The Torch

June 3, 2011

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

COHEAO News

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  COHEAO is pleased to announce that Gail McLarnon of the Department of Education, Office of Postsecondary Education, has agreed to speak at our upcoming Mid-Year Conference.
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- **Financial Literacy Corner: COHEAO to Host Financial Literacy Webinar on June 23**
  COHEAO members interested in financial literacy issues and programs, please mark June 23 on your calendars. COHEAO will be hosting a financial literacy webinar on Thursday, June 23 from 2:00-3:15 pm Eastern.

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- **HELP For-Profit Hearings Continue Next Week, GOP Declines to Participate**
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- **GAO Releases Study on Impact of Increasing Loan Limits**
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The Administration

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  The Consumer Financial Protection Bureau published a list of the regulations that it will assume authority over when it officially begins operations on the designated transfer date of July 21, 2011.
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  The Department of Education late Wednesday released the final revised regulations defining "gainful employment in a recognized occupation."
- **Stafford & PLUS Loan Default Rates Increasing**
  Last week, the Department of Education released draft cohort default rates for FY 2009, estimating an increase of 1.9 percent from the previous year.
- **Department Invites VFA Proposals from Guarantors**
  This week, the Department of Education published a notice in the *Federal Register* inviting guarantors, both individually and as groups, to submit proposals for "Voluntary Flexible Agreements" (VFAs).

Industry News

- **Repp to Become President of NCHELP**
  The National Council of Higher Education Loan Programs (NCHELP), Inc. announced this week that Sheldon "Shelly" Repp has been selected as its next President, effective July 1, 2011.

Attachments

- **Board of Directors**
- **COHEAO Commercial Members**
- **2011 Mid-Year Conference Draft Agenda**
- **COHEAO FTC "Debt Collection 2.0" Comments**
- ***Inside Higher Ed* chart on Gainful Employment**

COHEAO News

Terry Kell: 1950-2011

It is with great sadness and regret that COHEAO notes the passing of Terry Kell, the long-time assistant financial aid director at the University of Wisconsin, Madison. Terry was a true expert in financial aid and the Perkins Loan Program who was a great supporter and friend of COHEAO over the years. More important, he was a kind man with a positive attitude who was always cheerful and always willing to help others. Even though he was ill, he recently participated in a COHEAO teleconference in order to spread his considerable knowledge to others. He will be greatly missed by all who knew him.

In honor of Terry and all the good that he did, the COHEAO Board of Directors has voted unanimously to name one of COHEAO's 2011 student scholarships, "The Terry Kell Memorial Scholarship." Contributions to the scholarship can be made to the COHEAO Scholarship Fund, 1101 Vermont Ave. NW, Suite 400, Washington, DC 20005. Memorials may be made to HospiceCare Inc., 5395 E. Cheryl Parkway, Fitchburg, WI 53711.

Gail McLarnon to Address COHEAO Conference

COHEAO is pleased to announce that Gail McLarnon of the Department of Education, Office of Postsecondary Education, has agreed to speak at our upcoming Mid-Year Conference. McLarnon will be providing the update from the Department on Tuesday, August 2. With the recent announcement of negotiated rulemaking on total and permanent disability (TPD), college completion, and other issues, this week's news on gainful employment, and many other new regulations taking effect on July 1, Gail will have quite a bit to share with Mid-Year attendees, and we are looking forward to her presentation.

To be held in St. Louis July 31-August 2, the COHEAO Mid-Year Conference will provide you with multiple opportunities to learn more on regulatory and operational issues related to Perkins Loans, campus-based loan servicing, accounts-receivable management, and other student financial services issues.

Register today! (If this link does not work in your email client, please paste the following in your browser: http://bit.ly/l5dQAu)

As you will see from the attached agenda, the conference will focus on providing information and training that will help campus loan and accounts receivable administrators do their jobs. The Department of Education and the Federal Reserve have published volumes of regulatory changes taking effect this year and last. This conference will draw on experts and provide a chance to share experiences that will help you cope with compliance.

Understanding compliance will be key as a big new regulator, the Consumer Financial Protection Bureau, will have just assumed responsibility for enforcing regulations affecting institutional credit programs stemming from legislation of great importance to COHEAO members, such as the Truth in Lending Act, the Fair Debt Collection Practices Act and others.

The COHEAO Mid-Year Conference will also again feature interactive discussions among COHEAO's topical task forces and committees. At last year's Mid-Year, the Perkins, A/R Management, and Financial Literacy Task Force sessions were considered by many attendees to be the highlight of the conference.

For the third straight year, COHEAO is holding the line on prices. Early registration fees are $395, the same as last year, and remain significantly less than 2009 levels! Be sure to register soon before prices rise. The

Westin St. Louis is a fabulous hotel centrally located for many of St. Louis' top attractions, including the famous Gateway Arch and Busch Stadium, home of the St. Louis Cardinals.

COHEAO members are for the rate of $162 per night for the Mid-Year Conference. Please click here to register for the special rate online. (If this link does not work, please paste the following into your browser: http://bit.ly/kRE9Pc) You may also call 1-800-Westin1 to register. (Please note: Rooms remain available at the COHEAO rate. If the hotel systems indicate otherwise, please contact whuffman@wpllc.net)

COHEAO Comments on FTC "Debt Collection 2.0" Efforts

The Federal Trade Commission (FTC) recently held an all-day workshop, "Debt Collection 2.0," devoted to the use of new communications and transactional technologies in the collection of debts. COHEAO attended the workshop, which was largely devoted to broad, big picture topics relating to these new technologies and the rights and preferences of consumers.

As part of the workshop, the FTC invited comments from interested parties on the topics discussed during the day's proceedings, which were due last Friday. Last week, COHEAO submitted comments identifying the unique characteristics of the population served by COHEAO members (college students) in terms of their use of new communications technologies and urged the Commission to develop a regulatory framework that allows creditors and debt collectors to contact these consumers using methods (i.e. email, texting, social media) that have become everyday practices.

A copy of the COHEAO response is attached to today's edition of *The Torch* as a special attachment.

Financial Literacy Corner: COHEAO to Host Financial Literacy Webinar June 23

COHEAO members interested in financial literacy issues and programs, please mark June 23 on your calendars. COHEAO will be hosting a financial literacy webinar on Thursday, June 23 from 2:00-3:15 pm Eastern.

The webinar will feature Sharon Cabeen, TG's irector of Financial Literacy, discussing the higher education financial literacy landscape and the free programs offered by her organization for colleges and universities. In addition to Cabeen, Alisa Abadinsky will provide an update on the University of Illinois' Student Money Management Center (SMMC) and COHEAO's Wes Huffman providing information on what is going on in Washington.

Mark your calendars for June 23! Registration information and additional details will be sent next week.

