



Thursday, March 21, 2024

## In Today's Edition

- NCHER Annual Conference: Draft Program Agenda Just Released, Register Today!
- House and Senate Leadership Release Text of Further Consolidated Appropriations Act, Including Funding for Department of Education
- Third Circuit Court of Appeals Issues Ruling in CFPB v. National Collegiate Student Loan Trust, Finds Trusts Are Covered Persons
- Senate, House Democrats Urge Biden Administration to Stop Garnishing Social Security Benefits for Defaulted Borrowers
- Education Secretary Cardona Addresses Council of the Great City Schools, Discusses Challenges With FAFSA Rollout
- Senate Republicans and Democrats Send Letter to Education Secretary Cardona Urging Easing of Gainful Employment, Financial Aid Verification Requirements
- Senate HELP Committee Ranking Member Cassidy Requests Education Secretary Cardona Testify on the President's Budget Request and the FAFSA Rollout
- Department of Education Announces \$6 Billion in Federal Student Loan Forgiveness for Public Service Workers
- House Education and the Workforce Committee Passes Free Speech, Accreditation Legislation
- U.S. Department of Education News
- General News

## NCHER Annual Conference: Draft Program Agenda Just Released, Register Today!

NCHER will hold its Annual Conference on June 3-5, 2024 at the Hyatt Regency Clearwater in Clearwater, 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 just released the [draft agenda](#), which is packed with important and engaging sessions as well as opportunities for small group discussions among industry experts. The current agenda includes:

- A pre-conference session where first-time and veteran attendees will do a deep-dive into federal policy reviewing recent and upcoming developments at the national and state levels.
- An update on the rollout of the 2024-2025 FAFSA [Free Application for Federal Student Aid] and what NCHER members can expect to occur over the next few months following Federal Student Aid's continued delays in providing eligibility information to institutions of higher education.
- General sessions built around preparing you and your colleagues for the future: topics include reviewing the changing demographics of the current student population, examining the macro trends that will determine and influence the private education loan market in 2024/2025, examining the ongoing needs of colleges and universities and the role that third-party servicers can play in the current environment, and discussing student perspectives on higher education and how to create a successful marketing strategy for your services and programs and realize a return on investment.
- General sessions geared toward improving your operational and compliance strategies: topics include discussing the potential business and financial value of leveraging the value of artificial intelligence to improve higher education financing and reviewing the most pressing state regulatory topics impacting the membership and what steps compliance offices should be taking now to stay ahead of any potential review.
- 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. It will also include an

NCHER staple – our annual “Ask the Attorney’s panel.

We urge all of the NCHER membership to [register](#) today and take advantage of the Early Bird registration rate. Hotel reservations will be available soon – members will be guaranteed a room rate of \$209 per room, per night.

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

## House and Senate Leadership Release Text of Further Consolidated Appropriations Act, Including Funding for Department of Education

Late last night, the House and Senate Appropriations Committee released the legislative text of the Further Consolidated Appropriations Act, which includes funding for the U.S. Department of Education and completes the budget and appropriations process for Fiscal Year 2024. The Labor, Health and Human Services, Education, and Related Agencies Appropriations Act portion of the legislation provides a total of \$79 billion in discretionary appropriations for the Department of Education, a reduction of \$500 million below the Fiscal Year 2023 enacted level and \$11 billion below the President’s request. Key highlights include the following:

- The legislation sets the maximum Pell Grant award at \$7,395, the same as the FY 2023 enacted level, funded by a combination of discretionary and mandatory funds.
- The bill provides \$910 million for the Federal Supplemental Educational Opportunity Grant program and \$1.2 billion for Federal Work Study, the same as the FY 2023 enacted level.
- The legislation provides \$1.2 billion for TRIO Programs and \$388 million for GEAR UP, which help first-generation college students prepare for, enter, and complete college. Both programs are level funded compared to last year.
- The bill extends the authority for account maintenance fees paid to guaranty agencies for an additional year. The language is as follows: SEC. 306. Section 458(a) (4) of the HEA (20 U.S.C. 22 1087h(a)) shall be applied by substituting “2024” for “2021”.
- The legislation provides \$2.06 billion for federal student aid administrative expenses, an increase of \$25 million over FY 2023 enacted levels for the “continuation of student loan servicing activities, including supporting borrowers reentering repayment.” It includes long-standing legislative language requiring the

