



Thursday, September 5, 2024

## In Today's Edition

- NCHER Webinar Providing Federal Update for Fall 2024, Including Student Loan Forgiveness and Impact of Loper Bright, Register Today!
- Missouri, Six Other States File Lawsuit Against Department of Education's NPRM on Federal Student Loan Forgiveness
- FSA Releases Prototype to Gain Deeper Understanding of 2025-2026 FAFSA
- White House Releases List of Funding Exceptions for Short-Term Continuing Resolution, Includes More Funding for Federal Student Aid
- U.S. Department of Education News
- Member News
- General News

---

## NCHER Webinar Providing Federal Update for Fall 2024, Including Student Loan Forgiveness and Impact of Loper Bright, Register Today!

On Tuesday, September 10th from 2:00 to 3:30 pm ET, NCHER will hold a webinar to review and discuss upcoming federal developments for Fall 2024 with a focus on the policy, political, regulatory, and legal developments impacting the higher education finance community that took place in late summer and what we expect to take place in the Fall as we head into the November election. The webinar is also expected to provide a legal and regulatory update impacting the U.S. Department of Education's federal student loan forgiveness program and other administrative actions, and discuss the impact of the

Loper Bright decision, which overturned Chevron deference, and its impact on federal regulatory action impacting our industry. This is a member-only event, which means that you will need to be logged into the NCHER website to register for the event. [Register Today!](#)

## Missouri, Six Other States File Lawsuit Against Department of Education's NPRM on Federal Student Loan Forgiveness

Earlier this week, Missouri Attorney General (AG) Andrew Bailey, along with the AGs of Alabama, Arkansas, Florida, Georgia, North Dakota, and Ohio, filed a [lawsuit](#) in the U.S. District Court for the Southern District of Georgia, Brunswick Division, challenging the U.S. Department of Education's Notice of Proposed Rulemaking (NPRM) providing waivers of federal student loan debt. The states say that, through a compulsory process at the end of August, they learned the Secretary of Education plans to implement a new, third federal student loan forgiveness plan without publication and has been planning to do so since May. The suit says that the Secretary is unlawfully trying to mass cancel hundreds of billions of dollars of loans and has quietly instructed its federal student loan servicers to immediately begin cancellation as early as September 3rd or September 7th.

In the suit, the states criticize the NPRM saying that the text of the Higher Education Act authorizing the Secretary to “enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption” is strikingly similar to the HEROES Act, which the U.S. Supreme Court held did not authorize forgiveness. The states also say that the provision does not apply to the Direct Loan program at all; it applies only to the Federal Family Education Loan Program. They also take issue with the Department's compliance with the Administrative Procedures Act (APA) saying that, under federal law, “major” rules are not permitted to take effect until 60 days after publication to give Congress an opportunity to review the rule—and perhaps vote to repeal it—before the rule goes into effect. “Yet despite not formally publishing their Third Mass Cancellation Rule, Defendants have already quietly instructed the half-dozen loan-servicing organizations that contract with the federal government to immediately start canceling loans and balances beginning as early as this week and to fully implement the Third Mass Cancellation Rule by September 20.” The states also criticize the Department's decision to ask borrowers to opt-out of the loan forgiveness program before it is published creating a “fait accompli before anybody has time to challenge the action.” The states ask the court to issue an order and judgment declaring that the NPRM violates the separation of powers established by the U.S. Constitution; issue an order and judgment declaring that the NPRM violates the APA

because it is contrary to law, is in excess of statutory authority, is arbitrary and capricious, is an abuse of discretion, and is without observance of procedure required by law; temporarily restrain, preliminarily enjoin, and permanently enjoin implementation and enforcement of the NPRM; postpone the effective date of the NPRM to preserve the status quo and rights of states pending conclusion of the review proceedings; vacate and set aside the NPRM; award states reasonable fees, costs, expenses, and disbursements, including attorney's fees, associated with the litigation; and grant any additional and further relief as the court may deem just and appropriate.

For further coverage, see the following articles:

- [GOP-led states sue to block Biden administration's latest attempt to cancel student debt - UPI News](#)
- [\\$73 Billion In Student Loan Forgiveness Will Begin In Days, Warn GOP-Led States - Forbes](#)
- [30 million student-loan borrowers who were about to benefit from Biden's second try at broad debt cancellation are now facing the first lawsuit to block it - Business Insider](#)
- [OP states sue to end Biden's student loan forgiveness rule - The Washington Post](#)
- [Several states sue to eliminate President Biden's student loan forgiveness plan \(yahoo.com\)](#)
- [Where Does Biden's Student Loan Debt Plan Stand? Here's What to Know. - The New York Times](#)

## FSA Releases Prototype to Gain Deeper Understanding of 2025-2026 FAFSA

Yesterday, the U.S. Department of Education's Office of Federal Student Aid (FSA) issued an [Electronic Announcement](#) that the prototype for the Free Application for Federal Student Aid (FAFSA) was available. The prototype offers everyone an advance opportunity to gain a deeper understanding of the 2025–26 FAFSA form user experience ahead of its release. The FAFSA prototype is not a complete replica of the 2025–2026 FAFSA form that will be available on [fafsa.gov](#). Instead, it is a web-based design tool that allows users to navigate specific scenarios that many applicants will encounter on the live website such as initiating a new application as a student or parent; or completing an in-progress application as a student, parent, or spouse. In the coming weeks, FSA will be adding common corrections scenarios, including missing critical data elements or

signatures, and voluntary corrections. The announcement also says that, when navigating a scenario, the prototype will advise users when particular actions must be taken and alert users that certain functionality is unavailable. The scenarios the prototype covers will not be exhaustive of all possible situations users may encounter while completing an actual 2025–26 FAFSA form.

