

January 17, 2011

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1500 Pennsylvania Ave., NW
(Attn: 1801 L Street)
Washington, DC 20220

(sent via email to: CFPB_StudentsFedReg@cfpb.gov)

Dear Ms. Jackson:

These comments are in response to the “Request for Information Regarding Private Education Loans and Private Educational Lenders” (FR Doc. 2011–29737, Docket No. CFPB–2011–0037). We appreciate the opportunity to comment as the Consumer Financial Protection Bureau (Bureau) prepares its report on these topics, as required by Section 1077 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

The Institute for College Access & Success (TICAS) is an independent, nonpartisan, nonprofit research and policy organization working to improve both educational opportunity and outcomes so that more underrepresented students complete meaningful post-secondary credentials and do so without incurring burdensome debt. Our Project on Student Debt, launched in 2005, focuses on increasing public understanding of rising student debt – including private student loan debt – and the implications for individuals, families, the economy and society.

Publicly available data provide a troubling, but incomplete, picture of the private education lending market in the United States and its impact on students and families. The Bureau’s study represents an important opportunity to improve public understanding of what is at stake for consumers at all stages of the private loan process. We believe the information gathered and analyzed by this study will underscore the need for the Bureau to work with the Department of Education, Congress, colleges and others to strengthen consumer protections and provide consumers with the information they need to make sound decisions about how to pay for college.

Private student loans are one of the riskiest ways to pay for college.¹ No more a form of financial aid than a credit card, private student loans typically have uncapped variable interest rates that are highest for those who can least afford them. Even when fixed rates are offered, private loans lack the basic consumer protections and flexible repayment options of federal student loans, such as unemployment deferment, income-based repayment, and loan forgiveness programs. Because of the high risks and costs associated with private loans, experts agree that students should

¹ Unless otherwise noted, in this document we use the term “private student loans” to refer to all non-federal student loans. The majority of these loans are made to students by private banks and lenders, but some states and colleges offer non-federal student loans as well.

always exhaust all available financial aid, including federal loans, before even considering a private student loan. However, the most recent federal data show that ***a majority of private loan borrowers could have borrowed more in federal loans before turning to private loans.***²

Private loan volume for undergraduates increased at a double-digit rate each year for over a decade, reaching a peak of \$18.9 billion in 2007-08.³ The recent credit crisis made it more difficult for private lenders to raise capital and limit their exposure to risk through securitization, as it did for home mortgage lenders. This led lenders to tighten underwriting standards and require co-signers for most private student loans.⁴ Concurrently, increases in federal Pell Grants and in the loan limits for federal Stafford Loans may also have helped to reduce private loan volume. Although annual volume has declined substantially from the 2007-08 peak, students are still taking out billions of dollars in new private loans every year. In addition, there are many signs of a return to growth in the private loan market, with large lenders reporting growth and others entering the market.⁵

The most recent federal data show rapid growth in the share of undergraduates using private loans, from 5 percent in 2003-04 to 14 percent in 2007-08. For-profit colleges had the largest proportion of students taking out private loans in 2007-08, and the largest increase compared to four years earlier.⁶ In fact, a majority of the graduates of for-profit colleges leave with private loans.⁷

More and better information is needed about the types of private education lending products being offered, what types of lenders, colleges, and other entities are involved in making and marketing these products, how they are advertised and delivered to customers, and how well students and families understand them. Currently, the most comprehensive source of data on the extent and types of private lending, the characteristics of private loan borrowers, and the colleges they attend is a federal survey conducted every four years, with little data at the state level and none at the college level. It is important for students, policymakers, and the public to have timely and accurate information about all student borrowing at the national, state, and college level to

² The Project on Student Debt at The Institute for College Access & Success (TICAS). 2011. *Private Loans: Facts and Trends*. http://projectonstudentdebt.org/files/pub/private_loan_facts_trends.pdf. (Also included as Appendix A.) Also see: U.S. Department of Education. National Center for Education Statistics (NCES). 2011. *The Expansion of Private Loans in Postsecondary Education*. <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2012184>. Accessed December 13, 2011. Pp. 10-11. These data are for private student loans from banks/lenders.

³ College Board. 2011. *Trends in Student Aid 2011*. Table 2a.

http://trends.collegeboard.org/student_aid/report_findings/indicator/Total_Aid_Current_Dollars. Accessed January 9, 2012. \$17.1 billion of these loans were made to undergraduates by private banks/lenders, while \$1.8 billion were made by states or institutions of higher education. An additional \$4.3 billion of private loans were made to graduate and professional students, making the total private student loan market \$23.2 in 2007-08. Our research is primarily about undergraduates and we focus our comments on that group.

⁴ The Project on Student Debt at TICAS. 2010. *Bankruptcy and The Private Student Loan Market*.

http://projectonstudentdebt.org/files/pub/Bankruptcy_the_Private_Student_Loan_Market_April_2010.pdf.

⁵ The Project on Student Debt at TICAS. 2011. *Risky Private Student Lending on the Rise Again*.

http://ticas.org/files/pub/Private_Student_Lending_on_the_Rise.pdf.

⁶ The Project on Student Debt at TICAS. 2011. *Private Loan Facts and Trends*. Also see: U.S. Department of Education. NCES. 2011. *The Expansion of Private Loans in Postsecondary Education*. These figures are for private loans to undergraduates from banks/lenders, excluding state/institutional loans.

⁷ College Board. 2009. *Who Borrows Most Bachelor's Degree Recipients with High Levels of Student Debt*. Table 2.

<http://advocacy.collegeboard.org/sites/default/files/Trends-Who-Borrows-Most-Brief.pdf>. Accessed December 19, 2011.

inform decision making and hold colleges accountable for their policies and practices. There is also very little publicly available information about the rates and terms of private loans when they are first issued, or when they are in repayment. Knowing more about what borrowers are actually expected to pay will shed important light on the private loan market and its impact on students and families.

Our goal in submitting these comments is to ensure that the Bureau's private student loan study documents the risks private loans pose to consumers and the potential for additional regulation and data collection to help mitigate these risks. We answer below each of the questions provided in the *Federal Register* notice and provide additional information on topics included in Section 1077 of the Dodd-Frank Act.

Our comments explain the need for the Bureau to take a range of actions, such as:

- Work with the Department of Education and other agencies to collect detailed annual data on private loan usage at the college, state and national levels, preferably by requiring lenders to report all private loans to the existing federal student loan database;
- Require lenders to seek school certification for all private student loans;
- Improve the existing private loan disclosures required by the Higher Education Opportunity Act of 2008 and promulgated by the Federal Reserve;
- Provide guidance to colleges on how they can provide meaningful consumer information to students shopping for a private student loan and lender; and
- Collect college-level data on institutional loans to students and promptly stop predatory lending that is taking place at some for-profit colleges.

Responses to the Bureau's Questions

In this section of our comments, we respond to the specific questions the Bureau poses in the *Federal Register* notice.

Scope and Use of Private Education Loans

1. In addition to private education loans, to what extent do students and their families rely on other forms of non-federal debt financing to pay for postsecondary education (e.g., tuition payment plans, student credit cards, parent or family credit cards, home equity lines of credit, etc.)?

Existing data are very limited but suggest that students and families use a wide variety of financing methods to pay college expenses, including all of those mentioned above. The American Council on Education (ACE) conducted a study in 2006 on college students' credit card ownership and usage, using data from the Department of Education's National

Postsecondary Study Aid Study (NPSAS) for 2003-04.⁸ Updated data on many but not all of the same questions are now available for 2007-08, but we are not aware of any published analyses of the more recent data.⁹ Private lender Sallie Mae conducts an annual survey of college students and their parents about paying for college, which provides a snapshot of how some students and parents use federal and student loans, credit cards, home equity lines of credit, and other forms of financing to cover college expenses.¹⁰ We are not aware of publicly available data addressing the extent to which students and families who use credit cards and other forms of non-federal debt financing to pay college expenses carry balances and pay interest on this debt or use these forms of payment for convenience and pay them off right away. Also, some studies focus on the extent to which credit cards are used to pay for tuition and fees only, rather than for the full cost of attendance.

It is also important to note growing concerns about fees charged by colleges and their vendors for credit card payments and tuition payment plans.¹¹ Little is known about the usage of tuition payment plans, the magnitude of the fees collected in connection with such plans, or the types of arrangements that exist between colleges and companies that help them manage these plans and other institutional financing programs. For example, one company works with schools to “establish unique rates and terms” that improve cash flow for the school, so the school receives more of the tuition up front rather than waiting to receive funds from student payments.¹² More information is needed to ensure that consumers understand the implications of using tuition payment plans, and that colleges and their vendors are not using these and other similar plans to avoid restrictions on private student loans.

2. For students who do not exhaust their federal loan options, including those that require the completion of a Free Application for Federal Student Aid (FAFSA), before turning to private education loans, what explains their choice of private loans?

As noted above, despite the consensus that private loans should only be used as a last resort after using all federal loan options, the most recent federal data show that a majority of private loan borrowers did not exhaust their federal student loan options before turning to private loans.¹³ One important factor that leads students and families to borrow private loans without first using

⁸ American Council on Education (ACE). 2006. *Credit Card Ownership and Behavior Among Traditional-Age Undergraduates, 2003-04*. http://www.acenet.edu/AM/Template.cfm?Section=Search§ion=issue_briefs&template=/CM/ContentDisplay.cfm&ContentFileID=7301. Accessed December 13, 2011.

⁹ See: U.S. Department of Education. NCES. National Postsecondary Student Aid Study (NPSAS). <http://nces.ed.gov/surveys/npsas/>. Accessed January 9, 2012.

