



DAILY BRIEFING

Thursday, January 13, 2022

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NCHER Offices Closed for MLK Holiday, Daily Briefing Resumes on Tuesday

The NCHER offices will be closed on Monday, January 17, 2022 for the Martin Luther King, Jr. holiday. The office will reopen – and the *Daily Briefing* will resume publication – on Tuesday, January 18, 2022. We hope that you have a safe and healthy holiday weekend!

Navient Reaches Agreement with 40 Attorneys General on Allegations Involving Private Loans and Servicing Practices

Today, Navient announced that it had reached a nearly \$2 billion settlement with a bipartisan group of 40 attorneys general to resolve allegations that it made predatory private loans and illegally pushed federal student loan borrowers into higher-cost repayment plans. The settlement requires Navient to cancel the private loan balances of about 66,000 borrowers, many of whom attended for-profit colleges, and to pay restitution to about 350,000 federal student loan borrowers whom it placed in certain types of forbearance plans.

The group of state attorneys general, which was led by the states of Pennsylvania, Massachusetts, Illinois, California, and Washington, filed suit against Navient accusing it of abuses both in its older private student lending business and its work on behalf of the U.S. Department of Education managing the accounts of federal student loan borrowers. The complaint alleged that Navient, then operating as Sallie Mae, in the early to mid-

2000s made subprime private loans to students even though the company knew many would not be able to repay the debt. As part of the settlement, Navient will cancel a total of \$1.7 billion owed by those borrowers.

In addition, the states accused Navient of orchestrating a scheme to push federal student loan borrowers into forbearances without telling them about income-driven repayment (IDR) options that could have been far more beneficial to struggling borrowers. The company agreed, as part of the deal, to pay \$95 million in restitution that will be provided to some 350,000 borrowers who were placed into certain types of forbearances even though they were eligible for IDR.

“Navient knew that people relied on their loans to make a better life for themselves and for their children – and instead of helping them, they ran a multibillion-dollar scam,” said Pennsylvania Attorney General Josh Shapiro. But Navient denied the allegations made by the state attorneys general and said it agreed to the settlement to avoid the cost of further litigation. “The company’s decision to resolve these matters, which were based on unfounded claims, allows us to avoid the additional burden, expense, time, and distraction to prevail in court,” Mark Heleen, Navient’s Chief Legal Officer, said in a statement.

“Navient is and has been continually focused on helping student loan borrowers understand and select the right payment options to fit their needs. In fact, we’ve driven up income-driven repayment plan enrollment and driven down default rates, and every year, hundreds of thousands of borrowers we support successfully pay off their student loans.” The states’ settlement with Navient does not resolve a separate lawsuit brought by Consumer Financial Protection Bureau that alleges similar predatory practices in student loan servicing. That case, filed in the waning days of the Obama administration, remains pending in federal court.

For additional coverage of the settlement, see this article from [Forbes](#).

House and Senate Republicans Send Letter to Education Secretary Cardona on True Cost of the Federal Student Loan Program

Yesterday, House Education and Labor Committee Ranking Member Virginia Foxx (R-NC), Senate Health, Education, Labor, and Pensions Committee Ranking Member Richard Burr (R-NC), House Oversight and Reform Committee Ranking Member James Comer (R-KY), and Senate Employment and Workplace Safety Subcommittee Ranking Member Mike Braun (R-IN) sent a [letter](#) to Education Secretary Miguel Cardona expressing concern over the Department's lack of transparency and cooperation regarding the true cost of the federal student loan portfolio. In the letter, the members say that they have received conflicting statements from Department officials regarding the valuation reports on the federal student loan portfolio. They said that such action is prohibiting them from fulfilling their duty to conduct oversight over the federal student loan program. “The Department...did not provide all reports related to the student loan portfolio valuation, contradicting Under Secretary James Kvaal’s pledge to do so during his November testimony,” the letter states. “It is inexcusable to treat the taxpayer investment in this program with such little respect.” The members reiterate their requests for all documents, follow-up reports, validating reports, reviews of the reports, and all other work conducted by FI Consulting, Deloitte, and the Office of Federal Student Aid on the valuation of the federal loan portfolio.

Senate HELP Committee Approves New Assistant Secretary for Career, Technical, and Adult Education

Today, the Senate Health, Education, Labor, and Pensions Committee met in executive

session and approved the nomination of Amy Loyd to serve as the next Assistant Secretary for Career, Technical, and Adult Education at the U.S. Department of Education. Prior to her nomination, Ms. Loyd was a Vice President at Jobs for the Future where she designed and led programs across the United States that improve education and workforce outcomes. Her nomination now heads to the full U.S. Senate for additional consideration. For additional information, visit the [committee website](#).

Senate Banking Committee Holds Hearing on Nomination of Lael Brainard to Serve as Vice Chair of Federal Reserve

Today, the Senate Banking, Housing, and Urban Affairs Committee held a hearing on the nomination of Dr. Lael Brainard to serve as the next Vice Chair of the Board of Governors of the Federal Reserve System. In his [opening statement](#), Chairman Sherrod Brown (D-OH) said economic growth will not mean much if it does not reach all workers, and that Dr. Brainard understands that workers, not corporations, create economic growth. He said that Dr. Brainard will be tasked with supporting efforts to close the racial and income gaps that have barely shrunk in decades. In his [opening statement](#), Ranking Member Patrick Toomey (R-PA) said that monetary policy can never equalize employment rates among different groups and criticized progressives who want the Federal Reserve to get involved in environmental policy. He said that he is “particularly concerned that [Dr. Brainard] has advocated for the Fed to shape environmental policy through so-called climate scenario analysis. Not only does the Fed lack expertise in environmental matters, but there is no reason to believe that global warming poses a systemic risk to the financial system.”