The Congress

Debt Ceiling Looms as Budget Talks (and Posturing) Continue

The ongoing controversy about how, when and if to raise the federal borrowing limit continued to dominate conversation on Capitol Hill. The House of Representatives held a symbolic vote on the measure that failed, while President Obama greeted busloads of lawmakers at the White House—first Republicans, then Democrats—to discuss the issue.

Following the Republican visit House Speaker John Boehner (R-OH) called on the President to move the debate from Blair House, where Vice President Biden has been meeting with legislators—to the Oval Office. He outlined his demands and said he wants a resolution within the month. With two months until a U.S. default on its debt, described by some as "potentially catastrophic" to the global economy, negotiators from both sides need to reach agreement, and perhaps more importantly, sell such a plan to their respective caucuses.

Whether it is the work of the President, the Biden-led group, the so-called “Gang of Six,” senators or some other iteration of bipartisan negotiations, the political leaders have until no later than August 2 to develop, agree, and pass a plan, or face a federal default, according to Treasury Secretary Tim Geithner. Today, Moody’s announced it may downgrade its rating of US Treasury bonds because of the lack of a debt limit agreement.

Before breaking for Memorial Day, the House Appropriations Committee adopted what are known as 302(b) allocations—the total funding that each subcommittee is provided to develop their FY 2012 budget plans for federal agencies.

For the Labor, Health and Human Services and Education Subcommittee, a cut of $18 bill plus other considerations such as a significant shortfall in the Pell Grant Program means this year’s bill will actually be $35 billion below “current services” for FY 2011. It is hard to imagine how that can be accomplished without major cuts to a long list of social programs that support health, education and job training.

COHEAO submitted requests for restoration of funding for Perkins Loan cancellations, which have drawn support from some House members. At least one submitted a specific “member request” to the Appropriations Committee for Perkins funding. The Student Aid Alliance and the Committee for Education Funding also included the Perkins Loan funding request in their proposals for student aid funding.

Upon their return from the Memorial Day holiday, the House got right to work on its spending bills with two (out of 11) appropriations bills reaching the Floor this week.

First up was Homeland Security. The House proposal would provide $40.6 billion for the agency, $3.4 billion less than was requested by the Administration. The bill had proposed cutting grants for first responders but a national lobbying effort by firefighter groups convinced lawmakers to restore $320 million to the bill for that purpose, a modest victory for the Democrats.

A second bill funding Military Construction and Veterans Affairs was also debated this week. That bill would cut funding by $1.5 billion below the President’s request. The debate on the Military Construction—Veterans Affairs bill inaugurates a new twist in the House budget puzzle for FY 2012. Once the debate has concluded, the Congress will vote on funding for the individual agencies covered by the bill—first the Military Construction portion and then Veterans Affairs. This new policy means that when the Labor, Health and Human Services and Education Appropriations measure reaches the House floor next fall, Members will have the opportunity to vote on whether or not they want the bill to include any funding for the Department of Education.

The Senate has been relatively silent on the budget front, choosing a “wait and see” attitude regarding the overall deficit reduction plan that is sure to accompany the vote on raising the debt ceiling. Senate leaders said previously that their goal for FY 2012 is a freeze on spending but until the allocations are made public it will not be clear whether or not that is a possibility for education programs.

The Senate has taken one budget vote this year, considering the House-passed Congressional Budget Resolution developed by Budget Committee Chairman Paul Ryan (R-WI). It failed with five Republicans crossing the aisle to vote no.

Durbin, Cohen, Others (Re)Introduce Private Loan Dischargability Legislation

Just before the Memorial Day holiday, Sens. Dick Durbin (D-IL), Sheldon Whitehouse (D-RI) and Al Franken (D-MN) joined Reps. Steve Cohen (D-TN), Danny Davis (D-IL), George Miller (D-CA) and John Conyers (D-MI) to introduce legislation in both the Senate (S. 1102) and the House (H.R. 2028) that would allow private student loans to be discharged in bankruptcy proceedings. Durbin, Davis, Cohen, and others have introduced some version of this legislation over the past few years, but it has failed to move beyond the Committee level.

The legislation is nearly identical to legislation that Durbin first introduced in 2007. It restores private student loans to the status they held before 2005, when the non-dischargeability law was passed as part of a broad bankruptcy reform bill. The bill would leave government loans, about 92% of student loans made in the current academic year, non-dischageable except in cases of "undue hardship."

A lengthy press release, with quotes from all of the cosponsors, was issued to announce the introduction of the legislation. The announcement repeatedly described the bill as "restoring fairness" in private student lending and was highly critical of the private loan product, suggesting minority students and those attending for-profit colleges are disproportionately negatively impacted by these loans. Here is the text of the Senate bill:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Fairness for Struggling Students Act of 2011''.

SEC. 2. EXCEPTIONS TO DISCHARGE.

Section 523(a)(8) of title 11, United States Code, is amended by striking ``dependents, for'' and all that follows through the end of subparagraph (B) and inserting ``dependents, for an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit or made under any program funded in whole or in part by a governmental unit or an obligation to repay funds received from a governmental unit as an educational benefit, scholarship, or stipend;''. [Note: the categories of benefits named are what would remain non-dischargeable.]

The full announcement from Sen. Durbin's office is available online: **http://tinyurl.com/3bqmu9h**
A list of supporters for S.1102/H.R. 2028 is also available online:
http://1.usa.gov/jb3jye

Brown and Franken Introduce Split-Servicing Legislation

Senator Sherrod Brown (D-OH), along with Sen. Al Franken (D-MN), introduced a bill putting President Obama's proposal to provide split-serviced borrowers (those with both FFEL and DL loans) an incentive to consolidate their loans through the Direct Loan program. Although somewhat counterintuitive as the bill pays borrowers to make use of an option already available to them, according to the Congressional Budget Office (CBO), Brown's legislation could lead to $1.8 billion in savings over 10 years.

The Student Loan Simplification and Opportunity Act of 2011 (S.1068) would give borrowers with both FFEL debt and Direct Loan debt the option to convert their FFEL loans to Direct Loans during a nine-month period (January 1, 2012 – October 1, 2012). Although students would not be required to consolidate their loans, those who do would receive up to 2 percent off the principal of their FFELP loans.

The $1.8 billion in estimated savings will be spent on the Pell Grant program, which is currently facing an $11.2 billion funding gap for 2012. Although there is currently a premium on finding budgetary savings, particularly in terms of the Pell Grant program, the proposal continues to rely on the quirks of budget scoring under the Federal Credit Reform Act, and Republicans in Congress have signaled strong opposition to using accounting gimmicks to achieve savings.

Brown's office estimates there are 21 million eligible loans for the proposed program. A list of average savings for students with loan debt follows.

