Older Borrowers and Student Loans

NATIONAL CENTER ON LAW & ELDER RIGHTS

CHAPTER SUMMARY • October 2020

Adapted from AARP Answers: Student Loans and the Coronavirusby John Waggoner, AARP, April 8, 2020 and Help For Private Student Loan Borrowers During Covid-19 Crisis, NCLC, May 15, 2020

The National Consumer Law Center

The National Consumer Law Center uses its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults and people of color. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

Key Lessons

1. Student loan debt threatens the well-being and financial security of an increasing number of older adults.
2. The student loan type and status matter.
3. Older adults with federal student loans may have very good options for making their payments affordable or recovering from default and stopping collection activity.
4. Private student loans present different problems and solutions from federal student loans.

Introduction

In recent years, student loan debt has grown dramatically, and is currently estimated at $1.5 billion.[1] Between 2004 and 2019, total student loan debt among borrowers 50 and older grew at double the rate as those under age 50, and for older adults 60 and over, the debt grew more than tenfold.[2] Today, approximately 22 percent of all student loan dollars are currently owed by someone age 50 or older. These totals reflect both loans taken out for one's own education, and for children, grandchildren, or other relatives.

This Chapter Summary demystifies some of the assumptions about older borrowers and clarifies protections put in place in response to the COVID-19 pandemic.

Federal Response to Student Loan and COVID-19 Crisis

The CARES Act, the sweeping stimulus legislation enacted in March, includes relief for student loan borrowers. Under the new law, no payments are required on federal student loans owned by the U.S. Department of Education between March 13, 2020 and September 30, 2020. On August 8, the administration extended this suspension period through December 31, 2020. In addition, the interest on these federal student loans will automatically drop to zero percent between March 13, 2020 and December 31, 2020.

Private student loans, and federal student loans not owned by the Education Department, are not covered by the CARES Act or the administrative extension.

---

1 Ben Miller, Colleen Campbell, Brent J. Cohen, and Charlotte Hancock, "Addressing the $1.5 Trillion in Federal Student Loan Debt," newamerica.org/millennials/reports/emerging-millennial-wealth-gap/addressing-the-15-trillion-in-federal-student-loan-debt.

2 AARP, "Student Loan Debt Soaring Among Older Adults Over 50, AARP Survey Finds," aarp.org/money/credit-loans-debt/info-2019/student-loan-debt-report.html.

Clarification on the Interest Rate

The zero percent interest rate and suspension of payments (technically called an "administrative forbearance") through the end of December happen automatically for all borrowers with student loans owned by the Department of Education. If you made a payment after March 13, you can contact your servicer to get a refund.

The zero percent loan rate applies to federal student loans owned by the Department of Education and includes:

- Direct Loans (defaulted and nondefaulted)
- Some Federal Perkins Loans
- Some Federal Family Education Loans (defaulted and nondefaulted)

Federal Family Education Loans (FFEL) were made prior to 2010. The FFEL program includes Stafford loans, whose interest is paid by the government while the student is in school or in grace periods, and nonsubsidized Stafford loans, whose interest isn't paid by the government.

The zero percent loan rate also includes Direct Consolidation Loans as well as PLUS loans, which allow parents to borrow for their dependents' undergraduate and graduate education.

Student Loans That Do Not Qualify for the Zero Percent Interest Rate

Some FFEL program loans are owned by commercial lenders, and some Perkins Loans are owned by the schools themselves. Those loans, and any other loans not owned by the Department of Education, are not covered by the CARES Act.

How to Determine Which Company Owns Your Loans

You can call your student loan servicer to ask which company owns your loans. The servicer is the company you send your monthly payment to. Additionally, you can find a list of student loan servicers for loans owned by the Department of Education online. If you do not know who your servicer is or how to contact them, contact the Department of Education through StudentAid.gov or call 800-433-3243.

Options for Loans That Are Not Owned by the Department of Education

First, you can ask your servicer to lower your interest rate and/or suspend payments for a period of time. You can consider consolidating your FFEL loans owned by commercial lenders and your Perkins Loans owned by your school into a Direct Consolidation Loan, which would be owned by the Department of Education. However, this is an individual decision with potential negative consequences.

