Assisting Struggling Borrowers by Expanding Access to Loan Rehabilitation

According to a recent Consumer Financial Protection Bureau (CFPB) study, more than 41 million Americans collectively owe more than $1.2 trillion in federal student loan debt. Of that amount, the U.S. Department of Education states that nearly $115 billion is in default. While a relatively small number of borrowers (less than 1 percent) have student loans over $100,000, the average borrower owes approximately $29,000, an amount that has risen at more than twice the rate of inflation over the last decade. With college costs and student loan debt on the rise and high youth unemployment and underemployment, more borrowers are struggling to get a good job and repay their loans on time.

According to data released by the Institute for Higher Education Policy, approximately 58 percent of all student loans ($543.3 billion) are in repayment with the remaining percentages in in-school, deferment, forbearance, grace, or default status. But these figures do not tell the whole story. The percentage of those in repayment includes:

- 4.31 percent ($23.4 billion) of borrowers who are 31 to 90 days delinquent;
- 2.47 percent ($13.4 billion) of borrowers who are 91 to 180 days delinquent;
- 1.58 percent ($8.6 billion) of borrowers who are 181-270 days delinquent; and
- 0.83 percent ($4.5 billion) of borrowers who are 271-360 days delinquent.

In addition, approximately 9.5 percent of all federal student loans ($114.8 billion) are in default and have been transferred to collections, and this number is expected to continue to increase. Clearly, many Americans are in need of assistance in managing their student loan debt.

The federal government's main program for assisting defaulted borrowers struggling to repay their student loans is loan rehabilitation. Under this program, student and parent borrowers work with the Department of Education, guaranty agencies, and their agents to agree on reasonable and affordable payment plans. After making nine out of ten consecutive voluntary, on-time payments, the defaulted loans are rehabilitated and borrowers regain all benefits of the federal student loan program and eligibility for additional federal grants and loans. Just as important, the default status is removed from the borrowers' credit reports and borrowers are no longer subject to wage garnishment or tax refund offset.

NCHER Reform Proposals

The National Council of Higher Education Resources (NCHER) believes defaulted borrowers need additional help to repay their student loans. We urge Congress to assist struggling borrowers by:

- <u>Expanding access to loan rehabilitation.</u> The Higher Education Act provides all defaulted borrowers the opportunity to rehabilitate their student loans, so they can repay their financial obligations and repair their tarnished credit histories. Unfortunately, the law restricts loan rehabilitation to one-time per loan. As college costs continue to rise, many federal student loan borrowers are continuing to struggle to repay their loans, and re-defaults are at record highs. Congress should recognize that some individuals need additional help and allow defaulted borrowers to rehabilitate their loans more than once under certain circumstances, including enrolling and completing a financial counseling and debt management program.

- <u>Allowing access to the NDNH.</u> The National Directory of New Hires (NDNH) is an employment database maintained by the U.S. Department of Health and Human Services (HHS) to assist state child support enforcement agencies in locating non-custodial parents and establishing and enforcing child support orders. In 1999, as part of the Consolidated Appropriations Act of 2000, Congress expanded the permissible uses of the NDNH so the Department of Education and guaranty agencies could use information contained in the NDNH to locate student loan borrowers who are employed but not making payments on their defaulted student loans. Unfortunately, HHS has suspended access to the NDNH for student loan collections. Congress should require HHS to allow the Department of Education and guaranty agencies access to the NDNH to locate struggling borrowers so that they can be counseled on their repayment options and offered the opportunity to rehabilitate their defaulted loans.

- Improving Access to NSLDS. The National Student Loan Data System (NSDLS) is the Department of Education's central database for student aid. It receives data from schools, guaranty agencies, the Direct Loan program, and other Departmental programs. Congress should allow third-party servicers, including loan servicers and collection agencies, view-only access to NSLDS so they can accurately and effectively counsel student and parent borrowers. These entities are already required to meet federal data security standards.

- Permitting private lenders to remove the default record upon the rehabilitation of a private education loan. Under the federal student loan program, defaulted borrowers who make nine voluntary, on-time payments over a 10-month period can have their student loans rehabilitated, and the default status removed from their credit reports. This provides a powerful incentive for borrowers to undertake what is needed to rehabilitate their student loans. Even though the CFPB strongly recommends that private lenders help distressed borrowers, private lenders are prevented from utilizing this tool. Congress should amend the Fair Credit Reporting Act (FCRA) to allow private lenders to remove the default record when the borrower satisfies the lender's rehabilitation standards. This change will help many struggling borrowers avoid the ongoing stigma of default.

If you have any questions or need more information, contact Sean Deverey, Vice President for Government Relations at the National Council of Higher Education Resources (NCHER), at sdeverey@ncher.us or (202) 822-2106.

Legislative Language

Section 428F(a) of the Higher Education Act (20 U.S.C. 1078-6(a)) is amended by revising paragraph (5) to read as follows:

> "(5) LIMITATION. – A borrower who has previously rehabilitated a loan may, upon a subsequent default, rehabilitate the loan an additional time provided the borrower:
>
> > (i) enrolls in and completes a loan counseling and debt management program offered by a higher education service agency with proven expertise and experience in providing such services; and
> >
> > (ii) agrees to repay the loan under, and successfully enrolls in, an income-based repayment plan. Such plan shall provide for reasonable and affordable monthly payments whereby the amount of such payment on the loan, when factoring in principal and interest, does not negatively amortize."