The Torch

March 2, 2012

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

COHEAO News

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- **COHEAO Conference Agenda Committee to Meet March 7**
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- **GAO Issues Report on Non-Profit Higher Ed Financial Trends**
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- **Servicer Survey: Student Loan Borrowers Want Diverse Communication Channels from Loan Servicers**
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Attachments

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

COHEAO News

Budget & Appropriations Will Be Major Focus in March, Presenting an Opportunity for COHEAO's Advocacy Efforts

Much of the focus in Congress will turn to the President's Budget in Congress this month, presenting an opportunity for COHEAO members to contact their legislators and urge support of funding for reimbursement for Perkins Loan cancellations and opposition to the President's plan to eliminate the current Perkins Loan Program.

Secretary of Education Arne Duncan will have the opportunity to defend the Administration's education budget in the new few weeks. He is scheduled to appear on Capitol Hill before the House Labor, Health and Human Services and Education Subcommittee on Appropriations on March 22nd and then again before the House Budget Committee on March 27th.

In terms of appropriations, in the House, Members must submit programmatic and language requests to the Labor-HHS-Education Subcommittee by March 20. In the Senate, the deadline for Senators to submit their requests to that Subcommittee is March 29. This process provides an opportunity for those outside of the all-important Appropriations Committees to share their views on how federal funds should be spent.

For COHEAO members who attended our 2012 Annual Conference and visited with their legislators, now would be an excellent time to follow-up with those offices. If you would like assistance with following up with your Senators and Representatives, please do not hesitate to contact Wes Huffman: whuffman@wpllc.net.

COHEAO Conference Agenda Committee to Meet March 7

The COHEAO Mid-Year Conference will be here before you know it, and we have already begun the initial planning for this exciting summer event.

The next step is the first call of our Agenda Committee regarding the Mid-Year, which is set for Wednesday, March 7 at 2 PM ET. If you are interested in joining this call and the COHEAO Agenda Committee, please contact Lori Hartung (lori.hartung@tbandl.com), the committee's Chair.

COHEAO has two webinars set for March, one on the new FERPA regulations set for March 14 and another one on bankruptcy and litigation issues which is set for March 29.

Sign up for the March 14 COHEAO Webinar, "Understanding the New FERPA Changes"

COHEAO will be hosting a webinar on March 14, "Understanding the New FERPA Changes." To be held from 2:00-3:30 PM Eastern on Wednesday, March 14, David Stocker, General Counsel at Account Control Technology, will walk you through the changes and what they mean for campus-based student financial services operations. Click here to register today!

The Department of Education recently issued new regulations on this law governing the privacy rights of students. As campus-based loan administrators and student financial services officers handle sensitive information on a daily basis, this is a webinar you will not want to miss. In addition, as the rules require schools to take measures to ensure their vendors adhere to federal privacy regulations, service providers will also benefit greatly from this event.

What: COHEAO Webinar, "Understanding the New FERPA Changes"
When: Wednesday, March 14, 2:00-3:30 PM ET
Cost: $49 for COHEAO Members, $99 for Non-Members
Registration and Information: Click here (If the link does not work, paste the following into your browser: https://netforum.avectra.com/eweb/DynamicPage.aspx?Site=COHEAO&WebCode=EventDetail&&evt_key=37ec34de-7bb0-4fd5-ae1b-f6297aad417a)

Additional Questions: Contact Wes Huffman (202.289.3910), whuffman@wpllc.net

The Congress

House Passes Repeal of Two Program Integrity Regs

This week, the House passed H.R. 2117, the "Protecting Academic Freedom in Higher Education Act," by a margin of 303-114. In all, 69 Democrats crossed the aisle to vote with almost all Republicans for the legislation which would repeal two key aspects of the program integrity regulations that took effect on July 1, 2011—the definition of a credit hour and the state authorization requirement for distance education.

