Alison Monahan: Welcome back to the Law School Toolbox podcast. Today, we're excited to have Derek Brainard, National Director of Financial Education at AccessLex Institute here with us to talk about student loans. Your Law School Toolbox host today is Alison Monahan, and typically, I'm with Lee Burgess. We're here to demystify the law school and early legal career experience, so that you'll be the best law student and lawyer you can be. Together, we're the co-creators of the Law School Toolbox, the Bar Exam Toolbox, and the career-related website CareerDicta. I also run The Girl's Guide to Law School. If you enjoy the show, please leave a review or rating on your favorite listening app. And if you have any questions, don't hesitate to reach out to us. You can always reach us via the contact form on LawSchoolToolBox.com, and we would love to hear from you. With that, let's get started.

Welcome back to the Law School Toolbox podcast. Today, we're excited to have Derek Brainard, National Director of Financial Education at AccessLex Institute here to talk with us about everyone's favorite topic – student loans. Welcome, Derek.

Derek Brainard: Thanks for having me, Alison.

Alison Monahan: My pleasure, I'm really excited about this. I have some questions for you that relate to me. To kick things off, can you just give our listeners some basic info on your background and your current role, so they've got some context here?

Derek Brainard: Absolutely. I'm actually a Navy vet, and so years ago, when I got out of the Navy, I transitioned into a career into the financial services as a licensed financial advisor. And one of the things I liked the most about that job was really communicating and educating. And so, when the opportunity came about to jump into the higher education world and help inform and empower students to increase their financial literacy, increase their financial capability, and learn about what it really takes to be financially successful, I jumped right on that. And of course, that parlayed into a career in financial education and becoming an accredited financial counselor, a chartered retirement planning counselor, and now working with this wonderful non-profit AccessLex Institute, which really has the mission of increasing the access, affordability, and value of a legal education for law students from all walks of life. So, as most careers go, it's been a winding road, but I am privileged and happy to be teaching financial education on a daily basis to students from all over the country.

Alison Monahan: Nice. Well, there's definitely a need for that, because I feel like we did not get a lot of that in law school.

Derek Brainard: Sure, yeah, and we hear that every day. We do coach students one-on-one, virtually and over the phone, and one of the things we hear from recent grads, and even those that have been out in the field for up to 10 years is just, "Jeez, I wish this was around when I was first starting school." If I had a nickel for every time I heard that, I would be a very wealthy person.

Alison Monahan: I'm sure. Well, there's a lot going on in the student loans space right now with repayments that are getting ready to restart, and also this big news that came out recently on possible loan forgiveness, fingers crossed. Note, we are recording this in mid-September, we do not have a crystal ball on any potential lawsuits, but we're hoping and thinking that might happen. So, tell me a little bit about these things.

Derek Brainard: Yeah, there really is a lot going on, and it kind of stems all the way back to March of 2020, believe it or not, when the COVID pandemic really hit and the CARES Act came into being. Part of that was this administrative forbearance or this pause on payments for federal student loans. And along with that, came a 0% interest rate and stopping of collections on defaulted loans. And so, that's been in effect all the way back to March 2020, and it's been extended through the administrations, and it was just extended via this announcement from the Biden-Harris administration through the end of the year. So that's the first piece that will give people a few more months, just to get their feet under them as we come out of this pandemic and hopefully start to put it behind us. But the part of this announcement that's grabbed most of the headlines, as you can imagine, is this piece on debt cancellation, in which they're saying, yep, up to $10,000 will be canceled for those who are falling under a certain income threshold, $125,000 for single filers and $250 for households if you never received a Pell Grant, up to $20,000 if you did. And so that is something that is going to be enacted. So, as you can imagine, that's going to be a relief for millions of borrowers across the country. In fact, they say about 8 million borrowers will automatically have that cancellation applied, because they already have all the information that they need to do so. And for all the rest that won't have that automatic cancellation applied, it said that they're going to release an online application in early October for folks to go on and just fill it out, and hopefully it's short and sweet, they can fill out that application. And it's also been relayed through the guidance that people will have through the end of December 2023 to fill out that application. Although, from a timing perspective, borrowers are being encouraged to fill out that online application by the middle of November to have the cancellation applied before the payment pause lives at the end of the year. So, that is obviously the piece that's grabbed a lot of headlines, and probably justifiably so, since it was the promise that President Biden campaigned on, and now we're seeing that promise fulfilled through this action. So, that is the second part of that announcement. The third part of that announcement that hasn't gotten a lot of attention yet, but I think will get a lot of attention as it kind of becomes more clear, is the piece on income-driven repayment plans.