Stafford Loan:	Average Size $3,329	Average Savings $75.91
Unsubsidized Loan:	Average Size $4,811	Average Savings $109.69
Federal Parent Plus Loan:	Average Size $12,729	Average Savings $290.23
Consolidated Loans:	Average Size $18,324	Average Savings $417.79

Below is the full list of supporters:

All Education Matters, Association of Independent Colleges and Universities of Ohio (AICUO), The National Direct Student Loan Coalition, The Institute for College Access and Success (TICAS), National Association of Student Financial Aid Administrators (NASFAA), National Direct Student Loan Coalition, Ohio Association of Community Colleges (OACC), U.S. PIRG, The United States Student Association (USSA).

Klobuchar Introduces Interest Relief Legislation for Active Duty Borrowers

Over the Memorial Day weekend, Sen. Amy Klobuchar (D-MN) announced she had introduced legislation to prohibit interest from accruing on Direct Student Loans for active duty service members. The legislative text has yet to be released, but an announcement from Klobuchar's office and the description of the bill suggests that it applies only to federal Direct Student Loans.

The Higher Education Act, as amended, provides this benefit for loans made on or after October 1, 2008. According to the description and press reports, the legislation would simply extend the benefit to all Direct Loans, regardless of the date of disbursement. As of today, eight Senators had joined Klobuchar as cosponsors of the measure (S. 1139): Baucus (D-MT), Bennnet (D-CO), Coons (D-DE), Franken (D-MN), Inhofe (R-OK), Murray (D-WA), Nelson (D-NE), and Udall (D-CO

HELP For-Profit Hearings Continue Next Week, GOP Declines to Participate

HELP Committee Chairman Tom Harkin (D-IA) announced the Committee will convene a hearing on June 7, "Drowning in Debt: Financial Outcomes of Students at For-Profit Colleges." The hearing will feature Secretary Arne Duncan as the lone witness on one panel, as well as a second panel of witnesses. The full witness list is below:

Panel I

- ***Sandy Baum*** *, Independent Higher Education Analyst and Consultant, Chicago, IL*
- ***Wade Henderson*** *, President and CEO, , Leadership Conference on Civil and Human Rights, Washington, DC*
- ***Eric Schmitt*** *, Hampton, IA*
- ***Pauline Abernathy*** *, Vice President, The Institute for College Access & Success, Philadelphia, PA*

Panel II

- ***The Honorable Arne Duncan*** *, Secretary, Department of Education, Washington, DC*

In response to the hearing announcement, Ranking Member Mike Enzi (R-WY) wrote Harkin to inform him that Republicans would not be participating. An excerpt from Enzi's letter is below:

> On April 13, 2011, we wrote to raise our concerns about the conduct of the Majority's investigation of for-profit institutions. Since then, the Majority has made no effort to address these concerns or engage us in a constructive discussion of how this committee can meet the urgent challenges faced by all students regardless of the institution of higher education they are attending. Furthermore, we are troubled by statements from the Majority staff suggesting that the continuation of this investigation is motivated in part by a desire to embarrass the institutions you were unable to persuade to participate in the previous hearings.
>
> Again, we agree that the rising cost of higher education, student debt and student outcomes are issues that warrant the attention of Congress. However, these problems exist throughout all sectors of higher education and will not be understood in a meaningful way as long as this committee chooses to ignore the full scope of the problem. Therefore, until the Majority demonstrates a sincere willingness to hold fair proceedings on higher education, we will not participate in any hearings on this issue.

GAO Releases Study on Impact of Increasing Loan Limits

The Government Accountability Office (GAO) released a report, "Federal Student Loans: Patterns in Tuition, Enrollment, and Federal Stafford Loan Borrowing Up to the 2007-08 Loan Limit Increase." Mandated by the ECASLA legislation, the study examines the relationship between increasing loan limits and tuition increases. GAO's three key findings include:

- After the change to the Stafford loan limits beginning in AY 2007-08, the price and the numbers of undergraduate students enrolling in the nation's institutions of higher education increased at a rate generally consistent with prior years. This pattern was consistent across most institutional sectors.

- In terms of students borrowing Stafford loans, between AY 2003-04 and AY 2007-08, there was a decline in the proportion of eligible borrowers who borrowed their maximum—an amount that varies based on students' financial and personal circumstances, but it is ultimately statutorily capped. These declines in borrowing were largely driven by first- and second-year students.

- A snapshot look at first- and second-year students in AY 2007-08 who borrowed more than they could have under the previous loan limits showed that they primarily attended college exclusively full-time, were dependent students, and were most commonly enrolled in public 4-year institutions. When we compared these borrowers to all other first- and second-year Stafford loan borrowers, we found similarities across many characteristics, with the exception of dependency status and institutional sector.

The full report from GAO is available online: **http://www.gao.gov/new.items/d11470r.pdf**

The Administration

CFPB Seeks Comments on Regulations

The Consumer Financial Protection Bureau published a list of the regulations that it will assume authority over when it officially begins operations on the designated transfer date of July 21, 2011. The Dodd-Frank Act requires the Bureau to publish this list in the *Federal Register* and the CFPB will publish a final list after the public comment period.

The announcement notes the laws for which the CFPB has the authority to promulgate regulations are specifically identified in the legislative text of Dodd-Frank, so the list is not going to change, nor does it limit the CFPB's authority to enforce those regulations. However, the Bureau's seeking of comments does provide stakeholders with the opportunity to share their concerns.

Included in the list of regulations are the Truth in Lending Act (TILA) regulations from the Federal Reserve, which include the regulations to implement Title X of the latest reauthorization of the Higher Education Act. Also included are regulations relating to the Fair Debt Collection Practices Act (FDCPA) from the FTC.

The deadline for comments is June 30. COHEAO's CFPB working group is considering a response that will identify the numerous questions from many of our members. If you have a question or comment on private loan regulations that would be appropriate to share in the COHEAO response, or would like to join the CFPB working group, please contact Wes Huffman (whuffman@wpllc.net)

A list of the regulations currently under the purview of the Federal Reserve and Federal Trade Commission identified in the CFPB notice is included below. The full list is available online: http://www.federalregister.gov/articles/2011/05/31/2011-13256/identification-of-enforceable-rules-and-orders#p-4

A. Board of Governors of the Federal Reserve
1. 12 CFR Part 202—Equal Credit Opportunity Act (Regulation B)
2. 12 CFR Part 203—Home Mortgage Disclosure (Regulation C)
3. 12 CFR Part 205—Electronic Fund Transfers (Regulation E)
4. 12 CFR 208.101-105 & Appendix A to Subpart I—Registration of Residential Mortgage Loan Originators (Regulation H, Subpart I)
5. 12 CFR Part 213—Consumer Leasing (Regulation M)
6. 12 CFR Part 216—Privacy of Consumer Financial Information (Regulation P)
7. 12 CFR Part 222—Fair Credit Reporting (Regulation V), except with respect to §§ 222.1(c) (effective dates), 222.83 (Disposal of consumer information), 222.90 (Duties regarding the detection, prevention, and mitigation of identity theft), 222.91 (Duties of card issuers regarding changes of address), & Appendix J (Interagency Guidelines on Identity Theft Detection, Prevention, and Mitigation)
8. 12 CFR Part 226—Truth in Lending (Regulation Z)
9. 12 CFR Part 230—Truth in Savings (Regulation DD)

