



# DAILY BRIEFING

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Thursday, October 20, 2022

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## U.S. Department of Education Releases Official Application for Federal Student Loan Forgiveness

On Monday afternoon, the U.S. Department of Education released the [official application](#)

that student and parent borrowers will use to apply for the federal student loan forgiveness plan. The Department launched the beta test of the application over the weekend and received over eight million applications by Monday morning. Similar to the beta, the official application is a short form that can be found at [StudentAid.gov](https://studentaid.gov). In remarks prior to the launch of the official application, President Joe Biden said “as millions of people fill out the application, we’re going to make sure the system continues to work as smoothly as possible so that we can deliver student loan relief for millions of Americans as quickly and as efficiently as possible.” The Department has said that the estimated 40 million eligible borrowers will have until December 31, 2023 to complete the application for loan forgiveness, though it is encouraging borrowers to apply before November 15, 2022 if they would like their balances adjusted prior to the restart of loan payments in January 2023. The Department has not said when it will begin processing applications; however, in court filings, the agency has promised not to discharge any student loans until after October 23. For further information on the official application, see this article from [The Washington Post](#).

## Brown County Taxpayers Association Asks SCOTUS to Halt Federal Student Loan Forgiveness Plan

On Wednesday, the Brown County Taxpayers Association, a conservative taxpayer group from Wisconsin, filed an [emergency writ of injunction](#) asking the U.S. Supreme Court to halt the White House’s federal student loan forgiveness plan. In the motion, the association argues that it should be able to challenge the Biden Administration’s loan forgiveness plan on behalf of taxpayers who will be negatively affected by the program. The association argues that the plan is unconstitutional because of its unauthorized spending and because it has a “racially discriminatory motive” by narrowing the racial wealth gap by assisting Black borrowers. “The assault on our separation of powers — and upon the principle that the spending power is vested solely in Congress — is extraordinary, and perhaps unprecedented,” the filing says. Earlier this month, a federal judge in Wisconsin rejected the association’s lawsuit, ruling that it lacked standing to bring the case. Last week, the U.S. Court of Appeals for the 7th Circuit declined to halt the forgiveness plan while an appeal is pending. For additional coverage, see these articles from [NBC News](#) and [The Hill](#).

## Cato Institute Sues Department of Education Over Federal Student Loan Forgiveness Plan

On Tuesday, the Cato Institute, a Libertarian think tank located in Washington, DC, filed a [lawsuit](#) in the U.S. District Court for the District of Kansas against the U.S. Department of Education urging the court to overturn the Biden Administration's federal student loan forgiveness plan. On the issue of standing, Cato says that its case is based upon the Public Service Loan Forgiveness (PSLF) program, enacted by Congress, that is designed to help 501(c)(3) organizations attract employees by providing debt relief for people who chose to work for non-profits. By providing across-the-board forgiveness, the plan completely—and unlawfully—undermines Congress's goal of promoting PSLF. "The Constitution does not give the federal government the power to fund, guarantee, or cancel student loans," said Cato Institute President and Chief Executive Officer Peter Goettler in a [press release](#). "But if it's going to wield illegitimate power, it should at least do so without additional, maybe even more fundamental, violence to the rule of law. Allowing the executive branch to undermine the explicit policy choices of the legislative branch, as President Biden's debt-cancellation scheme plainly does, is completely beyond the pale." The lawsuit says that the administration's claim that the HEROES Act allows it to forgive student loans is "totally implausible and represents yet another illegitimate attempt by executive-branch officials to usurp Congress's sole constitutional prerogative to make policy."

## National Student Clearinghouse Report Finds Higher Education Enrollment Still Falling

Today, the National Student Clearinghouse Research Center released a new [report](#) that found total student enrollment in undergraduate and graduate programs declined in the fall 2022 semester. The report found that colleges and universities saw a 1.1 percent decline compared to the prior year. Undergraduate enrollment fell across sectors, especially among four-year institutions. Freshman enrollment fell in all four-year sectors, including highly selective private and public flagship institutions. Undergraduate enrollment declined across all demographic characteristics, except traditional-age students (+0.5 percent for 18- to 20-year-olds) and Latinx students (+1.2 percent). While enrollment has steadily declined since the beginning of the pandemic, the report said that the decline for this fall semester has slowed to nearly pre-pandemic rates. In fact, declines at community colleges have slowed substantially to 0.4 percent over last fall, driven entirely by the growth of both dual-enrolled high school students (+11.5 percent) and 18- to 20-year-old students (+1.4 percent). In a call with reporters, Doug Shapiro, the Clearinghouse's Executive Director, stated, "In this term, the rate of [enrollment] decline is lower than it's been. But after two straight years of historically large losses in student enrollments, it's particularly troubling that the numbers are not climbing back at this

point, especially among freshmen.”

