

March 7, 2014

Dear Fellow Negotiators:

Since the 2011 change to the interpretation of the “adverse credit history” definition for the Plus Loan borrowing program, the legal community that serves low income students and their parents has been wrestling with a question that places our most dearly held values at odds. How do we provide the safest education borrowing options for underserved populations, while also ensuring that the non-profit institutions that serve those populations are able to thrive?

The Plus Loan program is not a safe loan product. It is heavily weighted in favor of the lender, allowing the Department of Education to screen the credit worthiness of applicants while also granting the Department the extraordinary powers of collection that ordinarily exist for loan programs, like Stafford, that have no credit check and presume increasing ability to repay. Borrowers often take on incredible amounts of debt – sometimes two or three times over – to give their children education at any cost. And when the parents encounter hard financial times, they are subject to garnishments of their wages, tax returns, and social security payments until the debt is repaid.

It is important that, as we consider how institutions have been affected by the changes to the Plus Program, we do not lose sight of those parents and families whose very financial futures the program impacts just as dramatically.

Our efforts to balance these interests have been seriously stymied by the lack of any data being provided to the negotiators regarding this issue. The Department is essentially asking us to regulate in a vacuum, to trust projected numbers in the President’s budget, the claims of institutions whose livelihoods depend on access to the Plus Programs, and third party policy analysts who are trying to wade through what little objective data exists. That is a recipe for uninformed disaster.

Therefore, we are proposing that, at the very least, the regulations promulgated by this rule-making include requirements for data collection and publication by the Department. This requirement should include:

- For the purposes of data collection, an untwining of the Parent Plus and Graduate Plus loan programs, so that specific analysis of each is practical and accessible.
- The number of Parent and Graduate Plus loan applicants each year.
- The racial, gender, and socio-economic demographics of Parent and Graduate Plus applicants.
- The number of Parent and Graduate Plus loan applicants who are declined each year. The decline rates should categorize the reason behind the adverse decision.
- The default rate for Parent and Graduate loan programs by school and institution type.
- The default rate for Parent and Graduate loan programs across racial, gender, and socio-economic demographics by school and institution type..
- The face value of defaulted loans for the Parent and Graduate Plus Programs each year.

This information will allow future negotiators to do their jobs more effectively, to make evidence-based decisions and to inform the establishment of best practices by the Department of Education. Without a data collection mandate, this round of negotiated rule making does nothing but set up future negotiators for failure, once again making decisions based on anecdotal evidence.

Thank you for your consideration.

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