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In Today's Edition

- NCHER Fall Legal Meeting: Registration Is Now Open, Preliminary Agenda Has Been Released!
- Senate Democrats, State Attorneys General Applaud Department of Education's Federal Preemption Revision
- Senate Democrats Struggle to Reach Agreement on Budget Reconciliation
- The Century Foundation Releases Report on Funding Gaps for HBCUs
- College Board Announces Fewer Students Took SAT This Year Because of COVID
- U.S. Department of Education News
- Member News
- General News

NCHER Fall Legal Meeting: Registration Is Now Open, Preliminary Agenda Has Been Released!

NCHER will hold its annual Fall Legal Meeting on Thursday, October 21 at the offices of Bradley Arant Boult Cummings located at Roundabout Plaza, 1600 Division Street, Ste 700, Nashville, Tennessee. The program committee has been hard at work on the [Preliminary Agenda](#) that includes sessions providing an overview of state lending and servicing laws (including preemption), legal issues involved with the U.S. Department of Education's regulation of guaranty agencies, privacy and cybersecurity, developments in the financing of Federal Family Education Loan Program and private education loans, and

much more. The program should be of interest to both lawyers and non-lawyers.

Information on the meeting, including a link to registration and a list of hotels close to the law firm, can be found under the Events tab on the [NCHER website](#). The NCHER staff is currently working on a remote option and will release those details soon. However, active participation for remote registrants will be limited. If you have any questions regarding the Legal Meeting, feel free to reach out to Shelly at srepp@ncher.org.

Senate Democrats, State Attorneys General Applaud Department of Education's Federal Preemption Revision

Last Friday, six Senate Democrats, led by Sen. Elizabeth Warren (D-MA), sent a [letter](#) to Education Secretary Miguel Cardona expressing support for the U.S. Department of Education's revision of its legal interpretation arguing that federal law preempts state regulation of student loan servicers. In the letter, the senators said that the new policy "will significantly enhance oversight and accountability of the student loan program and its contractors by empowering state regulators to better protect borrowers and consumers." They urge Secretary Cardona to apply the preemption framework in the contract negotiations with the federal servicers and to ensure that those servicers who obstruct federal or state oversight to face consequences under their current contracts and in future allocations and renewals. Separately, 14 Democratic State Attorneys General (AG) sent a [comment letter](#) to Secretary Cardona expressing strong support for the Department's action rescinding the previous interpretation on the preemption of state regulation and oversight of federal student loan servicers. The AGs argue that state entities play a vital role in protecting federal student loan borrowers, that the 2018 interpretation was flawed and inconsistent with federal case law, that the new notice is well reasoned and supported by federal case law, and the Department should further clarify that state laws regulating servicers are not preempted unless compliance with state and federal law is impossible.

Senate Democrats Struggle to Reach Agreement on Budget Reconciliation

Several media outlets are reporting that Senate Democrats continue to struggle to reach agreement on the outline of a budget reconciliation package that could pass the upper chamber. The House- and Senate-passed budget resolution included instructions that all Congressional committees report their respective portions of the \$3.5 trillion package implementing the White House's American Families Plan by today, September 15th.

While all House Committees are expected to meet the deadline, Senate Committees are still in the process of writing their respective pieces of the reconciliation bill, which is expected to create a new free community college program, increase funding for Pell Grants, and provide additional funds to Historically Black Colleges and Universities and Minority Serving Institutions. Adding to the uncertainty are comments by both Sen. Joe Manchin (D-WV) and Sen. Krysten Sinema (D-AZ) that they will oppose the size and scope of the current package with Sen. Manchin commenting that the process needs to be slowed down until senators know the impact that such federal spending will have on inflation. This morning, Sen. Sinema met with President Joe Biden, who has been called in to urge Democrats in the evenly split Senate, to come to an agreement quickly. Sen. Manchin is expected to meet with the President this afternoon.