Secretary of Education to allocate new borrower accounts to student loan servicers on the basis of their past performance utilizing established common metrics. It also includes legislative language requiring the Secretary to reallocate accounts from servicers for reoccurring noncompliance with Federal Student Aid (FSA) guidelines, contractual requirements, and applicable laws, including failure to sufficiently inform borrowers of available repayment options. It also requires that federal student loan servicers be evaluated on their ability to meet contractual requirements (including an understanding of federal and state law), future performance on the contracts, and history of compliance with consumer protection laws. It also requires that federal prime contractors are held accountable for meeting the requirements of their contract and the performance and expectations of subcontractors. It also requires FSA to provide more support to borrowers at risk of delinquency or default in any new federal loan servicing environment.

According to a press release issued by the House Appropriations Committee, the House intends to consider the legislation in the coming days. The short-term Continuing Resolution providing funding to the federal government expires on Friday, meaning that the House and Senate must move the new funding package through the process quickly.

For further resources, see the following links:

- [Legislative Text of the Further Consolidated Appropriations Act](#)
- [Explanatory Statement \(essentially the report for the bill\) for the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act](#)
- [Summary of the Further Consolidated Appropriations Act](#)

For further news coverage, see the following:

- [Congressional leaders unveil \\$1.2T funding deal ahead of shutdown threat - The Hill](#)
- [What made the cut in Congress' \\$1.2 trillion funding deal? - The Hill](#)
- [Final spending package unveiled, countdown to recess begins - Roll Call](#)
- [Congressional leaders roll out final \\$1.2T funding package ahead of Saturday shutdown deadline - Live Updates - Politico](#)

## Third Circuit Court of Appeals Issues Ruling in CFPB v. National Collegiate Student Loan Trust, Finds Trusts Are

## Covered Persons

Earlier this week, the U.S. Court of Appeals for the Third Circuit published its decision in *Consumer Financial Protection Bureau v. National Collegiate Student Loan Trust, et al* where it found that: (1) the 15 appellant trusts are “covered persons” subject to the Consumer Financial Protection Act’s (CFPA) enforcement authority because they “engage” in a known consumer financial product or service and (2) the Consumer Financial Protection Bureau (CFPB) did not need to ratify this action before the statute of limitations had run out because of a constitutional deficiency within the agency.

The case was a win for the CFPB, and allows the Bureau to continue its lawsuit against the trusts that were formed to purchase 800,000 private student loans from the original lenders and collect on them for investors. The Bureau sued the trusts in 2017, saying they had relied on false or inadequate documentation to file thousands of lawsuits against borrowers, or sued to collect debt after deadlines to do so had elapsed. The Bureau said the trusts violated the Consumer Financial Protection Act, which bars deceptive and unfair practices. A federal judge in Wilmington, Delaware, rejected the trusts' motion to dismiss the lawsuit in 2021. The trusts argued on appeal that they should not be considered "covered persons" under the CFPA, as they were merely passive investment vehicles that do not control the loan servicers who filed the lawsuits. During arguments in the case in May 2023, CFPB attorney Kevin Friedl said that releasing companies from liability when they outsource functions to others "would open obvious avenues for evasion" of the consumer protection statutes. The case drew interest from industry groups, which argued in court papers that subjecting trusts to consumer finance law would "upset the expectations of securitization investors" and ultimately restrict consumer credit. The CFPB received support from consumer groups and 22 states.

