NCHER BRIEFING

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NCHER Annual Conference: Hotel Cut Off is Today!

NCHER will hold its Annual Conference in three weeks - on June 5-7, 2023 at the Hilton Fort Lauderdale, Florida. The conference, which is open and designed for everyone across the higher education finance industry, will provide attendees with ample opportunities to network, learn, and take information back home that they can use in their current jobs –

from hearing about the current trends and hot topics to exploring new and potential business opportunities.

The NCHER Program Committee and staff are putting the final touches on the program agenda that is packed with general sessions as well as opportunities for small group discussions among industry experts. The current agenda includes:

- Keynote remarks from Dr. Nat Malkus, Deputy Director for Education Policy Studies at the American Enterprise Institute, who created AEI's Student Debt Forgiveness Tracker and has examined and written extensively about the U.S. Department of Education's new Income-Driven Repayment plan and its potential impact on college costs, the long-term effects of federal student loan forgiveness, and who is benefitting from the payment pause.
- A presentation from Karen McCarthy, Vice President of Public Policy and Federal Relations at the National Association of Student Financial Aid Administrators, who will discuss FAFSA [Free Application for Federal Student Aid] simplification and what NCHER members can expect to occur over the next few months as they prepare students and families for the release of the new FAFSA in December 2023.
- A federal outlook for 2023 from Alex Nock and Vic Klatt with the Penn Hill Group that will discuss recent and anticipated actions by Congress, the U.S. Department of Education, and the U.S. Supreme Court, including the future of the federal student loan forgiveness program, the restart of federal student loan payment and collections, the new Income-Driven Repayment Plan, and the budget and appropriations process.
- Important general sessions examining efforts to support an educated workforce with a focus on non-degree seeking programs such as certification courses, hot topics in compliance, the role and priorities of the Consumer Financial Protection Bureau, the borrower's perspective on return to repayment, current and emerging trends and practices in private education loans, and recent developments impacting cybersecurity. It will also include an NCHER staple – our annual "Ask the Attorney's panel.
- Small group break-out sessions centered on industry sectors so that attendees can talk about the most pressing issues of the day with their peers.

We urge all of the NCHER membership to register for the conference today. Also, today is the last day to make hotel reservations and be guaranteed a room rate of $199 per room, per night. You can make reservations online or by calling (954) 414-2222.

We look forward to seeing you for some fun and sun in Ft Lauderdale!

Department of Education Releases New Regulatory Package on Gainful Employment, Financial Value Transparency

Yesterday, the U.S. Department of Education released a Notice of Proposed Rulemaking (NPRM) on five regulatory issues that were discussed during past negotiated rulemaking efforts, including gainful employment, financial responsibility, administrative capability, certification procedures, and ability to benefit. The NPRM will be officially published in the Federal Register tomorrow and will be open for public comments for 30 days. After the public comment period closes, the Department will review the comments received from interested stakeholders, make any additional changes, and send the final version to the White House Office of Information and Regulatory Affairs (OIRA) for a final review before releasing and publishing the final rules prior to November 1st so that they can go into effect on July 1, 2024.

The NPRM includes the following provisions:

- Gainful Employment: Similar to the Obama-era rule, the proposed rules would implement both a debt-to-earnings ratio test and a high school earnings test on all certificate and degree programs offered at private, for-profit colleges and certificate programs at all other institutions of higher education, including public colleges and universities. The debt-to-earnings test would require institutions to demonstrate that their graduates' student loan debt is less than eight percent of their annual income or no more than 20 percent of their discretionary income defined as income above 150 percent of the poverty line. The high school earnings test would require institutions to demonstrate that at least half of their graduates have higher earnings than a typical high school graduate in their state's labor force who never pursued a postsecondary education. Institutions whose programs fail to meet either of these metrics would be required to notify students and would lose eligibility for all Title IV aid after several years of not meeting the metrics. The Department said about 5 percent of programs serving 703,000 students would currently fail either test.

