The fraud of Obama's "Student Aid Bill of Rights"

Nancy Hanover
23 March 2015

Last week President Obama announced a series of executive actions that he dubbed a "Student Aid Bill of Rights."

The initiative is partially an exercise in damage control. It follows a series of lawsuits and scandals involving the Department of Education (DOE). The government agency has become the target of growing anger for protection of predatory student loan collection agencies, its bailout of the for-profit career college chain Corinthian and its overall profit-taking from student loans.

Obama's initiative, in the form of a memorandum directed to the DOE, calls for:

• a new web site where all federal loans will be visible by July 2016

• requiring loan servicers to notify debtors when their loans are transferred or payments are late

• instructing loan servicers to apply prepayments to loans with the highest interest rate

• a "state-of-the-art" complaint system.

In addition, the administration will launch a two-year pilot program in which the federal government will directly collect the defaulted debt of a small number of loan borrowers.

It is farcical to call such rudimentary accounting and communications procedures a "Bill of Rights."

The language merely emphasizes that there is not even a pretense of a right to higher education in this country. The 43 million Americans who owe some $1.3 trillion in student loan debt were offered zero forgiveness. In fact, Obama does not propose even one measure to actually lessen the ever-escalating cost of college or encroach on the lucrative business of student loan debt. All the "rights" remain in the hands of the government, the banks and hedge funds.

To add insult to injury, the centerpiece of the memorandum is the promise of a web site system—in a distant 15 months—from an administration who has not recovered from the political debacle of the Affordable Care Act web site.

Meanwhile Obama's new budget calls for further cuts to students on the Income Based Repayment (IBR) and Public Service Loan forgiveness programs. These cuts will reduce government write-offs and drive up student loan volumes.

The "Student Loan Bill of Rights" is, however, something of an admission of guilt. The Department of Education has been on the hot seat for some time over its cozy relationships with debt collectors using unscrupulous and outright illegal methods and the fact that the federal government is directly profiting from student loans, to the tune of about $10 billion per year.

Earlier this month, the Department of Education said that it would terminate its lucrative contracts with five debt collection agencies that systematically lied to or misled student borrowers. The Consumer Financial Protection Bureau provided evidence that student loan collectors told students that they would face legal action when that wasn't true, and further misled students as to their options and rights.

Despite the terminations, two of the debt collection companies, Coast Professional and National Recoveries, were awarded new contracts in 2014 which may still be valid, according *Inside Higher Ed*. Such contracts amount to tens of millions of dollars annually. Three of the debt collection agencies, known for their clout on Capitol Hill, have filed suit against the DOE over the contracts.

Separately the Navient-owned Pioneer Credit Recovery (formerly Sallie Mae) has filed a formal protest, one step down from litigation, over the contract termination.

Navient, one of the more notorious violators, paid $97 million in a settlement last year for illegally maximizing late fees on the student loans of military personnel. Over 60,000 loans were affected by the violation of the 6 percent interest rate cap which is afforded to active duty service members. Navient's contracts amount to $130 million annually, and Obama has come under fire from the American Legion for the administration's failure to hold Navient liable.

On the other hand, there is worry among the powers-that-be that they are sitting on a political and economic time bomb. Nearly 7 in 10 graduating seniors in 2013, 69 percent of the total, left school with student loan debt, with an average debt of $28,400.

An extraordinary meeting was held by the Federal Reserve Bank of New York on March 4, where the bank's president William Dudley spoke at length on the macroeconomic consequences of student loans. His remarks make the real purpose of the Obama web site clear: to be an early warning system for a crash of the student loan system.

Dudley pointed to the government's inadequate knowledge of the student loan crisis and a "data gap." He also cited statistics that put loan repayment rates at a catastrophically low level.

"New York Fed economists have shown that for the 2009 cohort of graduates, only 17 percent of their original debt had been paid down after five years," said Dudley. "More than 20 percent of high-balance student borrowers owe more now than when they graduated in 2009. For the 2005 cohort of graduates, only 38 percent of their original student debt had been paid down, on average, nearly ten years after graduation."

With student loan debt surpassing credit card debt and the only form of debt that continued to grow between 2008 and 2013, the effect on overall financial stability of growing defaults and slow repayments is a concern to the Federal Reserve.

These considerations put into context the policies of a section of the Democratic Party who posture as defenders of indebted students, but are loyal advocates for the financial industry.

The most outspoken of this group is Democratic Senator Elizabeth Warren, who reintroduced last year's stillborn bill, the Bank on Students Emergency Loan Refinancing Act, last week. Such legislation seeks to rein in the most rapacious aspects of student loans in the hopes of increasing repayment rates and averting a collapse of the $1 trillion loan bubble.

Like Obama's call for free community college, however, there is little chance the proposal will advance, as the Republican majority is advocating increased student loan interest rates, pegged annually. Even were students to be allowed to refinance their loans at modestly lower rates, as Warren advocates, the substantial spread between the Federal Reserve rate and the student loan rates will still net large profits for the government and banks.

Senator Chuck Schumer (D-NY), one of the most strident defenders of Wall Street, also announced new legislation last week, "Andrew's Law," which would require private student loan companies to forgive outstanding debt if a borrower dies. Congresswoman Maxine Waters (D-CA), and senators Sherrod Brown (D-OH), Richard Blumenthal (D-CN), and Tammy Baldwin (D-WI), among others have joined with Warren questioning the bailout of Corinthian Colleges by the DOE and requested clear guidelines on DOE policies for loan discharges. Waters has supported a debt strike by some Corinthian students.

Obama himself floated the idea of allowing private loans (10-15 percent of the student market) to be discharged under personal bankruptcies. The Fairness for Struggling Students Act of 2015, also sponsored by a group of Democratic senators including Warren and Richard Durbin of Illinois, has also been introduced in Congress.

The administration's nod to the bill, interestingly, was greeted with approval on Wall Street. "Obama's proposition may encourage Americans to take on more student loan debt," noted Zack's, an equity research firm. "This will indeed be a boon for post-secondary education providers like DeVry Education Group Inc., Strayer Education Inc, Apollo Education Group, Inc [Phoenix Universities], Capella Education Co, Universal Technical Institute, Inc. and many more. Share prices of most of these education companies have risen following the announcement."

This group of for-profit colleges applauded the proposal on private loans, adding the hope that the Obama measures might reverse falling college enrollments and the "decline in student demand due to hesitancy over taking a loan."

Far from a "Bill of Rights" Obama continues to deliver a fraudulent bill of goods. At every point, his administration has protected the financial industry in looting an entire generation of students, preventing millions of young people from either attaining the education they desire or making them pay through the nose for the rest of their lives.