

Citizens Releases National Survey on Student Debt

Citizens Financial Group released a national survey of parents, students and former students. The survey found that more than three-quarters (77 percent) of former college students between the ages of 18 and 40 wish they had planned better for paying down their student debt. Additionally 76 percent are unfamiliar with potential refinancing options. The survey was released as part of the *INFORMED Index: The Student Loan Landscape.*

The INFORMED Index research shows that anxiety about managing student loans begins to rise before students even graduate: nearly three-quarters of current students, or 74 percent, are concerned that they will not make enough money to pay off their student loans. And while 64 percent of former students say that “going to college has enabled me to do great things in my life,” 47 percent say they may not have gone to college at all if they had known how much the cost of college would impact them. Additionally, the survey indicates 23 percent of former students are not currently able to make their student loan payments.

“Despite the well-documented long term value of a college degree, too many Americans continue to struggle with paying for the rapidly increasing cost well after they have graduated,” said Brendan Coughlin, President of Education and Auto Finance for Citizens Financial Group. “It’s clear that a key step is having a plan for life after graduation before you enroll in the school of your choice to ensure the cost is appropriate to the career you want. Also revealing, was that most are unaware that they have an opportunity to make their student loan debt more manageable through refinancing – something that 93 percent of those who have refinanced say they recommend to others.”

The research, commissioned by Citizens Financial Group, and conducted by Ipsos, was comprised of a 20-minute online survey conducted between August 22, 2014 and September 12, 2014, The survey explored the opinions of 1,562 respondents – 500 current college students age 18–24 with student loans, 544 parents of current college students age 18-24 with student loans, and 518 former students age 18-40 with student loans.

COHEAO Would Like to Thank Our Commercial Members for Supporting <u>More Education for More People</u>

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