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NCHER Summer Legal Meeting Takes Place in Two Days: Virtual Option Available, Register Today!

NCHER will hold its Summer Legal Meeting in two days - on Thursday, July 28, at the offices of Norton Rose Fulbright, which is located downtown at 799 9th St. NW, Suite 1000, Washington, DC. For those members unable to travel, NCHER has decided to offer a virtual option so that all members can take advantage of the program agenda. The program agenda can be found [here](#), and includes an update on the activities of the Consumer Financial Protection Bureau, developments in financing federal and private student loans, legal issues with federal student loan forgiveness and Operation Fresh

Start, a discussion of state laws affecting student loan servicing and private student loan lending, and a primer on federal contracting, as well as a Washington update. The registration fee is \$400 for members and \$500 for nonmembers. So [register today!](#)

FSA Instructs Federal Loan Servicers to Hold Billing Statements, Sign That Payment and Collections Pause May Be Extended Past August 31st

Several news organizations are reporting that the U.S. Department of Education's Office of Federal Student Aid (FSA) has directed its federal student loan servicers to hold off on sending billing statements to student and parent borrowers, even as the current student loan payment and collections pause is set to expire on August 31st. To date, the Biden Administration has indicated that a further extension of the payment pause is possible, but there has been no clarity as to when it will be extended and for how long. However, the development suggests the White House could soon announce an extension of the pause on federal student loans yet again. Several industry leaders have expressed concern over the ability of student loan servicers to resume payment plans and communicate important changes with borrowers who have not had to make a single monthly payment since March 2020.

While reports have indicated that the White House will most likely move forward with a federal student loan forgiveness plan that includes \$10,000 in cancellation for students below an income threshold, the Biden Administration has not confirmed whether it will announce such a plan prior to the end of August. It seems likely that any payment pause will be extended again absent an announcement on mass student debt cancellation.

For additional coverage, see these articles from [The Wall Street Journal](#) and [CNBC](#).

Department of Education Releases Proposed Regulations on 90/10, Change in Ownership, Pell Grants for Incarcerated Individuals

Today, the U.S. Department of Education released a [Notice of Proposed Rulemaking \(NPRM\)](#) that includes revisions to the 90/10 rule for for-profit colleges, new procedures for changes in ownership of institutions of higher education, and an expansion of the Pell

Grant program to include access to incarcerated individuals. The proposed changes should be published in the *Federal Register* in the coming days and will be open to public comment for a 30-day period. The Department indicated that it intends to finalize the rules later this year so that the changes will go into effect no later than July 1, 2023. "These proposed regulations enact welcome changes by Congress to better protect students who have served, and continue to serve, our nation," said Education Secretary Miguel Cardona in a [press release](#). "These rules will also ensure that efforts by for-profit colleges to convert to nonprofit status are genuine changes, not mere ploys to evade accountability to students and taxpayers." The proposed regulations would make the following changes:

- **Modifications to the "90/10" rule.** For-profit institutions have been required by the Higher Education Act to obtain at least 10 percent of their revenue from sources other than federal student aid provided by the Department (e.g., Pell Grants and federal student loans). The American Rescue Plan Act requires that at least 10 percent of funds come from sources other than any federal education assistance, not just aid awarded by the Department. The proposed regulations would be a change from current practice, in which institutions can count federal aid for veterans and servicemembers to meet the 10 percent revenue test. The proposed regulations, on which negotiators reached consensus, would codify this statutory change and also count revenue from the sale of institutional loans, income-share agreements, or similar alternative financing options.
- **Changes in ownership.** The proposed regulations would clarify the definition of a nonprofit institution to prevent improper financial benefits to a former owner or other affiliate of a college. Additionally, institutions of higher education undergoing a change in ownership would be required to notify both the Department and the institution's students at least 90 days prior to the change to ensure advance notice is provided. Institutions undergoing a change in ownership may also be required to provide additional financial protection or to comply with additional conditions to protect against the risk of the transaction.
- **Pell Grants to incarcerated individuals.** Congress recently established eligibility for Pell Grants for incarcerated individuals enrolled in qualifying programs. The proposed regulations, on which negotiators reached consensus, would ensure that state departments of corrections, the Federal Bureau of Prisons, or another entity, as appropriate, fairly assess institutions' eligibility to offer prison education programs based on the best interests of the students and with the input of affected stakeholders; clarify requirements for such prison education programs; and ensure

transparency and data to demonstrate how well these programs are serving their students.