## White House Releases List of Funding Exceptions for Short-Term Continuing Resolution, Includes More Funding for Federal Student Aid

Yesterday, the White House Office of Management and Budget released its list of anomalies - or funding exceptions - that it wants included in the short-term Continuing Resolution (CR) that is being drafted by the House and Senate Appropriations Committees. The CR is expected to keep the federal government in operation past the start of the federal fiscal year on October 1st. Typically, CRs hold federal funding at current levels and prohibit federal agencies from creating new programs or initiatives until their full-year budgets are signed into law. But the White House regularly requests language in the CR so that federal agencies can spend over that amount. Of interest to the NCHER membership, the White House's 30-page request includes \$2.4 billion for the U.S. Department of Education, Student Aid Administration account, to avoid disruption of core operations to process, award, disburse, and manage federal student aid. The request reads: "Without the anomaly, basic ongoing activities including loan servicing operations, Free Application for Federal Student Aid application processing, common origination and disbursement activities, data center hosting, and call center operations would be impeded."

As previously reported, once lawmakers return to legislative business next week, the House and Senate will have just three weeks to pass a CR that staves off a shutdown of the federal government. House Speaker Mike Johnson (R-LA) is reportedly prepping a CR that would keep the federal government in operation for six months, until late March, and includes House-passed legislation aimed at ensuring noncitizens cannot vote in federal elections. House conservatives are hoping for maximum leverage to influence the appropriations process next year if former President Donald Trump wins a second term. Senate Democrats have already rejected that plan, preferring to fund the federal government before the end of the calendar year, and including other priorities in the mix such as disaster aid and money to rebuild the Francis Scott Key Bridge in Baltimore. For

further coverage, see this article from [Roll Call](#).

## U.S. Department of Education News

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

[Federal Register Notice](#): Free Application for Federal Student Aid (FAFSA) Information To Be Verified for the 2025-2026 Award Year

The following announcements were posted to Federal Student Aid's Knowledge Center:

- [\(CB-24-18\) Reminder – FISAP Due Oct. 1, 2024](#)

---

## Member News



College Foundation, Inc. (CFI), a nonprofit corporation of 140 employees serving North Carolina students and families since 1955, is searching for a President. As the senior leader at CFI, the President oversees the administration of student financial assistance programs, including education loan programs, several major grant and scholarship programs, a residency determination service, a tax-advantaged "529" college savings

program, and an outreach program which promotes access to NC higher education and assists students and families with education planning, career planning, and applying and paying for college. The President will provide strong leadership by working with the Board of Trustees and the senior leadership team to establish short and long-term goals, plans, and strategies. The ideal candidate will have a participative management style and possess the ability to establish and maintain effective working relationships. Minimum BS/BA degree with at least 7 years of financial and operations management experience. Contact [human.resources@cfi.org](mailto:human.resources@cfi.org) for additional information.

---

## General News

The Postsecondary National Policy Institute (PNPI) announced that NCHER President James Bergeron has joined its Board of Directors for a three-year term. PNPI's mission is to increase the knowledge, capacity, and diversity of federal postsecondary policymakers, leaders, and thinkers. In a press release, PNPI President MaryEllen McGuire welcomed Bergeron to the Board saying that, "James is a leader in the postsecondary space with deep legislative experience, having worked on the Hill for 17 years, eight of which were on the House Education and the Workforce Committee. James' understanding of postsecondary policy and the federal policy process, combined with his reputation for working across both sides of the political aisle, will be a valuable addition to the board."

[Inside Higher Ed](#) covers a newly released literature review from the Institute for Higher Education Policy highlighting the role of student experience and belonging on college student success and offers suggestions for how this could be applied practically to campuses.

[PBS News](#) reports that college students are finally applying for financial aid after a long summer of technical glitches with the Free Application for Federal Student Aid.

[U.S. News and World Report](#) examines strategies that can help bridge the gap between financial aid and college costs.

An online version of this Daily Briefing is available to view and print from the [Daily Briefing Section](#) of the [NCHER e-Library](#).

***Do not forward this email with this link included.***

***Anyone clicking on this link will unsubscribe you from the Daily Briefing distribution.***

[Unsubscribe](#) | [Manage subscription](#)

**Copyright © 2024**

**National Council of Higher Education Resources**

1050 Connecticut Ave NW #65793

Washington, DC 20035

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

Fax: (202) 822-2142

