NCHER DAILY BRIEFING

Thursday, June 16, 2022

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NCHER Offices Closed for Juneteenth, Daily Briefing Resumes on Tuesday

The NCHER offices will be closed on Monday, June 20, 2022 in observance of Juneteenth. The offices will reopen and the NCHER Daily Briefing will resume its publication on Tuesday. Have a safe weekend!

NCHER Legal Meeting: Registration Now Open for Summer Meeting

The next NCHER Legal Meeting is currently scheduled for Thursday, July 28, 2022, at the law offices of Norton Rose Fulbright located in downtown Washington, DC (799 9th Street, NW, Suite 1000). This one-day meeting should be of interest to lawyers and non-lawyers alike so **register today**! The registration fee is $400 for members and $500 for nonmembers. For planning purposes, you can assume that the meeting will start at 9:00 a.m. and end by 5:00 p.m. There are a number of hotels within walking distance of the law firm; a non-exclusive list has been posted on the **NCHER website**.

The preliminary agenda will be posted soon and will include an update on the Consumer Financial Protection Bureau, developments in financing federal and private student loans, legal developments with federal student loan forgiveness and Operation Fresh Start, a discussion of state laws affecting student loan servicing and private student loan lending, a primer on federal contracting, and a Washington update. For more information or if you have questions, feel free to contact Shelly Repp at **srepp@ncher.org**.

Senate Passes Joint Consolidation Loan Separation Act

Yesterday, the U.S. Senate passed **S. 1098, the Joint Consolidation Loan Separation Act of 2021**, introduced by Sen. Mark Warner (D-VA), which would amend the Higher Education Act of 1965 to authorize borrowers to separate joint consolidation loans. The bill passed the chamber by unanimous consent and now heads to the U.S. House of Representatives for additional consideration.

The legislation would allow borrowers to submit an application to the U.S. Department of Education to split their joint consolidation loan into two separate Federal Direct Loans. The joint consolidation loan remainder – the unpaid loan and accrued unpaid interest – would be split proportionally based on the percentages that each borrower originally brought into the loan. The two new federal loans would have the same interest rates as the joint consolidation loan. Additionally, the bill would enable borrowers to access student loan relief programs, such as the Public Service Loan Forgiveness Program and income-driven repayment programs for which they were previously ineligible due to their joint consolidation loans. According to Sen. Warner, although Congress eliminated the joint consolidation loan program on July 1, 2006, it did not provide a means of severing existing loans, even in the event of domestic violence, economic abuse, or an unresponsive partner. As a result, there are borrowers across the country who remain liable for their abusive or uncommunicative spouse's portion of their consolidated debts. This legislation provides relief to these individuals by allowing borrowers to split this debt.

“The Senate passage of this commonsense legislation is a huge step for survivors of domestic violence and financial abuse who have spent decades fighting for their financial freedom,” Sen. Warner said in a press release. “By finally allowing individuals to sever their joint consolidation loans, this bill will provide needed respite to vulnerable individuals who are being unfairly held responsible for the debt of a former partner. I urge my House colleagues to act with urgency and send this bill to the President’s desk as soon as possible.” The legislation is supported by a number of organizations, including the National Network to End Domestic Violence.

House Democrats Send Letter to Education Secretary Cardona Asking Questions on Implementation of Federal Student Loan Forgiveness

Yesterday, Rep. Ilhan Omar (D-MN) and 55 other Democrat Members of Congress sent a letter to Secretary of Education Miguel Cardona requesting further information on how the U.S. Department of Education plans to implement a potential executive order from the President on federal student loan forgiveness. The letter asked for “specific plans [the] agency has made to implement” loan forgiveness and says that “it is important that borrowers get relief quickly and aren’t hampered by unnecessary roadblocks and obligations.”

The members ask for specific information on the steps that the Department plans to take to implement a new initiative on loan forgiveness such as contacting borrowers to explain the new student loan benefit; working with loan holders and student loan servicers to ensure that all eligible borrowers can gain access to the benefit; modifying the existing contracts with loan servicers to expedite eligible borrowers receiving the benefit including how these servicers will be compensated for the work performed in cancelling the loans; modifying existing agreements with institutions, loan holders, and guaranty agencies including how these entities will be compensated for the loans that they hold under the Perkins Loan and Federal Family Education Loan programs that are cancelled; working with credit reporting agencies to remove student debt information, including any information about delinquencies or default, from their records on student loan borrowers; and how the agency will efficiently obtain information necessary to expedite the cancellation of student loan debt as called for in the executive order if the Administration determines that it cannot get income information from the Internal

Revenue Service or Social Security Administration to implement an income-cap on debt relief without the borrowers' affirmative application and use of a portal to access and share income data. The letter also seeks answers to the following questions:

- If a borrower has multiple student loans, is the agency planning to apply the cancellation across all loans, the first one, or a combination?
- Whether the amount cancelled would go towards principal, late fees, interest, or combination?
- What additional resources will the agency need to fulfill implement the executive order including hiring additional support, upgrading IT infrastructure, among other tools.

