



Kennedy Wants Loopholes In Student Lending Closed

By Amy Wong

Aug. 1 - Senator Edward Kennedy sent a letter to Margaret Spellings, Secretary of the Department of Education, asking her to close off a federal student-aid law loophole that allows colleges to act as their students' lenders.

Before the current law was implemented, colleges loaned money to students and sold loans to commercial lenders. In an attempt to protect student interests, Congress chartered a new set of laws.

Congress imposed specific regulations on colleges in the school-as-lender program, clearly delineating how colleges can spend the money they earn from loan sales. More important, however, it barred new schools from entering the program after April 1.

Despite the good intentions of this legal moratorium, commercial lenders have found a loophole in the Higher Education Act that allows colleges to become student-loan providers if they lend through an eligible lender trustee.

In this scenario, banks that participate in the guaranteed student-loan program will act as the loans' trustees. As such, they assume legal title to student loans and are liable for all financial obligations and legal violations.

This arrangement renders current law negligible. Instead of providing need-based grants to students, colleges can spend the money they earn from loan sales however they like. Furthermore, instead of offering federal loans solely to graduate students as current law dictates, this loophole allows colleges to offer loans to undergraduates too.

The Department of Education acknowledged these concerns in July and responded by affirming the legality of these alternative practices.

Kennedy's letter, a response to the Department's decision, addresses the transgressions of several lenders, saying that they are providing "inappropriate kickbacks to participating schools to entice them to use their services."

Kennedy contends that by turning a blind eye to these actions, the Department nullifies the validity of congressional law and puts students in financial danger. Although colleges own the loan, they only own it for a short while. Lenders will eventually purchase these loans from colleges.

This alternative arrangement directly contradicts everything that Congress has been working towards—namely, increased financial aid to needy students. As Kennedy stated, Congress set these

limitations to “ensure that students benefit directly from any profits stemming from a school’s participation in the lending process by requiring schools to use the proceeds for a need-based student aid.”

By circumventing new federal regulations through the loophole, colleges can cash in and use the money as they see fit—even if it means profiting from and further aggravating students’ financial difficulties.

The injury does not end there. Kennedy asserts, “The new restrictions in the program were designed to ensure that no one loan program has an unfair competitive advantage, resulting in fewer options for students.” A commercial lender that acts as a college’s eligible loan trustee will edge out competitors and monopolize the market, decreasing the number of desirable options available to students.

In highlighting the damages that may ensue, Kennedy effectively pleaded with Spellings to “[prevent] lenders from using loopholes to violate the law.”

Kennedy closed his letter on this somber note: “Millions of students and families across the nation are struggling to afford college, and they put their trust in the federal government to ensure the integrity of the financial aid process. Aggressive enforcement of the restrictions on the school-as-lender program is critical to protecting their interests.”