DOE Takes Further Steps to Protect Students From Predatory Higher Education Institutions

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On March 11, 2016, the U.S. Department of Education released a proposal to establish easier and more uniform processes for students seeking loan relief due to unscrupulous conduct by higher education institutions. The proposal seeks to protect students from "fine-print tactics" in enrollment agreements, such as mandatory arbitration provisions which prohibit students from bringing their claims as a class; require disputes to be filed in secret tribunals where no records are maintained; and/or forbid students from even disclosing the existence of their claims. The proposal also seeks to ensure that schools disclose information to prospective students when risk indicators, such as too many former students struggling to repay their loans, are triggered.

This proposal was issued prior to the third and final negotiation session in the negotiated rulemaking process, which began last September, to clarify how "Direct Loan borrowers who believe they have been defrauded by their institutions can seek relief and strengthen provisions to hold colleges accountable for their wrongdoing." Read the Department of Education's complete press release covering the final negotiation session HERE.

Client Tip: *While the DOE's proposal has not been finalized into law, colleges and universities should already be taking steps to eliminate any "fine-print tactics" from their enrollment agreements, as the DOE considers them to be "outrageous." Institutions should also be working on best practices for gathering data and statistical information on loan risk indicators so they are prepared to make proper and accurate disclosures if and when the time comes that they are required to do so by law.*