For additional coverage on efforts by Democrats and Republicans to clarify many questions regarding the White House's plans to cancel federal student loan debt, see these article from ***Inside Higher Ed*** and ***Forbes***.

House Republicans Send Letter to Office of Government Ethics Raising Questions of Biden Administration Officials Who May Benefit from Federal Student Loan Forgiveness

Yesterday, House Education and Labor Committee Ranking Member Virginia Foxx (R-NC) and House Oversight and Reform Committee Ranking Member James Comer (R-KY) sent a **letter** to U.S. Office of Government Ethics Director Emory Rounds raising several ethical questions about Biden Administration officials that are poised to receive relief from the White House's proposal to forgive at least $10,000 in federal student debt. In the letter, the Republican lawmakers request information to determine whether political appointees have a potential conflict of interest and whether they or their family members would benefit from a policy they are pushing to enact. "We are conducting oversight over the White House's proposal to reportedly forgive at least $10,000 in student debt for millions of federal student loan borrowers with a household income up to $300,000," the members write. "This policy is an unjust wealth transfer from hardworking Americans to highly educated upper-middle-class graduates who borrowed from taxpayers to earn their degree, and, in some cases, multiple degrees. In addition to the substantial and negative ramifications of this illegal action, we are especially concerned that this policy may have been promulgated by White House staffers who stand to financially benefit from the decision, especially considering recent reports that White House political appointees owe millions in student loan debt. Public officials should never use their office to unjustly enrich themselves, and such behavior would directly violate the Ethics Pledge that President Biden implemented for all political appointees. We write to request your assistance in determining whether White House staffers have a conflict of interest and whether they or their family members would benefit from the policy they are pushing the President to enact." The letter requests a list of all public officials in the administration who have worked on the student loan forgiveness policy and all related documents and communications. For further coverage, see this article from **Fox News**.

U.S. Department of Education News

For today's *Federal Register*, click **here**.

Member News

On July 1, 2022, and after 22 years of service with Edfinancial, Wanda Hall is taking a well-deserved retirement and passing her Chief Compliance Officer gavel to Michelle Gensmer-Cleek (Shelly). Shelly brings to Edfinancial an impressive, 17+ year career in financial services, including mortgage industry, banking and trust, and debt collection. For the last 7 years prior to joining Edfinancial, Shelly held various executive level positions with the focus on managing legal and compliance teams both in the continental US and across the globe. Her experience in oversight management of legal and compliance teams, which included regulatory affairs, quality assurance, internal audits, and contract management, makes Shelly an especially welcomed addition to the Edfinancial team. Shelly's education includes Bachelor of Paralegal Studies and Masters of Legal Studies. She is currently set to graduate on December 20, 2022 with her Executive Juris Doctor with an emphasis in cyber and data privacy law. In addition, she holds certifications with many trade advocacy companies including CCCO (ACA), One Trust Privacy Professional (oneTrust), CIPP (Iapp), and serves on the CRC Steering Committee for *InsideARM*. Edfinancial is excited to welcome Shelly to the team and see her engaging and motivational style in action!

MOHELA, a nationally recognized leader in student loan servicing and higher education financing, is recruiting for a Staff Counsel in St. Louis, MO, with two (2) or more years of related experience. To apply, please supply cover letter and resume to hr@mohela.com. According to the job posting, the fundamental reason this position exists is to give legal advice, ensure representation in legal proceedings, prepare legal research and legal and policy analysis of issues to and administer contracts on behalf of the Authority. The Staff Counsel is under the general direction of the General Counsel and reports to the General Counsel. For more information, click here.

General News

The Chronicle of Higher Education reports that college enrollment has been decreasing for years. A recent report by the National Center for Education Statistics shows by the fall of 2019 — before the COVID-19 pandemic had begun — the number of undergraduates had shrunk by more than 1.5 million students.

Diverse Issues in Higher Education reports that the Southern Regional Education Board, a nonpartisan nonprofit focused on improving education in 16 states in the South, released reports showing sustained declines in two-year college enrollment in the region. The drops were happening even prior to the pandemic despite overall education levels in the South continuing to rise.

Diverse Issues in Higher Education reports that, as the Deferred Action for Childhood Arrivals or DACA policy reaches a decade, Secretary of Education Miguel Cardona is calling on Congress to offer a path to citizenship for Dreamers, undocumented immigrants brought to the U.S. at a young age who are protected from deportation.

Higher Ed Dive reports that over 9,000 incarcerated students have earned a certificate or diploma through the Second Chance Pell initiative since it launched, according to a report from the Vera Institute of Justice, a research organization focused on criminal justice reform.

Higher Ed Dive reports that, while leadership and management skills proficiency in the U.S. are up, technology and data science skills proficiency dropped significantly in the past year, according to a report from Coursera.

Time includes an op-ed by American Federation of Teachers President Randi Weingarten who argues that it is not rich kids who take out student loans - forgiving debt will boost the middle class.

An online version of this Daily Briefing is available to view and print from the **Daily Briefing Section** of the **NCHER e-Library**.

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