F. Federal Trade Commission
1. 16 CFR Part 310—Telemarketing Sales Rule
2. 16 CFR Part 313—Privacy of Consumer Financial Information
3. 16 CFR Part 320—Disclosure Requirements for Depository Institutions Lacking Federal Depository Insurance
4. 16 CFR Part 322—Mortgage Assistance Relief Services
5. 16 CFR Part 425—Use of Prenotification Negative Option PlansS

6. 16 CFR Part 429—Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations
7. 16 CFR Part 433—Preservation of Consumers' Claims and Defenses
8. 16 CFR Part 444—Credit Practices
9. 16 CFR Part 435—Mail or Telephone Order Merchandise
10. 16 CFR Part 436—Disclosure Requirements and Prohibitions Concerning Franchising box
11. 16 CFR Part 437—Disclosure Requirements and Prohibitions Concerning Business Opportunities
12. 16 CFR Subchapter F, Parts 603 et seq.—Fair Credit Reporting Act, except with respect to Part 681 (Identity Theft Rules), Part 682 (Disposal of Consumer Report Information and Records), & Appendix A to Part 681 (Interagency Guidelines on Identity Theft Detection, Prevention, and Mitigation)
13. 16 CFR Part 901—Procedures for State Application for Exemption from the Provisions of the [Fair Debt Collection Practices] Act

Department (Finally) Issues Gainful Employment Definition Revisions

The Department of Education late Wednesday released the final revised regulations defining "gainful employment in a recognized occupation." Reactions varied widely, with consumer activists and stock investors apparently agreeing that the new definition of "gainful employment in a recognized occupation" was a win for the proprietary sector. (The stock prices of publically traded schools rose Thursday, sometimes dramatically.) Meanwhile, backers of for-profit schools, remained critical of the regulations.

Secretary Arne Duncan said the new regulations did not reflect a "gotcha" mentality and offered under-performing programs the opportunity to improve by making 2015 the first time a school could lose eligibility for a program that fails to meet the gainful employment requirements.

"We're asking companies that get up to 90 percent of their profits from taxpayer dollars to be at least 35 percent effective. This is a perfectly reasonable bar and one that every for-profit program should be able to reach. We're also giving poor performing for-profit programs every chance to improve. But if you get three strikes in four years, you're out," Duncan said.

However, Harris Miller of the Association of Private Sector Colleges and Universities and other for-profit supporters said they remained concern with the basic premise of judging institutional quality on students' salaries and their ability to repay their federal student loans.

Whether the definition of "gainful employment" undergoes further changes will depend on the response frin Congress. House Education and the Workforce Committee Chairman John Kline (R-WI) and higher education subcommittee Chair Virginia Foxx (R-NC) have already issued a statement critical of the revised rule, but most Members who expressed concern with the original have yet to respond publicly. Short of Congressional (or judicial) intervention, the revised regulations are set to take effect on July 1, 2012.

Below are excerpts from the Department of Education's announcement that describe the new proposal:

> *Under the regulations introduced today, a program would be considered to lead to gainful employment if it meets at least one of the following three metrics: at least 35 percent of former students are repaying their loans (defined as reducing the loan balance by at least $1); the estimated annual loan payment of a typical graduate does not exceed 30 percent of his or her discretionary income; or the estimated annual loan payment of a typical graduate does not exceed 12 percent of his or her total earnings. While the regulations apply to occupational training programs at all types of institutions, for-profit programs are most likely to leave their students with unaffordable debts and poor employment prospects…*

The first time a program fails to meet the debt measure it must disclose to students why the measurement was missed and how the issue will be addressed. After missing the debt measure for the second time in three years, programs must inform students that their debts may be unaffordable after graduation, that the program is at risk of losing eligibility to participate in Federal student aid programs, and what their existing transfer options are. After a third failure in four years, the program loses eligibility to participate in Federal student aid programs and cannot reapply for eligibility for at least three years. Under this framework, the first year a program could become ineligible would be 2015, based on its performance in FY 2012-2014…

With the emphasis on program improvement under the final regulation, the Department estimates that fewer programs will ultimately lose eligibility for participation in Federal student aid programs than under the original proposal. Failure rates at for-profit programs are expected to be somewhat higher than for other institutions under the final regulation. The Department estimates that 18 percent of for-profit programs are expected to fail the thresholds at some point, with 5 percent of them failing to improve and ultimately losing eligibility. Among programs at all institutions, approximately 8 percent may fail the thresholds at some point, with only 2 percent of them failing to improve and losing Federal student aid eligibility…

Inside Higher Ed has compiled an excellent table describing the differences between the original proposal and this new revision. We have included it as a special attachment with today's edition.

- The final regulations are available online: http://www2.ed.gov/policy/highered/reg/hearulemaking/2009/ge-unofficial-06022011.pdf
- Slides prepared by the Department on the new proposal are available online: http://www2.ed.gov/policy/highered/reg/hearulemaking/2009/ge-regs-supplemental.doc
- The full announcement from the Department is available online: http://www.ed.gov/news/press-releases/gainful-employment-regulations

Stafford & PLUS Loan Default Rates Increasing

Last week, the Department of Education released draft cohort default rates for FY 2009, estimating an increase of 1.9 percent from the previous year. The projected rate for FY 2009 is 8.9 percent, up from the official 7.0 percent rate for FY 08.

The Department again segregated the data by higher education sector as well as between the FFEL and Direct Loan programs. A table compiled by NCHELP is included below.

	Public	**Private**	**Proprietary**	**Foreign**
FY 2008 Official Rate	6.0%	4.0%	11.6%	2.2%
FFELP FY 2009 Draft Rate	8.1%	4.7%	15.7%	5.5%
FDSLP FY 2009 Draft Rate	5.1%	4.5%	10.8%	0.0%

Defaults continue to rise. Although this cohort entered repayment during the heights of the economic crisis, the increasing default figures across nearly all sectors is a cause for concern, and the media is starting to notice.

In an editorial titled "Student Loans on Taxpayers' Tab," *USA Today* compared the federal student loan programs to subprime mortgage lending, urged increasing the requirements on students and schools, encouraged increased counseling and financial education, and called for tougher collection activities. It also said the problems in the federal student loan programs can no longer be placed with for-profit colleges and/or bankers.

The paper also ran a "counterpoint" from Kevin Carey of Education Sector. In his piece, Carey argued against reducing access to loans and argued the Department should "crack down" on unscrupulous colleges.