DOJ Files Motions to Deny Intervention in *Sweet v. Cardona*, Says Department of Education Can Discharge Student Loans Using Settlement Authority

On June 2, 2022, the U.S. Department of Education reached a settlement in *Sweet v. Cardona*, a proposed class action settlement with a class of borrowers who have current borrower defense to repayment claims pending with the agency. The agreement states that the relief provided by the federal government is the result of the parties' negotiated settlement, not any borrower defense adjudication through the Department's regulatory process. As reported previously, four for-profit institutions against whom class members have alleged misconduct and sought borrower defense relief have sought to intervene to object to the proposed settlement. The intervenors claim that their inclusion in the proposed settlement infringes on their regulatory rights to defend themselves and raises the specter of potential adverse consequences at a later date and harm to their reputations.

Yesterday, the U.S. Department of Justice (DOJ) filed a [Consolidated Opposition to the Motions to Intervene](#) in the U.S. District Court of the Northern District of California on behalf of the defendants in the class action, asking the Court to deny the motions to intervene. DOJ's filing claims that the institutions of higher education have no interest in the litigation, much less in the exercise of the U.S. Secretary of Education's and the Attorney General's discretion to compromise class members' federal student loan debts and settle litigation on terms that further the interests of the United States. "[T]he settlement agreement provides for resolution of this lawsuit based on an exercise of the Education Secretary's considerable discretion under the HEA [Higher Education Act] to compromise and settle claims arising out of the federal student loan programs. See 20 U.S.C. § 1082(a)(6)," the filing says. "The Secretary's 'compromise and settlement authority' includes the authority to compromise and release the student loan debts owed to him by federal student loans borrowers on terms determined by the Secretary."

Department of Education Blog Provides Updates to NSLDS Website

Yesterday, the U.S. Department of Education's Homeroom Blog published a piece titled,

[Federal Student Aid's Summer Assignment: Modernize the National Student Loan Data System \(NSLDS®\)](#), written by Federal Student Aid's (FSA) Chief Operating Officer Richard Cordray. The piece highlighted the updated National Student Loan Data System [website](#), which stores loan and grant data for every student who receives aid, as well as repayment data reported by loan servicers and other financial partners. Mr. Cordray wrote that the new site aims to make it easier for financial aid professionals to access data and help students, and features centralized breakdowns of students' loan amounts from different financial aid systems. He added that the Department plans to update and enhance the FSA Partner Connect portal in the future to make it easier to access online accounts.

U.S. Department of Education News

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

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

- [\(GENERAL-22-48\) New Address Information for COD School Relations Center Effective July 27, 2022](#)
- [\(GENERAL-22-46\) NSLDS Professional Access - Information About NSLDS Reports and Other Reminders for Launch of Modernized Website \(Updated July 25, 2022\)](#)

General News

[Inside Higher Ed](#) and [The Chronicle of Higher Education](#) report that, while Americans continue to believe in the overall value of higher education, the share who say colleges and universities are having a positive effect "on the way things are going in this country today" has declined by 14 percentage points since 2020, according to a new survey from New America.

[Forbes](#) reports that President Joe Biden will decide on three key federal student loan relief initiatives over the next few weeks.

[CNBC](#) examines why the Biden Administration is considering forgiving the federal student loan debt for millions of Americans.

[Bankrate](#) reports on the average student loan debt for graduate school in 2022.

[Scrubs Magazine](#) reports that the average nurse graduates with \$47,321 in student loan debt. But two new bills from Sen. Sheldon Whitehouse (RI-D), who serves on the Senate Finance Committee, would cancel student debt for teachers and healthcare workers. The bills are designed to support essential workers and encourage more aspiring professionals to enter the field.

[The Chronicle of Higher Education](#) includes an op-ed by Georgetown University Center on Education and the Workforce Director Anthony Carnevale who argues some majors pay off more than others do and tuition prices should acknowledge that when trying to solve the college cost dilemma.

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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