¹⁰ Sallie Mae. 2011. *How America Pays for College 2011*. http://salliemae.com/about/news_info/research/how_america_pays_2011. Accessed December 20, 2011.

¹¹ See: Bernstein, Noah. 2011. The Hidden Costs of Higher Ed. *The New York Times*, August 21. <http://www.nytimes.com/2011/08/22/opinion/the-hidden-costs-of-higher-ed.html>. Accessed December 21, 2011. Also see: Chu, Kathy and Mary Beth Marklein. 2009. Paying college tuition with credit cards gets costlier. *USA Today*, July 1. http://www.usatoday.com/money/perfi/credit/2009-06-30-credit-card-fees-college-tuition_N.htm. Accessed December 21, 2011.

¹² Education Loan Source. 2011. *Education Loan Source Launches TuitionFlexPLUS Financing Program for International Education Corporation*. <http://www.tuitionflex.com/About-ELS/Press-Releases.aspx>. Accessed December 21, 2011.

¹³ The Project on Student Debt at TICAS. 2011. *Private Loan Facts and Trends*. Also see: U.S. Department of Education. NCES. 2011. *The Expansion of Private Loans in Postsecondary Education*. Pp. 10-11. These figures are for private loans to undergraduates from banks/lenders, excluding state/institutional loans.

all they could in federal loans is a lack of good information at the time they make decisions about whether, how, and how much to borrow for college. When we asked financial aid administrators what students and families say about why they apply for private student loans, one prominent theme that emerged was the considerable extent to which consumers seeking private loans are misinformed about the availability of federal student loans and unaware of the risks of private loans.

Here are some of the more common reasons financial aid administrators hear from students and families about why they apply for private student loans:¹⁴

- Assume they earn too much to qualify for federal student loans (in fact, there is no income limit)
- Unaware that federal Parent PLUS loans are available and can cover up to the full cost of attendance
- Believe the application process for federal loans is too long and complicated
- Think that private loans will be disbursed faster than federal loans
- Are attracted by what appear to be lower interest rates on private student loans
- Do not realize the implications of variable versus fixed interest rates
- Do not want to give their personal information to the government
- Want to stick with banks they already do business with
- Parents will not apply and/or qualify for federal Parent PLUS loans, but the student can get other relatives or friends to co-sign a private loan

One of the reasons for these widespread misunderstandings is the aggressive marketing of private loans. Students and families are frequently targeted for private loan solicitations and other marketing materials from lenders, such as online ads, direct mail solicitations, financial institutions they already do business with, or online searches. Before the recent credit crisis, many lenders were aggressively pushing “direct to consumer” loans through broadcast and online advertising. These ads encouraged students to bypass the college and the federal financial aid process by emphasizing the ease and speed of their application and loan delivery processes, without mentioning differences in the rates and terms of federal versus private loans.¹⁵ There is still plenty of advertising directly to consumers. The first screen of results when doing a Google search on the keywords “student loan” includes many links and ads for private loans but only a couple for federal student loans. (See Appendix B for screenshot.) Many of the phrases used in the sponsored results are very similar to those commonly seen when the private loan market was at its peak. For example:

- “Need a Student Loan Fast?”

¹⁴ The Project on Student Debt at TICAS. 2011. *Critical Choices: How Colleges Can Help Students and Families Make Better Decisions about Private Loans*. http://projectonstudentdebt.org/pub_view.php?id=766.

¹⁵ See: New America Foundation. 2007. Safeguards Needed for Private Student Loans. *Higher Education Watch*. http://higheredwatch.newamerica.net/blogs/education_policy/2007/07/safeguards_needed_private_student_loans. Accessed December 21, 2011. Also see: Student Lending Analytics. 2008. Taking a Google Perspective on Alternative Student Loans. *Inside Student Lending newsletter*. <http://www.studentlendinganalytics.com/june08.html#d>. Accessed December 21, 2011.

- “Get \$40,000 in Student Loans ASAP. No Payments Until After Graduation.”
- “It’s Quick, Easy, and Free to Apply No Payments While You’re In School”

These messages are misleading since applying for federal loans is also free, financial aid administrators report that funds can be available as quickly as one week after applying, and no payments are due during school. In fact, for subsidized federal loans, interest does not even accrue until after the student leaves school. Also, as discussed in more detail under Questions 3 and 8 below, colleges have a crucial role to play in helping students and their families make informed borrowing decisions, but whether and when they provide useful information varies widely. In some cases, colleges include private loans in financial aid packages, giving the false impression that these products are a form of financial aid.

Given the misleading advertising by lenders, widespread misinformation among students and families, and the fact that students are taking out private loans before exhausting their federal loan options, it is clear that better consumer information and protections are needed.

Information and Shopping for Private Loans

3. From what sources do students and their families obtain information about private education loans and private lenders? What sources are most helpful and accurate?

Students and families typically look to college financial aid offices for information about all aspects of student loans.¹⁶ This means that college financial aid officials have a unique opportunity – and responsibility – to help students and families make informed and careful decisions about borrowing for college.¹⁷ However, based on available information, it appears that many colleges are not doing all that they could to ensure students and families make informed decisions about whether to take out a private loan or how to compare the risks and costs of different private loans.

The extent of private loan borrowing varies greatly from college to college, even among colleges with similar levels of overall borrowing. For example, for the graduating class of 2010, only seven percent of overall student debt at Eastern Kentucky University (KY) was composed of private loans, compared to 71 percent at North Georgia College & State University (GA). However, at both colleges about 70 percent of students graduated with loans and their average overall debt was just over \$10,000.¹⁸ While factors such as a college’s cost of attendance and

¹⁶ See: Consumers Union. 2007. *Helping Families Finance College: Improved Student Loan Disclosures and Counseling*. <http://www.consumersunion.org/pdf/CU-College.pdf>. Accessed December 14, 2011. Also see: Sallie Mae. 2011. *How America Pays for College 2011*.

¹⁷ While most financial aid administrators take this responsibility seriously, in 2007, news stories and investigations by New York’s attorney general exposed multiple examples of colleges and lenders working together in ways that conflicted with students’ interests. Some colleges and financial aid administrators had revenue-sharing agreements and other inappropriate financial relationships with private student loan companies. Provisions of the Higher Education Opportunity Act, passed in 2008, banned most of these practices.

¹⁸ At Eastern Kentucky University, 71% of the Class of 2010 borrowed student loans and the average debt of borrowers was \$10,152. At North Georgia College & State University, 68% of the Class of 2010 borrowed student loans and the average debt of

available grant aid influence overall debt levels, examples like this suggest that other college practices can make a difference in the extent to which that debt is composed of private loans.

Students often learn about private loans from college web sites, materials that accompany financial aid award letters, or through counseling with a financial aid administrator. In some cases, colleges even include or “package” specific amounts of private student loans in the initial financial aid award letters sent to students. Including **private loans as part of financial aid offers** conveys the college’s implicit approval of this type of financing, gives the false impression that private loans are a form of financial aid, and may keep students and families from exploring other options. In addition, while federal law governing relationships between colleges and student lenders appeared to ban the use of college names and logos in branding private loans, a regulatory loophole continues to allow some forms of such “co-branding.” This practice can cause confusion about the source of the loan and conveys the college’s apparent endorsement of this risky form of financing.¹⁹ One current example of co-branding is the “Grove City College Student Loan” made by PNC Bank. The college’s financial aid web site has a link to a PNC web page that includes the college’s logo.²⁰

In addition, few colleges are providing substantive information to students and families about how to choose among private loans or lenders should they decide to seek a private loan. A recent survey found that almost two-thirds of colleges are either not using the option to create a “**preferred lender list**” for private loans or are providing a list that simply shows the lenders that students at that college have used in recent years.²¹ In the absence of helpful information from financial aid offices, students and families often turn to marketing materials from lenders. As mentioned above, such materials often imply that private loans are faster and easier to obtain without mentioning the differences in rates and terms between federal and private loans. Given how few colleges are providing any meaningful consumer information about how to choose a lender, we urge the Bureau and/or the Department of Education to provide colleges with guidance on how they can do so.

As discussed in more detail in our response to Question 8 below, some colleges provide counseling when they first learn that a student or parent is applying for a private student loan, and there is evidence that this counseling impacts borrowing choices.²² However, such practices depend on voluntary behavior by private student lenders: the process of **school certification**, where lenders ask colleges to confirm a student’s enrollment and costs not covered by financial aid. Requiring lenders to obtain school certification for all private loans, including confirmation

borrowers was \$10,021. See The Project on Student Debt at TICAS. 2011. *State by State Data*. http://www.projectonstudentdebt.org/state_by_state-data.php.

¹⁹ Podkul, Cezary. May 23, 2011. Fed loophole lets lenders keep using college logos to pitch student loans. *iWatch News*. The Center for Public Integrity. <http://www.iwatchnews.org/2011/05/23/4699/fed-loophole-lets-lenders-keep-using-college-logos-pitch-student-loans>.

²⁰ Grove City College. *Student Loans*. http://www.gcc.edu/Student_Loans.php. Accessed January 6, 2012. Also see: PNC Bank. *Welcome Grove City College students and families!* <http://www.pnconcampus.com/schools/gcc/index.htm>. Accessed January 6, 2012.

²¹ Student Lending Analytics. 2010. Only 1 in 7 Schools Created PLL for PL for 2010-11. *Student Lending Analytics Blog*. http://studentlendinganalytics.typepad.com/student_lending_analytics/2010/10/here-are-the-highlights-from-the-recent-sla-flash-survey-on-private-loan-lender-lists-which-had-170-respondents-in-findi.html. Accessed December 9, 2011.