The draft cohort default rate announcement is available via IFAP:
http://www.ifap.ed.gov/eannouncements/052011CDR2009announcement.html
The *USA Today* editorial is available online: **http://www.usatoday.com/news/opinion/editorials/2011-05-23-Student-loans-on-taxpayers-tab_n.htm**
Kevin Carey's counterpoint to the editorial is available online:
http://www.usatoday.com/news/opinion/editorials/2011-05-23-Dont-reduce-access-to-student-loans_n.htm

Department Invites VFA Proposals from Guarantors

This week, the Department of Education published a notice in the *Federal Register* inviting guarantors, both individually and as groups, to submit proposals for "Voluntary Flexible Agreements" (VFAs). VFAs are agreements negotiated by guarantors with the Department of Education to provide for an alternative payment arrangement from the traditional guarantor model of guaranty and collection fees.

The initiative was put in place by the 1998 HEA reauthorization and multiple guarantors were paid through their VFAs, but the effort was abandoned in the later years of the George W. Bush Administration. The Obama Administration is attempting to bring it back, however, this time as an attempt at leveraging the default prevention and financial literacy services provided by guarantors for the Direct Loan program.

The details remain unclear at this point, and the Department did note that VFAs must not increase government costs in its announcement of the new program. It is difficult to imagine VFAs providing a long-term solution for the guaranty agencies due to the cost requirements. Nevertheless, the guarantor community was enthused by another sign of recognition at the Department of Education for the services provided by these state-based agencies.

Most observers say it is too early to know exactly what the Department hopes the new VFAs will produce. However, the announcement did state that the proposed arrangements must avoid "conflicts of interest that may potentially exist when a guaranty agency is responsible for both default prevention and default collections."

The *Federal Register* notice is available online: http://www.federalregister.gov/articles/2011/05/31/2011-13339/federal-family-education-loan-program
A press release from the Department is available online: http://www.ed.gov/news/press-releases/us-department-education-invites-guaranty-agencies-propose-creative-business-inno

Industry News

Repp to Become President of NCHELP

The National Council of Higher Education Loan Programs (NCHELP), Inc. announced this week that Sheldon "Shelly" Repp has been selected as its next President, effective July 1, 2011.

Repp has served as General Counsel of NCHELP since 1999, responsible for all legal and advocacy efforts and is also liaison to the NCHELP Legal Committee. Mr. Repp has an extensive background in education matters and student aid, having previously been responsible for legal matters concerning the Guaranteed Student Loan Programs while employed in the Office of the General Counsel at the former U.S. Department of Health, Education and Welfare and serving on the legal staff of Sallie Mae, where he last held the position of Vice President and Senior Deputy General Counsel.

Repp will succeed NCHELP's long-standing President, Brett E. Lief, who has provided leadership to the organization for the past 17 years.

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COHEAO Would Like To Thank Its Commercial Members For Supporting More Education for More People

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COHEAO Mid-Year Conference Agenda 2011

All Meetings and Sessions Are Located at the Westin St. Louis

Sunday, July 31, 2011

8:30am-3:00pm	Board of Directors Meeting
3:30pm-5:00pm	Perkins Task Force Meeting Leader: Nancy Paris, ACS
5:00pm–6:00pm	Accounts Receivable Management Task Force Meeting Leader: Laurie Beets, Oklahoma State University

Monday, August 1, 2011

7:30am-9:00am	Registration & Breakfast
8:00am-9:00am	Commercial Members Meeting Leader: Karen Reddick, National Credit Management
9:00am-9:10am	The President's Welcome & Opening Remarks Speaker: Bob Perrin; COHEAO President
9:10am-10:00am	Session: A Legislative Update on Perkins Loan and Related Student Aid Issues *Although the pending sunset of the program is no longer an issue, Perkins Loans continue to face significant legislative challenges. This session will provide an outlook on what to look for from the 112th Congress in terms of higher education and student lending issues.* Speaker: Harrison Wadsworth; COHEAO Executive Director Introduction:
10:00am-11:00am	Session: Bankruptcy & Litigation *It is unfortunate, but inevitable, that some former students will face financial difficulties and, in many cases, they ultimately file for bankruptcy. An expert will provide information on going to court for tuition receivables and student loans as well as a review of relevant bankruptcy laws.*

	Speaker: Louis Wade; McDowell, Rice, Smith & Buchanan, P.C.
	Introduction:
11:00am-11:15am	Break
11:15am-12:15m	Session: Understanding the Program Integrity Regulations *It is safe to say the program integrity regulations are the most controversial set of regulations ever promulgated by the Department of Education. Many of these regulations take effect on July 1. While most of the attention in the media and in Washington has focused on their impact on the for-profit higher education sector, these regulations will affect all of higher education and this session will provide a timely review.*
	Speaker: Tom Sakos, DeVry (Additional speakers to be confirmed)
	Moderator:
12:30pm-1:45pm	Lunch and Luncheon Address
2:00pm-3:00pm	Compliance Training: Preparing for the CFPB *As we will review earlier in the day, the Consumer Financial Protection Bureau will have assumed jurisdiction over a number of laws governing your operations on campus. In addition to the FDCPA, the Truth in Lending Act (TILA), the Fair Credit Reporting Act (FCRA), the Telephone Consumer Protection Act, among others, will all be under the jurisdiction of the new Bureau. This session will review the pertinent regulations associated with these laws and provide you with tips and tools for remaining compliant.*
	Panelists: Lori Hartung; Todd, Bremer & Lawson, Inc. Walter Witthoff; Iowa Student Loan Liquidity
	Moderator:
3:00pm-3:15pm	Break
3:15pm-4:15 pm	Session: What's New with the FDCPA? *With a new regulator on the scene, compliance with the Fair Debt Collection Practices Act (FDCPA) will be more important than ever for colleges and universities. This session will provide an update on what is happening with regulation and enforcement between the FTC and CFPB as well as providing attendees with tips for remaining compliant and maintaining effective collection efforts.*
	Speaker: David Cherner; ACA

Introduction:

4:15pm-5:00pm Session: Private Student Loans & Gap Financing
Perkins Loans and institutional loan programs are critical piece of the gap financing puzzle. However, the program is not equipped to cover the remaining costs for millions of students who need additional financing beyond state and federal aid. This session will review the private student loan market landscape and the interaction between the private and federal loan programs.

Speaker: Jon Wollman, ReliaMax (Additional speakers may be confirmed)

Introduction:

6:00pm-7:00pm Reception
A full day of in-depth student loan and student aid discussions should conclude with time to network and wind down with your colleagues. Please join fellow attendees for a reception to close the first day of the conference.

<u>Tuesday, August 2, 2011</u>

8:00am-9:00am Financial Literacy Task Force Breakfast Roundtables
This breakfast will feature a series of roundtable discussion on a variety of topics related to providing these essential services to students. Regardless of membership with the Financial Literacy Task Force, all conference attendees are encouraged to attend this meeting.

