



DAILY BRIEFING

Monday, April 25, 2022

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NCHER Annual Conference: Don't Forget to Register, Early Bird Rate Expires Next Week

The NCHER Annual Conference is scheduled for June 6-8, 2022 at The DeSoto in Savannah, Georgia. This important conference is open and designed for everyone across the higher education finance industry, and will provide attendees with ample opportunities to network, learn, and take information back home that they can use in their current jobs. The [draft program](#) centered around the theme of "Embracing the Future-Together" includes 10 pre-conference meetings and conference sessions on issues of importance to the membership. So [register](#) today and take advantage of the Early Bird registration rate that expires next week. Also, be sure to make your hotel reservations [online](#) or by calling (800) 239-5118. When calling the hotel, be sure to mention the NCHER 2022 Annual Conference in order to guarantee a room rate of \$182 per room, per night. We look forward to seeing you in-person in Savannah!



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](#).

Department of Justice Appeals Decision Overturning Final Rule on Collection Costs Charged by Guaranty Agencies

Last Friday, the U.S. Department of Justice (DOJ) filed a notice appealing the [decision](#) of U.S. District Court for the District of Columbia Judge Carl Nichols that found unlawful a U.S. Department of Education rule prohibiting the charging of collection fees. In the case, *Ascendium Education Solutions v. Cardona*, Ascendium challenged the final rule issued by the Department of Education in 2019 that prohibits a guaranty agency from charging collection costs if a borrower enters into an acceptable repayment agreement, including a rehabilitation agreement, within the 60-day period after the agency sends the borrower a required initial notice. Ascendium argued that the rule was inconsistent with the Higher Education Act, which provides that a borrower “shall be required to pay ...reasonable collection costs.” Ascendium also claimed that the rule was arbitrary and capricious and that it created perverse incentives. In its reply to the suit, DOJ claimed that Ascendium lacked standing because it does not charge collection fees to borrowers who enter into repayment agreements. In his decision granting partial summary judgement in favor of Ascendium, Judge Nichols agreed with Ascendium that the portion of the rule prohibiting a guaranty agency from charging reasonable costs in collecting a loan if the borrower enters into a rehabilitation agreement within the 60-day window was unlawful because current law requires a borrower to pay reasonable collection costs. The appeal will be heard by the U.S. Court of Appeals for the District of Columbia.

Senate Democrats Send Letter to Education Secretary Cardona Asking for Information on Operation Fresh Start

Today, Senate Democrats, led by Sen. Elizabeth Warren (D-MA), sent a [letter](#) to Education Secretary Miguel Cardona asking for more information from the U.S. Department of Education on how it plans to implement Operation Fresh Start. The letter follows the Department’s recent announcement that it will provide a “fresh start” to federal student loan borrowers in default by eliminating the impact of delinquency and default and allowing these borrowers to enter repayment in good standing. In the letter, the senators say that more than 7 million federal student loan borrowers are currently in default on their federal student loans, many of whom are low income, people of color, first generation college students, veterans, student parents, students with disabilities, and people who did not complete college. “Removing these borrowers from default when student loan payments and collections resume means that millions will not be

immediately subject to wage garnishment, tax refund withholding, and aggressive collections practices that threaten to undermine their economic security,” the letter says.

However, the senators say that many defaulted borrowers have been subject to collections for a lengthy amount of time. Instead of subjecting them to student loan repayment, the Department should discharge the loans for these borrowers. The letter says that the Higher Education Act gives the Department the clear authority to automatically remove those with federally managed loans from default status and to discharge cases of long-term default. They also argue that the Department could grant borrowers in long-term default further relief by enforcing the Federal Claims Collections Standards, which states that agencies may compromise a debt if “the debtor is unable to pay the full amount due in a reasonable time...or the cost of collecting the debt does not justify the enforced collection of the full amount.” The letter includes a list of questions about plans for implementing Operation Fresh Start before the payment pause expires in August 2022 and its plans to provide further relief to borrowers in long-term default. The senators request a response by May 5, 2022.

Department of Education Sends Proposed Rule on Borrower Defense to Repayment to OMB for Review

On Friday, the U.S. Department of Education sent its [proposed rule on borrower defense to repayment](#) to the Office of Information and Regulatory Affairs (OIRA) at the White House Office of Management and Budget (OMB) for review. This is the first of the regulatory proposals that were considered by the Affordability and Student Loans Committee that was put in place to review and revise federal regulations through the negotiated rulemaking process; the committee met in the Fall and Winter of last year. While the proposed rule sent by the Department to OIRA is not available for public review, Executive Order 12866 grants interested members of the public the opportunity to meet with OMB, the White House, and agency officials on the matter. Typically, OIRA reviews take at least 30 days (if not longer), meaning that a proposed rule would not likely be published until late May at the earliest.

Gallup and Lumina Publish Report Focusing on How COVID-19 Impacted Higher Education Enrollment and Retention

Gallup and the Lumina Foundation recently published a report titled, [The State of Higher](#)

[Education 2022](#), which uses survey data from over 11,000 students to help inform institutions of higher education about how they can better support current and prospective students. Survey respondents were current students, pre-COVID students (students who unenrolled since the start of the COVID-19 pandemic), students that enrolled during COVID-19 but are not currently enrolled, and prospective students. Despite decreases in higher education enrollment and retention throughout the pandemic, Gallup and Lumina found that almost half of non-enrolled adults without a degree reported that they have considered enrolling in a bachelor's degree, associate degree, industry certification, or certificate program in the past two years. However, the report also cited that 36 percent of students pursuing a bachelor's degree and 41 percent of those pursuing an associate degree reported that they have considered dropping out in the past six months, with multiracial degree students the mostly likely to report that it was "difficult or very difficult" to remain enrolled in the fall of 2021. While many students reported COVID, stress, and cost as factors contributing to the difficulty of remaining enrolled in a degree program in the last year, the survey found that adults, including currently enrolled and prospective students, still see a higher-paying job and a more fulfilling career as outcomes of higher education. Almost two-thirds of currently enrolled students reported that they chose to continue their education to obtain knowledge or skills, the opportunity to pursue a fulfilling career, or get a higher-paying job. For more coverage, see this article from [University Business](#).

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 website:

- [\(GEN-22-05 \) Requirements for Distribution of Voter Registration Forms](#)
- [Comment Request: Foreign Graduate Medical School Consumer Information Reporting Form](#)

General News

[Inside Higher Ed](#) reports that the University of Phoenix will close all of its physical campuses, except for one in Phoenix, by 2025.

[University Business](#) reports that inflation is inflicting financial pain on students and their

families across the nation, and higher education is not immune.

[Higher Ed Dive](#) reports that the Consumer Financial Protection Bureau recently said it will examine the practice of colleges withholding students' academic transcripts as a method to collect their outstanding debt. The agency said that use of such debt collection tactics "is particularly perplexing," as they undermine students' ability to obtain jobs or finish their degrees and thus hinder paying back what they owe.

[CNN](#) reviews who is eligible for federal student loan debt relief after the U.S. Department of Education's latest actions.

[CNBC](#) reports that millions of student loan borrowers are closer to being debt-free and what to know about the changes coming from the federal government.

[CBS News](#) reports that Sen. Elizabeth Warren (D-MA) recently urged the President to cancel all federal student loan debt before the midterms: "The power is clearly there." Related, [NBC News](#) reports that some Democrats are ringing alarm bells over young voters and whether they will turn out and vote in the November election as President Joe Biden's ratings slip.

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