²² The Project on Student Debt at TICAS. 2011. *Critical Choices*.

that students have been notified of any remaining federal loan eligibility, will ensure that all colleges have the opportunity to counsel students before they commit to a risky private loan. Organizations representing lenders, financial aid administrators, colleges, and students all support this policy—often referred to as “mandatory school certification”—and see it as a critical tool for ensuring that students use safer federal loans first.²³

Furthermore, requiring school certification would help to contain students’ debt burdens. Sallie Mae, the largest lender of private student loans, has reported that school certification reduces the amount borrowed for nearly 30 percent of the loans that go through the certification process, because loans are capped at the student’s full cost of attendance minus aid as reported by the school.²⁴ Analyses indicate that school-certified loans also have significantly lower default rates than uncertified loans.²⁵

Current law requires only that lenders obtain a “self-certification” form from the borrower before consummating a private loan. However, in contrast to school certification of private loans, the information on the self-certification form does not have to come from the applicant’s school or be verified in any way. In fact, the final rules allow lenders to provide pre-filled self-certification forms directly to borrowers.²⁶ This means there may be no contact between the lender and the college, or the borrower and the college, before the loan is made. Financial aid administrators view the self-certification process as redundant and ineffective, as documented in a recent survey. The most frequent response to a question about how to improve self-certification was, “[S]ubstitute school certification for the self-certification process.”²⁷

3a. How effective are the existing disclosures provided by private education lenders regarding the terms and conditions of the loans? Among other things, comments could address issues such as whether students and their families feel they adequately understand the terms and conditions of various financial products offered to finance their education goals.

²³ See: December 10, 2009 letter signed by 25 organizations, including TICAS, in support of mandatory certification (http://projectonstudentdebt.org/pub_view.php?id=534), and May 7, 2010 letter signed by lenders and others urging inclusion of mandatory school certification in the Senate financial reform bill (<http://higheredwatch.newamerica.net/sites/newamerica.net/files/articles/NASFAASchoolCert%20May%207%20CBA%20NASFAA%20et%20al.pdf>).

²⁴ Sallie Mae Inc. *Re: Proposed Rule Implementing Title X of the Higher Education Opportunity Act of 2008*, Docket # R-1353. http://www.federalreserve.gov/SECRS/2009/May/20090529/R-1353/R-1353_052609_21079_591049709690_1.pdf. Accessed December 9, 2011.

²⁵ See: Moody’s Investors Service. 2009. “Direct-To-Consumer” Student Loans: Higher Risk. Also see: U.S. House of Representatives. Committee on the Judiciary. 2009. *Testimony of Congressman Danny K. Davis before Committee on the Judiciary Subcommittee on Commercial and Administrative Law Hearing on An Undue Hardship? Discharging Educational Debt in Bankruptcy September 23, 2009*. <http://www.judiciary.house.gov/hearings/pdf/Davis090923.pdf>. Accessed December 13, 2011.

²⁶ The Project on Student Debt at TICAS. 2009. *Summary of New Disclosure Requirements for Private Student Loans*. http://projectonstudentdebt.org/files/pub/FRB_summary_aug09rules.pdf.

²⁷ Student Lending Analytics. 2010. Improving the Self-Certification Process For Private Student Loans. *Student Lending Analytics Blog*. http://studentlendinganalytics.typepad.com/student_lending_analytics/2010/10/improving-the-private-student-loan-self-certification-process.html. Accessed December 9, 2011.

Because the existing disclosures required by HEOA and promulgated by the Federal Reserve only went into effect in February 2010, little empirical data exists on these disclosures' effectiveness. However, there is good reason to believe they do not provide adequate consumer information or protections. For example, the current rules:

- display the starting interest rate more prominently than the Annual Percentage Rate (APR), which is a more accurate measure of the cost of a loan after fees and interest;
- fail to mention the FAFSA (the Free Application for Federal Student Aid), provide the Department of Education's toll-free number, or tell borrowers that there is no income limit for federal loans; and
- do not require sending the final disclosure with the actual loan terms to all co-signers and do not extend cancellation rights to co-signers.²⁸

Stronger and clearer disclosures are needed to ensure that students fully understand the differences between federal and private loans and how interest rates and loan terms affect the amount they will need to repay. As evidenced by the mortgage crisis, confusion and misinformation about the implications of variable interest rates can have devastating consequences for consumers. For example, one borrower who was told that private loans were just like federal loans found out that was not the case only when the interest rate on her private loans started rising by 1% or .5% every month. She was ultimately unable to avoid defaulting on her private loans.²⁹

As discussed under Question 2 above, financial aid officers interviewed last year -- well after the current disclosure requirements went into effect -- reported that students and parents who apply for private loans commonly assume that variable rate private loans will be lower cost based on quoted starting interest rates.³⁰ Prior research has also shown that students and families may not realize that unlike fixed-rate federal loans, private loans generally have uncapped variable rates, and that payments can rise dramatically if rates go up.³¹

Research shows that consumers are familiar with the use of APRs as a way of comparing different loan products on an apples-to-apples basis. Therefore, **making the APR more prominent** is an important component of strong consumer disclosures. In addition, in the case of loans with variable interest rates, examples of monthly payments need to show the highest possible rate under the loan as well as the starting rate.³²

²⁸ For more information on weaknesses in the current disclosures, see The Project on Student Debt at TICAS. 2009. *Summary of New Disclosure Requirements for Private Student Loans*.

²⁹ U.S. House of Representatives. Committee on the Judiciary. 2010. *Testimony of Valisha Cooks Before the House Committee on the Judiciary Subcommittee on Commercial and Administrative Law, Hearing on H.R. 5043, the "Private Student Loan Bankruptcy Fairness Act of 2010, April 22, 2010.* <http://judiciary.house.gov/hearings/pdf/Cooks100422.pdf>. Accessed December 14, 2011.

³⁰ The Project on Student Debt at TICAS. 2011. *Critical Choices: How Colleges Can Help Students and Families Make Better Decisions about Private Loans.* http://projectonstudentdebt.org/pub_view.php?idx=766.

³¹ See: Consumers Union. 2007. *Helping Families Finance College: Improved Student Loan Disclosures and Counseling.*

³² See: The Institute for College Access & Success. 2009. *Comments of The Institute for College Access & Success, National Consumer Law Center, U.S. Public Interest Research Groups, United States Students Association.* http://ticas.org/files/pub/FRB_Comments_Docket_R-1353.pdf.

The lack of emphasis on APRs is a major weakness of the current disclosure requirements, but as noted above, it is not the only problem from a consumer standpoint. Please see our 2009 comments for more about how and why these disclosures should be improved.³³

4. What sources of information do students rely upon to gauge the appropriate amount of student debt when selecting a school or program? Do students rely on financial aid budgets provided by the school or on other sources to determine amounts needed to cover tuition and other expenses? Do they consider ability to repay in choosing amounts of debt to incur? If so, what resources are available to help them determine their ability to repay?

Our response to this set of questions has two main sections that reflect the questions' two interrelated topics: information sources and considerations of ability to repay.

Key Information Sources

Students and families rely heavily on information provided by the financial aid offices at schools, especially the financial aid award letter. In addition, prospective students can now get information about college costs and ways of paying those costs from net price calculators, which have been required on college web sites since October 29, 2011. But there is tremendous variation in how colleges communicate about costs and loans through these two channels. Mandatory federal loan counseling is another potential source of information about student borrowing, but as discussed below, in its current form, it is not as effective as it could be for helping students decide how and how much to borrow.

Financial aid award letters come at a crucial point in the financial aid process. This is when students find out how much each college they applied to is offering in grants and scholarships (or “gift aid”) and recommending in work-study and loans (or “self-help”). Ideally, these letters should help inform borrowing decisions by emphasizing the “net price,” or the amount the student and family will have to cover from loans, earnings, or savings. Unfortunately, many award letters not only fail to provide that figure, but also fail to provide basic information necessary for students and families to make informed decisions about borrowing. For example, many award letters do not display the full cost of attendance, which is the school’s estimated financial aid budget. Some award letters list just tuition and fees, understating total college costs, while others fail to list any college costs on the letter at all.

Some award letters clearly distinguish between loans and grants, while others mix them together in one list. In many cases, colleges include federal loans in the financial aid package, but some simply list the maximum the student is eligible for, while others specify lower recommended amounts. In some cases, colleges include specific amounts for private student loans or Parent PLUS loans in the financial aid package, which can make the college look more affordable than

³³ The Project on Student Debt at TICAS. 2009. *Summary of New Disclosure Requirements for Private Student Loans*.

it really is. All of these instances show that a student choosing between different colleges may be faced with information that is incomplete and not comparable across schools.³⁴

The Bureau and Department of Education’s draft financial aid “shopping sheet” on the “Know Before You Owe: Student Loans” web site is an important contribution to the discussion about how to present college costs and financial aid in a more consumer-friendly manner. It is consistent with many of our recommendations on financial aid award letters and is sparking discussion in the field.³⁵ We encourage the Bureau, the Department of Education, and colleges to continue to improve communications with students and families and to provide timely, individualized, and consumer-friendly information disclosures.³⁶

Net price calculators can help students and families look beyond “sticker price” by providing individualized estimates of the net price at specific schools, well before students must decide where to apply. The net price is the total cost of attendance minus grants and scholarships: it is what someone would have to save, earn or borrow to attend a given school. In contrast to award letters, colleges are required to list the full cost of attendance and to separate grant aid from loans and other “self-help” in the net price calculator results.

