



DAILY BRIEFING

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NCHER Daily Briefing Publishing on Abbreviated Schedule This Month

The *NCHER Daily Briefing* will publish on an abbreviated schedule consisting of today and Thursday as most of Congress is in recess. Both chambers are expected to return to legislative business after the November election.



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](#).

White House Unveils Application for Federal Student Loan Forgiveness

Today, the White House unveiled a preview of the application that borrowers will have to fill out in order to receive federal student loan forgiveness that President Joe Biden announced in August. According to senior officials at the U.S. Department of Education, the application is expected to go live later this month and will be a simple form, hosted on a .gov website. It will also be made available in mobile format and in Spanish. As previewed for reporters, the application asks for only basic information: name, social security number, date of birth, phone number, and email address. The forgiveness is available to borrowers whose adjusted gross income in 2020 or 2021 was less than \$125,000 for individuals or \$250,000 for couples. Borrowers will be required to attest to this income threshold by checking a box certifying to this “under penalty of perjury.” Senior officials said that the application process will contain “strict fraud prevention measures” that are risk-based. For example, the Department plans to require certain borrowers whom it determines are more likely to exceed the income threshold to submit additional evidence proving that they are eligible for the program. Those borrowers will have to submit the required documentation, such as their tax returns or proof they did not have to file taxes, before receiving the relief. But those officials declined to detail how the administration would determine which borrowers would be selected for that additional layer of verification. An official said only that it would be based on “known characteristics” of borrowers. They similarly declined to provide any estimate of how many borrowers are expected to face that extra scrutiny. “We’re confident that these measures – combined with clear communication about eligibility requirements to public – will result in a simple straightforward process that allows eligible borrowers to obtain relief and ensures ineligible borrowers do not,” the official told reporters.

The Biden Administration officials did not share new information about when the Department will start accepting applications. However, they said that the Department is

committed to starting the application process in October.

For additional coverage, see these articles from [USA Today](#) and [NPR](#).

Jobs Creators Network Foundation Files Fifth Lawsuit Against Federal Student Loan Forgiveness Plan

Yesterday, the Job Creators Network Foundation, a small business advocacy group, filed a lawsuit in the U.S. District Court for the Northern District of Texas to block the Biden Administration from forgiving federal student loan debt. The suit argues that the U.S. Department of Education violated the Administrative Procedure Act by not seeking public comment before announcing the program, and also challenges the administration's legal justification for the program. Elaine Parker, President of the Job Creators Network Foundation, said, "This bailout is going to affect everyone in this country because of the mass size of the program. And everyone should have the opportunity to provide their views to the government." The lawsuit was filed by two plaintiffs: a borrower who does not qualify for debt forgiveness because the plan excludes commercially held loans that are not in default, and another borrower who did not receive a Pell Grant and is, therefore, entitled to less forgiveness under the plan. The case has been assigned to U.S. District Judge Reed O'Connor, who was appointed by President George W. Bush. For additional coverage, see this article from [The Associated Press](#).

District Court Judge Dismisses Taxpayer Challenge to Federal Student Loan Forgiveness

Last Thursday, U.S. District Court for the Eastern District of Wisconsin Judge William C. Griesbach dismissed the lawsuit filed by the Brown County Taxpayers Association against the Biden Administration's federal student loan forgiveness plan. The complaint argued that White House and U.S. Department of Education officials usurped Congressional powers by obligating federal taxes without authority. As is the case with other legal challenges involving the debt relief plan, the critical issue was whether the plaintiff had standing to sue. On this issue, the complaint cited *Flast v. Cohen*, a 1968 U.S. Supreme Court case which held that, although taxpayers generally lack standing to sue, they do have standing to sue in certain cases. Judge Griesbach ruled that *Flast* is a narrow exception to the general rule, limited only to cases involving the establishment of religion. The judge also suggested that, even if the plaintiff did have standing, it is unclear whether

preliminary relief would be appropriate because the plaintiff would need to prove irreparable harm. Interestingly, the judge suggested that a future administration may not be bound by any cancellation and could seek to collect the forgiven debts. This is second challenge that has been dismissed by a district court. On September 29, U.S. District Court for the Southern District of Indiana Judge Richard L. Young dismissed *Garrison v. Cardona* ruling that the plaintiff was not irreparably harmed because the Department of Education allowed him to opt out from receiving debt relief.