Alison Monahan: True.

Derek Brainard: And how those can be reformed to lower payments even further than they already are under the current system. So, that's what the announcement kind of entailed. That's on top of a couple of different other layers of announcements that have come out over the past few months in terms of Public Service Loan Forgiveness and whatnot.

Alison Monahan: Yeah, actually, would you mind just talking a little more about both of those things, the income-based repayment and the Public Service Loan Forgiveness, because I know that one at least seems to be kind of time limited? I have loans now pop up telling me, "Hey, you should be aware of this." And I'm like, "I had no idea." So, let's talk a little bit about that.

Derek Brainard: Sure. Yeah, so Public Service Loan Forgiveness. Okay, that's a program, again, that's always in the news, and for good reason. It's been around now for a while, and it's a program that exists for people who are working in public service careers that may not be making as much money as their counterparts in the private sector and in the legal world. You think of public interest careers versus corporate or BigLaw careers, and you think about the salary disparities and how those in public interest are working with more of a modest starting salary, and yet, they still are borrowing for law school and coming out with the average debt load that they're private and BigLaw counterparts are. So, how do we tackle that? And so this program was created to help enable those folks to go into those careers that are desperately needed and still follow their passion about the work that they do on a daily basis, while at the same time, enabling them to have a financial quality of life by lowering their monthly payments to match their discretionary income and having those payments count as long as they're working for a qualified employer toward Public Service Loan Forgiveness. And so, you have to think about it in two different ways. Income-driven repayment plans are available to everybody, those plans that were created to help folks make payments based on their discretionary income. All somebody would have to do to get on to one of those plans is go to studentaid.gov/IDR and fill out the income-driven repayment certification form. And that form just basically conveys your adjusted gross income to your loan servicer, lets them know how much you made, they run it through a formula where they ignore currently 150% of the federal poverty guideline for a household of your size and the state that you live, and what's left, they call your "discretionary income". And then based on the plan that you choose, of which there are several in current existence, they could set your payment at 10, 15 or 20% of your discretionary income. So, that's income-driven repayment, and really, anybody can use those plans that has federal student loans.

Now, add on top of that, Public Service Loan Forgiveness. Public Service Loan Forgiveness is a program that people that are working for eligible employers like government, non-profit, 501(c)(3)s and other types of non-profit that do public interest work, as long as they're working and working up to full-time for those eligible employers and making on-time scheduled payments on their direct loans under one of those income-driven repayment plans, they're checking all the boxes, and they're certifying their payments every year with their employers and sending in what's called the PSLF form to the servicer for the program, which is now MOHELA – as long as they're checking the boxes and sending in that PSLF form every year, then they're tracking towards Public Service Loan Forgiveness. And generally, that's a 120-month process, if you do it straight – so, 10 years. So if you make 120 monthly payments and do it all the way straight, it's 10 years. So you have your income-driven repayment plan, you have your Public Service Loan Forgiveness – that's a program that runs kind of side-by-side with those plans. What happened was the Biden administration recognized that the vast majority of people that started applying for Public Service Loan Forgiveness in recent years were being denied. So, they were starting to say, "Well, what's the cause of these denials? What can be done to help rectify this promise and fulfill this promise that was made to people working in these professions all those years ago?" And so, one of the things they did was they created a limited time waiver, a PSLF limited waiver that's good through the end of October 2022. So as you said, at the time of this recording, we've got about another month and a half, but the deadline is October 31, 2022 for folks who have historically made payments on maybe the wrong kind of loans. Maybe they were making payments on FFEL loans instead of direct loans.

Alison Monahan: Yeah. I just found out that I have these, and I'm kind of irate because I've actually been paying on them since 2020 this whole time paying interest, and I realized that didn't need to happen and I had no idea.

