



DAILY BRIEFING

Thursday, May 5, 2022

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

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 tomorrow. 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 to guarantee a room rate of \$182 per room, per night. We look forward to seeing you in-person in Savannah!

Senate Banking Committee Holds Hearing on Student Loan Servicing and Impact on Workers

Today, the Senate Banking, Housing, and Urban Affairs Committee held a hearing entitled, "Examining Student Loan Servicers and Their Impact on Workers." The witnesses were: Mike Pierce, Executive Director, Student Borrower Protection Center; Dr. Neal McCluskey, Director, Center for Educational Freedom at the Cato Institute; and Dr. Jalil

Mustaffa Bishop, Co-Founder and Assistant Professor, Equity Research Cooperative & Villanova University. In his [opening statement](#), Chairman Sherrod Brown (D-OH) said that student loan debt that is used to pay for college is supposed to be an investment that pays off in the long run, but instead borrowers are trapped in debt and economic instability. He said that the current cycle of debt is a direct result of bad policies such as mismanagement by servicers, including the miscounting payments made under Income-Driven Repayment (IDR) programs. Chairman Brown said the temporary waiver for the Public Service Loan Forgiveness (PSLF) program was a first step to fix some of the problems, but that it is not enough. “The Biden Administration has the power to change the financial lives and future of millions of borrowers by forgiving meaningful portions of student debt,” he said. In his [opening statement](#), Ranking Member Pat Toomey (R-PA) focused on loan cancellation saying that, when Congress created the federal student loan programs, it did not call them grant programs. “Let’s be clear about what ‘canceling’ student loan debt means,” he said. “It’s a massive wealth transfer from taxpayers to a small subset of mostly wealthy individuals.” He also said that cancellation obscures the root cause of the problem: the rising cost of higher education, and that colleges and universities would respond by raising tuition.

In his [prepared statement](#), Mr. Pierce said that the “story of the student debt crisis in the years prior to the pandemic is one marked by widespread economic distress, government inaction, endemic corruption, and a shocking range of abuses by some of the largest financial companies in the world.” He said administrations of both parties over decades have failed to confront the disparate impacts of the crisis and the “widespread lawlessness across the student loan industry.” Mr. Pierce said the federal student loan payment pause has been wildly successful, but that “decades of an abusive student loan system have left 43 million student loan borrowers suffocating under the weight of more than \$1.7 trillion of student loan debt. President Biden did not break this system but he has promised to fix it. It is up to him to wield the awesome power vested in the U.S. Secretary of Education as the largest holder of consumer debt in the world, and provide widespread student debt cancellation for every federal student loan borrower.” In his [prepared statement](#), Dr. McClusky stated that the federal student loan programs are highly problematic and that it is crucial to address their current impact by fixing them for the long term. However, he said federal policymakers must recognize that student debt is often very manageable. Dr. McClusky said that making things easier on current borrowers can have major negative unintended consequences. He said the federal student loan servicers are not the root of the problem, which is federal student lending itself. “Given [its] extreme complexity, and all the rules and regulations that go with all of these programs, it is not a surprise that many complaints about servicers are actually

complaints about the workings of federal student aid itself,” he said. While the ideal solution to the student aid problem would be to phase out the program, he recommended fixing income driven repayment, ending the PLUS Loan program, requiring schools to have “skin in the game,” and making it easier to discharge loans in bankruptcy. In conclusion, he said the federal government “has not created so terrible a problem that it justifies extreme acts such as mass loan cancellation – higher education is still a major benefit to most people who complete it – but it is urgent to fix the existing programs intended to help struggling borrowers, and in the long run to shrink federal lending to a much smaller size, including eliminating it completely.” In his [prepared statement](#), Dr. Bishop said the evidence shows that student loans increasingly will not be repaid and that the student debt crisis is a racial justice issue. “It is eradicating any chance at wealth for communities of color, especially Black communities,” he said. Dr. Bishop concluded his remarks by advocating for full debt cancellation.

During the question-and-answer portion of the hearing, Chairman Brown asked Dr. Bishop to discuss the impact of student loans on the racial wealth gap. Dr. Bishop said that the racial wealth gap was not created by student loans, but that student loan debt is making the hole deeper. Ranking Member Toomey asked Dr. McCluskey whether cancellation is fair to families that sacrificed to pay for college. He asked said that a logical conclusion is to make college free. Dr. McCluskey agreed saying that more students would go to college rather than working and learning valuable skills. Sen. Bob Menendez (D-NJ) asked whether the Department of Education’s recent actions to fix PSLF and IDR will remedy the problem in the federal student loan programs. Mr. Pierce said they are a start, but not enough. Sen. Elizabeth Warren (D-MA) stated that canceling federal student loan debt was incredibly popular with the public and asked who takes out student loans. Dr. Bishop said the data shows that recipients are not wealthy and that more than half of student debt is held by families with zero or negative wealth. Sen. Warren said it is clear that opponents of cancellation are living in a bubble of privilege. Sen. Mark Warner (D-VA) put in a plug for bipartisan legislation he co-sponsored to allow spousal consolidation loans to be split. Mr. Pierce said that the bill will provide a safety net for divorced borrowers.

For additional coverage, including an archived webcast, visit the [committee website](#).