Leader: Carl Perry, Progressive Financial Services

9:00am-10:15am Session: Department of Education Update
The Obama Administration has proposed significant changes to the student aid programs in the name of "protecting" Pell Grants. This session will review the status of those proposals, the program integrity regulations that are to take effect on July 1, 2011, regulations stemming from the most recent reauthorization of the Higher Education Act, and other issues associated with the student aid programs.

Speaker: Gail McLarnon, US Department of Education

10:15am-10:30am Break

10:30am-11:30am Session: Direct Loan Servicing and the Impact on Student Borrowers
The SAFRA legislation brought about fundamental changes in the federal student loan programs. This session will examine the details of the Direct Loan servicing model with a particular focus on what it means for student borrowers.

Speaker: Will Shaffner; MOHELA

Introduction:

11:30am-12:30pm Student Loan and Student Aid Benefits for Active Duty and Veteran Students
There are numerous benefits available to both active duty and veteran students. This session will provide a review of those benefits, focusing on the deferment and cancellation benefits for these students in the federal loan programs, as well as providing a high level overview of the updated GI Bill.

12:30pm Conference Concludes

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Federal Trade Commission
Office of the Secretary
Room H-113 (Annex F)
600 Pennsylvania Avenue NW
Washington, DC 20580

Re: Project No. P114802-- FTC Workshop: Debt Collection 2.0: Protecting Consumers As Technology Changes

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EXECUTIVE SUMMARY

The Coalition of Higher Education Assistance Organizations (COHEAO) applauds the Commission for examining "Debt Collection 2.0" and appreciates the opportunity to address issues associated with debt collection and new communication, servicing, and transaction technologies. These comments specifically address the topics discussed at the FTC Debt Collection 2.0 Workshop held on April 28, 2011 in Washington, DC and the information provided by the Commission in a March 15, 2011 *Federal Register* notice.

COHEAO is a diverse association whose membership is comprised of college and university loan administrators and accounts receivable managers as well their commercial partners, such as billing servicers and collection agencies. Collectively, our membership is a partnership of over 300 educational and commercial members who serve a student demographic that demand information and student services in electronic form and are the most likely to influence advancements in communication technology.

The new technologies of the last decade have enabled colleges and universities to better serve their student population by maximizing efficiencies while expediently and effectively communicating important information through electronic means. However, regulatory concerns, particularly those surrounding the Fair Debt Collection Practices Act (FDCPA), can often prevent schools and their commercial partners from making use of communication methods that have become everyday norms. We have identified several specific areas for consideration as attachments to this document, they are listed below:

Attachment A: Cell Phones & Text Messaging
Attachment B: E-Mail & Social Networking Sites
Attachment C: Mobile Banking & Electronic Payments

According to the National Center for Education Statistics (IES), a record 19.1 million students were expected to attend both 2-year and 4-year colleges during 2010. The (IES) also noted that between 2000 and 20009, the 18-24 year old population in the United States rose from approximately 27.3 million to approximately 30.1 million. The realities embraced by these current students as well as those students who graduated during the last decade is the fact that they have lived their life in the world of wireless communication, instantaneous messaging, emails, texting, and smart phones.

During a student's tenure at a college or university, much of the overall interaction and activity that they will experience—tuition payment and receipt of financial aid, selection and enrollment for current semester/quarterly classes, homework, research, direct communication with the professor or college administrator, ordering food, social aspects of campus life, and communication with each other—is done through electronic mechanisms. Electronic and wireless communications as part of the student daily experience have become the norm, and students from the current and recent past generation have a high level of comfort communicating within the technological universe of today (and most likely, tomorrow).

As recent as twenty years ago, the application process was extremely burdensome and slow. Students considering college had to go to their high school libraries and find the shelf that stored volumes of catalogs listing some basic information about the institutions. Letters would be mailed to the admission office to request an application and available brochures. Students would impatiently wait for the arrival of the admissions application via the U.S. mail. The complete process was inundated with hours of efforts by the students as they tried to secure all of the required information from multiple sources (again U.S. Mail) and eventually packaging all items together and mail everything to the college/university of the student's choice.

Imagine the cumbersome and burdensome processes required by the college or university as they tried to assimilate all of the paper forms and documents in order to render a decision and then communicate that to the student. Imagine the hours wasted by the student in securing the information. In today's higher education arena, the entire process is paperless, and communication is immediate.

COHEAO members administer federal, institutional, and private student loan programs as well as additional student account receivables and other programs related to student financial services. Due to budgetary reductions on the college campus aligned with demands by students for 24/7 access to information, the administrators charged with managing federal, private, and institutional loan programs have been forced to streamline their procedures and processes in order to meet mandated requirements that are often time sensitive.

The student loan administrators and servicers who comprise the membership of COHEAO are also charged with the responsibility to manage student receivables, institutional and federal loans. In managing federal and institutional loans and other student receivables, part of

COHEAO members' task is to provide and promote financial literacy to better prepare students of their student debt responsibilities once they either withdraw or graduate from college. The ultimate goal is to prevent default of the debt thereby preserving both institutional and federal loan funds for future generations of college students.

Many of the loan programs enjoyed by current students are awarded electronically versus the traditional mail option. Promissory notes have converted to electronic signatures, and payment of tuition is done either by on-line credit cards or ACH. Educational modules are presented visually via on-line applications and walk students through the requirements, expectations, and responsibilities. There are step by step processes built into these modules that prevent students from advancing to the next level until confirmation has been acknowledged by them as to their understanding of the information.

Should a student fail to pay their federal or student aid debt, the student loan administrators and their servicers (billing and collection agencies) must adhere to specific due diligence requirements to prevent default, or if the borrower has fallen into that category, then obtain repayment of those debts. Early delinquency steps are engaged to return the student's debt to good standing through education, determination of potential deferment/cancellation benefits, and payment of the past due amount. Should these early preventive steps be deemed unsuccessful, collection agencies (those who are well versed in Federal education and collection laws and regulations) are utilized by the colleges/universities, as well as the U.S. Department of Education to locate defaulted student loan borrowers and secure reasonable repayment of their defaulted debts.

However, there is an internal struggle currently experienced by collection agencies and servicers who operate within the higher education community. While trying to utilize practical and efficient electronic and technical products that are available and commonplace in higher education to reach those student borrowers who are sliding or have fallen into default status, these same collection agencies and servicers are faced with, and negatively impacted by, FDCPA regulations that have not been updated to provide guidance on how to integrate these technological products to improve borrower communications in the billing/collecting cycle.

