THIRD WAY

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HEA Replacement for Cohort Default Rate Leaves More Questions Than Answers

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Last week, House Education and Workforce Committee Chairwoman Virginia Foxx (R-NC) released the *Promoting Real Opportunity, Success, and Prosperity through Education Reform Act* (PROSPER Act), a comprehensive bill that would reauthorize the *Higher Education Act Opportunity Act of 2008.* [1] While the bill touches on everything from restructuring the student aid portfolio to opening the door for competency-based education, one of the biggest changes in the bill is that it calls to replace the Cohort Default Rate (CDR)—currently the only minimum performance threshold for the 5,000+ institutions that access the $130 billion in federal student aid that flows to colleges ever year—with a new measure known as the "Programmatic Loan Repayment Rate."

To Chairwoman Foxx's credit, it has long been known that the Cohort Default Rate is a virtually toothless accountability measure, with fewer than 10 institutions being dinged by this penalty on an annual basis. [2] And, higher education experts have long called for loan repayment rates to be used instead of default rates, as they are more reflective of a student's ability to manage their debt. [3] But while moving toward an alternative accountability measure may be nudging us in the right direction, the "Programmatic Loan Repayment Rate" outlined in the bill leaves loopholes that must be addressed if we want to better protect taxpayers from spending money on institutions that do little to serve their students well.

Why the Cohort Default Rate Falls Short

Originally put in place to address the rising loan crisis of the 1980s, the Cohort Default Rate (CDR) was intended to prevent students and taxpayers from funding institutions that leave a large proportion of their students in default after attending. [4] Currently, the federal government cuts off an institution's access to federal grants and loans if over 30% of its former students enter default within three years of leaving. Under current law, the institution must have a CDR of 30% or more for three consecutive years or a CDR of 40% or more for one year in order to face sanctions and lose access to federal funding. [5]

While well intentioned, scholars and policy wonks, including us at Third Way, have written extensively on why the CDR is an insufficient way to hold institutions accountable for student outcomes. [6] For one, it affects virtually no institutions or students. For the last two years, there were only 10 institutions each year that risked losing access to federal financial aid due to CDR sanctions. Those schools were extremely small – they enrolled less than 2,000 borrowers. However, at the same time, over 585,000 students across the United States entered default just last year on their student's loans. [7] This metric just doesn't do a good job of keeping students from entering this economically devastating loan status.

One reason so few institutions are affected by the current rule is because students who receive a deferment or forbearance on their loans for reasons of economic hardship are technically not in default, so they do not count negatively against an institution's CDR. And even after a student exits forbearance status, it still takes 360 days to default, so it's easy to push students outside of the three year window in which the feds measure an institution's CDR by simply running out the clock.[8] Because of this, some institutions have taken advantage of—and abused—this loophole by encouraging former students to enter into forbearance or deferment as a way to subsequently bump them outside the measurement window for CDR.[9] In addition, the recent prevalence of income-driven repayment plans have also helped many struggling borrowers stay out of default. While these repayment options can be an economic safety net for borrowers during financially difficult times, they have also allowed some students to make payments of $0, keeping them out of default and out of a school's CDR metric, even though they are clearly facing economic hardship.

What Chairwoman Foxx's "Programmatic Loan Repayment Rate" Would Do

While the proposal by Chairwoman Foxx is termed a "Programmatic Loan Repayment Rate," it actually works more like a programmatic cohort delinquency rate. Similar to CDR, this measure would ensure that no federal funding can be used for future students to enroll in any program where a high proportion of students enter default or are delinquent on their federal student loans for three consecutive years. The proposed law sets a "positive repayment status" threshold of 45%, meaning that no more than 55% of former students can enter default or be 90 days delinquent on their loans in order a program to remain eligible.

There are a couple of big differences between this and the current CDR law. First, and most notable, it looks at *programs* rather than entire *institutions*. This means that only certain programs within an institution would be at risk of losing federal funding (and potentially shutting down) rather than the entire institution itself. In addition to an effective institution accountability metric, having a measure at the program level makes sense, given that we know different programs have very different outcomes even within a single institution. For example, Harvard's theatre program failed the Obama Administration's "gainful employment" test because its students took out very high levels of debt and also made very low salaries after attending. [10] That didn't indicate that Harvard as a whole was failing to provide value to its students.

Additionally, the thresholds and measures of "success" are different in this new version than in current law. First, its method for measuring when students default is more narrow. While CDR counts students who entered default *at any point within a three year period*, the Programmatic Loan Repayment Rate only captures students who are in default or are delinquent *at the end of* the three year measurement window. Also, while only 30% of students can default in order for an institution to remain eligible for federal funding through CDR, the Programmatic Loan Repayment Rate says that no more than 55% of students can default or be delinquent. [11] However, even with delinquency added to the measure, 55% is an extremely high threshold—in fact, it means more than half of a program's students could be in significantly behind on their loan payments yet it could still come in right under the wire and not be dinged under this proposal.

Lastly, it should also be noted that the PROSPER Act would no longer allow borrowers to defer or enter forbearance due to economic hardship but rather just enroll in an income-driven repayment plan. This change would mean that the new program-level metric would not count these students who are struggling to pay down their student debt as a positive for an institution's federal aid eligibility the way the CDR measure did. However, it still counts in-school and military deferments as positives within the repayment rate, when those students should be excluded from the calculation altogether. It also still counts those who make minimum payments though an income-driven repayment plan as positive, regardless if these payments fail to cover any of their loan principal. [12] This continues to allow institutions to potentially game the system, as some may encourage all of their students to enter this an income-driven repayment plan for the first three years after they leave, pushing them outside of the CDR window and shielding the institution from CDR sanctions altogether.

Measurements	Current "Cohort Default Rate"	Proposed "Programmatic Loan Repayment Rate"
Institutional Level	Affects Entire Institutions	Affects Programs at Institutions
Success Metrics	Default	Default and Delinquency
Threshold for Ineligibility to Receive Federal Student Aid	30% or More	55% or More
Years for Ineligibility to Receive Federal Student Aid	Three Consecutive Years at 30% or More; or One Year at more than 40%	Three Consecutive Years at 55% or More
Students in Deferment or Forbearance for Economic Hardship	Counted as Positive in Calculation	N/A
Income Driven Repayment Plans	Can make $0 payments and be counted as positive	Can make $0 payments and be counted as positive

Room for Improvement

Chairwoman Foxx's proposal to move away from CDR toward another form of accountability for schools that receive federal funds is a step in the right direction. But this measure is still imperfect, leaving an opportunity for policymakers to close loopholes that remain throughout the HEA reauthorization process.

One way to strengthen this measure would be to use the same repayment rate metric found in the U.S. Department of Education's College Scorecard. Instead of only focusing on default or delinquency, this repayment rate calculates the percentage of borrowers who have paid down at least $1 of their loan principal three years after they leave an institution. This addresses some of the loopholes in CDR and the "Programmatic Loan Repayment Rate" by including borrowers who are struggling to pay down their loans as negative, even if they are in deferment, forbearance, or making payments that fail to make a dent in their loan principal through an income-driven repayment plan. [13] This is a better reflection of actual repayment, as it gives a more comprehensive view of the percentage of students struggling to repay their loans after attending an institution, rather than just those who are technically delinquent or who enter default.

Without knowing how institutions would perform under the proposed Programmatic Loan Repayment Rate, it's difficult to know exactly how many programs it would catch. However, the loopholes that remain seem susceptible to gaming, and one thing we can't have is another accountability provision that mimics CDR, which sets such a low bar that it holds virtually no institutions accountable for student outcomes.

END NOTES

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