## Fifth Circuit Court of Appeals Rules CFPB Structure is Unconstitutional

On Wednesday, the U.S. Court of Appeals for the Fifth Circuit [ruled](#) that the funding structure of the Consumer Financial Protection Bureau (CFPB) was unconstitutional. The case is *Community Financial Services Association of America, Limited and Consumer Service Alliance of Texas v. CFPB*. The three-judge panel of the court ruled that the structure of the CFPB violates the U.S. Constitution because it receives funding through the Federal Reserve rather than the annual appropriations process passed by Congress. The structure of the CFPB was established by the Dodd-Frank Consumer Financial Protection Act of 2010 in an effort to protect the Bureau from political pressure that could influence its oversight of the finance industry, but critics have charged that its funding provisions violate federal law. In the ruling, the judges wrote, “Congress’s decision to abdicate its appropriations power under the Constitution, i.e., to cede its power of the purse to the Bureau, violates the Constitution’s structural separation of powers.” The CFPB has not announced whether it will appeal the decision to the full Fifth Circuit, but CFPB Spokesperson Sam Gilford stated, “There is nothing novel or unusual about Congress’s decision to fund the CFPB outside of annual spending bills. Other federal financial regulators and the entire Federal Reserve System are funded that way, and programs such as Medicare and Social Security are funded outside of the annual appropriations process.” For additional coverage, see this article from [Politico](#).

## Education Secretary Cardona Plans to Promote Student Debt Relief at NAACP Town Hall

This week, the NAACP plans to hold a [National Virtual Town Hall](#) where participants are expected to discuss and learn more about the White House’s federal student loan forgiveness plan. The event will be attended by Education Secretary Miguel Cardona who is expected to promote the loan forgiveness plan ahead of the midterm elections. Secretary Cardona will discuss debt cancellation with NAACP President Derrick Johnson in a conversation moderated by Jericka Duncan of *CBS News*. The NAACP was one of the most vocal groups pressuring the Biden Administration to cancel federal student debt before the plan was announced in August.

## GAO Report Criticizes Cost and Schedule of FSA's Next Generation Financial Services Environment

Today, the U.S. Government Accountability Office (GAO) released a report titled, [Information Technology: Education Needs to Address Student Aid Modernization Weaknesses](#). According to the report, the U.S. Department of Education's Office of Federal Student Aid (FSA) initiated the Next Generation Financial Services Environment in 2017 with the purpose to modernize the systems and processes that students, parents, borrowers, and school partners use to apply for, administer, and/or process federal student aid. As of August 2022, FSA had modified the initial scope of Next Gen from 13 projects to nine projects. Of the nine projects, five are considered complete—a data strategy plan, a systems architecture document, a pilot effort on payments, deployment of a data management platform, and deployment of a loan data system. The four remaining projects have each experienced schedule delays with interim milestones. At this time, FSA does not know when three of the four projects will be fully implemented – it says that the Business Process Operations will be fully implemented by March 31, 2024.

The report said that FSA has spent a total of \$502 million on the Next Gen program, as of June 2022. However, this amount does not include all program costs because FSA has not tracked government-related labor costs. Even with this omission, the amount reported has already exceeded FSA's September 2021 life cycle cost estimate of \$415 million. It said that FSA's schedule and cost shortcomings reflect its lack of alignment with GAO best practices and the Next Gen program did not substantially or fully meet best practices for any of the key characteristics of a reliable cost or schedule estimate. Until these weaknesses are addressed, FSA cost and schedule estimates will continue to be unreliable and impair the ability of senior leadership to make informed decisions on the program's future.

GAO made 14 recommendations to the Department, including addressing weaknesses in cost, scheduling, and project management practices. FSA generally concurred with the recommendations.

## U.S. Department of Education News

For today's *Federal Register*, click [here](#).

The following announcements were posted to Federal Student Aid's Knowledge Center website:

- [\(APP-22-22\) Issue Changing Homeless or at Risk of Being Homeless Answer to “No” on fafsa.gov](#)
- [\(GENERAL-22-77\) Active Confirmation of TG Numbers \(SAIG Mailboxes\) and Electronic Services User Accounts Required by Dec. 14, 2022 to Maintain Access to Federal Student Aid Systems](#)
- [Comment Request: Federal Student Loan Debt Relief Application and Verification Forms Request](#)

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## Member News



The Higher Education Loan Authority of the State of Missouri (“MOHELA”) is recruiting for two new positions to its Executive Management team. First, MOHELA seeks a [Communications and Marketing Director](#) who will be responsible for planning and oversight of communication and marketing strategies that promote its financial services and overall contributions to higher education using an array of communication mediums (web, digital, print, mail) and accountable for creating communications to optimize MOHELA’s positive contributions among current and future higher education consumers and beneficiaries. Second, MOHELA seeks a [Director of Business Process Operations](#)

manage contact center workflow, understand and implement customer requirements within established deadlines, and collaborate with senior management to insure borrower and stakeholder satisfaction.

contributions among current and future higher education consumers and beneficiaries. Second, MOHELA seeks a [Director of Business Process Operations \(BPO\) Contact Center](#) to meet and exceed service level agreement requirements. This position will establish strong working relationships with department leaders to recruit, retain, and develop staff, establish best practice contact center procedures, implement and document BPO variances and trends, utilize planning and forecasting models to manage contact center workflow, understand and implement customer requirements within established deadlines, and collaborate with senior management to insure borrower and stakeholder satisfaction.

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## General News

[The Washington Post](#) reports that the U.S. Department of Education recently began sending alerts to borrowers who are in line for automatic federal student loan forgiveness.

[Forbes](#) publishes a column examining three mistakes that borrowers should avoid when applying for student loan forgiveness.

[NPR](#) reports that the White House's federal student loan forgiveness plan has left some borrowers behind.

[\*The Chronicle of Higher Education\*](#) reports that higher education is on the ballot this November as federal student loan forgiveness and critical race theory continue to be key issues.

[\*The Hechinger Report\*](#) reports colleges and universities that got rid of test scores found it harder to be fair in selecting students for enrollment.

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