Joint Hearing of the NY State Assembly Standing Committee on Banks, Standing Committee on Consumer Affairs and Protection Examining Practices of the Student Loan Industry

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Written Testimony of Kirsten Keefe, on behalf of the Empire Justice Center and Yan Cao, on behalf of The Century Foundation

Introduction

Thank you for this opportunity to testify regarding New Yorkers' experience of student loan debt. This written testimony, submitted on behalf of the Empire Justice Center and The Century Foundation will touch on the experience of students borrowers as they attempt to repay student loan debts originated with different types of educational institutions.

Empire Justice Center is statewide not-for-profit law firm providing consultation, expert advice, and co-counseling on issues that impact legal services clients throughout the state, including student loan debt. Empire Justice has historically represented low-income persons in consumer protection matters including mortgage foreclosure, debt collection, rent-to-own scams, and student loan discharge cases, among other issues. The Century Foundation is a progressive think tank and national leader, producing research on student debt, fraud complaints, and other higher education outcomes in New York and across the country. Empire Justice and TCF are both members of New Yorkers for Responsible Lending (NYRL). Both organizations support solutions that will help distressed borrowers avoid unnecessary defaults, as well as protections that will help students avoid programs that would burden them with unaffordable debts.

The Experience of New York Borrowers Repaying Student Loans

Higher education was once seen as a safe bet for a better future, and student loan debt was a necessary component of that opportunity. But today, student loans are a leading source of consumer distress within New York State. Since 2011, consumers have experienced a rate of serious delinquency with student loan debt than exceeds the delinquency rate for every other type of loan or debt product, according to the Federal Reserve Bank of New York.[1] Compare the 4.9 percent 90 day delinquency rate on New York auto loans, or the 8.2 percent delinquency rate on credit cards with the 12 percent delinquency rate for student loan debt, and the troubling truth becomes clear – far too many New Yorkers are going into debt in order to finance educational goals that are not paying off.[2]

The worst consequences, delinquency and default, are highly concentrated within New York State. Before detailing those troubling patterns, however, it is worth reviewing the extent of harm that follows default on federal student loans. Student loan default is not just a bad investment; it represents an educational, career, and financial crisis in the life of a borrower and his or her family. The harsh penalties, prescribed by federal law, include:

- Loss of eligibility to receive deferment, forbearance, or income-based repayment plans, regardless of need;

[1] Federal Reserve Bank of New York, Regional Household Debt and Credit Snapshot, 2016 Q4, https://www.newyorkfed.org/medialibrary/media/regional/regional-hhdc/Q42016/RHDCSNewYorkQ42016.pdf.
[2] Id.

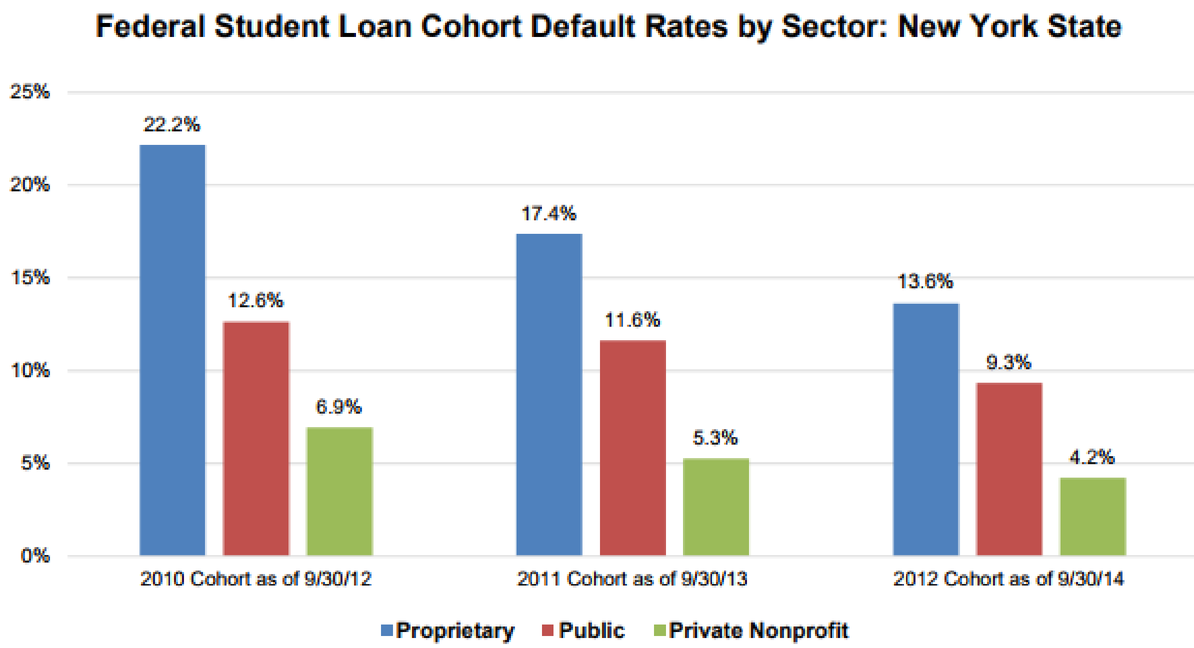
- Loss of eligibility for financial aid to pursue additional postsecondary education, which may be before a borrower who enrolled in low-quality program is able to secure gainful employment to repay student loan debts;
- Negative credit reporting, affecting a borrower's ability to buy or keep a car, housing, or a credit card. In some instances, student loan default forces borrowers into other subprime credit markets;
- Administrative wage garnishment, carried out by the federal government;
- Placement of a lien against a home, car, or other assets;
- Federal offset of Earned Income Tax Credits, social security income, disability benefits, and veterans' benefits.

