



DAILY BRIEFING

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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](#).

Supreme Court Prepares to Hear Oral Arguments on Federal Student Loan Forgiveness Plan

Tomorrow, the U.S. Supreme Court will hear oral arguments in *Biden v. Nebraska*, a case that was brought by six states challenging the constitutionality of the U.S. Department of

Education's federal student loan forgiveness plan. The hearing will be available to listen on the [court's website](#) beginning at 10:00 a.m. ET and two hours of arguments have been scheduled on the case. Legal experts believe that the justices will focus on several key issues – if the states and two borrowers suing the Biden Administration have legal standing to bring the suit in the first place and if the states can prove that they will be financially harmed by the plan, and if the HEROES Act provides the Department with the authority to carry out the plan.

These experts say that the federal student loan forgiveness plan faces a conservative majority on the Supreme Court that has been skeptical when federal agencies appear to overstep the powers authorized by Congress. Daniel Urman, a law and public policy professor at Northeastern University, said several conservative members of the court have expressed a general desire to roll back the administrative power of the federal government. For example, Justices Clarence Thomas, Samuel Alito Jr. and Neil Gorsuch have a track record of hostility to broad assertions of administrative authority, and Chief Justice John Roberts wrote an opinion in *West Virginia v. Environmental Protection Agency* last year that reined in efforts to address greenhouse gas emissions. “There are these major cases where the Supreme Court has said some version of ‘if Congress really wanted this agency to deal with this issue, they would have said so,’” Mr. Urman said.

Of interest, Justice Thomas is the only Supreme Court justice who has shared a personal story about borrowing money for education for themselves or their children. In his 2007 memoir, “My Grandfather’s Son,” Justice Thomas wrote about his personal experience with student loans, writing that a fellow student had suggested that he should consider declaring bankruptcy after law school graduation, “to get out from under the crushing weight of all my student loans.” Justice Thomas did not do this, and was in his mid-40s – and already serving on the Supreme Court – before he paid off his debt from higher education.

To move forward with the program, Mr. Urman said the Biden Administration would have to convince at least two of the six justices on the conservative wing of the court, along with all three of the justices on the liberal wing. The outcome of the case is not expected to be known for several months; the Supreme Court generally issues decisions on such high-profile cases in June.

For further coverage, see the following articles:

- [Washington Post: Biden's student loan forgiveness program comes before Supreme Court](#)
- [AP: Supreme Court student loan case: The arguments explained](#)
- [NY Times: Challenges to Student Loan Cancellation Reach Supreme Court](#)
- [Roll Call: Supreme Court to hear arguments on student debt relief program](#)

Supreme Court Announces Hearing on Case Challenging CFPB Funding

Today, the U.S. Supreme Court announced that it will review the U.S. Court of Appeals for the Fifth Circuit decision in *Community Financial Services Association of America Limited and Consumer Service Alliance of Texas v. Consumer Financial Protection Bureau (CFPB)*. In that decision, the court ruled that the funding structure of the CFPB, which is not subject to the Congressional appropriations process, was unconstitutional and struck down a regulation governing payday lenders that never went into effect. The Bureau is directly funded by the Federal Reserve. Republican and Democratic Attorneys General have urged the Supreme Court to take up the case with interested parties saying that a decision upholding the case would weaken the agency and invalidate all of the CFPB's prior rulemaking and enforcement actions. For further coverage, see these articles from [Axios Business Suite](#), [CBS News](#), and [The Hill](#).

Department of Education's NACIQI Holds Winter Meeting Tomorrow

The National Advisory Committee on Institutional Quality and Integrity (NACIQI), which advises the U.S. Department of Education on matters of accreditation, will begin its Winter Meeting starting tomorrow through Thursday, both in-person and online. The agenda includes approval of applications from the Higher Learning Commission, Middle States Commission on Higher Learning, and Western Association of Schools and Colleges, and is available [here](#). The registration link for online attendance is available [here](#). At tomorrow's opening session, Assistant Secretary for Postsecondary Education Nasser Paydar is expected to provide an update on the Biden's Administration's priorities and the committee is expected to receive compliance reports from its members.

Third Way Releases Report on Higher Education Outcomes

Last week, Third Way released a new [report](#) titled, "The State of American Higher Education Outcomes in 2023," which examines the outcomes of more than 5,000 institutions of higher education using updated data files provided by the U.S.

Department of Education. According to the report, for four-year institutions, the median completion rate now stands at 78 percent, the median percentage earning above the average high school graduate now stands at 76 percent, and the median remaining on loan principal after five years stands at 90 percent. For two-year institutions, the median completion rate is 42 percent, the median percentage earning above the average high school graduate is 59 percent, and the median remaining on loan principal after five years is 102 percent. For certificate-granting colleges and universities, the median completion rate is 54 percent, the median percentage earning above the average high school graduate is 48 percent, and the median remaining on loan principal after five years is 97 percent.

U.S. Department of Education News

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

General News

[insideARM](#) publishes a column by Ballard Spahr's John Culhane reporting that the Federal Trade Commission recently provided its annual report on the Equal Credit Opportunity Act to the Consumer Financial Protection Bureau.

[Inside Higher Ed](#) reports that the University of California system recently banned fully-online degrees.

[Higher Ed Dive](#) discusses a recent survey from the University Professional and Continuing Education Association and Collegis Education, which says that a majority of surveyed employers say they value alternative credentials but harbor concerns over assessing the quality of education and understanding the skills and competencies they represent.

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