Derek Brainard: So, part of this confusion around the Public Service Loan Forgiveness and why the program applications have been denied on a mass scale is, part of that reason is it's a massive program that is complicated and logistically hard to administer. There's no doubt about that. There is a differing information coming, depending on what sources you ask about how the program works. But then there's also just lack of wide-scale education, or anyways, there had been lack of wide-scale education and awareness about the program. So, to your point, Alison, like "Jeez, I have been making payments on these loans and I just found out maybe I didn't have to be." And that's under a different type of thing. If you had FFEL loans that were held by the Department of Ed, those were on administrative forbearance for the past two years, you didn't have to be making payments, and still those periods of non-payment would have counted towards these Public Service Loan Forgiveness payments of 120. So, there's a couple of issues that had come up into the public eye about the program that the administration has really tried to go back and cast a net and say, "You know what? We want to fix this." So, anybody that has been making payments on the wrong kinds of federal loans – maybe they're FFEL loans – you can turn those into direct loans by putting them into a direct consolidation loan, and then fill out the PSLF form. As long as you do those things by the end of October, then we can get you in under this limited time waiver. Maybe you were making payments under the wrong plan. Remember what I said just a minute ago – the eligible plan for Public Service Loan Forgiveness is these income-driven repayment plans, and ironically, the 10-year standard plan. But in general, for the cash flow flexibility and to have actual loans left to forgive, you would have been making payments on these income-driven repayment plans, not an extended term plan or a graduated plan, or another type of plan like this. So, maybe you fall into that camp where you've been making payments but they're on the "wrong type of plan". Well, this limited waiver gives you the ability to go back in time using the PSLF form at studentaid.gov/PSLF and fill out that form, have your past employers certify your periods of employment, and have those payments now retroactively count towards your 120 payments for forgiveness. Thankfully, this limited waiver seems to have been working, because there have been many people that have utilized it and had their debt wiped as a result under the Public Service Loan Forgiveness program. That being said, that limited waiver is slated to expire at the end of October.

Alison Monahan: Get on that. If anyone's listening to this, we will definitely put this out as soon as possible.

Derek Brainard: Okay.

Alison Monahan: If anyone's listening to it, get those ducks in a row because this could be a big deal for people, even if apparently, maybe in the past you worked like four or five years at a qualifying employer, and then maybe you want to go ahead and sort of get that in the books in case you decide to move back to one. That's another way that maybe we don't get it forgiven yet, but they can set themselves up for the future.

Derek Brainard: They can get on the track. They can get on the track towards Public Service Loan Forgiveness. And we always give the disclaimer that if you have these older FFEL loans that you've been paying on for a while, one of the steps towards getting on the track towards Public Service Loan Forgiveness is you have to consolidate them into a new direct consolidation loan. So we always do give the disclaimer to make sure that you understand how those direct consolidation loans work, and that there are pros and cons to consolidation, especially if doing so wouldn't have you at the 120 payments already. If you still had payments left, now you have a new loan, and you have to think about what are the terms of that loan, what is the repayment plan? And so on and so forth. So if you fall into that camp, we do have a free financial coaching service that we offer, and we talk to currently working legal professionals all the time on this service called AccessConnex, and that's some information that maybe, Alison, if you're open to it, you can put in the show notes, or I can just say right now.

Alison Monahan: Definitely.

Derek Brainard: The URL for that is accesslex.org/accessconnex, all one word. And so, we'll get the word out on that because you can definitely feel free to utilize that to schedule a free call with one of our accredited financial counselors, and we'll just help you weigh your options. It's not financial advice; it's walking through the scenarios and making sure you have the information you need to make an informed decision.

Alison Monahan: No, I literally might actually call you guys up, because…

Derek Brainard: That'd be great.

Alison Monahan: …after I found this out last week, I was like, "Are you kidding me?" It's a very bizarre thing, where you just sort of think they're just... I know I would log in and be like, "Why am I not getting the 0%?" And they're like, "Oh, because your loan starts with a D." And it's like, "Oh, okay, it starts with a D." But what does that mean? I don't know. Is there any way it doesn't? Would it qualify? I mean, there are a lot of questions.