For these calculators to be effective, they must be easy to use, easy to find, and easy to understand, and our research shows that this is not always the case.³⁷ Some colleges place the calculator on web pages that prospective students are unlikely to find. Others have calculators that require so much detailed financial information that students and parents may be unwilling or unable to complete them. And on the results screen, as with award letters, colleges sometimes design the layout to emphasize a “final” cost after subtracting both grants *and* “self-help,” rather than the net price, and may include large amounts of private loans or Parent PLUS loans to show an apparent bottom line of zero. These problems can limit the effectiveness of net price calculators as tools for helping students and families estimate and compare how much money they need to come up with for college, including by borrowing.

Federal loan counseling represents an important opportunity to help students decide how and how much to borrow, and the future implications of those decisions. However, current law and regulations require counseling only at the time of the first federal student loan and when leaving school. Many colleges use the Department of Education’s online counseling tools, but they are

³⁴ See: The Institute for College Access & Success. 2011. *Official TICAS Comments on Financial Aid Award Letters*. http://ticas.org/pub_view.php?idx=777.

³⁵ See: The Institute for College Access & Success. 2011. *Official TICAS Comments on Financial Aid Award Letters*. Also see: National Association of Student Financial Aid Administrators. 2011. *Improving Award Letter Notification and Consumer Disclosure*. http://nasfaa.informz.net/nasfaa/archives/archive_1966884.html. Accessed on January 13, 2012. Also see: National Association of Student Financial Aid Administrators. 2011. Award Letter & Consumer Notification Task Force Seeks Community Input in 15 Minute Survey. *Today’s News Jan. 11, 2012*. <http://www.nasfaa.org/NewsContent.aspx?id=8120>. Accessed January 13, 2012.

³⁶ See: The Institute for College Access & Success. 2011. *TICAS Comments on Draft Financial Aid Shopping Sheet*. http://ticas.org/pub_view.php?idx=803.

³⁷ See: The Institute for College Access & Success. 2011. *Adding It All Up: An Early Look at Net Price Calculators*. http://www.ticas.org/pub_view.php?idx=731.

allowed to use other tools or materials, as long as specified topics are covered.³⁸ Unfortunately, little is known about the effectiveness of the current loan counseling tools. Consultation with experts from a variety of disciplines could help identify and prioritize potential changes in the Department's online tools, including changes that will clearly improve the counseling and should be implemented immediately, as well as those that will require some testing and evaluation.³⁹ For example, potential changes might include:

- ensuring that counseling occurs *before* the student signs a promissory note, rather than simply before the first loan disbursement, to ensure that students can use the knowledge gained to make informed decisions about whether to go ahead with the loan and to adjust the amount requested if appropriate;
- emphasizing the benefits of a smaller initial loan disbursement;
- requiring counseling (rather than just one-way disclosures) when each new loan is taken out, or at least annually;
- individualizing counseling based on the actual amounts previously borrowed, currently requested, or anticipated for future academic terms; and
- requiring borrowers to answer a minimum number of questions correctly to complete the counseling session.

Furthermore, counseling is not required for private student loans, and such loans are not required to be addressed in the required federal loan counseling. This means that students may accumulate federal and private loans from year to year without realizing how much overall debt they are carrying or what their combined student loan payments will likely be once they leave school. Federal loan counseling that does not touch on the differences between federal and private loans is also missing an important opportunity to educate consumers and prevent unnecessarily risky borrowing.

We urge the Bureau to work with the Department to consider these and other changes to improve federal loan counseling's likely effectiveness in helping students make informed borrowing decisions.

Students also turn to **other sources of information**, such as family and friends, high school guidance counselors, web searches, and marketing materials from lenders for information about student borrowing.⁴⁰ For students who take out private loans without applying for federal aid, these may be their only sources of information about how much to borrow. As noted above in the response to Question 2, aggressive marketing of private loans is one of the factors leading to

³⁸ See: U.S. Department of Education. Federal Student Aid (FSA). *2010-11 Federal Student Aid Handbook*. <http://ifap.ed.gov/fsahandbook/attachments/1011FSAHbkVol2Ch6.pdf>. Accessed January 6, 2012.

³⁹ While some changes to the counseling requirements require statutory or regulatory changes, the Department can encourage colleges to voluntarily participate in testing new variations of the counseling tools. Since millions of students at thousands of colleges are already required to use the Department's tools, it would be relatively easy to test changes in loan counseling through random assignment, and evaluate the effectiveness of these variations in counseling using data from the National Student Loan Data System (NSLDS).

⁴⁰ See: Consumers Union. 2007. *Helping Families Finance College*. Also see: Sallie Mae. 2011. *How America Pays for College 2011*.

widespread misinformation about student loan options. As noted in the responses to Questions 3 and 8, some colleges are working to address the problem of misinformation by contacting and counseling students when they learn about a private loan application. This can influence students' decisions about what types of loans to borrow as well as how much to borrow, before they sign on the bottom line.

Ability to Repay

While students may well consider their ability to repay loans as they decide how much to borrow, even the most sophisticated and forward thinking cannot reliably predict their future earnings or circumstances. Some go so far to avoid or minimize debt that they harm their chances of completing college. Others end up with more debt and/or riskier debt than they realized. They might come across one commonly cited rule of thumb, which is not to borrow more than you expect to earn in your first job after graduation.⁴¹ Online, one can find a variety of calculators and other sources of advice using different guidelines for how much of a borrower's total income should go to student loan payments; a recent sampling found recommended caps ranging from eight percent to 20 percent.⁴² There are also calculators that consider additional factors, such as one that estimates the amount to borrow based on college costs and available family resources.⁴³

As economists Sandy Baum and Saul Schwartz note in their influential paper, *How Much Debt is Too Much? Defining Benchmarks for Manageable Student Debt*, "There can be no single percentage that answers the question of how much students can borrow without risking repayment difficulties."⁴⁴ They note that factors such as income, age, family size, local cost of living, and other debts affect what is affordable for a given borrower and ultimately recommend a sliding scale to better approximate affordability than conventional fixed benchmarks. This scale helped inform the design of Income-Based Repayment.

Since students cannot be sure how such factors will affect them in the future, taking on student loans always involves some risk. The consumer protections built in to federal student loans are intended to mitigate that risk by providing options for borrowers facing repayment difficulties. In addition, federal loans have fixed interest rates, providing certainty that payments will not go up due to changes in the loan market or the borrower's credit rating. Any advice regarding the

⁴¹ Orman, Suze. 2011. Suze Orman: Paying for College 101. *O, the Oprah Magazine*. November 2011. <http://www.oprah.com/money/How-to-Pay-for-College-Suze-Orman-on-Borrowing-Money-for-College>. Accessed January 9, 2012.

⁴² For example, see this calculator, which gives warnings when student loan payments are at least 20 percent of income: iGrad. 2011. *Smart Borrowing: Limit Your Loan Debt*. <http://www.igrad.com/articles/?how-much-should-i-take-out-borrow-in-student-loans-right-size-amount>. Accessed January 9, 2012. Also see this calculator, which includes advice that student loan payments be less than eight percent of gross income: Mapping Your Future. *Estimate your student loan payment (repayment calculator)*. <http://mappingyourfuture.org/paying/standardcalculator.htm>. Accessed January 9, 2012.

⁴³ FinAid. *How Much to Borrow*. <http://www.finaid.org/calculators/howmuchtoborrow.phtml>. Accessed January 9, 2012. The introduction to this calculator advises limiting borrowing to "about 125% of the difference between your net college costs and the amount of income and savings you can devote to paying those costs, rounded up to the nearest \$1,000."

⁴⁴ Baum, Sandy and Saul Schwartz. 2006. *How Much Debt is Too Much? Defining Benchmarks for Manageable Student Debt*. The College Board and the Project on Student Debt at TICAS. <http://professionals.collegeboard.com/profdownload/pdf/06-0869.DebtPpr060420.pdf>. Accessed January 13, 2012.

ability to repay student loans must take into consideration the differences in the terms and risks of different types of loans, not just the current interest rate and expected earnings.

Institutional Loans

5. To what extent are students offered or solicited to take out private education loans made directly by the school they are attending? How do such programs compare to those offered by non-school private educational lenders (e.g., interest rates, ease of approval, underwriting criteria, repayment terms etc.)?

6. What types of schools most commonly offer their own private student loan programs? How do schools select the students they deem eligible for their loan programs (e.g., academic merit, financial need, recruitment, retention)? How are school loan programs funded?

As noted in the response to question three, students and families generally look to colleges as a trusted source of information about how to finance college expenses. For consumers, the fact that a loan is made or arranged by their college may suggest that it will be affordable and consumer-friendly relative to other private loan options. While this may be true for some institutional loan programs, it is not always the case. Available data suggest that many colleges offer institutional loans, but a relatively small share of students overall take out such loans. However, there is evidence of a surge in these loans in recent years at for-profit colleges, where many of these loans have been found to have particularly unfavorable rates and terms for consumers and where there is evidence that the schools knew that a large percentage of the students would not be able to repay.

Data for academic year 2007-08, the most recent year for which federal data are available, indicate that only one percent of all undergraduates took out institutional loans.⁴⁵ However, more recent data show that institutional lending has since increased overall, due to sharp increases in the for-profit college sector at the same time that institutional lending decreased at other types of schools. While noting that no precise measure of institutional loans is available, the College Board says that “reports from institutions indicate that institutional loans grew from about \$500 million in 2007-08 to about \$720 million in 2010-11. For-profit institutions have increased their lending to students over this time period while other institutions have reduced this activity.”⁴⁶

Information on usage at individual colleges is very limited, but available data suggest that many have institutional loan programs of some sort. Over one third of public four-year and non-profit four-year colleges responding to a recent survey by college guide publisher Peterson’s indicated that they have an institutional loan program, although the survey does not clarify if the program

⁴⁵ Calculations by The Institute for College Access & Success on data from NPSAS 2007-08.

