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NCHER Offices Closed for Independence Day

The NCHER offices will be closed tomorrow, Tuesday, July 4th, in observance of Independence Day. The offices will reopen on Wednesday, July 5, 2023. Have a safe holiday!



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](#).

NCHER Welcomes New Officers, Board of Directors for Fiscal Year 2023-2024

Today, NCHER welcomes its new leadership as well as new and returning members to the Board of Directors for Fiscal Year 2023-2024. Angela Baier (CollegeInvest / College Assist) becomes the new Chair of the NCHER Board of Directors. Chad Tate (ECMC) becomes Chair-Elect, Christiana Thornton (The New Hampshire Higher Education Assistance Foundation) will serve as Immediate Past-Chair, and Wendy McAlister (College Foundation Inc.) continues her service as the organization's Treasurer. Directors at-Large include: Diana Barber (Kentucky Higher Education Assistance Authority), Jim Farha (Oklahoma Student Loan Authority), Ron Gambill (Education Loan Finance Inc.), Scott A. Giles (Vermont Student Assistance Corporation), Scott D. Giles (Missouri Higher Education Loan Authority), Ray Jones (South Carolina Student Loan), Melissa Neal (Oklahoma College Assistance Program), and Jimmy Parker (Panhandle-Plains Higher Education Foundation). NCHER extends its appreciation to all of the current Board members and looks forward to a productive and successful year! The complete listing of the 2023-2024 NCHER Board of Directors can be found on the [NCHER website](#).

SCOTUS Issues Decision in Nebraska v. Biden Striking Down Federal Student Loan Forgiveness Plan

On Friday, the U.S. Supreme Court issued its decisions in Nebraska v. Biden and Department of Education v. Brown, which challenged the constitutionality of the U.S. Department of Education's federal student loan forgiveness program. The plan, first announced in late summer of last year, would have provided up to \$20,000 in loan forgiveness for each borrower who applied for such assistance.

In [Department of Education vs. Brown](#), the court unanimously ruled that the two borrowers who brought the case challenging the loan forgiveness program did not have standing under Article III of the U.S. Constitution and, therefore, their claims were mute.

In [Nebraska vs. Biden](#), the Court ruled 6-3 that at least Missouri, one of six states that sued to block the plan, had standing to pursue the case's claims. With standing established, the court ruled that the [Higher Education Relief Opportunities for Students \(HEROES\) Act of 2003](#) did not provide the authority for the creation of the federal loan forgiveness plan, blocking the Biden Administration from moving forward under this authority. Chief Justice John Roberts, who wrote the decision, characterized the case as a straightforward interpretation of federal law. "The Secretary [of Education] asserts that the HEROES Act grants him the authority to cancel \$430 billion of student loan principal," Chief Justice Roberts wrote. "It does not. We hold today that the act allows the Secretary to 'waive or modify' existing statutory or regulatory provisions applicable to financial assistance programs under the [Higher] Education Act, not to rewrite that statute from the ground up." Justice Elena Kagan wrote the main dissent that was joined by Justices Sonia Sotomayor and Ketanji Brown Jackson.

Following the court's widely-anticipated decision, several interest groups for and against the decision issued press statements. The Heritage Foundation Legal Fellow Jack Fitzhenry and Center for Education Policy Director Lindsey Burke said in a joint statement that the court "rightly found that this was an issue for Congress, not the administrative bureaucracy, to decide. If we want to help students deal with the increasing cost of getting a degree, giving a bailout to the very colleges and universities that hike prices is not the answer." House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) issued a press release stating, "Mr. President, good riddance to your illegal, economically disastrous taxpayer-funded bailout for the wealthy. I had hoped you would have greater respect for taxpayers and the Constitution, but I am pleased the Court stepped in to hold you accountable. With today's ruling, hardworking taxpayers, including the 87 percent of Americans who hold no federal student debt, won't be forced to foot the cost for Biden's \$315 billion boondoggle."