Importantly, both the non-profit and profit sectors of higher education, represented by a litany of organizations which collectively represent just about every college, have expressed opposition to these two particular regulatory changes. A federal definition of a credit hour is seen as an improper imposition of the federal government into academic matters; the distance education regulations, which would require schools to obtain authorization from each of the states where their distance education students reside, are viewed as particularly costly and onerous.

However, the Administration has remained firm in supporting both regulations, issuing a strong statement in opposition to H.R. 2117. A companion bill to H.R. 2117, S.1297, has been introduced by Sen. Richard Burr (R-NC), a longtime member of the Senate HELP Committee. However, the measure has yet to be considered and is considered unlikely to pass the Senate this year due to opposition from the Administration and key Democratic senators.

In the House debate, there were five amendments introduced, all of which failed, largely on party lines. The most notable was a motion from Rep. Lois Capps (D-CA) which would have amended the bill by giving the Secretary of Education the authority to reduce student loan costs, such as maintaining Subsidized Stafford interest rates at or below the current level of 3.4%. The practical impact that the Capps proposal would have had was not clear since it did not provide for an offset to the cost of the interest rate provision.

Frank Bill Includes "Foti Fix" and Limitation on Arbitration

On Tuesday, Rep. Barney Frank (D-MA), the Ranking Democrat on the House Financial Services Committee introduced legislation (H.R. 4101) which would address liability issues for collectors leaving voice messages regarding a consumer debt. Since the famous (or infamous) Foti case decision was rendered, the use of voicemails from third party collectors has been an issue fraught with concerns over compliance.

The Frank bill would appear to provide a solution to that issue by providing an exemption from liability, but it leaves the details up to the Consumer Financial Protection Bureau. The Act calls for the Bureau to develop regulations pertaining to voicemails within six months of enactment, but gives few details on what should actually be in the regulations.

In relevant part, the legislation reads:

> *AUTHORITY TO LEAVE MESSAGES FOR A CONSUMER—*
> *(1) IN GENERAL.—A debt collector may leave messages for a consumer in connection with the collection of a debt on the consumer's answering machine, voice messaging system, or other similar device, including in an initial communication with the consumer, so long as the message complies with regulations prescribed by the Bureau to ensure the preservation of the privacy and other rights granted to the consumer, including the restrictions on communications with third parties under subsection (b).*
>
> *(2) RULEMAKING.—Not later than the end of the 6-month period beginning on the date of the enactment of this subsection, the Bureau shall prescribe regulations to carry out paragraph (1). Such regulations shall—*
>
> *(A) specify the content or text of a permissible message allowed under paragraph (1);*
> *(B) provide that a consumer has a right to cease further communication with a debt collector; and*
> *(C) include any other such matters as the Bureau determines appropriate to carry out this subsection.*

In addition to the possible "Foti fix," the Frank legislation also includes a provision which would limit the use of arbitration to settle disputes unless the consumer has agreed to such arbitration in writing. Below is that section of the bill:

> *SEC. 4. LIMITATION ON ARBITRATION.*
> *Section 811 of the Fair Debt Collection Practices Act (15 U.S.C. 1692i) is amended by adding at the end the following:*
>
> *(c) LIMITATION ON ARBITRATION.—No person serving as a debt collector with respect to a particular debt may initiate a legal action on that debt in an arbitration setting, or require the consumer to resolve any collection related dispute on such a debt by means of arbitration, unless the consumer has agreed, in writing, with that debt collection, after collections activities are initiated and a legal action or dispute arises, to resolve such legal action nor dispute by arbitration.*

Rep. Frank's legislation was referred to the House Financial Services Committee. There is no companion legislation in the Senate.

The full text of H.R. 4101 is available online: http://www.gpo.gov/fdsys/pkg/BILLS-112hr4101ih/pdf/BILLS-112hr4101ih.pdf

Rep. Dicks, Sen. Snowe Announce They Will Not Seek Re-Election

Rep. Norm Dicks, the Ranking Democrat on the House Appropriations Committee, announced his retirement today. Dicks, much like Sen. Olympia Snowe (R-ME), lamented the current lack of political bipartisanship in announcing his retirement this week.