Fundamentally, the majority of FDCPA rules and regulations continue to provide excellent guidance to protect the privacy of debtors, and much of what is currently in the law remains relevant today. However, the FDCPA has failed to keep up with current technology, inhibiting those entities who fall under the Act from communicating with consumers in a more practical and reasonable way. It is our belief that changes can be instituted into the FDCPA that enables creditors, servicers, collection agencies, and consumers to better perform and exercise their duties and responsibilities as charged to them via the ability to utilize those technological advances that are now common in the marketplace.

COHEAO appreciates the Commission's efforts with "Debt Collection 2.0" and its recognition of new developments in collection technology. We look forward to working with the Commission in identifying remedies to the difficult position faced by billing servicers and collection agencies, particularly those in higher education, in their efforts to be fully compliant with current FDCPA regulations yet also provide the services demanded by today's consumer.

ATTACHMENT A: CELL PHONES & TEXT MESSAGING

CELL PHONES

According to an article dated August 13, 2009 in *The Economist*, "Telecommunication companies are losing land line customers at the rate of 700,000 per month. To get a sense of decline in landlines, in the first half of 2005 only 7.3% of households were wireless phone only. At the end of 2008, the percentage of wireless phone only had grown to 20.2% of all households in the United States. Based on that statistic, the last landline in the United States would end sometime in 2025."

The International Association for the Wireless Telecommunication Industry (CTIA) published a report in 2009 that revealed that approximately 285 million Americans are mobile subscribers. That equates to 91% of the overall population of the United States. In addition, that same survey discovered that 50 million of those mobile devices referenced provide wireless data service.

Included in the (CTIA) report were some startling data that illustrates the volume growth of cell phone usage in the United States. During the last half of 2009, mobile phone subscribers used 1.12 trillion minutes of talk time averaging 6.1 billion minutes per day or approximately 21 minutes per person per day. There were over 822 billion text messages, 5 billion per day, during 2009.

Drilling this data further, a recent survey by Student Monitor indicated that:

- 90% of students have a cell phone
- 66 % have only a cell and no landline
- 2 % have only a landline and no cell phone.

Considering that the above data is now almost two years old and since that period the iPhone, Google's Android, and other smart phones have been introduced into the marketplace, it would be safe to state that the volume of usage has increased substantially and fewer students have both a cell phone and a landline.

We are no longer in an environment where ownership of cell phones is limited to a small segment of American society. The days are gone where mobile phones were described as bag phones that once required a shoulder harness to carry, and incurred a substantial cost for usage. Mobile devices are now small enough to be concealed in the smallest of pockets, and the billing structure has been revamped over the years because of competition and usage to monthly fixed cost plans that include unlimited minutes and texting.

These statistics make it abundantly clear that the most practical and efficient method to contact and communicate with a student is by calling cell phones. Yet, restrictions currently in force, most recently in the proposed TCPA (Telephone Consumer Protection Act) regulations put forth by the FCC, limit the ability to utilize what has become the nation's primary means of communication. Specifically, the FCC proposal merges protections afforded to consumers under the TCPA from unwanted telemarketers and crosses over those guidelines to protect consumers from receiving calls to cell phones from dialers and automated messaging systems without express consent.

This conflict caused by the proposed interpretation of TCPA presents a host of challenges that in reality negatively impacts both the consumer and agencies when in fact there are existing regulations within the FDCPA that protect the rights of the consumer when being contacted on their cell phones. Section 805(c) of the FDCPA addresses the rights of consumers to direct debt collectors to cease communication with few restrictions.

Upon making a decision that a call from a debt collector to a consumer's cell phone is inconvenient, or if the consumer determines that it is their desire not to be communicated with either through contact from a predictive dialer, or manual call to their cell phone, that consumer can execute their rights under the FDCPA Section 805(c) and place the debt collector on notice not to communicate. Restricting the ability to utilize automated dialer systems has reduced the efficiencies to notify and assist consumers in a timely fashion.

Finally, COHEAO would urge the FTC and other regulatory agencies to consider a bona-fide error defense for contact efforts made based on the residence of the consumer. The combination of a highly mobile population and wireless phones allows individuals to maintain an area code in one region while living in another. Our members are particularly sensitive to this issue as they deal primarily with a population of consumers who are becoming exclusively wireless customers at a highly mobile time period in their lives, after graduation or withdrawal from college. An example of a reasonable step is for the collection agency to compare zip codes of the residence versus area code and assume the more conservative of the two identifiers in defining a reasonable time to call.

TEXT MESSAGING

Text messaging as a means to communicate has experienced tremendous growth over the last few years and has begun to override the use of email, and cell phone conversation. Text messaging provides a quick real time, and brief format to communicate or even imbed a document as part of the communication. Once again, billing servicers and collection agencies find themselves in a difficult situation when their college consumers demand this form for communication, but the regulatory environment inhibits its usage.

Current products provide a consumer with the opportunity to either accept or refuse a text message that is generated via an automated system. It is also important to point out that these electronic communications are derived from a database that is all inclusive and only contains phone numbers that have been obtained and identified as that of the consumer. In other words, these automated systems are not randomly creating a series of numbers to call.

COHEAO encourages the FTC to consider the advantages of using automated messaging as a reasonable method to communicate with consumers while still affording the protections that are currently provided in the FDCPA. SMS text messaging is becoming a principal form of communication for today's students.

ATTACHMENT B: EMAIL & SOCIAL NETWORKING SITES

EMAIL

Email addresses of today are the street addresses of yesteryear. It continues to be the principal means of communication between individuals and organizations and, as with text messaging, is an immediate means to share information. Yet there is not any clarity or guidelines to determine what are appropriate situations that would create permissible use of email as a form of communication with consumers.

Many of today's consumers prefer not to communicate verbally; rather they prefer to have an option to communicate in an electronic format. Email is one of the communication platforms that provide non verbal communication. It remains a zero cost means of communication for a consumer with limited cost for a collection agency or servicer.

It is important to recognize that many consumers request and consent to be communicated with by email. To alleviate potential privacy issues, there are programs available that provide encryption in order to protect personal information if an email communication has sensitive information embedded or attached. When appropriate, there are systems that solicit a confirmation of authentication from the consumer prior to any additional information being pushed to their email address.

There are some challenges to the usage of emails, especially since the evolution of smart phones that need to be resolved through updating those areas of the FDCPA, particularly in its interaction with state regulations. A consumer's primary residence may be in the state of North Carolina that requires state specific language for any communication. That same consumer may be in California on a business trip when he/she accesses the email via a smart phone, iPad, or other electronic systems, and opens up the email. Taking an impractically conservative approach, that communication would also need to meet the state specific requirements of California. Technically speaking, in a scenario such as this, the email would need to include the state specific language of every state to avoid possible legal exposure.