In her [testimony](#), Dr. Brainard discussed some of the challenges that the nation is currently facing in the midst of the COVID-19 pandemic. She said that “inflation is too

high, and working people around the country are concerned about how far their paychecks will go. Our monetary policy is focused on getting inflation back down to 2 percent while sustaining a recovery that includes everyone. This is our most important task.” During the question-and-answer portion of the hearing and in response to a question from Chairman Brown about the Fed’s monetary framework, Dr. Brainard said that stable prices and maximum employment are on equal footing. When asked by Ranking Member Toomey whether she is committed to an independent Fed, Dr. Brainard said “yes.” Sen. Bob Menendez (D-NJ) said he is pleased that the Federal Reserve put out an advance notice of proposed rulemaking seeking feedback on reform of the Community Reinvestment Act (CRA). Dr. Brainard said she supports working with other federal regulators on CRA reform. In response a question from Sen. John Kennedy (R-LA), Dr. Brainard agreed that the current supply/demand imbalance is attributable to the pandemic. Sen. Elizabeth Warren (D-MA) said that it is important to keep an eye on all things that affect prices, including corporate consolidation.

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

House and Senate Appropriations Committee Leaders Meet in Attempt to Reach Budget Agreement

Today, House and Senate Appropriations Committee leaders met for the first time since November in an effort to restart negotiations on reaching a budget agreement on Fiscal Year 2022. The federal government is currently operating under a short-term Continuing Resolution that extends funding until February 18th. While all four lawmakers that participated in the meeting were tight-lipped leaving the meeting, sources said that the discussions went well. “We appreciated the opportunity to have a constructive Four Corners conversation today on completing fiscal year 2022 appropriations,” said House

Appropriations Committee Chairwoman Rosa DeLauro (D-CT) and Senate Appropriations Committee Chairman Patrick Leahy (D-VT) said in a statement. “We look forward to further conversations in the coming days, with the shared goal of finishing our work by the February 18 government funding deadline. Republicans are continuing to demand that Democrats agree upfront to retain the same policy riders currently in place. Senate Appropriations Committee Ranking Member Richard Shelby (R-AL) said the meeting was about establishing ground rules for beginning negotiations. “The four of us had constructive talks of where we go and how we get there and how we start,” said Ranking Member Shelby. “And we hadn't worked that out yet, and we're going to continue to talk and meet.”

Consumer Groups Publish Proposal for Income-Driven Repayment Reform

The National Consumer Law Center, the Student Borrower Protection Center, and the Center for Responsible Lending recently published a joint policy proposal titled, [Restoring the Promise of Income-Driven Repayment \(IDR\): An IDR Waiver Program Proposal](#). The proposal aims to alleviate the financial burden faced by student borrowers, especially low-income borrowers and borrowers of color. The proposed program would be similar to the limited waiver for the Public Service Loan Forgiveness (PSLF) program introduced in October 2021. In the paper, the groups compare the issue of Income-Driven Repayment to PSLF, stating, “Many of the problems that led to the failure of the Public Service Loan Forgiveness program are IDR problems in disguise. These problems will not be corrected by a solution that only addresses the PSLF program.” To address those issues, the proposal recommends a retroactive IDR waiver that accomplishes the following:

- Count all months since the borrower entered repayment following their grace period as qualifying months toward forgiveness. The groups believe that this would

remedy past IDR issues that have prevented borrowers from receiving cancellation.

- Use existing National Student Loan Data System information to provide borrowers with automatic relief, eliminating the need for qualified borrowers to apply for relief.
- Apply the waiver program to all federal loan borrowers to ensure that all borrowers have the opportunity to receive generous IDR plans.

National Student Clearinghouse Study Shows Decreasing Higher Education Enrollment

The National Student Clearinghouse Research Center recently released its [fall 2021 term estimates](#), which found that higher education enrollment fell an additional 2.7 percent after a 2.5 percent decrease in fall 2020. The data demonstrates that enrollment in postsecondary education has dropped by 5.1 percent since the start of the COVID-19 pandemic, representing 938,000 students. The data also shows the breakdown in enrollment decline across various types of institutions, including public four-year institutions, community colleges, and private for-profit institutions. Private for-profit institutions saw the largest decline in enrollment at 11.1 percent. Mikyung Ryu, an analyst with the Clearinghouse, said that the pandemic is only worsening already declining enrollment: “Think about the virus infection status right now—things are not really looking up. Campus leadership is struggling to retain students, let alone fill the empty seats from the pre-pandemic years.”

U.S. Department of Education News

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

The following announcement was posted to the Information for Federal Student Aid's

Knowledge Center:

- [\(APP-21-19\) IRS Data Retrieval Tool and Potential Inaccurate \\$1 Adjusted Gross Income for the 2022–23 FAFSA Form \(Updated Jan. 13, 2022\)](#)
 - [\(CB-22-03\) Waiver of the Three-year Cumulative Limit on Forbearances for Federal Perkins Loan Borrowers](#)
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General News

[The Wall Street Journal](#) reports that the pause on federal student loan payment has cost the federal government more than \$100 billion since the start of the COVID-19 pandemic and could cost \$4 billion to \$5 billion a month until the moratorium is lifted at the beginning of May, according to recent federal estimates.

[The Washington Post](#) reports that a federal judge is criticizing the Biden Administration for not moving quickly enough to resolve claims from defrauded student loan borrowers who sued over Trump-era policies that denied them debt relief.

[Inside Higher Ed](#) reports successful mitigation measures are allowing colleges and universities to bring students back to campus, even as COVID-19 cases are taking off. Strategies vary by campus, with some efforts limited by governing boards

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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