Derek Brainard: There are a lot, and that's the thing, is we can put out the information and people can go to studentaid.gov and they can read FAQs on this all day long. But at the end of the day, what people really find value in is, "How do we break this down into how it practically applies to my situation and what I should be doing next?" And those are the conversations that we're having all the time, literally with thousands of borrowers across the country each year. So, it's been a very busy time for that coaching service in the past a few months, as you can imagine.

Alison Monahan: I'm sure.

Derek Brainard: And we're happy to do it. And we try to stay on top of all of the announcements, the guidance and everything that's coming, but sometimes there are daily updates to this guidance, especially with regard to the student loan relief plan that was just announced. How is that going to come into effect? How is that going to come into play? When is the application going to be released? And once it is, what other nuances are going to come up that people are going to be running into, that are just not being talked about right now or are hard to predict? Unfortunately, as you said, we don't have a crystal ball. We wish we did. So, we do the best we can with the information that's out there. Sometimes it's just helpful for folks to have somebody walk with them through this.

Alison Monahan: Oh, definitely.

Derek Brainard: That's what we've been doing.

Alison Monahan: Well, that sounds like a very valuable service. Let's switch gears a little bit and talk about something that happens pretty frequently. So, often, your loans are going to be sold to a different servicer. How does this work? And what, if anything, do people need to know or do if this happens?

Derek Brainard: Yeah, so student loans come in a couple of different flavors – there is the federal student loans that come from the Department of Education, and there is private student loans that come from banks and other lenders. In both cases, your servicer can change and you don't really have any say over that, most of the time. For example, some of the bigger servicers have gotten out of the industry in the federal student loan space and have transferred their loans that they were servicing over to other servicers. And a big example is FedLoan was the national servicer for Public Service Loan Forgiveness. And they are no longer going to be doing that, they're transferring and have transferred over already many of their borrowers to MOHELA, with an M. So if you are in that boat and you've probably gotten communication from both FedLoan and MOHELA, and probably the Department of Ed, that this is happening. And on the private side, it certainly can happen as well – a lender can move you to another lender or servicer to help service your loans. And here's the bottom line, is, whenever this happens, just know that it should not impact the terms of your loan. All that's changing is who is collecting your payments, and the website that you're going to log into to make those payments.

So, the general kind of advice here is, go on to your current portal, go on to your current website, take screenshots, document phone calls and conversations via email, make sure you have all the details of your loans inventoried, so that if this type of thing does happen in this sort of shifting servicer landscape, you have a good record of what should be there and what should be accounted for. Things can get lost in translation, and so in this way, you can be your own best advocate. But again, the terms of your loans themselves, the interest rates, the repayment plans – those should remain unchanged and transferred. Does it always happen seamlessly? No, and that's why you have to just be on top of it. And certainly if you do get moved to a new servicer column, double-check that you're on the right repayment plan that you had been on on your previous servicer, if and when the time comes. And the other big thing is auto debits, auto enrollments, auto payments. A lot of times that's something that may not transfer. So, if you are on auto payment on your old servicer and you get moved to a new one, you might have to go through another setup to get your auto payments moving. For many people with federal loans, this doesn't apply until January, because that's when we go back into repayment. But for those with private loans who haven't been on a forbearance all this time, it could be something that you've already had to deal with.

Alison Monahan: Right. Yeah, I think the key is you really have to stay on top of this. And you may not find a lot of information on the actual websites. I was shocked, actually – I logged on to mine, I'm like, "This doesn't even tell me what type of loan I have. How is this possible?"

Derek Brainard: Yeah, I have to know where to dig. A part of the webinars and the education that we're putting out is just helping people understand where to look when you log into studentaid.gov. Now, studentaid.gov has undergone a pretty substantial overhaul, and streamlining the dashboard and making it easier for folks to treat it as sort of a one-stop shop. And so, they're making some great strides there, but you have to know just where to click to view loan details, view servicer details. And then, every private lender's portal will vary, right? And every servicer on the federal levels website varies in terms of how it looks and where you have to go to navigate certain things. So, it's no wonder you... It definitely takes some time getting used to.