⁴⁶ College Board. 2011. *Trends in Student Aid 2011*. P. 13. Also note that NPSAS has data on institutional loan usage over time, but small sample sizes limit analysts’ ability to look at institutional loan usage crossed with student or institutional characteristics.

is currently active.⁴⁷ A recent report from the National Consumer Law Center (NCLC) documents the surge in institutional lending at several large for-profit colleges.⁴⁸ For example, Corinthian Colleges reports that a “significant number” of its students have institutional loans as well as federal loans, and the company plans to double its institutional loan volume to \$240 million per year, even though it is writing-off 55 percent of these loans.⁴⁹ Other large for-profit college companies, such as ITT Educational Services and Career Education Corporation, are also lending to students, despite anticipating write-offs in excess of 40 percent of these loans.⁵⁰

The terms and rates for institutional loans vary considerably from one college to another. Some may charge no interest or low fixed interest rates with deferment and discharge options that appear similar to those provided by federal student loans. For example, Occidental College and some University of California campuses describe loan programs of this type on their web sites.⁵¹ Other institutional loans have rates and terms that are similar to or worse than those offered by banks and other third-party lenders. Analysts have documented the high interest rates, unfavorable terms, and high expected default rates for institutional loan programs at several large for-profit colleges, which put these loans in “sub-prime” territory.⁵² In its ongoing investigation of the for-profit college industry, the Senate Health, Education, Labor and Pensions Committee found expected default or write-off rates for institutional loans at for-profit colleges in the 40 to 80 percent range and institutional loan interest rates as high as 18 percent.⁵³

At all types of colleges, it is not always clear to students or analysts when the institution is the “lender” for a particular loan. Loans may be offered or arranged by institutions in partnership with lenders, using a variety of agreements for branding, marketing, and sharing risk for the loans. In addition, some institutions provide financing plans that may not clearly fall within the statutory definition of private education loan because they involve open-end credit.⁵⁴ Colleges sometimes work with outside companies to structure institutional loan programs, tuition payment

⁴⁷ Calculations by The Institute for College Access & Success on data licensed from Peterson's Annual Survey of Undergraduate Financial Aid 2010–2011. Data copyright 2011 Peterson's, a Nelnet company. All rights reserved.

⁴⁸ National Consumer Law Center. 2011. *Piling It On: The Growth of Proprietary School Loans And the Consequences for Students*. <http://www.studentloanborrowerassistance.org/uploads/File/proprietary-schools-loans.pdf>. Accessed December 13, 2011.

⁴⁹ Corinthian Colleges Q3 2011 conference call. May 3, 2011. <http://newsroom.cci.edu/eventdetail.cfm?eventid=93960>.

⁵⁰ See: Seeking Alpha. 2009. *Career Education Corporation Q1 2009 Earnings Call Transcript*. <http://seekingalpha.com/article/136209-career-education-corporation-q1-2009-earnings-call-transcript?page=-1>. Accessed January 17, 2012. Also see: ITT Educational Services. 2011. *Q1 2011 Earnings Call*. <http://www.ittesi.com/phoenix.zhtml?c=94519&p=irol-eventDetails&EventId=3923596>. Accessed January 17, 2012.

⁵¹ Occidental College. 2011. *Oxy No Interest Institutional Loan Program*. <http://www.oxy.edu/x8329.xml>. and *Oxy Low Interest Institutional Loan Program*. <http://www.oxy.edu/x8330.xml>. Accessed December 13, 2011. Also see: University of California, Irvine. 2011. *University Loan Summary*. <http://www.fs.uci.edu/loans/Loansumm/Univer.htm>. and *Student Loan Programs at UCI*. <http://www.fs.uci.edu/loans/uciloan.htm>. Accessed December 13, 2011.

⁵² See: National Consumer Law Center. 2011. *Piling It On*. Accessed January 9, 2012. Also see: U.S. Senate. Committee on Health, Education, Labor and Pensions. *Testimony of Pauline Abernathy, Vice President, The Institute for College Access & Success, before the U.S. Senate Health, Education, Labor and Pensions Committee, Hearing entitled “Drowning in Debt: Financial Outcomes of Students at For-Profit Colleges” June 7, 2011*. <http://help.senate.gov/imo/media/doc/Abernathy.pdf>. Accessed January 9, 2012.

⁵³ See: Documents from U.S. Senate. Committee on Health, Education, Labor and Pensions, June 7, 2011. <http://harkin.senate.gov/documents/pdf/4dff84b1b4a54.pdf>. Accessed January 16, 2012.

⁵⁴ For example, until recently DeVry University offered the EduCard, which was a revolving credit account while the student was in school but became an installment loan when the student left the school. See: National Consumer Law Center. 2011. *Piling It On*.

plans, and other institutional financing programs. The same company (or set of companies working in partnership) may offer loan servicing, collections funding for loans, and/or other services, and the implications of these complex business arrangements for consumers are not always clear.⁵⁵ All these arrangements involve the college lending to students or families, and can result in fees or finance charges for students. In examining institutional lending, it is important for the Bureau to consider the full range of loans and financing plans offered, arranged or endorsed by institutions of higher education.

Given the growth of institutional loans, particularly at for-profit colleges, consumers and policy makers need more detailed data on the size, terms, repayment, default and write-off rates, and financial arrangements for institutional loan programs. Given the abundant evidence that some for-profit schools are offering or arranging private loans to students whom they know will not be able to repay them, and which are non-dischargeable in bankruptcy, we urge the Bureau to act swiftly to stop it.

Repayment

7. How well are the amount and timing of private education loan repayment terms understood (a) when borrowers take out the loan, (b) during school, (c) at graduation, and (d) when repayment begins? Among other things, comments could address individual experiences at each stage of a student’s education, or reference existing studies or survey work concerning the percentage of students with different levels of understanding regarding their debt load at each stage of their education.

Students and families’ understanding of private loan repayment terms varies widely as the landscape can be quite confusing. They face choices between several federal student programs, Parent PLUS loans, and an ever-changing array of private loan products from institutions, states, and private lenders. Each loan program or product has its own rates and terms, and the information provided to consumers is often unclear and filled with unfamiliar jargon. Many federal loan servicers also offer private student loan products, adding a further grey area for consumers. It is therefore not surprising that students and families are often uncertain about the differences between federal and private loans, the terms of specific private loans and the implications of those terms for repayment amounts in the future.⁵⁶ Widespread concern about this type of confusion has led consumer advocates to call for clearer and more consumer-friendly disclosures about private student loans.⁵⁷

Unfortunately for many students, the terms of private loans and the differences between federal and private loans may not become clear until they run into difficulties during repayment. For example, one borrower said the financial aid office at her school made private loans “sound like a great deal,” but that had she known the risks of private loans she would have used federal

⁵⁵ See: Education Loan Source, an NLA Company. <http://www.tuitionflex.com/>. Also see: American Student Financial Group, Inc. www.asfgrp.com. Also see: First Associates. www.1stassociates.com. Web sites accessed January 6, 2012.

⁵⁶ See: Consumers Union. 2007. *Helping Families Finance College: Improved Student Loan Disclosures and Counseling*.

⁵⁷ See: The Institute for College Access & Success. 2009. *Comments of The Institute for College Access & Success, National Consumer Law Center, U.S. Public Interest Research Groups, United States Students Association*.

Parent PLUS loans. She learned the difference between federal and private loans during repayment. She found she could manage her federal loans by using Income-Based Repayment (IBR), but her private loan payments kept rising as the rates went up every few months, and they were not covered by IBR or other federal loan repayment options.⁵⁸ Stories of this sort are common among borrowers with private loans and underscore the importance of continuing to strengthen consumer disclosures about private loans, as discussed above in our response to Question 3a.⁵⁹

8. What are the best practices at school financial aid offices in providing students with information about students' future loan payments and ability to afford those payments? The Bureau is particularly interested in steps or programs schools voluntarily use to create or enhance students' awareness of their debt loads and ability to afford their loan payments, as well as any evidence concerning the impact of such initiatives.

There are many examples of colleges with promising practices for helping students understand their ability to afford future loan payments. Some colleges go beyond current federal requirements for entrance and exit counseling and require annual online counseling before allowing students to borrow federal loans.⁶⁰ One community college provides borrowers with an estimate of monthly payments based on all borrowing to date and requires them to fill out two budget worksheets, one for current monthly income and expenses and the other for anticipated income and expenses after leaving college.⁶¹ While some promising practices currently apply only to federal student loans, others specifically target private loans. As noted above, in a recent study we found colleges of a variety of sizes and types that counsel students about the risks of private loans and alternatives to them right at the point when they are considering private loans.⁶²

Requiring that lenders obtain school certification for all private student loans and report loan data to the federal database of students loans would be strong steps forward in arming students with the information they need to make smart borrowing decisions. These steps would support colleges in developing and enhancing good loan counseling practices by ensuring that colleges have a window of time within which to counsel their students about their borrowing options and increasing the information available to colleges about private loan borrowing among their students. Currently, colleges can use the National Student Loan Data System to access records about students' federal loan history, including the types, amounts, and interest rates for all loans, and use that information to help students understand the implications of their cumulative borrowing. Colleges also use these records to counsel borrowers who are experiencing difficulty

⁵⁸ See "Private Loan Borrower Stories." October 2011. The Project on Student Debt at TICAS. http://ticas.org/pub_view.php?idx=810.