A loan consolidation would get you a zero percent interest rate until September 30 — but your balance and interest rate afterward could be higher than the loans you are currently paying. Consolidating your loan also resets the clock for any potential loan forgiveness. Be sure to ask your servicer how your loan balance, interest rate, and total amount to be paid would change if you consolidated into a Direct Consolidation Loan. *Update: The suspension period has been extended through December 31, 2020. If you are considering a consolidation, contact your servicer to determine your options.*

Income-Driven Repayment (IDR) Plans and Public Service Loan Forgiveness (PSLF) Specifics

All student loans owned by the Department of Education are in forbearance, which means that you don't have to make payments again until after December 31st. Your loan servicer should contact you before the forbearance expires with a reminder when payments need to resume. In the meantime, the pause in payments won't count against you. For income-driven repayments, the missed payments will still count toward your forgiveness. For PSLF participants, the missed payments will count as if you made them on time as long as you have a Direct Loan and continue working for the qualifying employer during the forbearance period.

What About Private Loans?

Some states are taking action to help borrowers with private student loan debt in addition to other general debt relief steps. A number of state attorney general offices have reached an agreement with private student loan lenders to provide assistance during the Covid-19 crisis. Those lenders have agreed to offer the following forms of relief for private student loan borrowers:

1. A minimum of ninety days of forbearance (i.e., no payments will be due for 90 days),
2. Waiving late payment fees,
3. Ensuring that borrowers are not subject to negative credit reporting,
4. Stopping debt collection lawsuits for ninety days, and
5. Working with borrowers to enroll them in any other borrower assistance programs they are eligible for, like income-based repayment if borrowers also have federal student loans (which offers some help if borrowers are facing uncertain employment).

The following states have established agreements with private loan companies to allow students to opt-in to relief:

- California
- Colorado
- Connecticut
- District of Columbia
- Illinois Note: FAQ and included servicers here
- Massachusetts
- New Jersey
- New York
- Vermont
- Virginia
- Washington
- Michigan—*only offering limited relief for the MI Loan program*
- Rhode Island—*only offering limited relief for the RISLA program*.

The loan servicers included in many of these states' programs are:

- Aspire Resources, Inc.
- College Ave Student Loan Servicing, LLC
- Earnest Operations
- Edfinancial
- Figure Lending
- Kentucky Higher Education Student Loan Corporation
- Lendkey Technologies
- MOHELA
- Navient
- Nelnet
- Rhode Island Student Loan Authority
- Scratch Services
- SoFi Lending Group
- TFC Credit Corporation
- Tuition Options
- United Guaranty Services
- Upstart Network, Inc.
- Utah Higher Education Assistance Authority
- Vermont Student Assistance Corporation

To take advantage of this relief, borrowers in these states **must contact their servicer.**

Additional Resources

Selected Federal Statutes & Regulations

- Debt Collection Improvement Act, 31 U.S.C. §§ 3716, 3720A
  - » Regulations: 31 C.F.R. §§ 285.4, 901.3
- Higher Education Act, 20 U.S.C. §§ 1070–1099e
  - » Regulations: 34 C.F.R. § 1 et seq.
- Truth in Lending Act, 15 U.S.C. §§ 1638, 1650
  - » Regulations: Regulation Z, 12 C.F.R. §§ 1026.46–1026.48

Key Federal Agencies

- U.S. Department of Education
  - o General Federal Grant and Loan Information
  - o General Glossaries of Terms
  - o Federal Student Aid Feedback & Complaint System: Feedback and Complaint Center
  - » Consumer Financial Protection Bureau
    - o Glossary of Key Student Loan Terms
    - o General Student Loan Information
    - o Complaint System
  - » Federal Trade Commission
    - o General Student Loan Information (discusses debt relief scams)
    - o Complaint System

- State Agencies
  - » State attorneys general often collect and may mediate complaints. Some assist student loan borrowers who seek help navigating repayment. They may also direct borrowers to other state or local consumer protection agencies.
- Legal Assistance
  - » Legal Services Corporation, Find Legal Aid
  - » National Association of Consumer Advocates, Find an Attorney
  - » Student Loan Borrower Assistance Project, Legal Resources
- National Organizations
  - » AARP
    - o Student Debt Increasing the Strain on Older Americans
    - o The Student Loan Debt Threat: An Intergenerational Problem
    - o A Look at College Costs Across Generations
  - » National Consumer Law Center
    - o Student Loan Law (6th ed. 2019)
    - o Student Loan Borrower Assistance Project
  - » Student Borrower Protection Center

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

This Chapter Summary was supported by a contract with the National Center on Law and Elder Rights, contract number HHSP233201650076A, from the U.S. Administration on Community Living, Department of Health and Human Services, Washington, D.C. 20201.