Alison Monahan: Yeah, I feel like I'm a pretty informed person, and I still am like, "I have absolutely no idea." I don't know how much money I owe, I don't really know who I owe it to, it's just auto-debiting. I don't know why it's still been auto-debiting this whole time, the whole thing is just very confusing. So, thank you for enlightening us on some of this.

Derek Brainard: Well, absolutely. And at the end of the day, if you need an easy sort of cheat sheet for federal loans, studentaid.gov – log in using your FSA ID and it should be a full inventory of your loans at the federal level. For private loans – annualcreditreport.com, and pulling those credit reports and just seeing what loans are out there reported under your social security number is the most comprehensive way to go. And it's a good practice anyways, from time to time, just to make sure the data being reported under your name is accurate and clean.

Alison Monahan: True. And if you ever apply for a mortgage, you will find out all kinds of things like this.

Derek Brainard: Of course. Yep, absolutely. And we talk to law students who are going through character and fitness determinations about making sure that that data is clean, because they don't want any red flags when it comes to that process. They don't want to have that be a barrier to character and fitness. So, that is something we do talk with law students about a lot.

Alison Monahan: Nice. Well, let's switch gears a little bit before we wrap up and actually talk a bit more generally about law school finances.

Derek Brainard: Sure.

Alison Monahan: Do you have any budgeting or other advice that you like to give to law students?

Derek Brainard: We do. And we just came out of a very busy season traveling to law schools all over the country and speaking at orientations and helping students set up their law school budgets. And some of the key points in that conversation really revolve around, a) knowing how much it costs to be you – to pay the rent, to grocery shop, to meal prep, to eat out, if that's what you're doing throughout the week, for transportation. And you have to get to that monthly number. It's kind of budgeting one-on-one, but it is a really important exercise, especially if you're moving to a new city to go to law school, or your situations are changing year to year. Going back to that monthly number, how much does it cost to be you for a month? Take that number, match it against your financial aid award letter and the cost of attendance at the school to determine how much of what's being offered you have to borrow. I think a lot of times, we go on to sort of auto-pilot when we see that promissory note, or we see that cost of attendance. We say, "Okay, well, if that's how much I can take, that's how much I will take." And one of our key educational messages is, just because you can borrow it doesn't mean that you have to. And if you don't need to, certainly it's money that won't be sitting and accruing interest, once interest starts to accrue again. And it'll save you a lot of money over the course of a loan repayment plan to really borrow only what you need. And understanding that if you do need to borrow up to the full cost of attendance minus any scholarships, etcetera, that's okay too, but as long as you're kind of doing so in a really informed way. And so, we talk about the cost of attendance, we talk about getting that monthly budget down using two different approaches – whether it's a line item budget, where you're really spelling out each individual expense and where the money is coming from via student loan refunds, or any sort of summer work or part-time work, where you get it. And matching that, juxtaposing that against maybe more of a bucket approach, where you just spell out, "Hey, here's how much I want to put towards my needs, my wants, and maybe some savings for down the road for the bar exam. So, there are different methods that we discuss with law students all the time when it comes to budgeting.

The other key point that we really do talk a lot about is making sure that the money that you're getting lasts all year. So, when you have your cost of attendance that you see, and you see, "Okay, this is how much I can take in terms of a student loan refund for the semester, and how much I can take for student loan refunds for the year" – that number is based on a nine-month academic year; it's not based on a 12-month calendar year, typically. So, what inevitably happens is students get to the summer and they run out of money, if they're living primarily on student loan refunds. And they're saying, "Jeez, now I have to take a paid summer experience to survive this summer." And so what we teach is, "Jeez, if you need that money to last 12 months, because maybe you want to go into an unpaid summer experience to get your foot in the door somewhere, to really test out a field, but that opportunity is unpaid – you would

LAW SCHOOL TOOLBOX

need to have some money left over from your academic year to do it." So, we tell students, if you're getting those student loan refunds, divide them by 12. Or if you're getting them every semester as most people do, divide it by six and just live off of one sixth or one twelfth and put the rest in a savings account, so you can kind of siphon it to yourself as income throughout the year. And you just have to decide, if you match it up against your budget, is that enough? Is that enough to live on, or do you have to make other decisions with regard to cutting expenses, trying to find alternate forms of income? And so on and so forth.

