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NCHER Office Closed for Presidents' Day, Daily Briefing Resumes on Tuesday

The NCHER office will be closed on Monday, February 20, 2023 in honor of Presidents' Day. The office will reopen and the next edition of the NCHER Daily Briefing will be published on Tuesday. Have a safe weekend!

NY Fed Releases Quarterly Household Debt and Credit Report

Today, the Federal Reserve Bank of New York released its [Household Debt and Credit for the Fourth Quarter 2022](#). The report found that total household debt rose by \$394 billion, or 2.4 percent, to \$16.90 trillion in the fourth quarter of 2022. Credit card

balances increased by \$61 billion to reach \$986 billion, surpassing the pre-pandemic high of \$927 billion; mortgage balances rose to \$11.92 trillion, auto loan balances to \$1.55 trillion, and student loan balances to \$1.60 trillion. "Credit card balances grew robustly in the 4th quarter, while mortgage and auto loan balances grew at a more moderate pace, reflecting activity consistent with pre-pandemic levels," said Wilbert van der Klaauw, economic research advisor at the New York Fed said in a [press release](#). The report found that the share of current debt transitioning into delinquency increased for nearly all debt types. "Although historically low unemployment has kept consumer's financial footing generally strong, stubbornly high prices and climbing interest rates may be testing some borrowers' ability to repay their debts." Along with the report, the New York Fed released a [blog](#) post examining credit card and auto loan delinquency, with a focus on borrowers by age.

Solicitor General Files Brief in Federal Student Loan Forgiveness Case

Yesterday, the Solicitor General [filed a reply brief](#) to the briefs submitted by the respondent states and individual borrowers in the cases challenging the U.S. Department of Education's federal student loan forgiveness program that the U.S. Supreme Court has accepted for argument this term. In the reply brief, the Solicitor General continues to rely on a central argument from the Secretary of Education that the resumption of federal student loan payments following the current pause will, without additional relief, cause delinquencies and defaults to spike above pre-pandemic levels among vulnerable borrowers still recovering from COVID-19. The Secretary responded to the looming crisis by invoking the HEROES Act to provide one-time debt relief. The brief also argues that neither the states nor the individual borrowers have standing. With respect to *Biden v. Nebraska* decided by the U.S. Court of Appeals for the Eighth Circuit, the Solicitor General argues that the states' brief confirms that they suffered no cognizable injury. While the reply addresses the standing of all of the states, it asserts that Missouri cannot establish standing by asserting that the forgiveness plan injures MOHELA, a separate legal entity that has chosen not to sue. With respect to *Department of Education v. Myra Brown*, the reply states that the borrowers are "classic ideological" plaintiffs who have suffered no concrete injury.

On the merits, the Solicitor General argues that the assertion the Secretary of Education can never discharge principal under the HEROES Act authority contravenes the plain language of the statute, which authorizes the Secretary to waive or modify any student loan provision to provide relief to borrowers affected by national emergencies. The reply

states: “Discharge of principal is a paradigmatic form of financial relief falling squarely within that authorization. And the Secretary acted within the heartland of his authority—and in line with the central purpose and function of the HEROES Act — by granting that relief in response to a once-in-a-century pandemic that starkly disrupted the Nation’s economy and borrowers’ ability to repay their loans. The Secretary’s interpretation is not just a plausible reading of the statute; it is the best reading.” The reply also states that the “major questions doctrine,” invoked by the respondents, should not be extended to strip the Secretary of his clear statutory authority to provide essential debt relief to student-loan borrowers.” The Solicitor General concludes by asking that the underlying judgment in Nebraska, which dismissed the states’ complaint, should be affirmed, and the judgment in Brown, which found the Secretary’s action was unlawful, should be reversed. The Supreme Court is expected to hear oral arguments in the case on February 28, 2023.

Interest Groups and Officials React to Department of Education’s Third-Party Servicer and OPM Guidance

Over the last 24 hours, a number of interest groups and officials have reacted to yesterday’s announcement by the U.S. Department of Education that it was releasing updated guidance to clarify when organizations that contract with institutions of higher education are considered third-party servicers and, thereby, subjected to disclosure, audit, and liability requirements. In conjunction with the new guidance for third-party servicers, the Department announced that it is opening a public comment period on guidance and rules that impact how colleges and universities work with online program management (OPM) companies. The following are reactions to the announcement: House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) stated, “It is reckless for the Department to suggest providing access to online education is a main driver of federal student loan debt. Instead, innovations in postsecondary education, including online education, have broken through access barriers for many adult learners. While I share the belief that we must ensure programs provide value to students and taxpayers, it’s never going to work for the Department to push blanket compliance policies onto entities, especially those organizations that help students complete their education through effective retention strategies. I sincerely hope the Biden administration is ready to listen to all facts and all stakeholders during the next phase of this anticipated guidance.”

- Robert Shireman, who worked in the Department of Education during the Obama Administration and is now a Senior Fellow at the Century Foundation stated “that

[the guidance] will provide important transparency into what's going on...The Department of Education and then the rest of us will learn more about the contracts that institutions have, and there will be greater scrutiny and accountability for the OPM contractors if they are involved in recruiting students.”

- Aaron Ament, President of the National Student Legal Defense Network stated, “The bundled-services loophole to the incentive-compensation ban has led to the next frontier of predatory practices in higher education... This has ripened the conditions for misleading and defrauding students, and we’ve already seen evidence of harm caused by this lack of oversight.”
- Pearson and 2U, two of the larger online program companies, said they would work with the Department on this issue and support increased transparency measures. “Innovation in education is critical to our country, and 2U and businesses like us have become a vital part of driving innovation, access, and affordability in the higher education ecosystem,” a 2U spokesperson said in a statement. “Safeguarding and protecting students is an important part of the equation, and we look forward to working with the department to help ensure that our industry is serving the best interests of students, universities and taxpayers.”

CCRC Publishes New Report on Cost of Dual Enrollment in Community Colleges

Today, the Community College Research Center (CCRC) released a report on the cost of dual enrollment in community colleges. According to the report, community college programs account for approximately 70 percent of the dual enrollment programs in the country and approximately one million high school students participate in such programs each year. However, dual enrollment can be a financial burden on community colleges due to discounted tuition rates for high school students and additional expenses related with these courses. The report describes three case studies to show the conditions under which dual enrollment is affordable and efficient, and include strategies designed to increase the number of dual enrollment students as it causes the average cost of implementing these programs to drop. The report also highlights that dual enrollment students tend to be high achieving, do well in their classes, and are retained at relatively high rates so, in states with performance-based funding formulas that include dual enrollment students, these students can bring in extra state funding. The report suggests that, if students are encouraged to enroll at a community college post-high school, they will bring in future tuition revenue and possibly performance-based funding. John Fink, co-author of the paper and Senior Research Associate and program lead at CCRC, [said](#)

college leaders have had a “shift in mind-set” about dual enrollment, which used to be perceived as “programs of privilege” that are “really designed for students on the college track.” Now administrators are starting to see that dual enrollment can be a tool to engage high school students who might not have otherwise considered college.

U.S. Department of Education News

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

The following announcement was posted to the Federal Student Aid’s Knowledge Center Website:

- [\(GEN-23-03\) Requirements and Responsibilities for Third-Party Servicers and Institutions](#)
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General News

[Forbes](#) reports that big changes are coming for student and parent borrowers based on the current interest rate environment.

[Higher Ed Dive](#) reports that charitable dollars for higher education increased 12.5 percent in Fiscal Year 2022.

[The Hechinger Report](#) published a column entitled: New problems, recycled solutions and lots of hand wringing — how can we restore faith in higher education?

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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