Inside the Industry with Sheldon Repp

To gain additional insight about the impact that pending legislation could have on student loan programs, we went to Sheldon (Shelly) Repp, General Counsel for the National Council of Higher Education Loan Programs (NCHELP)for his perspective. NCHELP represents a nationwide network of guaranty agencies, secondary markets, lenders, loan servicers, collection agencies, schools, and other organizations involved in the administration of the Federal Family Education Loan Program (FFELP). NCHELP members promote student access and choice for post-secondary education and training.

Question: What makes NCHELP unique?

Shelly: NCHELP has the largest and broadest membership of the associations representing student loan participants. We are also the oldest of the organizations.

Question: What is your role?

Shelly: I have been General Counsel for NCHELP since 1999. My role includes providing legal advice to NCHELP, reviewing proposed statutes and regulations affecting student lending, and government relations generally.

Question: What significant legislation is pending at this time?

Shelly: The most significant legislation pending at this time is the Student Aid and Fiscal Responsibility Act (SAFRA). This has been passed by the House of Representatives and is expected to be taken up by the Senate. If passed, it will make major changes to the federal student assistance programs, including reforming the Perkins loan program. The proposal that has received the most attention is the plan to eliminate the FFEL program. Both loan programs will become direct lending programs.

Question: Why were these changes proposed?

Shelly: The main impetus behind the SAFRA legislation is budgetary. By eliminating the FFEL program and changing the Perkins program, the government expects to save money, based on budget scoring rules. SAFRA would then recycle these savings into increasing the maximum Pell grant and new assistance for community colleges and other programs.

Question: What is the downside?

Shelly: Many believe the scoring methodology used by the Congressional Budget Office is flawed and that the savings are misstated.

Also, the benefits of the FFEL and Perkins program will be lost. Choice and competition, which have been hallmarks of the FFEL program for years and have led to service improvements, will disappear. The Federal Perkins loan program and its predecessors have helped millions of low-income students afford college since the 1960s. Generous cancellation benefits have assisted many borrowers who enter public service professions such as the military, law enforcement, teaching, and nursing. Because interest does not currently accrue while Perkins borrowers are in school, these graduates leave college with less debt.

All aspects of the programs will be serviced by providers selected through the government bid process. Schools and borrowers will have no choice in who they work with.

It will be an uphill battle to modify the SAFRA proposal. A number of NCHELP member organizations have developed an alternative plan that illustrates savings comparable to SAFRA while allowing schools to retain choice in loan origination and servicing. The Senate has yet to consider this plan. NCHELP hopes that, regardless of the outcome, a way will be found to preserve the value-added services our members provide.

Question: What is the status of SAFRA?

Shelly: The Senate is expected to take up SAFRA in early 2010. If the Senate passes a bill, as expected, a Conference Committee will iron out the difference between the Senate and House versions, after which each body will vote again on the bill. While it is currently unclear whether there will be any change to the proposed July 1, 2010 effective date to any changes in the

continued on next page

Inside the Industry: Sheldon Repp, General Counsel for NCHELP, answers questions about SAFRA and TILA Requirements

FFEL program, the consensus is that any change to the Perkins loan program will not take place until at least July 1, 2011.

Question: I understand you visit Capitol Hill as part of your job. What is that like?
Shelly: As part of my government relations role, I visit Congressional offices to explain how various proposals will affect schools, students and borrowers and the services our members provide. More importantly, I work with NCHELP members in support of their government relations efforts. It is important to keep in mind that members of Congress and their staffs are much more apt to listen to their constituents than to someone from a Washington association.

Question: You observed the House Committee "marking up" SAFRA. What happened?
Shelly: Notwithstanding the long floor debate in the Senate on the health care reform bill, formal action on legislation usually does not take up much time. The House Education and Labor Committee "mark-up" of the SAFRA bill was done in a day. I was in the audience during that session. The Committee debated and voted on various amendments to the base bill introduced by Committee Chairman George Miller. The bill made it through the Committee without major change. Interestingly, none of the proposed amendments related to the Perkins program. The full House deliberated SAFRA in a few hours. We all watched this on C-SPAN. Any attempt to influence the shape of the bill had to take place well before the formal action.

Question: Why was the Perkins loan program included in SAFRA?
Shelly: I believe the motivation behind the Administration's proposal to restructure the Perkins program is to provide additional federal loans to supplant alternative or private educational loans. This would result in a change to the target group population of Perkins borrowers from the neediest loan borrowers to a completely different population of borrower. Most Perkins borrowers today probably would not qualify for a private loan because Perkins loans are based on financial need. The program would have to be changed substantially if it is to become an alternative to private loans.

***Question:* Several years ago the Bush Administration wanted to eliminate the Perkins program, but it never happened. What is the difference today?**
Shelly: The political environment has changed, as one party now controls both the executive and legislative branches. Also, since the replacement program would provide additional (albeit unsubsidized) loan funds and would be available to all schools, not just current Perkins schools, the school community is not altogether on this. There is a need to hear the voice of the Perkins schools and Perkins borrowers.

Question: Is there any way to stop the changes that will be imposed by SAFRA?
Shelly: Schools should contact their representatives, particularly their Senators, to voice their opinions. I suggest they work with the Coalition of Higher Education Assistance Organization (COHEAO) on this.

Question: What other new rules affect student loans?
Shelly: NCHELP has been following the new Truth-in-Lending regulations published by the Federal Reserve Board that apply to the majority of educational loans (but not to Perkins loans and other loans made under the loan programs administered by the Department of Education). These rules apply not only to traditional bank loans, but also to most institutional loans that schools originate and to loans made under the loan programs administered by the Department of Health and Human Services (HHS). Schools will have to provide a series of disclosures to borrowers at the time of application, loan approval, and before disbursement. These are very complex requirements. I think schools are just beginning to realize the impact of these regulations on their offices and student population.

Question: These requirements seem particularly onerous and expensive for schools. Obviously schools are going to offer these loans to support their students at the lowest interest rate possible. Why do these rules apply to them?
Shelly: The Congress and the Federal Reserve Board threw a large blanket in their attempt to protect borrowers from predatory lenders. Unfortunately, schools that make loans were included under that blanket.

It is unclear why HHS loans were not excluded from these requirements as Department of Education loans were. These loans could have been included as an oversight.

About Sheldon Repp
Sheldon D. Repp joined the National Council of Higher Education Loan Programs as its General Counsel in August 1999. NCHELP represents a nationwide network of guaranty agencies, secondary markets, lenders, loan servicers, collectors, schools and other organizations involved in the administration of the Federal Family Education Loan Program..

Mr. Repp has an extensive background in education matters and student aid, having previously been employed in the Office of the General Counsel at the Department of Health, Education and Welfare. Mr. Repp then served as the senior assistant to the Inspector General at the Department of Labor. He joined the legal staff of Sallie Mae in June 1981. His last position there was as Vice President and Senior Deputy General Counsel. He was responsible for supervising all legal work relating to Sallie Mae's asset and securities transactions and providing legal advice on new product development and legislative analysis.

Born in Buffalo, New York, Mr. Repp received his A.B. in 1969 from Brown University and his J.D. degree in 1974 from the State University of New York at Buffalo, where he was Managing Editor of the Buffalo Law Review. He is a member of the New York and District of Columbia Bars. Mr. Repp and his wife, Barbara, live in Washington, D.C. He is active in community and educational affairs and in the arts. He is a director of the DC Chamber of Commerce, where for five years he was Chairman of the Government Affairs Committee. He is a past President of the Woolly Mammoth Theatre Company.