COHEAO ANNUAL REPORT 2018

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Message from the President

As I write my final report as president of COHEAO, I want to begin by thanking the entire Coalition for all of the support I received over the six years that I served in this role. Although at times, it was a very challenging and demanding role to manage along with my full-time job responsibilities, I can honestly say that the rewards, by far, always surpassed the challenges. And that is directly because of the membership, the board of directors, and the staff at Bose Washington Partners who stepped up again and again to provide assistance, feedback and encouragement. I am very grateful for all of the relationships I've developed and for the professional growth I've experienced in this role, and I look forward to supporting the board and the membership in a new role as immediate past president in the coming years.

With the expiration of Perkins in September of 2017, COHEAO took a step back from its role as the primary Perkins advocacy group and for much of 2018 focused on assisting schools with concerns resulting from the wind-down. Our goal was to make sure that schools were in a position to make an educated decision on what to do with their Perkins portfolios. We know first-hand that there are many issues that must be considered before you choose whether or not to liquidate and we want to be sure every school is armed with the information they need. We also invested a lot of time and resources into ensuring that schools are compensated for their share of unreimbursed cancellation monies and for servicing their Perkins portfolio after the elimination of the administrative cost allowance (ACA). Much progress has been made in both of these areas, and COHEAO will continue to be involved in making sure both are achieved.

We also recognized that with the loss of Perkins, schools would need to supplement those students with another form of gap financing. In response, we created the Loan Task Force, which is dedicated to assisting schools that want to create or enhance an institutional loan program on campus. COHEAO is in the process of developing several loan models that work in conjunction with how a school can provide financing to students with unmet need. This is an up-and-coming area for COHEAO, and I encourage your involvement if your school has or wants to develop an institutional loan program.

COHEAO also focused on many other regulatory and legislative areas within higher education. Areas such as Financial Wellness, the CFPB (Consumer Financial Protection Bureau), STAR (Student Tuition and Accounts Receivable) and the TCPA (Telephone Consumer Protection Act), all of which have been extremely active. Each of our task force and committee chairs has summarized the actions and accomplishments of their working group, which will provide you a comprehensive look at the past 12 months. I encourage you to take the time to review the information that follows and become more familiar with the various areas in which COHEAO is active, and identify where you might be able to make a contribution by getting more involved.

2018 was the first year for COHEAO's new training structure after having decided in 2017 to replace the mid-year conference with one-day training workshops in the spring and fall. In 2018, we hosted a spring workshop on the campus of Manhattan College, and the fall workshop was on the campus of Loyola

Marymount University. Both were focused on campus compliance and were very successful events. Our goal is to have the workshops in areas convenient to our membership and to do so at a cost that allows greater participation. I encourage you to attend and reach out if you would like to host such an event in the future on your campus.

COHEAO relies heavily on its membership to identify issues of importance and work together to strategize, train, and advocate for viable solutions. We welcome and encourage your participation on the board of directors and within our many task forces and committees. The greater the participation - the better the flow of ideas and solutions and the greater impact we can have. Each of us has individual strengths that can benefit the Coalition. I encourage each of you to get involved in COHEAO today in whatever capacity you can. Please help us expand the voice of COHEAO and encourage your colleagues to join the conversation because together, we really can make a difference!

In closing, I want to thank the COHEAO Board of Directors, the staff at Bose Washington Partners, and the entire COHEAO membership for the many contributions that each has made to further our mission. Our Coalition has grown and strengthened this past year because of your dedication and commitment.

Submitted by: Maria Livolsi, COHEAO President

Treasurer's Report

COHEAO ended 2018 with a net loss of just over $16,000 and a negative equity position of roughly $7,000.

Adjusted for unique initiatives (special appeal/advocacy expenses in 2015 and similar one-time expenditures in 2009), the organization has reflected a net loss in each of the past five years.

Looking ahead to 2019, the board committed to working within a balanced budget and eliminating the beginning negative equity position by the end of the year.

The most significant step taken toward this commitment was the negotiation of a reduction in the management fees paid to Boise/Washington Partners. While the board understands that the fee reduction will also limit the ability of BWP to devote the same resources to support the organization, the board also embarked on an initiative to raise additional contributions to support expanding advocacy of a replacement of the Perkins Loan Program.

The following is a summary of the financial statements for the past three years, along with the initial 2019 projected net income.

