NCHER

DAILY BRIEFING

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House and Senate Republicans Send Letter to Education Secretary Cardona Questioning Legal Authority to Act on Loan Forgiveness

Today, House Education and Labor Committee Ranking Member Virginia Foxx (R-NC) and Senate Health, Education, Labor, and Pensions Committee Ranking Member Richard Burr (R-NC) sent a **letter** to Education Secretary Miguel Cardona questioning the U.S. Department of Education's statutory authority for its recent and proposed executive actions on student loans. In their letter, the Ranking Members question the Department's legal authority to cancel massive amounts of federal student loans and request a detailed explanation of the authorities used to extend recent student loan repayment freezes. The letter says that it follows multiple attempts by House and Senate Republicans to request information and briefings from the Department to ensure it is following the rule of law. "Today we award you an 'F' due to your dismissive failure to ensure student loans are administered and payments are collected in accordance with the law," Ranking Members Foxx and Burr write. "The Department continues to pretend student loans will eventually go back into repayment when talking to Congress while simultaneously telling the country the repayment pause will remain until a decision is made on broad student loan forgiveness. Thankfully, as time passes, more and more of the American public is realizing that the administration does not have the authority to enact these radical policies by executive fiat. It is clear, however, that your agency does not care about the limits of its executive authority or the perilous economic impact of its actions. You proudly announce that the Department has forgiven at least $25 billion in student loan debt. This does not include the $83 billion cost to taxpayers for your continual extensions of the repayment pause or the untold hundreds of billions forgiven through your unlawful 'waivers.' To achieve this, the Department has taken 14 legally dubious actions—all at taxpayer expense. Ignoring our questions is your Department's modus operandi. Yet, Congressional oversight is not an option. It is there to ensure that you and your Department are accountable to the American people."

Senate and House Committee Republican Leaders Send Letter to Education Secretary Cardona Requesting Information on Sharing of FAFSA Data With Facebook

Yesterday, Senate Health, Education, Labor, and Pensions Committee Ranking Member Richard Burr (R-NC) and House Education and Labor Committee Ranking Member Virginia Foxx (R-NC) sent a third **letter** to Education Secretary Miguel Cardona asking a series of questions about the sharing of FAFSA [Free Application for Federal Student Aid] data, which they say represents an alarming breach of security and privacy violations of prospective college students. In April 2022, several news outlets reported that the U.S. Department of Education used Facebook's "Meta Pixel" analytical code to collect data, without consent, including names, phone numbers, email addresses, and zip codes, from individuals applying for the FAFSA and later sharing that information with Facebook. The letter requested that all Department and Federal Student Aid (FSA) staff retain all past and future emails, documents, and records related to this incident and the Department's relationship with Facebook for future Congressional oversight. "This failure to protect individuals' privacy is unacceptable," the letter said. "It is imperative that the American people have confidence in interacting with federal agencies when it comes to protecting their privacy and thus are owed accountability and transparency." According to Committee Republicans, the letter is the third sent by Ranking Members Foxx and Burr regarding the Department's violation of the privacy of FSA applicants. The first letter, sent on May 10, requested information on the extent of the data breach, but was never answered. A second letter, sent on May 20, invited FSA Chief Operating Officer Richard Cordray to participate in a public roundtable discussion about this issue; he refused.

FSA Releases *Federal Register* Notice and Form for Conversion of Special Allowance Payments to SOFR

Yesterday, the U.S. Department of Education's Office of Federal Student Aid published a notice in the *Federal Register* and released the Form that will be used by lenders in the Federal Family Education Loan Program (FFELP) to transition Special Allowance Payments based on the London Inter-Bank Offered Rate or LIBOR to the Secured Overnight Financing Rate or SOFR-based index, as provided by the Adjustable Interest Rate (LIBOR) Act included in the Consolidated Appropriations Act, 2022 (Public Law 117-103). The new law allows the holder (or the beneficial owner if the holder is an eligible lender trustee) to notify the Secretary of Education that the holder or beneficial owner affirmatively and permanently elects to waive all contractual, statutory, or other legal rights to a special allowance paid based on LIBOR and to accept the rate based in the Act (the 30-day Average Secured Overnight Financing Rate plus a spread adjustment of 0.11448 percent). The Adjustable Interest Rate Act provides for the conversion to the SOFR rate by operation of law if the waiver is not exercised by the date LIBOR ceases to exist (currently June 30, 2023). The notice states that the deadline to submit comments is August 15, 2022. The draft form provides that the conversion will take place at the beginning of a quarter, as requested by the holder, though FFELP holders presumably will need to await finalization of the waiver form before exercising the option.

Federal Reserve Completes Two-Day Meeting, Raises Interest Rates by 75 Basis Points

Today, the Federal Reserve completed the two-day meeting of its Federal Open Market Committee (FOMC) where it voted to raise the target range of the federal funds rate by 75 basis points from 1 ½ to 1 ¾ percent. In a **statement** released after the meeting, the Federal Reserve said that overall economic activity appears to have picked up, after edging down in the first quarter of 2022, and inflation remains elevated due to supply and demand imbalances. It also said that the invasion of Ukraine by Russia is causing tremendous human and economic hardship, creating additional upward pressure on inflation and weighing on global economic activity. The statement indicated that the Fed would continue reducing its holdings of Treasury securities and agency mortgage-backed securities, as described in plans issued in May. The statement said one member (Federal Reserve Bank of Kansas City President and Chief Operating Officer Ester George) voted against today's decision; she preferred to hold the increase to 50 basis points.