Alison Monahan: Yeah. I definitely remember going into the summer and being like, "Oh my gosh, we're pretty much out of money." Me and all of my roommates were putting everything on the credit cards. And then I was lucky enough to actually work as a summer associate several times, and it was like, "Oh, when is that first paycheck coming, because now I have this credit card bill that I've been building up for the last six weeks, that I really have to pay off?"

Derek Brainard: I know, right? And it puts you in a really stressful situation. So, a lot of what we're talking about is just being aware of what's coming upfront. And even if it does happen, it just makes you feel better knowing that, "Oh, you know what? I knew this was going to happen and I took some steps to plan for it." It's kind of like when you're flying and the pilot says, "Hey everybody, there's going to be turbulence, so I'm going to put the 'Fasten Seatbelts' sign on." And then the turbulence hits, but you're not really upset about it because they told you it was going to happen. It's not as scary as if it hit without you knowing.

Alison Monahan: No, I think that's key. As long as you have a plan and you sort of know what you're going to do – much better than just finding yourself in a situation where you can't pay rent.

Derek Brainard: Right, absolutely. Absolutely.

Alison Monahan: Alright, we're about out of time. Any final thoughts you would like to share here?

Derek Brainard: Yeah. I think it goes back to your statement more toward the beginning of our conversation, Alison, and that's, these are things that a lot of people wish that they had known when they started their legal education. And we hear the same thing from legal professionals: "I wish I had known that there was a 401(k) available to me with matching contributions. I would have been contributing the match for the past five years, 10 years", because that's free money that's on the table if you just put it into your 401(k). There are so many things that fall into that category when it comes to personal finance, that I want to just encourage all your listeners to reach out to the resources that are available, set a free financial coaching call through AccessConnex, if that's what you'd like to do to talk about your specific situation, and just ask, "What is it that I don't know that

I should be asking?" And myself and my team will all be happy to share those pieces of information with your listeners.

Alison Monahan: Great. And if people wanted to find out more about AccessLex or AccessLex Connex, can you just remind them how to do that?

Derek Brainard: Absolutely. So, accesslex.org is our main site. And that's A-C-C-E-S-S-L-E-X, all one word, dot O-R-G. And if you go to accesslex.org, and you can either search for "AccessConnex", and that's Connex, C-O-N-N-E-X, all one word, or go to accesslex.org/accessconnex – you can schedule a free coaching call via there. And we have lots of resources at that site. We do have a full webinar schedule for student loan repayment and Public Service Loan Forgiveness webinars, and we have a whole page dedicated to resources for recent graduates and new lawyers. So really, there's a little bit of something for everybody. If you're listening to this podcast and you are just thinking about law school as a pre-law student, we have the Ask EDNA! Education Network at AccessLex, which is a free portal with tons of resources as well, that you can access through our site. So really, there is a little bit of something for everybody. We like to say, from admission to law school to admission to the bar, we really do have resources for those folks.

Alison Monahan: Nice, that sounds great. Well, with that, unfortunately, we are out of time. Thank you so much for joining us.

Derek Brainard: Thanks for having me.

Alison Monahan: My pleasure. If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review or rating on your favorite listening app. We would really appreciate it. And be sure to subscribe so you don't miss anything. If you have any questions or comments, please don't hesitate to reach out to Lee or Alison at lee@lawschooltoolbox.com or alison@lawschooltoolbox.com. Or you can always contact us via our website contact form at LawSchoolToolbox.com. Thanks for listening, and we'll talk soon!

RESOURCES:

AccessLex Institute
AccessConnex by AccessLex
Ask EDNA! Education Network at AccessLex
Federal Student Aid
Annual Credit Report
Podcast Episode 38: Can You Really Afford Law School?
Podcast Episode 177: Real Talk About Student Loan Debt (w/Financial Expert Travis Hornsby)

[Podcast Episode 184: Handling Law School Finances (w/Lyssa Thaden of AccessLex)](#)
[Podcast Episode 294: Money Talk (w/Carrie Friedberg)](#)
[The Reality of Law School Debt and Planning for It](#)