Revenue	**Projected**			
Institutional Dues	49,742	49,743	56,157	63,791
Commercial Dues	87,000	85,868	90,259	87,000
Other Dues	4,000	4,000	6,085	1,500
Supplemental Advocacy Contribution	10,000			
Annual Conference	28,888	38,550	33,401	43,190
Mid-Year Conference			18,120	23,550
Workshop/Webinar	23,000	22,145	9,790	20,695
Other Dues	3,000	2,953	5,378	
Total	205,630	203,259	219,190	239,726
Expense:				
Management	146,293	170,417	181,466	174,128
Consulting	10,000			
Board	3,800	5,159	6,811	16,539
Annual Conference	24,000	33,786	38,066	32,654
Mid-Year Conference			17,265	20,226
Workship/Webinar	9,500	6,299	1,740	1,283
Other	3,000	4,000	4,000	1,006
Total	196,593	219,661	249,348	245,836
Net Income	9,037	(16,402)	(30,158)	(6,110)
Equity	1,638	(7,399)	9,003	39,161

Submitted By: Bob Frick, Treasurer

Membership Report

The Membership Team for 2018 consisted of Membership Chair, Karen Reddick; Institutional Membership Co-Chair, Lee Anne Wigdahl; Commercial Membership Co-Chair, Scott Medley, and Development Membership Co-Chair, Claude Payne.

The Membership Committee continues to work with Bose Public Affairs staff to establish a strong database of its members. We continue to monitor the data and information to ensure we have accurate membership numbers. The team continues to develop our prospective membership list to continue to recruit new members. We continue to vet this list to ensure we have the most up to date information.

The committee and the board continue to work on strategies to recruit nontraditional members outside of the Perkins Community as well as continuing to monitor the climate of institutional and commercial membership to determine evolving interests and future target markets.

The committee has developed a new membership brochure to target commercial membership; we also adapted this marketing piece to the general membership.

COHEAO Board Members continue to present at conferences throughout the year, encouraging schools to join. We provide a 10% discount for anyone that joins as the result of each presentation. The Membership Team continues to spend numerous hours supporting the advocacy efforts to save the Perkin's Loan program.

MEMBERSHIP

	2017	**2018**
Commercial Membership:	31	31
Institutional Membership:	159	132

Submitted by: Karen Reddick, Membership Chair

Legislative Report

During the year, numerous discussions occurred with the COHEAO membership on the status and future of the Perkins Loan program. Webinars and several workshops were focused on legislative outreach to the political arena in DC. The annual Capital Hill visit occurred in January which board **members** and membership had meetings with their constituents on the hill. It appeared that the discussions were very positive and informative for staffing. I continued to promote the COHEAO brand in the financial aid and bursar industry. This includes illustrating the value of membership and all the benefits.

During the year, several COHEAO sessions were on the New York State Financial Aid annual conference agenda. Both the future of Perkins and advocacy efforts to save the program were agenda items. Good discussions with financial aid administrators occurred and educating them on the value of our organization was well received. It should be noted that this was our second year presenting at the NYSFAA conference.

During the upcoming October conference, COHEAO will be able to part of the vending area allowing great exposure for us. Also, a session is on the agenda too.

Submitted by: Joe Weglarz, Legislative Chair

Internal Operations

The following were the key initiatives for the Internal Operations Team in 2018:

COHEAO Fundraiser

At the January 2018 COHEAO Annual Meeting in DC, we raised just under $3,000.00for the COHEAO scholarship fund. These funds were raised through a Silent Auction; a Split the Pot Raffle and a Scholarship Squares game. We thank all our attendees for their generous support of the COHEAO Scholarship Fund.

COHEAO Scholarships

There were 16 applications received during the 2017 scholarship process which was down significantly from 2016. Of the 16, only nine were eligible for consideration once all factors were evaluated.

The scholarship committee was comprised of Nancy Lange, Ruth Hoch - George Washington University and Jan Hnilica - Wheaton College. Each reviewer received copies of the application along with an evaluation spreadsheet. The reviewers individually ranked each applicant and provided this information to Nancy Lange, who compiled the rankings.

The individuals awarded the 2017 COHEAO scholarships were as follows

Jeon, Eun Kyung	Northeastern University	Carolyn Hampton Scholarship
Lehmkuhl, Ashley Nicole	Concordia College	Louise Slaughter Scholarship
Nguyen, Kieu-My Kim	University of Hartford	
Ayala, Ninamarie Biasie	University of Hartford	

Board of Directors Election

Following the COHEAO By-Laws, we conducted the election process for the President and Vice President positions and solicited nominations for the Commercial Chair and appointed Chair positions.

The following nominations were received:

President: 1
Vice President: 5
Commercial Chair: 4
Appointed Chair Positions: 22

Our primary COHEAO members voted, and the results were as follows:

President: Lori Hartung

Vice President: Jeff “JP” Pfund

Commercial Chair: Lynn (Heineman) Reynolds

Chair Positions:
Karen Reddick, Chair - Internal Operations
Lottia Windham, Co-Chair - Internal Operations, Financial Wellness
Rechelle Brown, Co-Chair - Communications

Mike Mietelski, Co-Chair - Support
Robert “BJ” Schuerger, Chair - Legislative
Corey Rethage - Co-Chair, Loan Task Force
Bob Perrin - Co-Chair Regulatory, TCPA and CFPB Task Force

Nancy Lange - Chair - Membership
Beth Gloekler - Co-Chair, Institutional Membership
Denyc Perez - Co-Chair, Commercial Membership
Joe Weglarz - Co-Chair, Support

Past President: Maria Livolsi

COHEAO New Board Member Guide

The New Board Member Guide was updated in December 2018 for distribution to the new board members.