⁵⁹ Organizations that hear from distressed borrowers on a regular basis are a good source of information about the types of confusion experienced by borrower. Two examples are the Federal Student Aid Ombudsman Group (<http://www.ombudsman.ed.gov/>) and the Student Loan Borrower Assistance Project (<http://www.studentloanborrowerassistance.org/>). Web sites accessed December 21, 2011.

⁶⁰ The Institute for College Access & Success. 2011. *Comments in response to 5-5-11 Department of Education Notice of Establishment of Negotiated Rulemaking Committees*. http://ticas.org/pub_view.php?idx=751.

⁶¹ Moltz, David. 2011. No Repayment Plan, No Loan. *Inside Higher Ed*. http://www.insidehighered.com/news/2011/04/14/tidewater_community_college_requiring_students_with_federal_loans_to_complete_personal_budget_and_repayment_plan. Accessed December 14, 2011.

⁶² The Project on Student Debt at TICAS. 2011. *Critical Choices*.

during repayment in order to help them avoid default. However, since private loans are excluded, these records show an incomplete picture of student loan borrowing for many students.⁶³ Including all student loans in one federal database will enable student borrowers to see and track all their loans in one place. It will also allow colleges and policymakers to assess students' usage of both federal and private loans and to craft policies to better encourage smart borrowing.

9. How much does a student's debt load affect undergraduate field of study or career choices after graduation? To what extent do undergraduates' or recent graduates' debt loads affect their decision to attend graduate school or seek advanced professional degrees?

Graduating from college with substantial student loan debt can affect decisions about careers, graduate school, and other major life decisions. However, the exact manner in which student debt affects these decisions is not clear. Some students may find the prospect of adding graduate school debt to existing undergraduate debt so daunting that they give up on hopes of a higher degree. Other students finishing a bachelor's degree with considerable debt may be more likely to consider graduate school as a way to defer payments on their undergraduate loans until they have better credentials or the job market improves.

The evidence from surveys and research studies is mixed. For example, one recent federal study found no relationship between undergraduate debt load and the likelihood of attending graduate school, while another found inconclusive evidence on this question and suggested that further study is needed to tease out interrelationships with other factors.⁶⁴ One national survey found that 42 percent of college graduates who do not pursue graduate school cite student loan debt as a major factor, while 17 percent of borrowers said student debt impacted their career plans.⁶⁵ And a case study at one school that eliminated loans from financial aid packages found that having student debt leads to choosing higher-paid jobs over lower-paid ones.⁶⁶

Much of the research on this topic is based on cohorts of students who graduated before the current economic downturn and recent changes in student borrowing patterns and repayment options. While more research is needed to document the specific impact of student debt on the life decisions of borrowers, there is evidence that the current economic situation is affecting students' views about the affordability of college, graduate school, and student loan options.⁶⁷

⁶³ Some colleges use private loan data from Meteor (www.meteornetwork.org), a voluntary service sponsored by lenders and guaranty agencies and operated by the National Student Clearinghouse. The service allows borrowers, colleges, and lenders, to view student loan data from multiple lenders, but not all lenders participate. Web site accessed December 21, 2011.

⁶⁴ Choy, Susan and Xiaojie Li. 2006. *Dealing With Debt: 1992-93 Bachelor's Degree Recipients 10 Years Later*. National Center for Education Statistics (NCES). <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2006156>; Choy, Susan and Xiaojie Li. 2005. *Debt Burden: A Comparison of 1992-93 and 1999-2000 Bachelor's Degree Recipients a Year After Graduating*. NCES. <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2005170>. Web sites accessed December 21, 2011.

⁶⁵ Baum, Sandy and Marie O'Malley. 2003. *College on Credit: How Borrowers Perceive Their Education Debt: Results of the 2002 National Student Loan Survey*. Nellie Mae Corporation. http://www.nelliemae.com/pdf/nasls_2002.pdf.

⁶⁶ See: Rothstein, Jesse and Cecilia Rouse. 2011. Constrained after college: Student loans and early-career occupational choices. *Journal of Public Economics*. 95 (1-2): 149-163. <http://www.sciencedirect.com/science/article/pii/S0047272710001337>. Accessed December 21, 2011.

⁶⁷ See: ACA International. 2011. *Young Americans Are Delaying Financial Decisions*. <https://www.acainternational.org/news-young-americans-are-delaying-financial-decisions-21453.aspx>. Accessed January 4, 2012. Also see: Demos and Young Invincibles. 2011. *The State of Young America: Economic Barriers to the American Dream*. http://www.demos.org/sites/default/files/publications/SOYA_PollResults_2.pdf. Accessed January 4, 2012.

10. Are students adequately informed of their rights as borrowers on private education loans? What resources are students offered to protect their rights? Who directs them to resources that may help them protect their rights (e.g., friends, schools, lenders, particular websites, etc.)?

Students do not currently receive adequate information about their limited rights as borrowers of private education loans. The Bureau has a unique and crucial role to play in ensuring borrowers have the information they need before making major life decisions about financial products. The Bureau's new web-based "Student Debt repayment assistant" represents a promising new approach to guiding both federal and private loan borrowers to answers and resources that fit their particular situation.⁶⁸ Given the limited and highly variable repayment options available to private loan borrowers, the advice for these borrowers is limited. We urge the Bureau to strengthen this tool as the Bureau works to improve consumer protections for private loan borrowers. The Bureau should also consider the role its Private Education Loan Ombudsman might play in widely disseminating information about borrower rights, beyond those who contact the ombudsman with complaints.⁶⁹

The need for better and more accessible consumer information about private student loans is clear. As we've noted throughout our comments, the opacity and under-regulation of the private loan market makes it difficult for consumers to navigate. Students and families may receive information about private student loans from many sources and cannot count on getting clear or correct information. Many colleges are not doing all they could to provide helpful and timely information to students about their borrowing options, and existing required disclosures are inadequate. Students who look online for information about student loans are likely to encounter a lot of biased marketing materials but may find helpful information if they are lucky enough to look in the right places. In particular, the Student Loan Borrower Assistance web site, a nonprofit resource that provides information to borrowers about their rights, is the most accurate and consumer-oriented resource we are aware of.⁷⁰ In the absence of easily accessible information many students and families rely on lenders, who target them with online ads and direct solicitations by mail and email. All too often, consumers receive inadequate or inaccurate information, and borrowers learn of their rights only after it is too late.

11. What financial education techniques and resources have empirically-demonstrated effectiveness in helping borrowers avoid default on private education loans? How prevalent are these techniques and resources? Among other things, the CFPB is particularly interested to learn,

a. Which alternative repayment plans have proven most effective in keeping borrowers out of default and why?

⁶⁸ Consumer Financial Protection Bureau. 2011. *Student debt repayment assistant*. <http://www.consumerfinance.gov/students/repay/>. Accessed December 14, 2011.

⁶⁹ See: *Dodd-Frank Wall Street Reform and Consumer Protection Act*, Pub. L. No. 111-203, 124 Stat. 1376 (2010), §1035. <http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>. Accessed January 9, 2012.

⁷⁰ Student Loan Borrower Assistance. <http://www.studentloanborrowerassistance.org/>. Accessed December 14, 2011.

- b. Whether private lenders adopted repayment program modifications to respond to the high unemployment rate among recent graduates in the wake of the financial crisis?**
- c. Are there techniques that private education lenders should try to help reduce default?**
- d. Have private lenders developed rehabilitation programs for defaulted loans?**

Requiring mandatory school certification for all private loans, including notification to borrowers of any unused federal loan eligibility, should help lead to lower private loan default rates -- by increasing students' likelihood of using safer federal loans and limiting private loan borrowing to certified amounts. As previously noted above, research has found that school-certified loans have significantly lower default rates than loans that bypass school certification.⁷¹

The experience of those who work with financially distressed borrowers shows that private lenders have done little to help borrowers struggling to make payments on private student loans in the wake of the financial crisis, rarely offering anything beyond "very short-term payment relief."⁷²

We are not aware of publicly available information about default prevention or rehabilitation for private student loans. However, there is some research on default prevention practices or programs for federal student loans, and some of the practices may be relevant for private loans as well. For example, one study documents the work of a group of historically black colleges to reduce default rates.⁷³ There is also research on the factors associated with federal student loan default. For example, one review of research in this area cites program non-completion as a major factor, and also notes other student demographic and institutional characteristics, total amount of debt, and post-graduation income as factors.⁷⁴

We encourage the Bureau to conduct research on effective default prevention for private loans and to ensure there are clear pathways for borrowers who have defaulted to get back on track.

Additional Topics

In addition to the questions posed in the *Federal Register* notice, there are several other topics mentioned in Section 1077 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 that we'd like to address here.

⁷¹ See: Moody's Investors Service. 2009. "Direct-To-Consumer" Student Loans: Higher Risk. Also see: U.S. House of Representatives. 2009. *Testimony of Congressman Danny K. Davis before Committee on the Judiciary Subcommittee on Commercial and Administrative Law*.

⁷² See: Block, Sandra. 2012. Few options available to help pay off private student loans. *USA Today*, January 12. <http://www.usatoday.com/money/perfi/college/story/2012-01-12/private-student-loans-relief/52520848/1>. Accessed January 17, 2012. Also see: National Consumer Law Center. 2009. *Too Small to Help*. <http://www.studentloanborrowerassistance.org/uploads/File/TooSmalltoHelp.pdf>. Accessed January 9, 2012.