SOCIAL NETWORKING SITES

Social Networking sites are still a new phenomenon, at least in terms of the collection industry. Sites such as Facebook, Linkedin, My Space, have been around for quite some time, but agencies have been somewhat slow to embrace these technologies, in part due to concerns with regulations and/or litigation. These sites provide privacy defaults that allow users determine what information is available to only themselves, a select few, larger networks (i.e. alumni and fellow students), and the general public. The social networking sites of today should be considered improved, modernized versions of the phone books and cross directories of the past—through privacy controls, consumers can provide their information to friends, families, and networks, and remain "unlisted" to the general public. They remain useful tools as a means to access location information that is also available to any individual who accesses those websites. Utilizing these social networking sites for location information is reasonable and appropriate.

ATTACHMENT C: MOBILE BANKING & ELECTRONIC PAYMENTS

MOBILE BANKING & ELECTRONIC PAYMENTS

Asking the average college age consumer to render payment by writing a personal check will likely result in a bewildered stare. As with other processes or communication within the collection industry that is governed by the FTC, an evolution has taken place and consumers according to the Federal Reserve and their study called “2001 Retail Payment Research Project,” it was estimated at that time that 42.5 billion checks were written annually in the United States for $39.3 trillion in payments. At that time, there were early signs that consumers were beginning to shift towards electronic payment.

The Federal Reserve did an additional study in 2004 and found that there was a 4.1% drop in checks written (from 44.5 billion to 36.7 billion), and a rise of 13.8 billion in electronic payments. ACH payments had already surpassed credit and debit card usage.

Quoting a similar study done by the Federal Reserve in 2007, the data revealed that electronic payments represented two thirds of all payment types and credit cards and debtor card transaction surpassed the paper checks. As of the last study commissioned in 2010, the annual number of checks written is at an all time low of 27.54 billion items and has dropped to 22% of non-cash payments. Electronic payments now constitute 80% of all payments with 84.6 billion items per year.

What has also changed during this same period are the ways that electronic payments can be negotiated and processed. Consumers now have the ability to do banking transactions utilizing a standard landline phone, access secured websites to enter payment information, and now the smart phone has been introduced as a method to purchase and repay debts either through phone application.

The smart phone and online applications of today have replaced the wallet that consumers used in the past to store cash, and merchant credit cards. As this new technology becomes more commonplace, with college students remaining on the leading edge of the trend, consumers will increasingly to handle all aspects of their finances, including delinquent debts, in a similarly efficient manner. COHEAO encourages the Commission to provide the necessary guidance and modifications on FDCPA regulations to continue to protect consumers, but also allow billing servicers and collection agencies to perform transactions with customers in this environment.

INSIDE HIGHER ED

The following chart was prepared by *Inside Higher Ed* for an article, "Your Guide to Gainful Employment." The full article is available online: http://www.insidehighered.com/news/2011/06/03/list_looking_at_gainful_employment_changes

The Outcome ...	Under the Proposed Rule ...	Under the Final Rule ...
Institutions have longer to prepare.	The Education Department would have started collecting data and holding programs accountable immediately, and students in ineligible programs could have been disqualified from receiving federal financial aid as early as 2012.	The earliest a college could lose eligibility is 2015. Data collection will begin in 2012, after the final rule takes effect.
Thresholds are lowered, and the "yellow zone" disappears.	The department set minimum and preferred standards for debt-to-income ratios and repayment rates. Programs that fell between the two would be considered to be in the "yellow zone," required to tell students about debt levels and capping enrollment. The gold standard for full eligibility was a 45 percent repayment rate, a debt-to-income ratio below 8 percent, or a debt-to-discretionary-income ratio below 20 percent.	The higher thresholds are eliminated. Programs that meet the standards that were formerly considered minimal -- either a 35 percent repayment rate, a debt-to-income ratio below 12 percent for the typical graduate, or a debt-to-discretionary-income ratio below 30 percent -- are now considered fully eligible.
Programs get more chances to improve.	Programs whose debt repayment rates or debt-to-income ratios fell below specific benchmarks in a given year would have been ineligible for federal financial aid immediately.	A "three strikes" process is in place: Programs must fail to meet the benchmarks in three out of four years before they lose eligibility. A single bad year will no longer put a program in serious jeopardy.
Programs on the brink face less punitive action.	Programs that fell into the "yellow zone" would have had to warn graduates prominently that they might not be able to repay their loans, and enrollment would have been capped at the average for the previous three	Programs that miss the benchmarks for one or two years face increased disclosure requirements, including letting students know that they failed the first time. The second time, they must inform students about

	years. Institutions also would have had to provide the department with affirmations from employers testifying to the existence of job openings in the field.	opportunities to transfer and warn them that they might not be able to repay their debt. But enrollment will not be capped and the employer-affirmation requirement no longer exists.
Bureau of Labor Statistics data can be used to measure income -- but only for the first three years.	Bureau of Labor Statistics data on salaries in various fields could not be used to calculate a college's debt-to-income ratios. For-profit institutions prefer that data to those from the Social Security Administration, which the colleges contend will understate graduates' income (because students may not report all their income) and will not be available to the colleges before evaluations begin.	Bureau of Labor Statistics data can now be used during the transition period before the rule is fully enforced, but beginning in 2015, analyses must be based on Social Security Administration data, which deal with individual students rather than generic career fields.
Debt-burden calculations are adjusted.	All student borrowing was included in the overall debt load.	Colleges will be held accountable for students' debt only up to the level of tuition and fees and other educational expenses, so institutions are not responsible for students who borrow more than strictly necessary to cover rent or other expenses while enrolled.
Annual loan payments for debt-to-income ratios will also be calculated differently, assuming that students will take longer to pay off many loans.	Loan payments were calculated using a 10-year amortization for all programs.	The loan period for associate degrees and certificates will be assumed to be 10 years loan period, for master's and bachelor's degrees 15 years, and for other degrees 20 years.
Repayment rate calculations change.	A borrower was counted in repayment only if he or she paid down the principal balance on his or her federal loans.	Repayment rates will be based on loan principal and interest, so students who make interest-only payments will be considered current. So will those in the federal government's income-based-repayment program. An anti-abuse rule will limit the number of students who are paying less than accrued interest.

Students' debt and income levels will be checked a few years after students finish programs.	Debt-to-income levels would have been measured throughout students' first four years after graduation, potentially penalizing programs whose students did not get jobs immediately after finishing.	Both the repayment rate and the debt-to-income ratios will be based on students in their third and fourth years after graduation. Adjustments will be made for small programs, medical and dental programs and improving programs.
Fewer programs will be found ineligible.	The Education Department predicted when the proposed rule was released that 5 percent of all programs would lose eligibility, but fully 55 percent would have been in the "restricted yellow zone."	With the elimination of the "yellow zone," that 55 percent will now pass. Predictions of ineligibility have dropped to 2 percent for all programs and 5 percent for for-profit programs. Eight percent of all programs -- and 18 percent of for-profit programs -- are predicted to fail all measures at least once, but recover before accumulating "three strikes."

Sources: Education Department, Finaid.org, Inside Higher Ed reporting