Though the ink is barely dry on his statement, Dicks' position on the House Appropriations Committee has led to immediate speculation on his successor. Here is how *CQ*, a Capitol Hill trade publication, described the possibilities for succession (note: the Kaptur/Kucinich redistricting primary is next Tuesday):

> *If Marcy Kaptur wins her primary in Ohio against Dennis Kucinich, she will be in line to take the top Democratic seat on Appropriations next year. She would be the first woman ever in the post. If she loses, the extraordinarily low-profile Pete Visclosky of Indiana, who survived a set of ethical questions about his earmarking practices a few years ago, would become the top Democrat by virtue of seniority. Another woman, Nita Lowey of New York, is next in line after him. (On the Defense Subcommittee, the top Democratic seat will now be wide open.)*

Snowe, along with her follow Maine Republican Senator Susan Collins, is considered to be one of the few remaining centrist members of the Senate. Democrats are hopeful they will win Snowe's seat in the fall elections, a development which many believe would be crucial for their efforts to retain control of the Senate.

Coverage of Snowe's announcement from *Reuters* is available online:
http://www.reuters.com/article/2012/03/02/us-usa-campaign-maine-idUSTRE82106S20120302
The announcement from Dicks is available online:
http://www.house.gov/apps/list/speech/wa06_dicks/morenews1/march2.shtml

Harkin Issues Report on Military Benefits and For-Profit Higher Ed, Murray Circulating Draft "GI Bill Consumer Awareness Act"

Senate HELP Committee Chairman Tom Harkin (D-IA) released a report on the use of Department of Defense tuition assistance funding at for-profit colleges. Harkin's report states the proportion of these benefits going to the for-profit sector "raises concerns about current oversight practices at the Department of Defense and the strength of protections in place for service members and their families."

The eight-page report followed similar patterns in other reports from Harkin on the topic of for-profit higher education. It asserts these schools often market themselves as "military friendly," but then argues the schools are spending too much on marketing and profits and too little on education and support services. It focused many of the criticisms on Bridgepoint Education, a for-profit, largely on-line, higher education company with a small physical campus in Harkin's home state of Iowa.

Harkin, Sen. Richard Durbin (D-IL) and others have proposed (or announced plans to propose) legislation which would include DoD and VA benefits in the 90/10 calculation for proprietary schools. In addition to these efforts, Sen. Patty Murray has been circulating a draft version of the "GI Bill Consumer Awareness Act."

This legislation, which is in draft form while Murray's office seeks comments from the higher education community, would add extensive reporting requirements on consumer information for all schools accepting VA or DoD education benefits, regardless of tax status. Importantly, the current version seeks to require schools to report information at the academic program level and directs the VA and ED to collaborate on disseminating this information in a manner which would allow veteran and military students to compare programs across schools.

As comparative information on higher education is much easier in theory than in practice, the current draft "GI Bill Consumer Awareness Act" is likely to be a cause for concern in many parts of the higher education community. If you would like a copy of the draft legislation or a summary and analysis memo written by Wes Huffman, please email whuffman@wpllc.net.

Chairman Harkin's report is available online:
http://harkin.senate.gov/documents/pdf/4f468d002ae0a.pdf

GAO Issues Report on Non-Profit Higher Ed Financial Trends

This week, the GAO released a report, "Financial Trends in Public and Private Nonprofit Institutions," which is full of data on spending and revenues by traditional colleges at the national level. GAO undertook this report at the request of Senate HELP Committee Ranking Member Mike Enzi (R-WY).

