



# DAILY BRIEFING

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Tuesday, January 17, 2023

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## NCHER Daily Briefing Publishing on Abbreviated Schedule This Week

The NCHER Daily Briefing will publish on an abbreviated schedule consisting of today and Thursday as the U.S. House of Representatives and U.S. Senate are in recess for the Martin Luther King, Jr. holiday. We will resume our traditional publication timing next week.



## Weekly Rundown

The NCHER Weekly Rundown, which includes the latest information on important events in Washington, DC, is available today and can be downloaded from the [NCHER website](#).

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## President Biden to Deliver State of the Union Address on February 7th

On Friday, House Speaker Kevin McCarthy (R-CA) sent a [letter](#) to President Joe Biden inviting him to give the State of the Union Address on Tuesday, February 7, 2023. The address is part of a Constitutionally mandated process that brings the President to Capitol Hill each year, and will be his first appearance in front of the Republican-led House. In the letter, Speaker McCarthy wrote, “the new year brings a new Congress, and with it, a responsibility to work towards an economy that is strong, a nation that is safe, a future that is built on freedom, and a government that is accountable.” White House Press Secretary Karine Jean-Pierre said that President Biden was “grateful for and accepts” the invitation and that he would use the speech to lay out how he hopes to work in a bipartisan way during the coming year.

## GAO Report Urges Department of Education to Improve Enforcement of Substantial Misrepresentation by Colleges

Last week, the U.S. Government Accountability Office (GAO) released a report titled, [Department of Education Should Improve Enforcement Procedures Regarding Substantial Misrepresentation by Colleges](#). According to the report, when colleges and universities make false or misleading statements or omit information about their programs, students may have trouble completing a degree, paying back student loans, or finding a job. The U.S. Department of Education imposed penalties on 13 colleges when such actions amounted to "substantial misrepresentation" in Fiscal Year 2016-21. The penalties included ending participation in federal student aid programs or levying fines. GAO found that the Department's written procedures for identifying and investigating colleges were incomplete, and its procedures for imposing penalties were out of date. The office recommended that the Department: (1) complete written procedures for

substantial misrepresentation investigations, including for selecting colleges and conducting investigations; and (2) update written procedures for imposing penalties on colleges that engaged in substantial misrepresentation.

## Proprietary Colleges File Appeal Challenging Borrower Defense to Repayment Settlement Heads to Federal Appeals Court

Last week, a group of proprietary colleges and a nonprofit college led by Lincoln Educational Services Corp., American National University, and Everglades College, Inc filed a lawsuit with the U.S. Court of Appeals for the Ninth Circuit challenging a settlement reached between the U.S. Department of Education and a group of borrowers to resolve a backlog of borrower defense to repayment claims. The original lawsuit accused the Trump Administration, now the Biden Administration, of illegally delaying action for years on the applications that student and parent borrowers filed with the Department for relief. In November, the settlement was approved by the U.S. District Court for the Northern District of California who ruled that the Department has the power to discharge the large amount of federal student loan debt owed by hundreds of thousands of borrowers who claim they were defrauded by their colleges. Under the settlement, the Department is set to discharge more than \$6 billion owed by approximately 200,000 borrowers who had pending claims with 151 schools, most of which are for-profit colleges that the Department said has some evidence of misconduct. In their appeal, the companies and college argue that they are being unfairly tarnished by their inclusion in the settlement.

## Department of Education Sets Hearing for DeVry University's Appeal

Yesterday, the U.S. Department of Education announced that it would hold a hearing next week on DeVry University's appeal of a \$23 million penalty imposed as a result of fraud-related loan discharges for its former students. Last year, the Department moved to recoup from DeVry the partial cost of granting borrower defense to repayment claims filed by its former students. The agency ruled that the students were entitled to loan forgiveness because DeVry misled them about their job prospects. Specifically, the Department found that the university systematically misled prospective students by

claiming its students had a 90 percent job placement rate when the rate was actually 58 percent on average. DeVry claims that the Department lacks the authority to pursue the company for the cost of the loan discharges. The case is the first time that the Department has sought to require a college that is still operating to reimburse the cost of forgiving federal student loans owed by its former students. It could set an important precedent about the scope of the Department's powers to hold colleges financially responsible when it is discovered that they have misled or deceived students. Separately, DeVry is suing the Department in the U.S. District Court for the District of Columbia arguing that the agency has not followed the correct rules and procedures for resolving borrower defense claims.

## Treasury Secretary Yellen Says U.S. Expected to Hit Debt Limit on Thursday

On Friday, Treasury Secretary Janet Yellen sent a [letter](#) to the Congressional leaders revealing that the United States is expected to hit its \$31.4 trillion ceiling on the national debt on Thursday. This means that the U.S. Department of Treasury will begin to deploy "extraordinary measures" to keep financing federal operations and avoid a default on the federal government's debt. "Failure to meet the government's obligations would cause irreparable harm to the U.S. economy, the livelihoods of all Americans, and global financial stability," stated Secretary Yellen. In the letter, Secretary Yellen said that it is unlikely that cash and other measures will be exhausted before June 2023, which sets up a standoff in Congress over raising the nation's debt limit this spring and summer. House Republicans have made it clear that they want to attach cuts to federal spending to any legislation to raise the debt ceiling while the White House has said that there will be no negotiations over such conditions and that raising the debt ceiling is something that must be done.

## U.S. Department of Education News

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

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

- [\(GENERAL-23-05\) NSLDS Professional Access – Upcoming January Enrollment Roster Dissemination](#)

- ([LOANS-23-01](#)) [HEAL Program Information – Maximum HEAL Program Interest Rates for Quarter Ending March 31, 2023](#)
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## Member News



The Boards of Directors of the Kentucky Higher Education Assistance Authority (KHEAA) and Kentucky Higher Education Student Loan Corporation (KHESLC) recently [announced](#) that they are seeking a dynamic leader to fill the position of Chief Executive Officer/Executive Director. KHEAA/KHESLC are sister

organizations created by state statute, whose joint mission is to enable Kentuckians to achieve their education goals beyond high school. The CEO/Executive Director will serve as one of the Commonwealth's leading policy advocates for financial access to and successful completion of postsecondary education, representing the interests of prospective and enrolled Kentucky students and their families. To apply, submit a cover letter and resume via email in PDF format to [ceosearch@kheaa.com](mailto:ceosearch@kheaa.com) by 4:30 PM EST Tuesday, January 31, 2023. For more information, click [here](#).

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## General News

[CNN](#) reports that the U.S. Department of Education's Office of Federal Student Aid has a lot to do over the next year, but was provided less funding than requested by Congress.

[Forbes](#) reports that, while the U.S. Department of Education is working to simultaneously implement multiple federal student loan debt relief initiatives, implementation problems may get worse in the coming months due to inadequate federal funding.

[Politico](#) reports that President Joe Biden spoke to civil rights groups on Martin Luther King Jr. Day and discussed his strong support for providing federal student loan forgiveness.

[Higher Ed Dive](#) reports that researchers have announced a two-year initiative to look at statistics by race and ethnicity to find best practices that can help colleges and universities improve their outcomes.

[Higher Ed Dive](#) reports that House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) recently renewed several oversight requests for the U.S. Department of Education, including explaining how the agency handles colleges that undermine free speech and academic freedom.

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