Submitted by: Nancy Lange - Chair, Internal Operations

Commercial Membership

COHEAO's Commercial Membership drive continued strong for 2018. A new and updated commercial brochure was printed to highlight COHEAO's focus on compliance, regulation, pending legislation, and advocacy while promoting a New Perkins Loan program. With the mid-term elections changing the landscape of Congress in 2018, COHEAO and its Commercial Members have and will continue our advocating and education efforts on the Hill for a New Perkins loan program.

A strong focus on retaining and expanding commercial membership was one of our main goals for 2018 and truly appreciated the efforts of Karen Reddick and Scott Medley in that regard. A strong commercial membership for COHEAO is important to ensure our institutions stay informed and active in COHEAO, Hill activities, and in legislation that may impact our industry and their campuses.

Commercial Membership goals for 2019 are to continue the promotion of COHEAO both institutionally and commercially, highlighting the benefits COHEAO provides for its members. Supporting COHEAO's annual conference, various workshops and webinars on such important topics of institution loan management, compliance, risk aversion, and loan servicing for 2019 will preserve and hopefully increase membership numbers as we move forward.

Submitted by: Lynn Reynolds, Commercial Committee Chair

COHEAO Task Force Reports

COHEAO Achievement Program (CAP)

The CAPS (COHEAO Achievement Program) was created in 2011 to recognize the advancements of members in training and education through participation in COHEAO conferences, webinars, and other COHEAO sponsored events.

2018 Scholar Graduates	**2018 Cap Graduates**
Nancy Lange	Sally Laws
Bob Frick	Joanna Sollinger
	Nichelle Daugherty
	John Moetz
	John Rhine
	Miles Scott
	John Schwarm

Consumer Financial Protection Bureau (CFPB)

Background

The Consumer Financial Protection Bureau (CFPB) was created as a result of the financial collapse experienced by the United States during 2007-2008, which resulted in the deepest financial depression since the 1920-30s. The creation of the CFPB was authorized by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Congress passed the Dodd-Frank Act in 2010 with a goal of consolidating consumer financial protection authority to a single federal agency.

The CFPB is an independent agency that operates within the Board of Governors of the Federal Reserve. Charged with the regulatory authority to create rule-making, supervision, and enforcement, the CFPB welds great power. Not only does the CFPB have supervisory authority over any organization that falls under their definition of “covered person, but” the CFPB also can exercise rule-making and supervision authority to “service providers.”

Decisions implemented by the CFPB can impact every member of The Coalition of Higher Education Assistance Organizations (COHEAO). In response, COHEAO’S CFPB Task Force is committed to:

- Advocate on behalf of the COHEAO Members for those issues that are pertinent and impactful to their organizations whether that be colleges, universities, servicers, or collection agencies
- Provide informative CFPB updates to COHEAO’S Board of Directors
- Collaborate with Bose Washington Partners to provide written responses to proposed rule-making generated by the CFPB.
- Assist the organization in developing educational opportunities that focus on the actions of the CFPB for the membership

Leadership Battle
Abbott and Costello were a comedy duo back in the 1940-and 50''s who had a routine called "Who's on First?" Trying to summarize the drama associated with CFPB leadership changes during the last year reminded me that this famous comedy segment by Abbott and Costello seemed very fitting.
The CFPB'S leadership changed hands in late 2017 with Director Richard Cordray's resignation. The President responded by appointing Mick Mulvaney who also serves as the Director of The Office of Management and Budget (OMB) to become the Acting Director of the CFPB. The appointment created concern amongst many supporters of the CFPB that the appointment of Mulvaney was the first step of the Trump Administration's proposed strategy to weaken the agency by making significant changes. Mulvaney attempted to calm the fears by again emphasizing that the agency planned to continue executing the laws as well as enforce all requirements mandated by the Dodd-Frank Act.

However, just two weeks into 2018, the CFPB under Mulvaney's leadership announced the following plans:

- Reconsider their new "Payday Loan Rule."
- Announced that the CFPB would not request any funding during the 1st quarter of 2018 since the agency had enough funds in reserve
- The CFPB also dropped their law suit against some pay-day lenders who were associated with American Indian Tribes
- Solicit public response in the form of "Requests for Information" to obtain feedback about the agency's enforcement, supervision, rule-making, monitoring and education

In the meantime, Leandra English who was promoted by then Director Cordray before his resignation to Deputy Director continued her legal battle during 2018 for the leadership position. Cordray had appointed English to this position so she could, in his view assume the position of Interim Director upon his resignation. The battle ground for this fight was held at the U. S. District Court and somewhat in the court of public opinion. Both parties (CFPB and the White House) were seeking a desirable decision to affirm who had the authority to select an interim director, the President or the Director of the CFPB.