Enzi and other Republicans on the Committee have questioned Chairman Tom Harkin's myopic focus in putting the proprietary sector under further scrutiny, arguing that all of higher education is facing problems related to consumer issues. An excerpt from GAO's summary of the report is below:

> ***What GAO Found***
> *For fiscal years 1999 through 2009, both public and private nonprofit schools increasingly relied on tuition revenues when compared with other sources of revenue. Net tuition and fees—revenues received after subtracting institutional aid provided to students—climbed from 16 to 22 percent of total revenue at public schools, and from 29 to 40 percent at private nonprofit schools. According to four schools GAO interviewed, increased reliance on tuition revenue is partly a result of significant decreases in state and local appropriations and other revenue sources, such as endowment income. Analysis of Education data shows nearly all types of public and private nonprofit schools saw decreases in state and local appropriations ranging from 6 to 65 percent, as well as decreases in other revenues, ranging from 13 to 75 percent. In response to these declines, schools that GAO visited pursued additional revenue from out-of-state and, in some cases, international students, government funded research, and fund-raising.*
>
> *Instructional spending consistently made up the largest share of total expenditures at public and private nonprofit schools, about 30 percent in fiscal years 1999 through 2009; however, spending varied across school types when accounting for student enrollment. Nonetheless, faculty compensation and benefits comprised the largest portion of instructional spending, about 70 percent, and increased for all school types during this time period. The overall number of faculty also rose with a shift toward hiring more part-time and nontenured faculty. Spending on most noninstructional activities also increased, particularly for research and student services. Schools GAO visited have adopted strategies to contain costs in response to revenue constraints, including centralizing administrative functions, cutting personnel costs, delaying construction projects, and eliminating certain class offerings.*
>
> *According to GAO analysis of recent Education data, about 50 percent of first-time undergraduate students at public and private nonprofit schools graduated within 6 years. However, graduation rates varied with student characteristics such as gender, race, and income. For example, financially independent students graduated at lower rates than financially dependent students. Education's annual graduation measure provides a limited*

picture of student outcomes because it does not account for many nontraditional students, such as those who begin on a part-time basis and some transfers. Thus, graduation rates vary considerably depending on a school's student body and mission. Several efforts involving multiple stakeholders are under way to develop outcome measures that better account for all students.

Schools visited by GAO disclosed required information on cost of attendance, graduation rates, and future employment primarily through websites and, in some cases, in printed materials. Nationally, less than 1 percent of Education's program reviews and independent audits found violations of information disclosure requirements at public and private nonprofit schools. Education has taken a number of steps to help schools disclose complete and accurate information including developing a tool for school websites to help students better estimate and compare the costs of attending college and providing guidance to institutions on ways to disseminate information to students.

Additional information, including the full report, is available online:
http://www.gao.gov/products/GAO-12-179

The Administration

CFPB Seeks Nominations for Consumer Advisory Board

The CFPB announced it is seeking nominations for a "Consumer Advisory Board" last week. The announcement came via a blog post with a brief video from CFPB Director Richard Cordray, and an official notice was published in the *Federal Register*.

COHEAO intends to nominate David Stocker, who heads the COHEAO CFPB Task Group, to serve on this advisory board. An excerpt from the CFPB announcement is below:

Everyone at the CFPB appreciates the need to gain critical insight from the people and communities we serve, as well as experts in industry and government. With this in mind our staff speaks with consumers, industry representatives, and others in the field every day, and we hear from consumers who file complaints using the Consumer Response Center or Tell Your Story feature on our website. We also meet regularly with government officials at the local, state, and federal levels to hear their concerns and those of their constituents.

One way that the Dodd-Frank Wall Street Reform and Consumer Protection Act makes sure that we hear from a variety of experts with a variety of viewpoints is by requiring us to set up the Consumer Advisory Board. Today, we begin the process of setting up the Board to advise us and consult with us on consumer financial issues. Board members will provide the Bureau with information about emerging trends and practices in the financial-services and financial-products industries.

