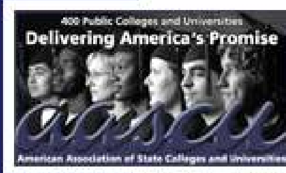

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December 3, 2008

Ms. Cheryl Oldham
Acting Assistant Secretary
U. S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Assistant Secretary Oldham:

We write to bring to your attention two sets of issues affecting students and borrowers.

The first is the effective date of Section 473(e) of the Higher Education Act affecting the treatment of veterans benefits in need analysis. The current statute has an effective date of July 1, 2010 for the elimination of the use of veterans benefits in the determination of aid eligibility. We propose that this date be amended to July 1, 2009.

We believe this change would not have a significant budgetary impact given the current subsidy levels associated with Stafford Loans in both the FFEL and DL programs and the fixed appropriations in the campus based programs. We also believe that since this change would only serve to eliminate the use of the benefits, it would not necessitate a change in the 2009-10 FAFSA form.

The second issue we are raising is related to the current student loan environment. While there has been much done to alleviate lender issues related to capital, there has been significantly less attention given to assisting borrowers who will face difficulty in making scheduled repayments on their loans.

In particular, there is concern on the part of consumer advocates that borrowers are unnecessarily placed into rehabilitation and with the current capital markets, few, if any, lenders are purchasing the rehabbed loans for their portfolios. We believe the student loan programs are better served when borrowers are made aware of the full range of repayment options when faced with difficulty in making repayment, particularly the availability of IBR and consolidation into DL to have access to ICR.

When lenders and guarantee agencies (hereafter GAs) fail to make a full disclosure of these options to borrowers who are then forced into default, collection fees and penalties accrue unnecessarily for the borrower, thus exacerbating the repayment conditions. We believe the Department can, through the procedures for accepting default claims, implement a process to have lenders and GAs attest to and document the provision of full disclosure of repayment options to the borrower. With the penalties for

non-compliance and the possible rejection of claims, it is likely, for business reasons, wayward lending entities will conform with the consumer-friendly approach.

In addition, given these perilous times, the Department should consider suspending the usual practice of declaring the full loan due and payable upon default. The acceleration of the loan makes it much more difficult for the borrower to become current in payments; thus suspension of the customary acceleration practice associated with consumer loans helps to preserve deferment and cancellation provisions for the borrower as well as retain the full range of repayment options including IBR and ICR as a means of curing the default situation. Consideration should also be given to permit the use of IBR and ICR to cure loans that are classified as defaults to assist borrowers to regain a good credit status.

We believe some of the costs incurred by carrying the loans are offset by some reduction in costs for payments by the Department for default claims, GA rehabilitation fees, and GA maintenance fees.

These two sets of issues affect many students and borrowers. Addressing them in the manner we have suggested would, we believe, help alleviate some of their concerns regarding financial aid and student loan repayment in a recessionary time without significantly adverse budgetary impacts.

Sincerely,

Edward M. Elmendorf
Senior Vice President
Government Relations and Policy Analysis

cc: Deputy Assistant Secretary Vincent Sampson
Acting Deputy Assistant Secretary of Higher Education Programs Vickie Schray