⁷³ The Texas Historically Black Colleges and Universities Default Management Consortium. 2004. *Breaking New Ground: The Texas Historically Black Colleges and Universities Default Management Consortium*. http://www.tgslc.org/publications/reports/hbcu/hbcu_bkgd.cfm. Accessed January 9, 2012.

⁷⁴ Gross, Jacob, Osman Cekic, Don Hossler, and Nick Hillman. 2009. What Matters in Student Loan Default: A Review of the Research Literature. *Journal of Student Financial Aid*. 39 (1): 19-29. <http://www.nasfaa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=1312>. Accessed January 9, 2012.

Socioeconomic characteristics of private loan borrowers

NPSAS is the best public source of data on this topic. For example, our analysis of the most recent available NPSAS data found that among all racial and ethnic groups, African Americans are the most likely to borrow private student loans. The percentage of African-American undergraduates who took out private loans quadrupled between 2003-04 and 2007-08, from 4% to 17%. In 2007-08, they were more likely to take out private loans than any other racial/ethnic group.⁷⁵ While NPSAS provides comprehensive data at the national level every four years, there is no publicly available data on the socioeconomic characteristics of private loan borrowers at individual colleges and no annual data on private loan borrowing.

Many private student loans require creditworthy co-signers, often parents. In addition, there are also private loans made exclusively to parents of college students. Little is known about the extent to which parents use this type of loan, but at least one major lender offers them.⁷⁶

Degree level of private loan borrowers

A substantial share of undergraduates at all degree levels have private loans by the time they graduate. In 2007-08, 34 percent of certificate recipients had private loan debt with an average of \$5,900 per borrower, 22 percent of associate degree recipients had private loan debt with an average of \$7,000 per borrower, and 33 percent of bachelor's degree recipients had private loan debt with an average of \$12,600 per borrower. As noted above, the majority of completers at for-profit colleges at all three levels had private loan debt.⁷⁷

Underwriting Criteria/Terms, Conditions and Pricing of Private Loans

Unlike federal student loans, where the terms and rates are set by Congress, lenders have broad discretion to set the terms and rates for private student loans in the promissory note. For most private loans, rates are variable and uncapped. Credit scores and credit history are an important factor in determining approval and pricing for private student loans. This means that those who can least afford it will end up paying the highest rates because they have weak credit histories. Many lenders also take the borrower's school into account, setting higher rates for those at schools with high cohort default rates for federal loans.⁷⁸ As noted above, the recent credit crisis led lenders to tighten underwriting standards and to require co-signers for most private student loans.⁷⁹

Lenders can raise interest rates, charge high fees, and declare borrowers in default for myriad reasons. For example, loans may include "universal default" clauses where lenders reserve the right to declare the borrower in default if the borrower is in default on any other loan with that

⁷⁵ The Project on Student Debt at TICAS. 2011. *Private Loans: Facts and Trends*.

⁷⁶ Wells Fargo. *Student Loans for Parents*. <https://www.wellsfargo.com/student/loans/parent/privatestudentloans>. Accessed December 19, 2011.

⁷⁷ College Board. 2009. *Who Borrows Most?*

⁷⁸ National Consumer Law Center. 2008. *Paying the Price: The High Cost of Private Student Loans and the Dangers for Student Borrowers*. http://www.studentloanborrowerassistance.org/uploads/File/Report_PrivateLoans.pdf. Accessed January 9, 2012. Also see: United States Government Accountability Office. 2009. *Higher Education: Factors Lenders Consider in Making Lending Decisions for Private Education Loans*. <http://www.gao.gov/new.items/d1086r.pdf>. Accessed January 9, 2012.

⁷⁹ The Project on Student Debt at TICAS. 2010. *Bankruptcy and The Private Student Loan Market*.

lender, or if “in the lender’s judgment, they experience a significant lessening of ability to repay the loan.”⁸⁰

It is difficult for consumers or researchers to obtain reliable, updated information on the terms and pricing of competing private loan products. There are several private loan comparison web sites that provide a starting place by listing lenders and some information about rates and terms.⁸¹ Several of these sites accept advertising from lenders and/or accept payments from lenders related to the volume of loans made through the sites.⁸² As the financial relationships between lenders and comparison sites are not always transparent, it is difficult to tell the extent to which the information provided to consumers is influenced by these relationships.

Information Required to Ensure Fair Lending Law Compliance

Federal regulators and the public do not have sufficient information to ensure that private student lenders are complying with fair lending laws. The Bureau should work with the Department of Education and other agencies to collect and disseminate comprehensive annual data on private loan volume, terms and conditions along with relevant student and institutional characteristics at the college, state and national levels as well. As noted above, the best way to do this is to require reporting of private loans to the existing federal student loan database.⁸³

Statutory or Legislative Recommendations

The last provision in Section 1077 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 asks the Bureau to include in its report “any statutory or legislative recommendations necessary to improve consumer protections for private education loan borrowers and to better enable Federal regulators and the public to ascertain private educational lender compliance with fair lending laws.”⁸⁴

As noted above, private student loans are similar in many ways to credit cards, typically having uncapped variable interest rates that are highest for those who can least afford them. However, private student loans are treated far more harshly in bankruptcy than credit cards or other similar consumer debt. Since lenders are not required to provide deferment, death or disability discharge, income-based repayment or loan forgiveness options, and dismissal in bankruptcy is very rare, distressed borrowers often have no way out of a difficult financial situation. Organizations representing students, consumers, higher education institutions, faculty and staff, as well as civil rights and public policy organizations support legislation to treat private student loans like other

⁸⁰ National Consumer Law Center. 2008. *Paying the Price*. Pp. 4-5.

⁸¹ See: FinAid. *Private Student Loans*. <http://www.finaid.org/loans/privatestudentloans.phtml>. Also see: Student Lending Analytics. *Lender Ratings*. <http://www.studentlendinganalytics.com/ratings.html>. Also see: Student Lending Analytics. *Private Loan Options*. http://studentlendinganalytics.com/alternative_loan_options.html. Also see: Overture Technologies. *Student Loan Marketplace*. <http://www.overturemarketplace.com/>. Web sites accessed December 20, 2011.

⁸² See: Overture Technologies Inc. *Student Loan Marketplace. Terms of Use*. <http://www.overturemarketplace.com/terms-of-use.html>. Also see: Overture Technologies Inc. *Student Loan Marketplace. How It Works*. <http://www.overturemarketplace.com/how-it-works.html>. Web sites accessed January 11, 2012.

⁸³ See: U.S. Department of Education. National Postsecondary Education Cooperative. 2011. *Suggestions for Improvements to the Collection and Dissemination of Federal Financial Aid Data*. <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=NPEC2012834>. Accessed December 21, 2011.

⁸⁴ *Dodd-Frank Wall Street Reform and Consumer Protection Act*, Pub. L. No. 111-203, 124 Stat. 1376 (2010), §1077(b)(10). <http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>. Accessed January 9, 2012.

consumer debt in bankruptcy. Such legislation would reverse the unfair and unjustified special bankruptcy protections for private student lenders included in the 2005 bankruptcy law.⁸⁵

Thank you for this opportunity to comment. Please feel free to contact me at lasher@ticas.org or (510) 318-7900 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lauren Asher', with a stylized flourish at the end.

Lauren Asher
President

⁸⁵ Project on Student Debt at TICAS. 2011. *Coalition Letter to Representative Cohen in support of the Private Student Loan Bankruptcy Fairness Act of 2011*. http://projectonstudentdebt.org/files/pub/2011_Bankruptcy_Coalition_Letter_to_Cohen_FINAL.pdf. Also see: Project on Student Debt. 2011. *Coalition Letter to Senator Durbin in support of the Fairness for Struggling Students Act of 2011*. http://projectonstudentdebt.org/files/pub/2011_Bankruptcy_Coalition_Letter_to_Durbin_FINAL.pdf.

Appendix A

Project on Student Debt at TICAS. 2011. *Private Loans: Facts and Trends*.
http://projectonstudentdebt.org/files/pub/private_loan_facts_trends.pdf.

Private Loans: Facts and Trends

Updated July 2011

THE PROJECT ON
STUDENT DEBT

Private student loans are one of the riskiest ways to finance a college education. Like credit cards, they usually have variable interest rates that are higher for those who can least afford them – as high as 18% in 2008. But unlike credit card debt, these loans are nearly impossible to discharge in bankruptcy. And private student loan borrowers are not eligible for the important deferment, income-based repayment, or loan forgiveness options that come with federal student loans.

Experts agree that students and families should exhaust all of their federal aid options before even considering private loans. Nevertheless, more college students have been turning to private loans before taking out all they can in safer and more affordable federal loans, or before taking out any federal loans at all.

The following facts and figures reflect undergraduate borrowing levels before the credit crunch, which hit the private student loan industry hard in the spring of 2008. Although private loans are now more likely to require a co-signer and a higher credit score, these loans are still available from Sallie Mae, Wells Fargo and many others.

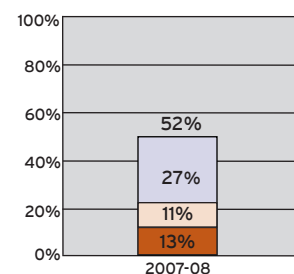
Big increase in private loan borrowing by undergraduates

- **The percentage of all undergraduates with private loans** has risen dramatically, from 5% in 2003-04 to 14% in 2007-08, and the number of private loan borrowers increased from approximately 935,000 to 2,946,000.
- **Private loan volume** also grew substantially, from \$6.5 billion in 2003-04 to \$17.1 billion in 2007-08.*
- **Private loan borrowing by sector**
 - *For-profit* (proprietary) colleges had the largest proportion of students taking out private loans, and the largest increase in private loan borrowing: 42% of all proprietary school students had private loans in 2007-08, up from 12% in 2003-04.
 - At *private non-profit four-year* schools, 25% of students had private loans in 2007-08, up from 11% in 2003-04.
 - At *public four-year* schools, 14% of students had private loans in 2007-08, up from 5% in 2003-04.
 - At *public two-year* schools, 4% of students had private loans in 2007-08, up from 1% in 2003-04.