Some unnecessary defaults can be avoided by improving the servicing process to give borrowers a fair shot at paying down their loans. There has been little oversight of the student loan servicing industry and some servicers commit a myriad of wrongs. Servicers often provide bad information and may steer borrowers into forbearance agreements when an Income Based Repayment plan (IBR) would be better for them, fail to communicate when they need to recertify an IBR or when their loan is paid in full, or tell borrowers their loan can never be discharged through bankruptcy. There are also issues with servicers failing to properly credit a borrower's account when an overpayment is made in an attempt to pay off their loan early, or misallocate partial payments in a way that harms the borrower. Issues have also arisen with the automatic pay feature that borrowers are encourage to use including taking payments out early from bank accounts, or charging interest if the scheduled date lands on a date the bank is closed.

Many students default, however, because they did not receive a fair shot at an education that would enable them to repay their loans and improve their lives. The high concentration of student loan defaults within New York State's for-profit education sector suggests that many students in in this sector are signed-up for loans that they have little chance of ever repaying. For these students, servicing may help to avoid the worst consequences of default, but stronger protections are necessary to prevent students from being burdened with unaffordable student loan debts in the first place.

The New York State Comptroller's 2016 report, "Student Loan Debt in New York State" found that within three years of graduation, students who attend proprietary or "for-profit colleges" are three times more likely to default on student loans compared to students who attend private nonprofit colleges.[3]

[3] Office of the State Comptroller, "Student Loan Debt in New York State" at 8, September 2016, https://www.osc.state.ny.us/reports/highered/student_loan_debt.pdf.



Source: Office of the State Comptroller, "Student Loan Debt in New York State"[4]

A closer look at the 2012 cohort of New York student loan borrowers reveals that over a longer, five-year period of repayment, the problem of student loan defaults is even more correlated with for-profit college attendance than previously identified:[5]

- Within five years, New York's **for-profit colleges generated more student loan defaults than all of the CUNY and SUNY programs combined**, even though CUNY and SUNY enrolled over 12 times as many students as for-profit colleges.

    - New York's for-profit colleges enrolled 56,500 students; 14,873 experienced default within five years.
    - New York's public colleges enrolled 727,530 students; 14,406 experienced default within five years.

- Although for-profit schools accounted for only 4 percent of New York's higher education enrollments in 2012, the for-profit schools accounted for **41 percent of the student loan defaults** that occurred within the next five years.

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[4] *Id.*

[5] TCF analysis of data published by Ben Miller, Center for American Progress, Aug. 2018, *available at* https://www.americanprogress.org/issues/education-postsecondary/news/2018/08/30/457296/can-see-colleges-long-term-default-rate/.