We are looking for Board members with diverse perspectives and innovative ideas. These nominees may have a background in one or more of the following areas: consumer protection, financial services, fair lending, civil rights, consumer financial products and services, or community development. If you or someone you know can offer us expert advice in any of these fields, let us know by submitting a nomination letter and a complete resume/CV to ***CABnominations@cfpb.gov*** *by March 30, 2012.*

You may also submit nominations by mail to this address by March 30, 2012:

Mail – ATTN: Monica Jackson/CAB Nominations
Consumer Financial Protection Bureau
1500 Pennsylvania Avenue NW (Attn: 1801 L Street)
Washington, DC 20220

The full announcement is available online: http://www.consumerfinance.gov/were-taking-nominations-for-our-consumer-advisory-board/

Med School Debt of Bernanke's Son Discussed at Humphrey-Hawkins Hearing

In delivering his semiannual monetary policy report to Congress, Federal Reserve Board Chairman Ben Bernanke warned of inflationary pressures, particularly rising gas prices, and urged Congress to avoid "a massive fiscal cliff" by allowing the Bush tax cuts to expire and the various spending cuts prescribed by the Budget Control Act to kick in at the beginning of 2013.

However, of most interest to student lending observers was when Bernanke strayed from his normal discussion of macroeconomics and monetary policy life in response to questions from Members of the House Financial Services Committee. The Fed Chairman indicated his son was likely to face roughly $400,000 in medical school debt. He also warned student lending required "careful oversight" from regulators.

Bernanke's testimony is available online:
http://www.federalreserve.gov/newsevents/testimony/bernanke20120229a.htm

ED Issues DCL on Pending CCRAA Interest Rate Spike

The Department of Education issued a dear colleague letter this week on the pending interest rate spike for Subsidized Stafford Loans.

The College Cost Reduction and Access Act (CCRAA) lowered interest rates on subsidized Stafford Student Loans from 6.8% in FY07 to the current rate of 3.4% in FY12. However, budgetary constraints (in addition to "halving the interest rate on federal student loans," adhering to and enforcing "Pay-Go" was also a campaign promise in 2006) caused this "halving" to occur over a period of five years, then reset to the original rate of 6.8%.

President Obama has called on Congress to extend the 3.4% rate for one-year, a move CBO estimates will cost $5.7 billion. The President's proposal is noted in the DCL:

> *President Obama, in his State of the Union Address on January 24, asked Congress to enact legislation to extend the current 3.4 percent interest rate for another year. It is important to remember that this is only a proposal at this time. Absent Congressional action, the interest rate will return to 6.8 percent on July 1, 2012, per the statute.*

The DCL, which also includes information on the $2,000 Unsubsidized Stafford Loan increase of ECASLA as well as reminders of recent changes in the Direct Loan program due to the Budget Control Act, is available online: http://www.ifap.ed.gov/dpcletters/GEN1204.html

Census Data Shows More Than 30% of US Adults Now Hold College Degree

New Census data released shows the US reached a new milestone in college degree attainment. For the first time, more than 30% of US adults hold a bachelor's degree.

According to the newly released figures, as of last March, 30.4% of adults (age 25 or over) now hold a bachelor's degree and 10.9% have a graduate degree. The numbers based off of previous Census data ten years ago were 26.2% and 8.7%, respectively.

The report also offered demographic data on degree attainment, most notably that females have nearly overtaken males in both bachelor's and graduate level degree. The following is from the *New York Times*:

> *For many years, colleges have enrolled and graduated more women than men, and a historic male advantage in higher education has nearly been erased. In 2001, men held a 3.9 percentage-point lead in bachelor's degrees and 2.6 percentage points in graduate degrees; by last year, both gaps were down to 0.7 percent.*
>
> *Among Hispanics, the share of adults holding bachelor's degrees grew from 11.1 percent in 2001 to 14.1 percent last year, and among blacks it climbed from 15.7 percent to 19.9 percent. But the distinction rose even faster among non-Hispanic whites, from 28.7 percent to 34 percent.*
>
> *Asian-Americans remain the nation's best-educated racial group, with 50.3 percent having bachelor's degrees, and 19.5 percent holding graduate degrees*