## Senate, House Democrats Urge Biden Administration to Stop Garnishing Social Security Benefits for Defaulted Borrowers

On Tuesday, Senate and House Democrats, led by Sen. Elizabeth Warren (D-MA), sent a [letter](#) to the Social Security Administration, U.S. Department of Treasury, and U.S. Department of Education urging them to end the practice of offsetting Social Security benefits to pay off defaulted federal student loans. In the letter, the lawmakers say that it is a particularly devastating practice for seniors and people with disabilities who rely on Social Security as their sole source of income. The letter discusses the Treasury Offset

Program, which allows the federal government to withhold up to 15 percent of a borrower's Social Security benefits each month to pay for their defaulted student loans. But House and Senate Democrats say that there is "little evidence that these offsets are a meaningful solution to collecting outstanding debt." The letter asks for a briefing on the issue by April 3, 2024. For additional coverage, see this article from [Business Insider](#).

## Education Secretary Cardona Addresses Council of the Great City Schools, Discusses Challenges With FAFSA Rollout

On Monday, Education Secretary Miguel Cardona addressed the Council of the Great City Schools' Legislative and Policy Conference where he urged local school district leaders to help pitch in and ensure that graduating seniors are filling out the Free Application for Federal Student Aid (FAFSA). Secretary Cardona acknowledged that financial aid application rates are at risk of falling below last year's numbers as the U.S. Department of Education continues to struggle to work through months of delays that have impacted the release of a new FAFSA. The Secretary said that school leaders should hold events in high school gyms if necessary. "Don't be satisfied here if FAFSA submission numbers are less than your graduation rates," Secretary Cardona said. The Secretary's remarks come as he urges colleges and universities to delay their financial aid application milestones and suggests some institutions of higher education are not fully prepared to receive Institutional Student Information Record (ISIR) data that the Department began sending to schools in recent days. "That process is just going to ramp up," Secretary Cardona said Monday of the ISIR transmission. "But our challenge — especially because this is months delayed — our challenge is to far surpass last year's numbers in terms of FAFSA submissions." According to federal data analyzed by the National College Attainment Network, the number of high school seniors filling out the FAFSA was down by one third as of March 8 when compared to the last academic year. The drop in applications is steeper at high schools in lower-income communities and those with large shares of Black and Hispanic students.

## Senate Republicans and Democrats Send Letter to Education Secretary Cardona Urging Easing of Gainful Employment, Financial Aid Verification Requirements

Today, Senate Republicans and Democrats, led by Sen. Roger Marshall (R-KS) and Sen. Tim Kaine (D-VA), sent a letter to Education Secretary Miguel Cardona urging him to temporarily delay school reporting deadlines for the gainful employment and financial value transparency regulation. The lawmakers also requested that the U.S. Department of Education permit institutions of higher education to accept electronic copies of Free Application for Federal Student Aid (FAFSA) verification materials, including electronic signatures. The senators argued that it is necessary to relieve any additional administrative burdens on schools as they begin the work to process new FAFSAs. "Due to the ongoing nationwide FAFSA problems, the Department of Education has forced prospective college students into purgatory instead of helping them get the financial help they need to pursue higher education," Sen. Marshall said in a statement. "We hope the Education Department honors our bipartisan requests that alleviates burdensome administrative duties and focuses on awarding aid to students with looming commitment deadlines." The requests come as repeated delays to unveiling the redesigned FAFSA form and delays processing student financial aid data have impacted the college admissions cycle. While the senators did not directly criticize the rollout, the requests are in line with some Republican criticism that the Department needs to focus its resources on the FAFSA process rather than its regulatory agenda.

## Senate HELP Committee Ranking Member Cassidy Requests Education Secretary Cardona Testify on the President's Budget Request and the FAFSA Rollout

Today, Senate Health, Education, Labor, and Pensions Committee Ranking Member Bill Cassidy (R-LA) sent a [letter](#) to Chairman Bernie Sanders (I-VT) requesting that he invite Education Secretary Miguel Cardona to testify before the committee on the President's budget request for Fiscal Year 2025 and the U.S. Department of Education's rollout of the Free Application for Federal Student Aid (FAFSA). Ranking Member Cassidy sent a similar [letter](#) to Secretary Cardona. "Most authorizing committees hold budget hearings with their respective cabinet agencies so that the members of the authorizing committee can better understand the proposed budget request," Ranking Member Cassidy wrote. "Such a hearing is at the heart of our role in oversight of the agencies under our jurisdiction and in remaining accountable to American taxpayers." In the letter, Ranking Member Cassidy said that the Department "has shown a concerning track record of spending taxpayer money on politically motivated projects rather than implementing congressionally mandated programs meant to increase Americans' access to education," pointed to the turbulent rollout of the new FAFSA, and criticized the Department for "prioritizing

student loan schemes over its basic responsibilities.” The Ranking Member argued that Secretary Cardona has not testified before the committee since his nomination hearing in February 2021.