Table 1: NY 2012 Repayment Cohort, Comparison of Total Enrollment to Defaults After 5 Years

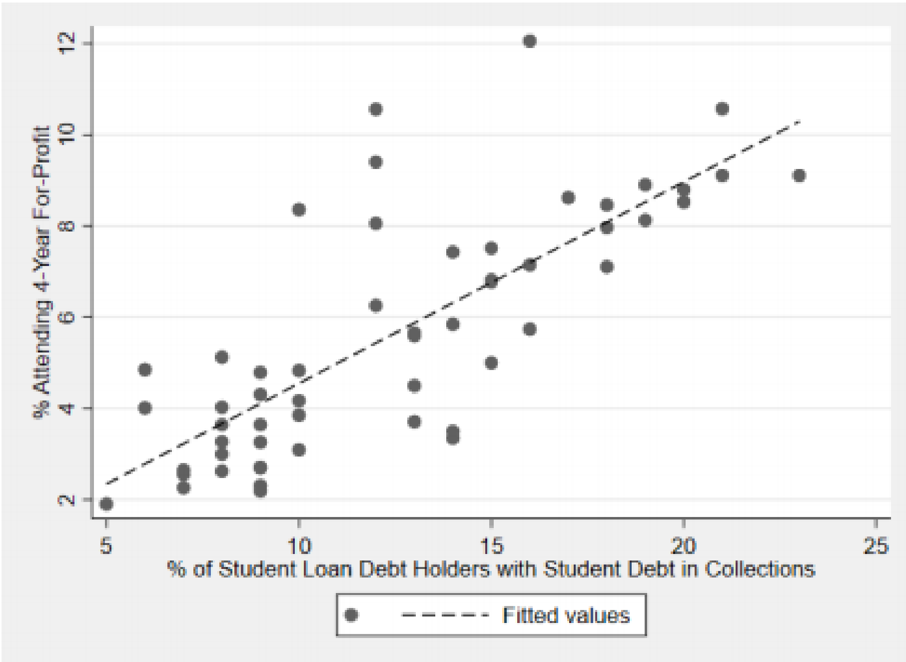
Sector	Student Enrollment in 2012	Share of Enrollment by Sector	Borrowers Entering Repayment	Share of Borrowers by Sector	Total Student Defaults	Share of Defaults by Sector
Private, Non-profit	528,851	40.3%	144,892	44.6%	6,693	18.6%
Private, For-profit	56,500	4.3%	55,355	17.0%	14,873	41.3%
Public	727,530	55.4%	124,578	38.4%	14,406	40.0%
Total	*1,312,881*	*100.0%*	*324,825*	*100.0%*	*35,972*	*100.0%*

Source: TCF analysis of data published by Ben Miller, Center for American Progress, Aug. 2018, available at *https://www.americanprogress.org/issues/education-postsecondary/news/2018/08/30/457296/can-see-colleges-long-term-default-rate/*.

Looking beyond the individual borrower, new neighborhood-level analysis released this month by the New York City Department of Consumer Affairs shows an extremely close correlation between the rate of for-profit college attendance in a community and the rate of student loan borrowers who experience post-default collections.[6]

[6] New York City Department of Consumer Affairs, "Student Loan Debt Distress Across NYC Neighborhoods: Identifying Indicators of Vulnerability" at 26, Nov. 2018, https://www1.nyc.gov/assets/dca/downloads/pdf/partners/Research-StudentLoanDebtDistressAcrossNYCNeighborhoods.pdf

Figure 17: For-Profit Attendance by Student Loan Holders in Collections, at the Neighborhood Area Level



Source: DCA analysis of National Student Clearinghouse Enrollment Data and Urban Institute Credit Panel Data

It is increasingly clear across New York State: protecting consumers from student loan defaults requires tackling the outsized debts and defaults generated by for-profit colleges. On behalf of Empire Justice and TCF, we urge you to support servicing reforms to help distressed students stay out of default and educational reforms to help restore the promise that higher education should not lead to default, or delinquency, or even to deferment, but rather, to a meaningful chance to work towards a better life. We look forward to discussing our ideas about how to accomplish this goal.

For more information contact:

Kirsten Keefe, Senior Attorney and Program Director for HOPP Anchor Partner Program
Empire Justice Center
(518) 935-2846, kkeefe@empirejustice.org
(www.empirejustice.org)

Yan Cao, Fellow
The Century Foundation
(212) 452-7705, cao@tcf.org
(www.tcf.org)