Additional information from the Census Bureau on educational attainment is available online:
http://www.census.gov/hhes/socdemo/education/data/cps/2011/tables.html

Industry News

CCAP's Gillen Releases "Bennett 2.0" Paper on Impact of Federal Funds on Tuition Prices

In a piece for the *Wall Street Journal* in 1987, then-Secretary of Education Bill Bennett first put forward what became known as the "Bennett Hypothesis" with an op-ed, "Our Greedy Colleges." In that piece, Bennett wrote:

If anything, increases in financial aid in recent years have enabled colleges and universities blithely to raise their tuitions, confident that Federal loan subsidies would help cushion the increase.

Since it was penned nearly 25 years ago, many researchers have spent a great deal of time and effort to disprove the so-called Bennett Hypothesis, pointing to study after study showing that aid programs, particularly the bedrock Pell Grant program, did not cause tuition increases. However, last week, Andrew Gillen, an economist with the Center for College Affordability and Productivity, released a paper modifying and updating Bennett's hypothesis. In the paper's summary, Gillen explains the modifications as follows:

> *Tweaking the concept to account for a more realistic view of who receives financial aid, the actions available to colleges, and the nature of competition in higher education leads to predictions that are more consistent with the data than the original hypothesis or its antithesis.*

The three refinements are:

1. *All Aid is Not Created Equal*
2. *Selectivity, Tuition Caps, and Price Discrimination are Important*
3. *Don't Ignore the Dynamic Story*

The paper generated a fair amount of media coverage. Unlike the treatment of Bennett's original hypothesis, the media reception was generally favorable to Gillen's refinement, or "Bennett 2.0."

Additional information, including the full report is available online:
http://centerforcollegeaffordability.org/research/studies/bennett-hypothesis-2

Ed Sector Report Examines Dropout Student Loan Borrowers

Education Sector released a report this week, "Degreeless in Debt: What Happens to Borrowers Who Drop Out." Though common sense would suggest borrowers who dropped out of school have a more difficult time repaying their loans than those who completed their programs, the report indicates the number of dropouts and the degree of their struggles is "disturbing."

An excerpt from the report is included below:

> *In their 2005 study, Borrowers Who Drop Out, researchers Lawrence Gladieux and Laura Perna took a close look at this often overlooked group and examined who they are and what consequences they face. The study, which used the U.S. Department of Education's Beginning Postsecondary Students (BPS) longitudinal survey, looked at data for students who first enrolled in college in 1995–96 and provided a snapshot of what happened to them by 2001. This Chart You Can Trust updates some of Gladieux and Perna's analysis, using BPS data to look at borrowers who enrolled in college in 2003–04 and what happened to them by 2009.*
>
> *The trends are disturbing:*
>
> - *From 2001 to 2009, the percentage of students who borrowed to finance college increased from 47 percent to 53 percent.*
> - *Among those who borrowed, the percentage of students who dropped out between 2003 and 2009 was larger than the percentage of students who dropped out between 1995 and 2001.*
> - *Those who dropped out had higher unemployment rates and made less money than those who graduated. Borrowers who dropped out were more than four times more likely to default on their loans.*
> - *The trends are more pronounced in the for-profit sector, which expanded "greatly during the 2000s in part by heavily recruiting and enrolling low-income students.*

The full report is available online:
http://www.educationsector.org/sites/default/files/publications/DegreelessDebt_CYCT_RELEASE.pdf

Servicer Survey: Student Loan Borrowers Want Diverse Communication Channels from Loan Servicers

A recent survey by First Associates Loan Servicing, showed student loan borrowers prefer multiple methods of communication with servicers.

The survey was conducted over a one-week period in February, with approximately 75 percent of participants indicating text, email and mobile phone were evenly split as their top three preferences for daily communication use. More than 90 percent of respondents said it was either important or very important that loan lenders or service providers contact them the way they like the most.

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