The court battle for leadership of the CFPB continued until the President announced in June of 2018 that he planned to nominate Kathy Kraninger (also from OMB) as the Director of the CFPB to replace Acting Director Mulvaney. In response to this announcement, Leandra English withdrew her law suit. A confirmation hearing was held by the Senate Banking Committee, and the Senate voted to confirm Kraninger on December 6th, 2018.

Also, of interest during 2018 was the resignation of the CFPB'S Student Loan Ombudsman Seth Frotman. Willing to burn bridges as he departed, Frotman authored a letter that contained accusations that the CFPB was abandoning consumers and had left the Student Lending Office powerless to help students.

Finally, the issue of the agency changing their name became a controversial issue. Acting Director Mulvaney took the position that the proper name under the Dodd-Frank Act was "The Bureau of Consumer Financial Protection (BCFP). It was estimated that the rebranding of the CFPB would cost somewhere in the range of $ 9 to $19 million. It was later concluded that the cost of rebranding would be in the neighborhood of $300 million. The New CFPB Director suspended efforts to change the name and noted that the bureau would use the BCFP name and seal on "statutorily required reports, legal filings, and other items specific to the Office of the Director, but for all other materials, the bureau will still be referred to as the CFPB.

CFPB Activity During 2018

- ***CFPB Solicitations For Comments*:**
  - Assist the CFPB with recommendations of potential changes to the Civil Investigative Demand (CID) Process
  - Assist the CFPB in considering whether to and how to amend the Bureau's Rules of Practice for Adjudication Proceedings
  - Assist the CFPB in assessing the overall efficiency and effectiveness of its supervision program
  - Assist the CFPB in assessing its public and non-public external engagements such as field hearings, town hall meetings, advisory boards, etc.
  - Assist the CFPB to determine possible changes to the public reporting practices of consumer complaint information
  - Assist the CFPB in determining the efficiency and effectiveness of its rulemaking processes
  - Assist the CFPB to determine is they should amend any rules associated with the Bureau's ability to issue rules
  - Assist the CFPB to consider whether the Bureau should amend the regulations or rulemaking authority it inherited from other federal agencies
  - Assist the CFPB in assessing the overall effectiveness of its guidance materials
  - Assist the CFPB in assessing its financial education programs
  - Assist the CFPB in determining if any changes should be made in the handling of consumer complaints and inquiries
  - Assist the CFPB as to whether any changes to the Bureau's enforcement processes would be appropriate
  - Assist the CFPB in evaluating enforcement, supervision, marketing monitoring, and education activities
  - Assist the CFPB in evaluating its proposal to create a "Disclosure Sandbox."

- ***Various Reports Issued By The CFPB:***
  - Quarterly consumer credit tends-Jan 2018
  - Fair Debt Collection Practices Act Annual Report-Feb 2018
  - Semi-Annual Report To Congress-Mar 2018
  - Consumer Response Annual Report-Apr 2018
  - Mortgage Market Activity And Trends-Apr 2018
  - Complaint Snapshot: Debt Collections-May 2018
  - Quarterly Consumer Credit Trends: End Of Year Credit Cards-May 2018
  - Building Blocks To Help Youth Achieve Financial Capability-Jun 2018
  - Final Student Loan Payments And Broader Household Borrowing-Jun 2018
  - Quarterly Consumer Credit Trends: Telecommunications Debt Collection-Aug 2018
  - Pathway To Financial Well-Being-Sept 2018
  - Measuring Financial Skill-Guide To Using The Bureau of Financial Protection Financial Skill Scale-Sept 2018
  - Sources and Uses Of Data At the Bureau of Consumer Financial Protection-Sept 2018
  - Complaint Snapshot-50 State Report-Sept 2018
  - Semi-Annual Report-Spring 2018-Oct 2018
  - Consumer Insights On Paying Bills-Nov 2018
  - Fair Lending Report-Nov 2018
  - Financial Literacy Annual Report-Dec 2018
  - College Credit Card Agreements 2018-Dec 2018

- ***Key Legislative Initiatives***
  - S.2155 “Economic Growth, Regulatory Relief, and Consumer Protection Act” became public law on May 24th, 2018. One of the primary goals of this bill was to provide regulatory relief to small banks and credit unions. Banks impacted by this legislation are no longer required to undergo “stress tests.”
  - A slew of other bills was introduced during 2018 with common themes; to either restructure the CFPB or give Congress the authority to control funding or the CFPB. The majority of these types of bills never moved past the committee.