## Department of Education Announces \$6 Billion in Federal Student Loan Forgiveness for Public Service Workers

Today, the U.S. Department of Education [announced](#) that it had approved \$5.8 billion in additional federal student loan forgiveness for 77,700 borrowers based on changes made to the Public Service Loan Forgiveness (PSLF) Program. The relief announced today includes borrowers who have benefitted from the limited waiver provided under PSLF as well as regulatory improvements made to the program. Total relief through PSLF is now \$62.5 billion for 871,000 borrowers since October 2021. “For too long, our nation’s teachers, nurses, social workers, firefighters, and other public servants faced logistical troubles and trap doors when they tried to access the debt relief they were entitled to under the law,” Education Secretary Miguel Cardona said. “With this announcement, the Biden-Harris Administration is showing how we’re taking further steps not only to fix those trap doors, but also to expand opportunity to many more Americans.”

## House Education and the Workforce Committee Passes Free Speech, Accreditation Legislation

Today, the House Education and the Workforce Committee met in executive session and passed [H.R. 7683, the Respecting the First Amendment on Campus Act](#) and [H.R. 3714, the Accreditation for College Excellence Act](#). H.R. 7683 is sponsored by Rep. Brandon Williams (R-NY), and would make the disclosure of campus speech policies a condition of receiving federal student aid money under Title IV of the Higher Education Act. H.R. 3714 is sponsored by Higher Education and Workforce Development Subcommittee Chairman Burgess Owens (R-UT), and would prohibit accreditors from assessing a college or university based on a school’s political beliefs.

Both measures are part of the committee’s effort to reauthorize the Higher Education Act. Earlier this year, the U.S. House of Representatives passed H.R. 5933, the Defending Education Transparency and Ending Rogue Regimes Engaging in Nefarious Transactions or DETERRENT Act, which would require institutions of higher education to disclose additional information when they receive foreign gifts. The committee also passed H.R. 6951, the College Cost Reduction Act, which includes several proposals to revamp the



federal student loan program. For more information on today's markup session, including an archived webcast, visit the [committee website](#).

## 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:

- [\(ANN-24-04\) Live Internet Webinar – Navigating and Finding Resources on FAFSA Simplification](#)
- [\(APP-24-04\) DHS-SAVE Instructions for U.S. Department of Education \(School\) Users Version 4.0 Available](#)

---

## General News

[The Washington Post](#) reports that a group of student loan borrowers is asking a federal judge to enforce a \$6 billion settlement they say the U.S. Department of Education has violated by missing a court-ordered deadline to cancel their debt. The Department had until January 28th to discharge the loans, issue refunds, and repair the credit of about 200,000 borrowers who say their colleges defrauded them, but at least 55,000 of those people are still awaiting debt cancellation.

[Higher Ed Dive](#) reports that some Historically Black Colleges and Universities are seeing an enrollment surge - leaders attribute it to a racial awakening, student success efforts, and new funding.

[BankRate](#) examines how the recent decision by the Federal Reserve to leave interest rates unchanged at the recent meeting of the Federal Open Market Committee may affect federal student loans.

The Institute for College Access & Success recently released two new briefs entitled, [White-Labeling Online Higher Education: Rebranding and Repackaging Services and Products in Higher Education](#) and [Signing on the Dotted Line: Policy and College Leadership Considerations of OPM Contracts](#), both of which examine online program management companies.

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 © 2023**

**National Council of Higher Education Resources**

1050 Connecticut Ave NW #65793

Washington, DC 20035

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

Fax: (202) 822-2142

[MailPoet](#)