Federal Reserve Releases Monthly Consumer Credit Report, Finds Credit Increased in August

Last week, the Federal Reserve released its [Consumer Credit - G.19 Report](#), which found that consumer credit increased at a seasonally adjusted annual rate of 8.3 percent in August, up from a 6.2 percent increase in July. According to the report, total outstanding consumer credit stood at \$4.680 trillion at the end of August, up \$32.2 billion from July. Revolving credit (mostly credit card debt) increased by \$17.1 billion and nonrevolving credit (mostly student and auto loans) increased by \$15.1 billion. Nonrevolving debt owned by the federal government (mostly Direct Loans) increased by \$15.4 billion. The increase in nonrevolving debt owned by the federal government was much higher than recent monthly increases, presumably reflecting disbursements for the Fall semester. Looking back a year ago, the increase was more than the increase in this category for August 2021 (total of \$14.5 billion), which seems to indicate that Direct Loan borrowing is increasing this year.

Higher Education Groups Voice Concerns on Timeline for Simplified FAFSA Launch

Several higher education groups, led by the American Council on Education and National Association of Student Financial Aid Administrators (NASFAA) recently raised concerns with the U.S. Department of Education's rollout of the simplified Free Application for Federal Student Aid (FAFSA). The simplified FAFSA is expected to be available next fall, but advocates are worried that the Department will not be able to meet that deadline. NASFAA President and Chief Executive Officer Justin Draeger said: "In the best of circumstances, schools will be stressed about the Department's ability to pull this off. I would say we are not under the best of circumstances." The colleges and universities also are concerned about receiving timely guidance on factors such as how cost of attendance will be calculated through the new FAFSA. "Schools actually need this guidance to

construct budgets that they can package student aid with, and the schools are the ones left hanging, ultimately,” Mr. Draeger said. “If aid offers are supposed to go out, and those aid offers are supposed to be accurate, we need this official guidance from the Department, and the longer it takes us to get it, the longer it will take schools to actually implement it.” Congress passed the FAFSA Simplification Act overhauling the FAFSA in December 2020, though full implementation has already been delayed a year. For additional coverage, see this article from [Inside Higher Ed](#).

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:

- [\(GENERAL-22-76\) NSLDS Professional Access – Additional Information About the Modernized Website #10](#)
- [\(GENERAL-22-75\) 2023-2024 College Financing Plan](#)

General News

The Minnesota Attorney General recently [announced](#) that his office settled a case with a California student loan debt-relief company that had been fraudulently collecting fees from customers and misrepresenting its services.

[Bankrate](#) reports on the effects that federal student loan debt forgiveness would have specifically for women and people of color, highlighting the different ways that marginalized groups historically use loans.

[Inside Higher Ed](#) published a transcript of a recent podcast of a discussion on the value and cost of higher education.

[Minding the Campus](#) published an op-ed about the changes to the Public Service Loan Forgiveness program included in the Responsible Education Assistance through Loan or REAL Reforms Act, a bill recently introduced by House Education and Labor Committee Ranking Member Virginia Foxx (R-NC), Rep. Elise Stefanik, R-NY, and Rep. Jim Banks (R-IN).

[Fortune](#) previews Student Borrower Bankruptcy Relief Act introduced by House Judiciary Committee Chairman Jerrold Nadler (D-NY) that would allow student loans to be discharged in bankruptcy.

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National Council of Higher Education Resources

1050 Connecticut Ave NW #65793

Washington, DC 20035

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

Fax: (202) 822-2142