<u>Final Comments</u>

Based on the CFPB’S Spring Rulemaking Update that was released back in May of 2018, it is expected that the agency will publish a “Notice of Proposed Rulemaking” (NPRM) to address debt collection regulations in the Spring of 2019 (possibly by March). On October 17, 2018, the CFPB further confirmed their intent to issue the notice by March of 2019. The reason for such a delay in releasing the NPRM may be in overcoming the challenge of how the proposed NPRM will revamp rules that are over 40 years old, and be able to modernize them enough so that the rules meet the needs of current consumers and debt collectors.
As a reminder, the remake of debt collection rules started back in 2013 with the “Advanced Notice of Proposed Rulemaking.” COHEAO submitted a detailed response to the “Advanced Notice” at that time. COHEAO’S CFPB Task Force is poised to organize and prepare a detailed response. If the NPRM is released soon as expected, the Task Force anticipates that submission of the responses will consume a substantial part of the group’s 2019 objectives

Once the proposed rules are published the expected response period will be somewhere between 60 to 90 days., The CFPB will issue final rules following their review of submitted comments. It is hoped that the final product will provide more clarity, continue to provide protections for consumers and reduce the volume of consumer law suits.

The current belief is that the CFPB will hold to their earlier statements that 3rd party collection regulations will be released first followed by 1st party rules in the future. COHEAO had advocated previously that both 1st and 3rd party rules be released at the same time as many of the proposed regulations are intertwined between the two parties.

The CFPB Task Force remains extremely appreciative of the support extended by Bose Washington Partners, and the Board of Directors. The Task Force acknowledges that they will be dependent on the resources from both entities as we address the proposed debt collection rulemaking during 2019.

Submitted by: Bob Perrin, Chair/Past President

Financial Wellness

In 2018, The COHEAO Financial Wellness Task Force focus continued to be on offering programs and training that support student financial wellness and not simply focusing on improving the financial knowledge of students.

The Financial Wellness Newsletter

The monthly newsletter is delivered electronically from COHEAO. The database has grown to 1, 322 subscribers from last years' 1,208 subscribers. I did some clean up on the list this year to get any bounced emails out of the system and to ensure more accurate information on our numbers. The newsletter continues to include trending articles, upcoming events and recommended resources to help institutions grow their financial wellness programs. I plan to add a feature section to the newsletter to feature member schools that have financial wellness programs as a way to highlight them and promote their achievements as members of COHEAO.

Annual Conference

The Financial Wellness Task Force hosted our second Financial Wellness Summit in Washington. DC. We decided to go to a half day structure and to not partner with HEFWA. Attendees were able to register for the entire COHEA conference or just for the 1/2 day Summit. This year's summit focused on the free resources available to institutions wanting to start or strengthen an existing financial wellness program. We featured NPGF, FDIC, Cash Course, and CFPB. We were able to provide to participants of the Forum the ability to earn up to 4 C.E.U. Credits for attending the sessions. The attendees that participated in the C.E.U. The credit option was able to receive their certificate on the same day of attendance.

FSA-Next Generation

Dr. Wayne Johnson and the team reached out to have a meeting with me to discuss a partnership with COHEAO and launching a pilot program discussing peer mentorship and ways to advance the use of the mobile FASFA app. During this meeting, we discussed the following:

1. How to bring a platform where students on campuses could assess speaking to someone about financial literacy through face time and or chat.
2. Power of collaboration – working with legislation to have more money available for financial literacy programing
3. Work study – reserving money for campuses to hire work study students to work in money management centers or being trained to answer financial literacy questions or become peer mentors.
4. Creating effective ways to test the success of financial literary programing
5. Lead task and instate data research on the number of a peer mentor on college campuses.
6. More effective matches for peer to peer counselors
7. The average number of students a peer to peer mentor could meet with

Member Schools

We have launched the task to contact all of our member schools to inquire if they have a financial wellness program or to find out who or what tool is used to promote financial literacy and to offer our assistance as an organization to find out what their needs are on a state level, school level, and national level.

Submitted By: Lottia Windham, Financial Wellness Chai

Perkins Task Force

It was the best of times; it was the worst of times," wrote Charles Dickens. This sums up our 2018 work. This was the year the "other shoe dropped." We rolled out of 2015 with strong success in getting Perkins renewed for two more years in hopes of securing a long term fix.

Bills to renew Perkins had strong leadership and support in the House with 245 House cosponsors for H.R.2482 - Federal Perkins Loan Program Extension Act of 2017 and 22 Senate sponsors for S.1808 - Federal Perkins Loan Program Extension Act of 2017. We were not able to get the floor for a vote; essentially, we had one hold out in Committee leadership that would not waiver. With that said, we did learn that Perkins has many supporters and a strong base of core schools and loyal servicing partners that support Perkins and her unique benefits to our most needy students and families.

As 2018 matured, we adjusted our outreach and messaging. The Perkins Task Force participated in two conference presentations and one webinar regarding alternative financing models such as using an institutional loan program and partnering with a private lender. The big win of 2018, achieved with the help of COHEAO leadership, schools, service partners, and Bose Washington Partners was getting legislation passed that allows the Dept. of Education to pay schools to service Perkins. HR 6157 Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Section 308 reads "*Funds appropriated in this Act under the heading ‘‘Student Aid Administration’’ may be available for payments for student loan servicing to an institution of higher education that services outstanding Federal Perkins Loans under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.).*" The hope is to somewhat replace the traditional Administrative Cost Allowance (ACA) that schools have used to subsidize their staffing and costs to administer Perkins. Credit goes to many un-named people for this achievement.