- Transparency on Financial Value: The proposed rules would require all institutions of higher education to provide overall and programmatic information on their costs (including tuition and fees, books, and supplies), non-federal grant aid, typical borrowing amounts (both federal and private loans), earnings, any applicable occupational and licensing requirements, and licensure exam passage rates. This information would be made publicly available on a website run by the Department, and students would need to acknowledge viewing these disclosures before receiving loans to attend programs that fail the provisions of the gainful employment rule. In addition to the proposed regulations, the Department said that it will create a separate watch list of the least financially valuable postsecondary education programs through separate agency actions.
- Financial Responsibility: The proposed rules would simplify the system that the Department uses to secure upfront financial protection when colleges and universities start to exhibit signs of financial struggle, such as when an institution incurs significant debts or liabilities from a lawsuit or is at risk of losing access to federal financial aid programs.
- Administrative Capability: The proposed rules would increase requirements for institutions of higher education to provide adequate career services and clearer financial aid information, and to limit the employment of individuals with a past history of risky behavior or misconduct related to the federal financial aid programs.
- Certification Procedures: The proposed rules would allow the Department to incorporate stronger safeguards into its written agreements with institutions for participating in federal financial aid programs such as requiring teach-out plans or agreements when a college is at risk of closure.
- Ability to Benefit: The proposed rules would provide a streamlined process for states to use when approving postsecondary opportunities for students without a high school diploma but who need access to federal aid.

"President Biden has taken unprecedented steps to fix our broken student loan system and help millions of Americans struggling with student debt, creating new opportunities for borrowers, their families, and their communities," Education Secretary Miguel Cardona said in a statement. "At the same time, we need to hold colleges accountable for unaffordable costs and better protect students from programs that fail to deliver real value and upward mobility. The rules proposed today are about helping ensure that when students invest in a postsecondary education, they get a solid return on investment and a greater shot at the American dream." But House Education and the Workforce

Committee Chairwoman Virginia Foxx (R-NC) said that the rules limit students' choice, unfairly attack proprietary institutions, and deny skills development to job seekers. "Today's announcement does not protect students or taxpayers, but rather reaffirms the Department's commitment to eliminating institutions that don't have its preferred tax status," she said in a statement. "If the Biden administration was concerned about solving the student loan disaster it would recognize that less than one in 10 students are enrolled at a career college and work with Congress to ensure that all colleges and universities are held financially accountable for offering degrees with little to no financial value."

For further coverage, see this article from Inside Higher Ed.

House Education and the Workforce Committee Announces Second Hearing on Student Loan Policies

Yesterday, the House Education and the Workforce Committee announced that the Subcommittee on Higher Education and Workforce Development will hold a second hearing to explore recent student loan policies put in place by the U.S. Department of Education. The hearing, titled, "Breaking the System Part II: Examining the Implications of Biden's Student Loan Policies for Students and Taxpayers," will be held at 10:15 a.m. on Wednesday, May 24, 2023.

"During the first hearing in this series on the impact of President Biden's free college agenda, my colleagues and I outlined the costs and consequences of the President's student loan debt transfer scheme," said Subcommittee Chairman Burgess Owens (R-UT). "America's college financing system needs fixing but illegal bailouts and executive overreach by the Biden administration will all but ensure it is broken beyond repair. During part two of our hearing, we will continue to hold President Biden and the Department of Education accountable for their devastating agenda that will saddle future generations with other's debt and exacerbate the failures of a broken system at the expense of students and taxpayers." While the witness list has not been made public yet, Under Secretary of Education James Kvaal and Federal Student Aid Chief Operating Officer Richard Cordray are expected to testify at the hearing. To watch the hearing, visit the committee's YouTube page.

Department of Justice Files Motion to Dismiss SoFi's Lawsuit on Federal Student Loan Payment Pause

Earlier this week, the U.S. Department of Justice (DOJ) filed a motion to dismiss a lawsuit filed by SoFi in the U.S. District Court for the District of Columbia that seeks to overturn the latest extension of the federal student loan payment pause issued in November 2022. In the motion, DOJ says that the case should be thrown out because SoFi's "goal of profiting from student loan borrowers" is not a valid interest that is protected by the federal laws governing student loans. The filing details the U.S. Department of Education's legal argument for extending the payment pause after several courts blocked the agency's federal student loan forgiveness program. At the time, the Department said the extension would give the U.S. Supreme Court the opportunity to take up the issue, which the justices are now reviewing. However, DOJ wrote that the Department also examined various options, including extending the payment pause to only those borrowers who were eligible for forgiveness but decided to simply extend the policy as the "most administratively feasible option." DOJ also noted that the extension fell "comfortably" within the Department's authority under the HEROES Act to respond to the economic fallout from the Covid-19 pandemic.

