NCHER

DAILY BRIEFING

Wednesday, October 6, 2021

In Today's Edition

Department of Education Announces Overhaul of Public Service Loan Forgiveness Program

Today, the U.S. Department of Education announced a set of actions that will overhaul the Public Service Loan Forgiveness (PSLF) program. In the announcement, the Department said that it would use the authority granted under the Higher Education Relief Opportunities for Students Act of 2003 to temporary suspend some of the current program requirements in order to help public service workers who have been impacted by the COVID-19 pandemic. “Borrowers who devote a decade of their lives to public service should be able to rely on the promise of Public Service Loan Forgiveness,” Education Secretary Miguel Cardona said in a statement. “The system has not delivered on that promise to date, but that is about to change for many borrowers who have served their communities and their country.”

Under today’s announcement, the Department will provide a time-limited waiver so that student borrowers can count payments from all federal loan programs or repayment plans toward forgiveness, including payments made on loans under the Federal Family Education Loan Program (FFELP) and the Perkins Loan Program. The Department will also waive restrictions on the type of repayment plan and the requirement that payments be made in the full amount and on-time for all borrowers. In order to obtain the benefits, FFELP borrowers must apply to consolidate into the Federal Direct Loan program and submit a PSLF form by October 31, 2022. The announcement says that the Department will also allow active duty servicemembers to count deferments and forbearances toward PSLF to address a problem for servicemembers who have paused their payments while on active duty but were not getting credit toward PSLF. The agency will also pursue opportunities to automate PSLF eligibility, give borrowers a way to get errors corrected, and begin an expanded communications campaign to make sure affected borrowers learn about these opportunities and encourage them to apply. Starting next year, Department officials are also planning to use existing federal data to automatically track loan forgiveness for servicemembers and other federal employees, eliminating the need for those borrowers to fill out paperwork. For more information, see this **Fact Sheet**.

The Department said that the new policy will result in 22,000 borrowers who have federal consolidation loans -- including previously ineligible loans -- being immediately eligible for $1.74 billion in forgiveness without the need for further action on their part. Another 27,000 borrowers could potentially qualify for an additional $2.82 billion in forgiveness if they certify additional periods of employment.

Many Democrats and progressive groups hailed the Department’s announcement. “For years, educators, nurses and public employees advocated fiercely to force the federal government to fulfill the bipartisan promise of public service loan forgiveness,” said American Federation of Teachers President Randi Weingarten. “Today we breathe a collective sigh of relief as the Kafkaesque system that dashed the dreams of far too many finally starts to be dismantled.” But Republicans continued to criticize the agency saying that its actions require Congressional action. “Each year Americans take on more and more student debt and each year taxpayers are on the hook for more and more of it,” said House Education and Labor Committee Ranking Member Virginia Foxx (R-NC). “Instead of stepping up to address the root causes of this $1.7 trillion repayment crisis, Democrats in Congress are willingly surrendering their role as legislators because they are either afraid or just unwilling to do the work they were elected to do. Today’s announcement makes it clear - Democrats are happy to allow the Biden administration to be judge, jury, and executioner if it pleases their progressive base. Which is ironic given the ridicule and shaming of the previous administration for simply following the disastrous law Democrats unilaterally created.”

For more coverage, see these articles from ***The New York Times***, ***USA Today***, and ***The Wall Street Journal***.

Department of Education Continues Negotiated Rulemaking Session, Completes Discussion on Borrower Defense to Repayment and Moves to PSLF

Today, the U.S. Department of Education held the third of five meetings scheduled for this week of its Affordability and Student Loans Committee, which has been formed to review and revise federal regulations around total and permanent disability, closed school discharge, interest capitalization, the Public Service Loan Forgiveness Program (PSLF), the borrower defense to repayment process, Pell Grants for Prison Education programs, and income-driven repayment. During today’s session, the committee continued its discussion on proposed changes to the borrower defense to repayment adjudication process, where the Department is recommending a return to the preponderance of the evidence for borrowers who are making claims. The discussion focused on establishing a group verses individual process, whether to provide partial or full relief, and the recovery process from colleges and universities. Following the discussion on borrower defense to repayment, the committee moved to the proposed changes to PSLF. At the onset, Department officials reviewed today’s actions around the program and then turned to proposed changes to the application process.