Looking head to 2019, I hope that we can focus on securing a definitive agreement with the Dept. of Education on the specifics of reimbursing schools for servicing Perkins and for learning better and articulate the harm being caused with Perkins in sunset mode. Also, for 2019 we have a new Congress that splits power between Democrats and Republicans. Between the Prosper Act and the Aim Higher Act we see indications of support for renewing and replacing

Perkins in some way or fashion. I hope that this conversation can move forward either independently or within HEA re-authorization.

Dickens also wrote "Consider nothing impossible, then treat possibilities as probabilities" - perhaps this should be our mantra for 2019.

Submitted by: Jeff Pfund, Perkins Task Force Chair

Annual Report on Hill Visits

At the 2018 Annual Conference, we covered over 40 congressional offices hitting many HELP And Education & Labor Committee members. Our main message was to introduce COHEAO's proposal the Perkins 21st Century Loan now renamed, the Perkins ARC Loan. Over all the visits were very productive and can summarize we do have congressional support for introducing a new program that will fill gap funding for students. Washington Partners and COHEAO Bod members have made many visits to the hill throughout the year so we can constantly keep our message strong and educate staffers and congressional members to express the needs of our institutions and students.

Submitted By: Anthea Jefferies, Member at Large

Student Tuition and Accounts Receivable (STAR)

In 2016 the IRS mandated that schools begin reporting in only Box 1, which is for paid amounts of qualified tuition and related expenses. (QTRE) Box 2, which was for QTRE charges, is now reserved on the form. The IRS was lenient for a couple of years, accepting a 1098-T with either box reported, but for the tax year 2018, Box 1 had to be used.

The Consumer Financial Protection Bureau issued a final rule amending the provisions of Regulation P that implement the Gramm-Leach-Bliley Act (GLBA) annual privacy notice requirement. The final rule provides that a financial institution is not required to deliver a GLBA annual privacy notice if the financial institution (1) only shares nonpublic personal information (NPPI) with nonaffiliated third parties only under one of the GLBA exceptions that do not trigger a customer's opt-out rights (§ 1016.13, § 1016.14, or § 1016.15); and (2) has not changed its policies and practices with regard to disclosing NPPI from the policies and practices that were disclosed in the most recent privacy notice provided to the customer.
Schools were scrambling to comply with the EU General Data Protection Regulation. This regulation went into effect on May 25, 2018. These regulations apply even to entities with no physical EU presence as long as they control, or process covered personal information of EU residents. Colleges and universities with EU-resident students or faculty should have taken steps to ensure compliance with these new regulations. Several US states have recently introduced and passed legislation to expand data breach notification rules and to mirror some of the protections provided by the GDPR.

Cash Management Regulations effective July 1, 2016, required that schools perform due diligence regarding their relationship with a Tier One (T1) or Tier Two (T2) provider. The Regulations require that the terms of the financial account offered under the Arrangement “are not inconsistent with the best financial interests of the student opening them.” The Secretary defines this requirement is met in two ways: (i) the institution must conduct due diligence every two (2) years to determine whether the fees associated with the financial account offered under an Arrangement are “considered as a whole, consistent with or below prevailing market rates”; and (ii) the contract governing the Arrangement includes a provision for termination due to student complaints or if the institution determines the fees associated with the financial account offered under an Arrangement “are not consistent with or are higher than prevailing market rates” Schools are free to make these disclosures in any format they choose, though the Departments model format provides a "safe harbor." The regulations at §668.164(d)(4)(i)(B) indicate that if an institution "follows the format, content, and update requirements specified by the Secretary in a notice published in the Federal Register following consultation with the Bureau of Consumer Financial Protection, it will be in compliance" with the requirements on major features and fees associated with these accounts.

COHEAO Conferences and Webinars for STAR in 2018

Annual:

- ✓ Bankruptcy and PLUS Loan Claw-backs
- ✓ Income Share Agreements: An Innovative Approach to Addressing Access and Affordability
- ✓ Institutional Loans: Ideas for Creating Programs and Best Practices for Managing Them
- ✓ Student Retention: The money Smart Way

Spring and Fall Workshops:

- ✓ Putting Financial Responsibility Agreements into Action
- ✓ Compliance Issues on Campuses
- ✓ Debtor Disputes and Proper Validation
- ✓ Protecting Data in the Cyber Age – What schools are doing
- ✓ Bankruptcy
- ✓ Perspectives on Campus Regulatory Compliance: A New California Law and an Overview of Risks Campuses Face

Webinars:

- ✓ Title IV Fraud
- ✓ GDPR: A month of Due Diligence
- ✓ The 1098-T and You: Learn How the Rules Have Changed, What You Should Do, and What is Ahead