During a press conference following the meeting, Federal Reserve Board of Governors Chair Jerome Powell stated that the central bank understands the hardship that inflation has caused for American families and is strongly committed to bringing inflation down to two percent. He said that the Fed has a role in restricting consumer demand, and that the pace of the change of the fed funds rate at the next few meetings is likely to be another 50 to 75 basis.

The **economic projections** of the FOMC members, released in conjunction with today's statement, revealed that the participants believe the federal funds rate will be 3.4 percent at the end of 2022 and 3.8 percent at the of 2023, up from 1.9 percent and 2.8 percent, respectively, from projections released in March. The projections also showed that the participants predict that Gross Domestic Product growth this year will be 1.7 percent, down from 2.8 percent in March, with unemployment coming in at 3.7 percent for 2022, up slightly from March. The projections also reveal that participants believed core inflation will come in at 4.3 percent this year and 2.7 percent next year.
The next meeting of the FOMC is scheduled for July 26-27, 2022. For more coverage, see this article from ***The Wall Street Journal***.

Pew Releases Survey Results on Student Loan Defaults

Yesterday, Pew Charitable Trusts published an article titled, **Government Hits Reset on Student Loan Defaults, But Many Could Experience Default Again**. The article documented Pew's survey of borrowers who took out federal undergraduate student loans between 1998 and 2018. The survey results show that roughly 1 out of 3 borrowers' default sometime during repayment on their federal student loans with two-thirds of those defaulted borrowers going back into default more than once. The survey supports a previous study of borrowers entering college during the 2003-2004 academic year, which projected that nearly 4 in 10 of those borrowers will default by 2023. In the coming months, Pew said it will release a series of analyses that help to fill gaps in existing information. Among the issues to be examined will be the financial circumstances of defaulted borrowers', their experiences with student loan servicers and debt collectors, their perspectives on why they defaulted, and their pathways in and out of default.

Department of Education Publishes FAFSA Demographic Survey to Implement Simplification Act

Earlier this week, the U.S. Department of Education **published** a new information collection to gather demographic information in conjunction with the FAFSA [Free Application for Federal Student Aid]. The notice says that the FAFSA Simplification Act passed as part of the Consolidated Appropriations Act, 2021 amended the Higher Education Act of 1965 to add sex and race or ethnicity as information required to be provided by the applicant on the FAFSA form. For the launch of the 2023-24 FAFSA on October 1, 2022, Federal Student Aid will ask the demographic questions in a pilot, voluntary survey format in order to collect specific feedback on the new questions. This feedback will inform the development of the questions for full implementation within the FAFSA form for the 2024-2025 award year. Public comment on the notice is due by August 12, 2022.

Strada Releases Report on Education Expectations and Views on the Value of College and Likelihood to Enroll

Today, Strada Education Network released a **study** examining the sentiments of those individuals who hold an associate degree, a certificate or certification, some college but no credential, or who have no postsecondary education. In contrast to the declining enrollment trends over the past two years, Strada noted that it is seeing a rebound in enrollment expectations; that is, more people now say they are likely to enroll in additional education over the next five years. In fact, expectations about future enrollment are up 9 percentage points since spring 2020. Key findings of the study include the following:

- Over the past two years, confidence in the value of education has been declining.
- Young people, Black respondents, and those who have attended some college, but have not completed a bachelor's or associate degree, are most likely to say they will enroll in postsecondary education within the next five years.
- Expectations about future enrollment and perceptions about the value of education both predict students' actual enrollment behavior.
- Potential students identify functional factors — flexible scheduling, credit for prior learning, and financial aid — as the most likely means to increase the probability they would enroll in additional education and training.
- Connections between education and career — supports that help students bridge the two as well as direct work-based learning experiences — are significantly linked to student and alumni confidence in the value of their education and their post-graduation outcomes.

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:

- **Comment Request: Cancer Treatment Deferment Form**
- **Comment Request: Federal Perkins Loan Program Regulations**

General News

Inside Higher Ed reports that a bipartisan bill introduced in the U.S. Senate on Tuesday would allow families to transfer unused funding from 529 College Savings Accounts without being penalized. The bill allows account holders to transfer their 529 balances to a Roth Individual Retirement Account, where the money could be saved for their child's retirement.

Forbes publishes a column reviewing those student and parent borrowers who could potentially benefit the most from federal student loan forgiveness.

The Washington Post provides an analysis by *Bloomberg* of the White House's options on federal student loan forgiveness.

The Newman Times-Herald reports that Rep. Drew Ferguson (R-GA) has introduced legislation aimed at stopping the U.S. Department of Education for providing federal student loan forgiveness.

The Hill reports that Rep. Ilhan Omar (D- MN) is pressing Education Secretary Miguel Cardona for additional details on federal student loan forgiveness.

Forbes includes an article by Contributor Paul Weinstein who argues that colleges and universities must be held accountable for the country's student loan crisis.

Higher Ed Dive reports that the American Council on Education, a dozen higher education groups, and college accreditor released a joint statement last week opposing paying college athletes as employees.

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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