The Century Foundation Releases Report on Funding Gaps for HBCUs

Today, The Century Foundation (TCF) released a report titled, [Achieving Financial Equity and Justice for HBCUs](#). The report explores the extent of public underfunding for Historically Black Colleges and Universities (HBCUs) and the financial ramifications for the affected institutions of higher education, students, and parents. According to the report, non-HBCUs had significantly larger endowments than their HBCU counterparts; the average endowment per student for public colleges was \$25,390, more than three times larger than the average endowment of \$7,265 per student at public HBCUs. At private institutions, the average endowment per student was more than seven times larger -- \$184,409 compared to \$24,989 at private HBCUs.

The report found that, in a ranking of higher education endowment sizes, no HBCUs made the top 100, and the HBCU with the largest endowment, Howard University, ranked 160th on the list. The report mentioned that HBCUs need an influx of \$53 billion in endowment funds to cover the student loan debt burdening HBCU students and their parents, described as a symptom of historic state and federal underfunding. The report recommends that Congress put \$40 billion toward that goal, with the rest of the money coming from matching funds from states or private sources. "While lawmakers extol the virtues of HBCUs in their words, their actions have deprived these illustrious institutions with the funding needed to ensure their financial stability, independence, and continued academic excellence," Denise Smith, a fellow at TCF and author of the report, said in a press release. "Much like the racial wealth gap, our ongoing short-changing of HBCUs and failure to address historical funding gaps have forced HBCUs to operate today at a severe disadvantage. It's time to fix that."

College Board Announces Fewer Students Took SAT This Year Because of COVID

Today, the College Board released its [2021 SAT Suite of Assessments Program Results](#), which found that 1.5 million students in the high school class of 2021 took the SAT at least once, down from 2.2 million in the class of 2020. According to the results, many students attempted to take the SAT but were unable to do so due to COVID-19 disruptions, with more than 1 million test registrations cancelled as schools and test centers had to close or reduce capacity. The College Board said that, despite the decline in participation due to school and test center closures, proportional representation across student subgroups was roughly similar to previous classes due in large part to SAT School Day. The organization said that, this fall, test center capacity is increasing as demand from students remains high amid continued impacts of the pandemic. Nearly 1.4 million students from the class of 2022 have already taken the SAT at least once, with 3 weekend test dates remaining in 2021.

U.S. Department of Education News

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

Member News



The Kentucky Higher Education Assistance Authority recently released its

[Money Tip for Students – September 2021](#), which says that if Kentucky students are considering borrowing money, they should do their homework on interest rates. The time students spend learning the basics about interest rates and annual percentage rates will pay off significantly, helping them save money when borrowing.

[Higher Ed Dive](#) provides further news coverage on the U.S. Senate's confirmation of James Kvaal as the new Under Secretary for the U.S. Department of Education, the top post overseeing higher education.

[Forbes](#) reports that President Joe Biden's efforts to wipe out \$10 billion in student loan debt will positively impact the racial wealth gap.

[The Chronicle of Higher Education](#) reports that, as more employers provide education benefits to their employees, new questions are arising.

[MarketWatch](#) reports that student loan debt is keeping many Americans from becoming homeowners and says that the COVID-19 pandemic did not help.

[Yahoo](#) examines why community colleges are using their COVID relief funds provided by Congress to erase student debt.

[Forbes](#) publishes a column saying that the President promised student and parent borrowers a new and cheaper income-based repayment plan for student loans and examines whether it will happen.

[The Chronicle of Higher Education](#) reports that newly released data by the U.S. Department of Education's National Center for Education Statistics provides a highly anticipated look at how the coronavirus upended colleges' enrollment, staffing, and finances during the past academic year.

[Inside Higher Ed](#) reports that a survey of potential students finds those in minority groups were more affected by the COVID-19 pandemic and are price-sensitive when making postsecondary education decisions.

[The Chronicle of Higher Education](#) reports that five days after President Joe Biden announced sweeping COVID-19 vaccination and testing requirements for large employers and federal contractors, legal experts and colleges and universities are still trying to figure out how the new policies will affect higher education.

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