Submitted By: Jeane Olson, Chair

Telephone Communication Protection Act (TCPA)

Background

The perception battle over the term “Robo-Calls” continues in the public arena with little separation between trying to define and understand the difference between calls that are made for legitimate purposes when compared to those calls that are made outside of the permissible scope. In general terms, it appears that the overall view from the public eye remains that the majority of calls made from an automated telephone dialing system (ATDS) must be “Robo-Calls” and considered dubious at best. Recognizing the fact that The Coalition of Higher Education Assistance Organizations (COHEAO) Membership is severely impacted by negative outcomes from court decisions, changes in legislation, as well as changes in state and federal regulations, the TCPA Taskforce continues efforts to fulfill their responsibility of supporting Bose Washington Partners by addressing membership’s concerns through advocacy, education, and responses to Notices of Proposed Rulemaking (NPRM). The 2018 TCPA Task Force Annual Report will provide a synopsis of some key issues that were addressed during the yea

Some Major Court Cases

ACA International-The long-anticipated court decision from the D.C Circuit in the case of ACA International v FCC was handed down on March 16, 2018. Originally filed by ACA International eighteen months prior as a consolidated appeal, the case was filed to challenge four items that were included in the 2015 Federal Communications Commission (FCC) order. The four items under consideration by the court were:

- Definition of an ATDS
- Re-assigned phone numbers
- Revocation of expressed consent
- Scope of TCPA exemption for health care calls

The outcome was a 50-50 decision with what many experts consider a win for the first two items while the FCC rules were upheld for the final two.

The court ruled that the FCC’S definition of an ATDS was broad and confusing, especially considering that any Smart Phone could be considered an ATDS. The TCPA definition from the 2015 FCC ruling defined an ATDS as “equipment which has the capacity (either present or potential) to:

- Store or produce telephone numbers to be called
- Using a random or sequential number generator to dial such numbers

Although the court ruling did not specifically define what an ATDS is, it did determine that the FCC’S definition of an ATDS was arbitrary and capricious.

The FCC 2015 ruling provided a safe harbor for “one attempt” made to a reassigned number. Of issue was defining who was the “called party’ in this action. Was the called party the actual person reached? The FCC Order is allowing a one call safe harbor created a tremendous amount of liability for callers who remained unaware that a number had been reassigned. It is not uncommon for callers to make multiple attempts to a number they believe is correct when in fact there is no information available to make them aware that the same number was reassigned to someone else. The court decided that the one-call safe harbor rule was unreasonable

ACA was seeking more standardization for a consumer to communicate their intent to revoke prior expressed consent. The FCC 2015 Order stated that a consumer could revoke consent by “any reasonable means.” The District Court ruled in favor of the FCC’s previous Order and did note that the parties in question do have the ability to mutually agree upon a revocation process through contractual arrangements.

Although the Health Call Exemption ruling does not directly impact higher education, it is a signal that the court was unwilling to expand TCPA exemptions to include more callers. Chairman Pai had stated in the past that he was not supportive of creating additional exemption carve outs.

There remains a need for additional clarity from the FCC after the ACA court case to further reduce the fear of potential law suits.

Marks v Crunch San Diego LLC-is a case that confronts the definition of an ATDS and more specifically the definition of capacity. The theme surrounding this case was whether there was a TCPA violation when Marks used a third-party platform ATDS to generate texts. The argument made by Marks was that a file was uploaded with a list of phone numbers, and the system did not have the capacity to store or produce numbers.

The District Court ruled in favor of Marks because the system did not have the capacity nor potential capacity to call random or sequential numbers. The case was appealed to the Ninth Circuit Court who ruled that the equipment may fall under the definition of an ATDS since it stored numbers (the file) and then dialed them automatically from the list.

The Marks case has added further confusion on what is and what isn’t an ATDS. Experts expect this case to reach the Supreme Court.

Reyes, Jr v Lincoln Automotive Financial Services- was originally heard at the District Court level. The District Court had granted summary judgment in favor of the defendant (Lincoln Automotive). The fundamental of this case was directed to the question of “if expressed consent language that is incorporated into an agreement or contract can be revoked.” The defendant's position was that since the TCPA consent language was one of the contact considerations to execute the agreement, the consent then, in fact, could not be revoked.

The District Court sided with the defendant, and the Second Circuit Appeals Court affirmed that same decision. The ruling was and remains a positive decision for creditors and others who have incorporated consent language into their agreements.

TCPA rulings during 2018 have also resulted in negative outcomes during 2018, and none of the cases described in this report should be considered legal advice. The point of sharing these few cases is to illustrate that the courts have in some instances during 2018 considered the outcome of the ACA International case in rendering their decision.