WSJ: Top Obama Education Lawyer Says Federal Student Loan Forgiveness “Legally Risky”

Yesterday, *The Wall Street Journal* published an [article](#) revealing that President Joe Biden

would be on shaky legal grounds if he were to grant widespread cancellation of federal student loans by executive action based on an analysis written by a top lawyer in the U.S. Department of Education under former President Barack Obama. The analysis was written by Charlie Rose, who currently works for the law firm Hogan Marren Babbo and Rose, for a client where he argues that using executive action to cancel debts for student borrowers without tying such relief to their individual needs and using regulatory procedures would put the Biden Administration and the U.S. Department of Education at risk of having its plan overruled in court. “If the issue is litigated, the more persuasive analyses tend to support the conclusion that the Executive Branch likely does not have the unilateral authority to engage in mass student debt cancellation,” Mr. Rose wrote. He suggested that loan servicing companies and investors that own securities backed by student loans might be in a position to sue the Department over broad-based debt cancellation. The analysis, dated May 7, 2021, is labeled “strictly confidential” and has not been previously reported upon. While the President has yet to decide how it will proceed, he has stressed that any loan forgiveness would be less than the \$50,000 per borrower some influential Democrats have sought, and he has signaled to advisers and others that he is more comfortable with debt cancellation in the range of \$10,000. At the same time, the White House is considering limiting such forgiveness to borrowers who make less than \$125,000 a year, White House press secretary Jen Psaki told reporters on Tuesday.

House Financial Services Committee Announces Schedule for May

Today, the House Financial Services Committee [announced](#) the following schedule for the month of May. The following events may be of interest to the NCHER membership:

- **Wednesday, May 11 at 10:00 a.m. ET:** The Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will convene for a hybrid hearing entitled, “A Notch Above? Examining the Bond Rating Industry.”
- **Thursday, May 12 at 10:00 a.m. ET:** The Full Committee will convene for a hybrid hearing entitled, “The Annual Report of the Financial Stability Oversight Council.”
- **Tuesday, May 17 at 10:00 a.m. ET (and subsequent days if necessary):** The Full Committee will convene for a hybrid markup.
- **Thursday, May 26 at 12:00 p.m. ET:** The full Committee will convene for a virtual hearing entitled, “Digital Assets and the Future of Finance: Examining the Benefits and Risks of a U.S. Central Bank Digital Currency.”

Due to the latest information available regarding COVID-19, hybrid hearings will take

place in 2128 Rayburn House Office Building. All hybrid hearings will also have a virtual option for all Members and witnesses to participate remotely.

National Student Clearinghouse Research Center Releases Data on Economic Impact of COVID-19 on Transfer Students

Earlier this week, the National Student Clearinghouse Research Center published the eighth report in its series on undergraduate transfer enrollment and pathways titled, [COVID-19: Transfer, Mobility, and Progress](#). The Spring 2022 installment of the report focuses on upward, lateral, and reverse transfer pathways among 11.2 million undergraduate students, including 630,000 transfer students, as of late March 2022. In its report, the research center found that transfer enrollment has dropped by 6.9 percent over the last year, resulting in a 16 percent decline in transfer enrollment since Spring 2020. Notably, the data demonstrated that upward transfer enrollment dropped by 11.6 percent this spring, compared to relatively stable upward transfers last year. Out of the three “transfer pathways,” the research center found that four-year lateral transfer was the only pathway to show growth with a 5 percent increase when compared to last year. Overall, transfer enrollment continued to decline across all major ethnic and racial categories throughout the pandemic, which resulted in a total two-year decline between 15 and 20 percent. The clearinghouse plans to release a Final Special Report focusing on data from Summer 2022 as the last installment in this data series.

NY Governor Kathy Hochul Signs Legislation Banning Colleges from Withholding Transcripts

On Wednesday, New York Governor Kathy Hochul signed S.5924-C/A.6938-B, which prohibits institutions of higher education from withholding a student’s transcript because of unpaid debts or charging individuals who owe debts a higher fee to obtain their transcript. According to the Governor, the legislation ensures that students can access their transcript when necessary, so that they may continue their education or find a job, and comes after she ordered both the State University of New York (SUNY) and the City University of New York (CUNY) to end the practice of transcript withholding. In a statement about the new legislation, Governor Hochul said, “Transcripts are critical for students to continue pursuing their educational and career goals. To hold transcripts hostage until outstanding debts are paid is an unfair, predatory practice that prevents our students from reaching their full potential. I was proud to make ending transcript

withholding a top priority and took action to end this practice at SUNY and CUNY in January. Today, we put an end to this abhorrent policy for all higher education institutions to ensure a level playing field for New York's students."

U.S. Department of Education News

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

The following announcement was posted to the Federal Student Aid's Knowledge Center Website:

- [\(CB-22-10\) Extended Deadline for Mandatory Assignment of Federal Perkins Loan in Default for more than Two Years](#)
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General News

The Consumer Financial Protection Bureau recently released a [blog post](#) saying that a series of examination findings documenting private student loan servicers' failure to comply with the terms of their own loans or modifications led to remediation for borrowers.

New York Attorney General Letitia James sent out a [press release](#) saying that she had led a multistate coalition of eight attorneys general in urging President Joe Biden to fully cancel federal student loan debt owed by every borrower in the country. Related, [Fox 17 News](#) reports that state attorneys general recently called for full cancellation of federal student loan debt.

[New York Daily News](#) includes an op-ed from its Editorial Board arguing that the nation needs creative solutions for student loan borrowers.

[City of Boston News](#) reports that the federal and private student loan debt landscape is impacting home ownership in Boston.

[Business Insider](#) publishes a list of the best student loan refinance companies of May 2022.

[University Business](#) publishes a column reviewing a new report released by technology provider Anthology offering two key pieces of insight for higher education leaders: the top challenges that students have faced over the past year and how they believe learning

and technology should be provided on their campuses.

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

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