Student Borrower Protection Center Deputy Executive Director and Managing Counsel Persis Yu said that it was a "dark day for 40 million student loan borrowers," during a press conference Friday. "In the face of the Supreme Court's unjust decision, the responsibility to fight for student debt relief falls squarely on the President's shoulders," said Student Debt Crisis Center President and Founder Natalia Abrams. "This is a moment that demands swift action." In an announcement on Friday afternoon, President Joe Biden called the decision wrong and said that the fight "is not over." The President added that he "will stop at nothing to find other ways to deliver relief to hard-working middle-class families." In his own [statement](#), Education Secretary Miguel Cardona called

the decision an “outrage” and stated that he would not stop “fighting for borrowers.”

For additional coverage, see these articles from [Inside Higher Ed](#), [Fox News](#), and [NBC News](#).

Department of Education Announces “Plan B,” New Loan Forgiveness Approach through Negotiated Rulemaking, Finalizes New IDR plan, and Provides Year-Long On-Ramp for Return to Repayment

On Friday afternoon, in response to the U.S. Supreme Court’s decision to block its federal student loan forgiveness plan, the U.S. Department of Education [announced](#) that it would take several new steps to provide loan relief to student and parent borrowers.

First, the Department announced that it would conduct a negotiated rulemaking using authority under the Higher Education Act, in contrast to the HEROES Act, to provide loan forgiveness for “as many working and middle- class borrowers as possible.” The Department [released](#) a draft notice for publication in the Federal Register stating that it intends to regulate on the authorities granted under section 432(a) of the Higher Education Act, which provides authority to the Secretary of Education to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand on federal student loans and has been cited by Sen. Elizabeth Warren (D-MA) and many consumer advocates as giving the Department the authority to provide wide scale loan forgiveness under a “Plan B” if the court struck down the original authority. In the draft notice, the Department said that it will hold a hearing on July 18th to take public comments and accept written submissions for 14 days after the official publication of the notice or the hearing date, whichever is later. A Department spokesperson said this effort to provide forgiveness would take several months to finalize.

Second, the Department scheduled [the final rule implementing its new Income Driven Repayment plan](#) for publication in the Federal Register for July 10, 2023. A fact sheet on the plan, dubbed the “Saving on a Valuable Education (SAVE) plan,” is available [here](#). The final rule on the SAVE plan is substantially similar to the proposed rule. The new plan would increase income protection (whereby a borrower whose income falls under a certain percentage of the federal poverty line would have a zero dollar payment) from 150 percent to 225 percent; halt interest capitalization so loan balances would not grow due to unpaid interest; reduce monthly payments on undergraduate loans to five percent

of income that is not protected (i.e., that is above the 225 percent federal poverty line); and provides loan forgiveness to borrowers with original principal balances of \$12,000 or less after 120 payments. The final rule would automatically enroll those borrowers who go 75 days without making a payment into SAVE if they have previously provided approval for disclosure of their tax information to the Department. The SAVE plan will replace the current Revised Pay-As-You-Earn (REPAYE) plan and borrowers who are currently in REPAYE will automatically be enrolled in SAVE. The Department has stated that borrowers can sign up for SAVE now on [Federal Student Aid's \(FSA\) website](#).

Third, the Department announced that FSA would provide a 12-month “on-ramp” for borrowers who begin to repay their federal student loans later this year. During this period, monthly payments will be due and interest will accrue, but they will not capitalize at the end of the period. Additionally, borrowers will not be reported to credit bureaus, be considered in default, or have their loans turned over to collections during this period.

For additional coverage, see this article from [Forbes](#).

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:

- [\(GENERAL-23-52\) Availability of the Prison Education Program Application Form and Instructions for Applying for Prison Education Programs](#)
- [Comment Request: Revocation of Consent To Share Federal Tax Information Form](#)

General News

[The Chronicle of Higher Education](#) reports that the U.S. Supreme Court's decision to block race-conscious admissions policies will impact mostly selective colleges and universities.

[Inside Higher Ed](#) reports that Fitch Ratings' 2024 outlook for higher education is worse than 2023.

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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