The next committee meeting will take place tomorrow from 10:00 a.m. – 12:00 p.m. and 1:00 p.m. – 4:00 p.m. with a public comment period from approximately 3:30 p.m. – 4:00 p.m. Those who are interested in attending the sessions are required to register separately for each day. To register as a participant, please click the following links:

- Register for October 7 Link to Register
- Register for October 8 Link to Register

Senate Confirms Three Officials for the Department of Education, Including General Counsel

Today, the U.S. Senate confirmed three nominees for top positions at the U.S. Department of Education The appointments were approved by voice vote. The chamber approved the nomination of Gwen Graham to become the Assistant Secretary for Legislation and Congressional Affairs; Robert Rodriquez to become the Assistant Secretary for Planning, Evaluation, and Policy Development; and Elizabeth "Lisa" Merrill Brown to be the next General Counsel. Ms. Graham is an attorney and former Member of Congress from Florida. Before running for public office, she was chief of labor and employee relations for Florida's Leon County School District. She is the daughter of former Sen. Bob Graham (D-FL). Mr. Rodríguez is the President and Chief Executive Officer of Teach Plus, a national nonprofit organization dedicated to elevating teacher leadership to advance educational equity. He is a former Capitol Hill and White House staffer. Ms. Brown is the Vice President and General Counsel of Georgetown University, where she serves in the university president's cabinet and mentors first-generation college students. She previously served in the Obama Administration as Assistant to the President and Staff Secretary in the White House.

Three Department officials are still awaiting Senate confirmation. Amy Loyd has been nominated for the Assistant Secretary for Career, Technical, and Adult Education; Sandra Bruce who has been nominated to be Inspector General; and Catherine Lhamon to be the Assistant Secretary for Civil Rights. The Senate Health, Education, Labor, and Pensions Committee deadlocked along party lines when it considered Ms. Lhamon's nomination.

CBO Releases Cost of Federal Credit Programs, Finds Student Loan Programs Cost $12.6 Billion Using Fair-Value Basis

Today, the Congressional Budget Office (CBO) released a report titled, Estimates of the Cost of Federal Credit Programs in 2022. The report analyzed 112 programs through which the federal government provides credit assistance, including the federal student loan programs, and estimated the cost of the programs using two approaches: the procedures prescribed by the Federal Credit Reform Act of 1990 (FCRA) and fair value accounting, which accounts for market risk. In CBO's view, fair-value estimates are a more comprehensive measure than FCRA estimates as they help lawmakers better understand the advantages and drawbacks of various policies. According to the report, the federal student loan programs have the largest difference between the two approaches. CBO estimates that the federal student loan programs, using a FCRA basis, will have an average subsidy rate of -1.9 percent and lifetime budgetary savings of $1.7 billion. A negative subsidy rate means the program saves the federal government money and a positive subsidy rate means a government subsidy is required. CBO estimates that the federal student loan programs, using a fair-value basis, will have an average subsidy rate of 14.2 percent and the lifetime cost of $12.6 billion.

Compared to CBO's estimates for 2021, the average subsidy rate for student loans on a FCRA basis increased by 1.4 percentage points, from −3.3 percent in 2021 to −1.9 percent in 2022. On a fair value basis, the average subsidy rate for student loans decreased (improved) by 3.4 percentage points, from 17.6 percent in 2021 to 14.2 percent in 2022.

The fair-value estimates differ among the individual federal student loan programs, varying from -9.7 percent for PLUS loans for parents to 26.9 percent for subsidized Stafford loans. It should be noted that, for 2022, CBO adopted a hybrid approach to separately estimate the fair-value subsidy for the portion of each student loan program with borrowers in income-driven repayment (IDR) and fixed-payment repayment plans. IDR plans tie required payments to borrowers' incomes and provide loan forgiveness after a certain period. According to the report, those plans involve more market risk than fixed-payment plans because of the formulas used to calculate required payments and because borrowers may be eligible to have their unpaid balances forgiven. When the nation's economy performs poorly, borrowers' earnings are more likely to decrease, lowering the required payments. Those reduced payments will eventually lead to more loan forgiveness.