Responding to FCC’S Notices of Proposed Rulemaking

COHEAO’S TCPA Task Force continued to review any FCC (NPRM) released during 2018 to determine if the solicitation for comments were applicable and impacted the membership. The FCC remained very busy during 2018 as they sought to start addressing the topics of unwanted calls, spoofing, and a reassigned database. COHEAO submitted comments back to the FCC for the following (NPRMS):

- In the matter of “Interpretation Of The Telephone Consumer Protection Act In Light Of The D.C. Circuit’s ACA International Decision.” The FCC was seeking comments regarding the D.C. District

Court's decision as part of their overall strategy in formulating new definitions and regulatory guidance for:

- Definition of an Automated Telephone Dialing System
- Defining the term "Capacity
- Defining the term "Called Party."
- Revoking Prior Consent
- Pending petition for reconsideration of the 2016 Federal Debt Collection Rules Provision of the Bipartisan Budget Act of 2015

- In the matter of "Advanced Methods To Target And Eliminate Unlawful Robo-calls":
  - COHEAO provided comments and recommendations to the FCC'S proposal of a Reassigned Data Base. These comments sought to:
    - Address safe harbor for any caller who used the database
    - Provide enough demographic information back to the caller to have reasonable assurance that the data was accurate
    - Hold providers of information to the database harmless
    - Recommendation on how to pay for the reassigned database

Legislative Initiatives

Congress continued to introduce legislation that would protect consumers against unwanted calls during 2018. Senators Thume, Markey, and Wicker introduced the "Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (Traced Act). Senator Markey also introduced a bill in June of 2018 called "Stopping Bad Robocalls Act." Both bills sought to curtail unwanted calls, spoofing, and increase penalty fines.Senator Feinstein, Blumenthal, and Klobuchar also introduced a bill called the "Real Peace Act." This bill would eliminate the exemptions that telephone carriers receive from the FTC in their efforts to eliminate illegal Robo-calls.

The bills mentioned as well as other similar TCPA oriented bills did not move forward during the 2018 session but are expected to be introduced again during the 116th Congress. COHEAO, along with other associations, remain committed to advocating for reasonable legislation that balances the right to use automated telephone phone systems for legitimate purposes while continuing to support bills that would eradicate unwanted Robo-Calls.

Education Initiatives for COHEAO Membership

During 2018 Bose Washington Partners included summaries of COHEAO'S TCPA'S advocacy efforts in the Torch as well as published various news articles that were pertinent to TCPA issues that could potentially impact the membership. Other COHEAO educational offerings during 2018 included a TCPA webinar following the ACA International District Court Ruling as well as providing monthly activity updates to the Board Members COHEAO is also planning to offer a session on TCPA during the 2019 Annual Meeting.

Final Comments

The TCPA Task Force would like to extend their appreciation to Bose Washington Partners and COHEAO'S Board of Directors for their guidance and support as collectively we navigate through the challenges of promoting changes to a law that dates to 1991.

Submitted By: Bob Perrin, Chair/Past Presiden

Agenda Committee

In 2018, COHEAO offered an annual conference, two (2) regional workshops, three (3) free webinars and eight (8) paid webinars. Details on each event are outlined below.

- **2018 Annual Conference**
  - January 28-31, 2018: COHEAO Annual Conference, Arlington, VA
    - 56 Attendees
    - 10 Financial Wellness Forum only participants
- **2018 Workshops**
  - May 3, 2018: COHEAO Higher Ed Compliance Workshop, Manhattan College
    - 53 Attendees
  - September 18, 2018: COHEAO Higher Ed Compliance Workshop, Loyola Marymount University
    - 41 Attendees
- **2018 Webinars**
  - Free Webinars:
    - February 27, 2018: Perkins Grassroots Webinar
      - 354 participants
    - May 10, 2018: Your Perkins Portfolio: Strategy and Next Steps
      - 202 participants
    - November 30: 2018 Elections: What Happened and What Lies Ahead for Higher Education
      - 174 participants
  - Paid Webinars:
    - March 29, 2018: Combatting Title IV Fraud
      - 27 participants
    - April 26, 2018: Financial Literacy: Educating Domestic and International Students
      - 10 participants
    - May 24, 2018: Telephone Consumer Protection Act (TCPA) Webinar: A Brief History and Updates on Current Status
      - 16 participants
    - July 26, 2018: Changes to the Financial Literacy and Education Improvement Act and Recent Updates from Trellis
      - 15 participants
    - August 23, 2018: GDPR: A Month of Due Diligence
      - 14 participants
    - October 4, 2018: Developing and Managing an Institutional Loan Program
      - 23 participants
    - November 1, 2018: State Laws and Regulations Affecting Student Loan Servicers
      - 15 participants
    - December 6, 2018: 1098-T Forms: New Developments, and Penalties for Non-Compliance
      - 43 participants

In total, there were 56 Annual registrants, with ten additional attendees for the financial wellness forum only. The workshops netted 94 attendees, between both east and west coast. Finally, we had 163 paid webinar participants and 730 free webinar participants.

Submitted by: Christina Cardinale, Agenda Chair

COHEAO Board 2018

COHEAO 2018 Board of Directors			
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