Students could be using cheaper, safer federal loans

- The majority (52%) of private student loan borrowers in 2007-08 **borrowed less than they could have in federal Stafford loans.** In contrast, only 43% of private loan borrowers took out all they were eligible for. These figures are based on individual borrowers' specific Stafford eligibility, which varies by class level, dependency status, and college costs after financial aid. (For the remaining 5% of borrowers, detailed Stafford loan eligibility could not be determined.)**
- In 2007-08, 25% of private loan borrowers **took out no Stafford loans at all**: 13% did not apply for federal financial aid, and 11% filled out the FAFSA (a requirement for federal loans) but did not take out a Stafford loan.
- In 2007-08, 27% of private loan borrowers had Stafford loans, but **borrowed less than they could have.**

Private Loan Borrowers who do not Maximize Stafford Loans



Legend:
■ Borrowed Less than the Maximum Stafford
■ Completed FAFSA, No Stafford Loan
■ Did Not Apply for Federal Aid

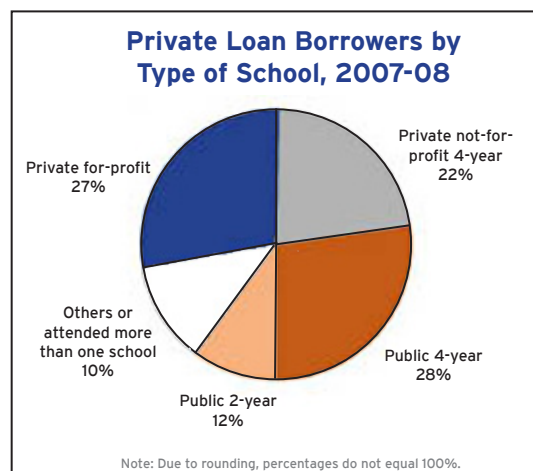
Note: Due to rounding, subcategories may not add up to overall figures.

The majority of private loan borrowers attend lower priced schools

- In 2007-08, 57% of private loan borrowers attended schools charging \$10,000 or less in tuition and fees. More than half of these borrowers (31% of all private loan borrowers) attended schools with tuition and fees of \$5,000 or less.
- One-third (34%) of private loan borrowers attend higher priced schools that charge tuition and fees above \$10,000. (For 9% of private loan borrowers in the sample, tuition and fees for the year could not be determined because the student attended more than one institution.)
- Although a minority of private loan borrowers attend higher priced schools, students at these schools are more likely to borrow. In 2007-08, 32% of students at schools charging more than \$10,000 in tuition and fees took out private loans, compared to 11% of students at lower cost colleges.
- Only 15% of all undergraduates attended schools with tuition and fees of more than \$10,000 in 2007-08. Over three-quarters (77%) of all undergraduates attended schools with tuition and fees of \$10,000 or less. (For 8% of all undergraduates, tuition and fees could not be determined.)

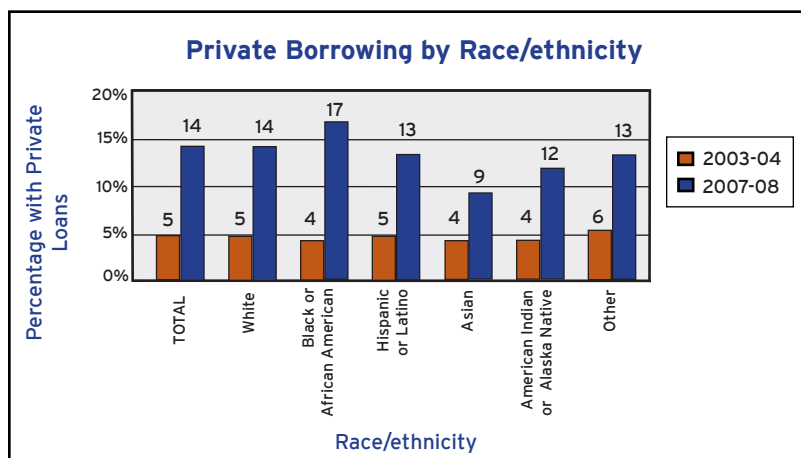
Private loan borrowers disproportionately attend private colleges

- In 2007-08, for-profit schools and private nonprofit four-year schools had disproportionate shares of students with private loans.
 - Students attending *for-profit* schools composed about 9% of all undergraduates, but 27% of those with private loans.
 - Students attending *private nonprofit four-year* schools composed about 13% of all undergraduates, but 22% of those with private loans.
 - The percentage of all undergraduates who attend *public four-year* schools (29%) was about the same as the percentage of private loan borrowers who attend these schools (28%).
 - Students attending *public two-year* schools are least likely to take out private loans: they composed about 40% of all undergraduates but only 12% of private loan borrowers.



African-American undergraduates are now the most likely to take out private loans

- The percentage of African-American undergraduates who took out private loans quadrupled between 2003-04 and 2007-08, from 4% to 17%.
- In 2007-08, students' likelihood of turning to private loans before taking out all they could in federal loans was similar regardless of race or ethnicity.



About the Data: Unless otherwise noted, the figures in this fact sheet are based on the Project on Student Debt's analysis of data from the U.S. Department of Education's National Postsecondary Student Aid Study (NPSAS), a comprehensive nationwide survey conducted every four years, most recently in academic year 2007-08. Due to rounding, figures for subcategories may not add up to overall figures. These figures represent borrowing that took place in a single academic year, not over the entire time a student was in school. Calculations only include undergraduates who are citizens or permanent U.S. residents and attend colleges in the 50 states, District of Columbia, or Puerto Rico. A small percentage of these students may be ineligible for federal loans for various reasons. The term "private loans" includes bank and lender-originated loans only, not all non-federal loans.

* Private loan volume declined to an estimated \$6.3 billion in 2009-10 but major lenders began reporting a return to growth in 2010-11. Volume data are from Table 2A, *Trends in Student Aid 2010*. The College Board. <http://bit.ly/ojxHgS>

** Almost two-thirds (63%) of private loan borrowers took out less than the maximum Stafford loan allowed for their class level and dependency status. The numbers in this fact sheet reflect updated and more precise data on individual students' specific Stafford loan eligibility which the U.S. Department of Education released since the August 2009 version of this fact sheet.

Appendix B

First screen of results when searching on “student loan” using Google’s search engine on January 17, 2012:

| | |
|--|---|
| <p>U.S. Bank® Student Loans usbank.com www.usbank.com/StudentLoans 2% Reduction* w/ Graduation Perk! Apply Online for a U.S. Bank® Loan Apply Now - Student FAQ - Parent FAQ - Loan Learning Center</p> <p>Sallie Mae® SallieMae.com www.salliemae.com Apply For A Deferred Student Loan Online in CA Today!</p> <p>Wells Fargo® Student Loan WellsFargo.com www.wellsfargo.com/student It's Quick, Easy, and Free to Apply No Payments While You're In School.</p> <p>Federal Direct Loans www.direct.ed.gov/ Apr 26, 2010 – This website provides information for college students, parents, and financial aid professionals about the U.S. Department of Education's Direct ... Students - Contact Us - Parents - Calculators</p> <p>National Student Loan Data System for Students www.nsls.ed.gov/ Students can access the Government system for their loan and Pell information.</p> <p>Citi Student Loans - Private Student Loans - College Loans ... https://www.studentloan.com/ Apply for CitiAssist private student loans from Citi Student Loans, your source for college loans that help you pay for school. + Show stock quote for STU Pay Your Loans - Contact Us - Student Loan Deferment ... - Student Loans</p> <p>Sallie Mae Student Loans - Private College Loans, Scholarships ... https://www.salliemae.com/ Featured Private Student Loan. Smart Option Student Loan®. Other Loans. Career Training Loan. Career Training Smart Option Student Loan® ... + Show stock quote for SLM</p> <p>StudentLoans.gov https://studentloans.gov/ U.S. Department of Education site explaining how to view Federal student loan documents, entrance counseling and how to sign promissory notes. Includes ...</p> | <p><small>Ads - Why these ads?</small></p> <p><small>Ads</small></p> <p>Discover Student Loans www.discoverstudentloans.com Up to 100% of Your Tuition & School Expenses and a 2% Graduation Reward</p> <p>Need a Student Loan Fast? www.simpleretuition.com We've Helped Over 5 Million People. Find Yours Now, In Just 2 Clicks!</p> <p>Graduate Programs Loans www.unionfederalstudentloan.com Apply For A Private Student Loan To Pay Graduate Program Expenses.</p> <p>California Student Loans www.uloop.com Student Loans available for California College Students</p> <p>No Cosigner Student Loans www.tuitionchart.com Get \$40,000 in Student Loans ASAP. No Payments Until After Graduation.</p> <p>Need a Student Loan Fast? www.findstudentloans.com Let Us Do the Work for You. Compare Your Options and Apply Now.</p> <p>Need a Student Loan Now www.privateloancomparison.com We Make It As Easy As 1, 2, 3 Compare Rates & Apply All At Once!</p> <p>Student Loans From Citi® www.studentloan.com Up To The Entire Cost Of Education And No Payments While In School</p> <p>See your ad here »</p> |
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