FTC Sends Notice to For-Profit Colleges Warning Them About Graduates' Potential Salaries or Job Prospects

Today, the Federal Trade Commission (FTC) **announced** that it had sent a **notice** to 70 for-profit colleges warning them about penalties associated with deceptive or unfair conduct about how well their graduates find jobs or how much they earn after graduation. In the letter, FTC said that lying about their graduates' potential salaries or job prospects, or making other false promises about their products, violates federal consumer protection laws. The colleges could be subject to civil penalties of up to $43,792 per violation under the new policy. The FTC voted 5-0 to reinstitute its Penalty Offense Authority, which allows the commission to fine companies that engage in unfair or deceptive practices. It is the first time that the legal tool has been applied to the higher education marketplace. The FTC said that its new focus on civil penalties was in response to a U.S. Supreme Court ruling from earlier this year that curtailed its power to force companies to pay restitution to consumers.

In one of his last actions as an FTC Commission, Rohit Chopra, a longtime critic of for-profit colleges who was just confirmed as the new Director of the Consumer Financial Protection Bureau, told reporters that the enhanced penalties for the industry were long overdue. The FTC's existing approach to policing fraud by for-profit colleges had "allowed it to recover only monies that were wrongfully taken from victims, meaning schools could break even, by breaking the law," he said. "Activating the FTC's Penalty Offense authority is one of many examples where the FTC needs to put its tools to use rather than letting them languish or pretending that they don't exist," Mr. Chopra added.

The list of 70 colleges that the FTC warned was compiled based on enrollment and revenue, the agency said. It was not an indication that the FTC necessarily has any evidence that a college has engaged in wrongdoing.

Rep. Krishnamoorthi Requests Information on "Stranded Credits" from Higher Education Officials in Five States

House Oversight and Reform Subcommittee on Economic and Consumer Policy Chairman Raja Krishnamoorthi (D-IL) recently sent a letter requesting documents and information on "stranded credits" from higher education officials in five states. In the letter, Rep. Krishnamoorthi said that he is concerned about the practice where colleges and universities withhold copies of transcripts from students who have unpaid bills. "Some students end up saddled with debt, and without a college degree or a job that will help them pay off that debt," he wrote to college officials in Michigan, Ohio, Pennsylvania, Texas, and Virginia. Last year, researchers estimated that there could be as much as $15 billion in unpaid balances to colleges and universities, and roughly 6.6 million students may have stranded credits because of debts that are often less than $25. Rep. Krishnamoorthi is requesting that a broad range of records be submitted to the subcommittee by October 19, 2021.

Strada Education Network and 28 HBCUs Announce Partnership Focused on Developing Next Generation of Leaders

Today, Strada Education Network and 28 Historically Black Colleges and Universities (HBCUs) **announced** the launch of a partnership reflecting a year-long collaboration designed to listen, learn from, and support the work of HBCUs in developing the next generation of leaders. Over the past year, Strada convened an advisory council of seven current and former HBCU presidents and led conversations with dozens of institutions to identify both needs and opportunities to accelerate economic mobility for their students. The resulting initiative will focus on leadership development and provide students with scholarships and financial support to defray some of the costs of participating in internships. It also will help students build their professional networks and prepare them to launch their careers or explore graduate schools. Rather than establishing a new program, the initiative will augment existing programs on HBCU campuses by providing experiences that marry a student's academic learning with career goals and leadership aspirations.

U.S. Department of Education News

For today's *Federal Register*, click **here**.

General News

Diverse Issues in Higher Education reports that Congress is still debating the $3.5 trillion Build Back Better Act, which includes a new tuition-free community college plan called America's College Promise. While the plan could be a game-changer in promoting federal-state partnerships in higher education, some experts and advocates are warning that the program might not go far enough.

Diverse Issues in Higher Education asks the question – is writing off federal student loan debt enough to close the wealth gap for Black Americans?

Fox 10 reports that the U.S. Senate has confirmed Rohit Chopra as the new Director of the Consumer Financial Protection Bureau who believes the federal government 'must do more to cancel student debt.'

Business Insider reports on how to check the status of a student's Free Application for Federal Student Aid.

KARE 11 reports on the big changes to financial aid and college savings plans, and says that four big changes are coming to the way parents and students apply for financial aid and save for college.

The Chronicle of Higher Education reports on the future of community colleges and how an oft-neglected sector can make itself essential in a post-pandemic world.

National Council of Higher Education Resources
1050 Connecticut Ave NW #65793
Washington, DC 20035

Phone: **(202) 822-2106**
Fax: (202) 822-2142