For additional coverage, see this article from Business Insider.

House Education and the Workforce Committee Holds Hearing with Secretary Cardona on FY2024 Budget

On Tuesday, the House Education and the Workforce Committee held a hearing titled, "Examining the Policies and Priorities of the Department of Education," with Education Secretary Miguel Cardona. In her opening statement, Committee Chairwoman Virginia Foxx (R-NC) criticized the U.S. Department of Education for not responding to multiple oversight requests sent by the committee. In his opening statement, Committee Ranking Member Bobby Scott (D-VA) commended the Department for its budget request saying that the nation must invest in education. In his written testimony, Secretary Cardona laid out the spending priorities for his agency included in the President's budget request for Fiscal Year 2024."We can also choose to invest in making sure postsecondary education is inclusive and affordable for the many Americans who will benefit from a college credential or degree," he said. "That means increasing the Pell Grant. It means investing in proven strategies that help students better afford college, and succeed in earning a degree. It means supporting our HBCUs, TCUs, and MSIs.It means making free community college a reality nationwide."

During the question-and-answer period of the hearing, several Republicans asked Secretary Cardona about plans to resume repayment of federal student loans while several Democrats asked the Secretary to talk about his support for the federal student loan forgiveness plan. Secretary Cardona reiterated that he expects a positive decision from the U.S. Supreme Court on the loan forgiveness plan, and irrespective of the court's decision, the Department is preparing to return borrowers to repayment 60-days after the decision.

For more information, including an archived webcast of the hearing, visit the committee website.

Department of Education Announces Sequestration Action on Loan Origination Fees

On Monday, the U.S. Department of Education's Office of Federal Student Aid (FSA) published an electronic announcement with information on increases to origination fees on Federal Direct Loans as required by the Budget Control Act of 2011. The origination fees for Fiscal Year 2024 are identical to the fees charged in Fiscal Year Y 2023. FSA will impose a 1.057 percent fee for Direct Subsidized Loans and Direct Unsubsidized Loans and a 4.228 percent fee for Direct Plus Loans taken out by graduate students or parents on behalf of a dependent student. Those fees were one and four percent, respectively, prior to passage of the Budget Control Act.

White House, Congressional Leaders Continue to Negotiate Legislation to Raise Debt Ceiling

This week, the White House and Congressional leaders continued negotiations on legislation aimed at raising the nation's debt ceiling, which Treasury Secretary Janet Yellen says needs to be done as early as June 1st. Press reports indicate that Republicans and Democrats were making progress toward a bipartisan deal that would raise the debt ceiling with the hopes that an agreement can be announced on Monday. The outlines of the deal are beginning to take shape, falling somewhere between the "clean" debt limit increase sought by Democrats and a House-passed bill that would couple a debt limit increase with spending caps, expanded work requirements for some welfare benefits, and clawing back unspent pandemic aid. Negotiations over the length of the budget caps on discretionary spending are especially tricky as Republicans are pushing for 10-year caps based on federal spending from Fiscal Year (FY) 2022 while Democrats have been pushing for no more than two years of caps based on FY 2023 levels.

For further coverage, see these articles from The Hill and Roll Call.

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:

- (GENERAL-23-38) Memorial Day Federal Holiday Processing and Customer Service Hours
- (GEN-23-08) Update to Third-Party Servicer Guidance in GEN-23-03
- (DL-23-03) Interest Rates for Direct Loans First Disbursed Between July 1, 2023 and June 30, 2024
- Comment Request: Loan Rehabilitation: Reasonable and Affordable Payments
- (GENERAL-23-37) FY 24 Sequester-Required Changes to the Title IV Student Aid Programs

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General News

The Wall Street Journal publishes an article saying that federal student loan borrowers may be spared the worst if the United States fails to raise the debt ceiling as federal lending is low in the month of June.

Delaware Business Now reports that Navient has replaced Chief Executive Officer Jack Remondi with former American Express Corporate Treasurer David Yowan.

Higher Ed Dive examines three trends that are shaking up companies involved in postsecondary education.

The Federal Reserve Bank of St. Louis published a report titled "The Changing Role of Family Income in College Selection and Beyond," which says that the role of family income has remained important and relatively stable at explaining college quality choice though it is only for the choice of four- over two-year colleges. Pre-college academic achievement has become much more important at predicting college quality choice.

An online version of this Daily Briefing is available to view and print from the
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