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Supreme Court Set to Release Decisions on Federal Student Loan Forgiveness Cases Tomorrow

Tomorrow, the U.S. Supreme Court is expected to issue its decisions in *Nebraska v. Biden* and *Department of Education v. Brown*, which are challenging the constitutionality of the U.S. Department of Education’s federal student loan forgiveness plan. The plan would discharge up to \$10,000 in student loan debt for borrowers if they make less than \$125,000 a year individually or \$250,000 as a family and \$20,000 if they received a Pell Grant during their postsecondary education career. The court will reconvene for the final day at 10:00 a.m., ET and is expected to release the remaining three cases on its docket.

NCHER will hold a call with its membership to review and discuss the decision - the Zoom information has been circulated to the primary contact of each organization. For additional coverage, see these articles from [The Hill](#) and [Business Insider](#).

House Education and the Workforce Committee Chairwoman Foxx Sends Letter to Education Secretary Cardona Expressing Concern With Fraud Potential in Federal Student Loan Forgiveness Plan

Earlier this week, House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) sent a [letter](#) to Education Secretary Miguel Cardona expressing concern that allowing borrowers to self-certify their income could lead to fraud in the U.S. Department of Education's federal student loan forgiveness plan. This letter comes after the committee received a briefing from the U.S. Government Accountability Office (GAO) last week on the draft results of its examination of fraud risks in the loan forgiveness plan. In the letter, Chairwoman Foxx asks if the Department will fully implement GAO's recommendations before discharging any loans and will provide a briefing within two days of the release of the final GAO report. "If the Department is unwilling to implement any meaningful risk management, it will put millions of hardworking taxpayer dollars at risk if the Supreme Court fails to strike down the administration's student loan scheme," Chairwoman Foxx said in a [press release](#). "GAO's draft analysis also raises additional questions about the Department's ability to fulfill its basic management responsibilities."

Department of Education Considers "Safety Net" For Student Borrowers for Return to Repayment

Politico is reporting that the U.S. Department of Education is working on plans to create a "safety net" for student loan borrowers as they return to repayment this fall for the first time in over three years. In recent weeks, the Department finalized a plan to allow for a three-month grace period for missed payments once federal student loans become due again in October and directed its federal student loan servicers to be prepared to extend that flexibility for a subsequent 90 days. Under the plan, interest would continue to grow even if student and parent borrowers miss payments. This plan is meant to prevent borrowers who fall behind on their payments from getting penalized on their credit report well into 2024. It would also prevent delinquent borrowers from the

consequences of a default until 2025 at the earliest.

In addition to the “safety net” plan, the Department is expected to release the final version of its new Income-Based Repayment Plan, which it plans to promote as a way for borrowers to cut costs once payments resume. The new plan has been rebranded as the Saving on a Valuable Education or SAVE plan, which would replace “REPAYE” or “Revised Pay As You Earn,” the Obama-era name for the plan.

Senate Health, Education, Labor, and Pensions Committee Ranking Member Bill Cassidy (R-LA) blasted the Department’s “safety net” plan to avoid penalizing missed federal student loan payments as “a direct violation of the debt ceiling agreement” the President signed earlier this month. The Fiscal Responsibility Act prohibited the Department from further extending the pause on federal student loan payment and interest beyond 60 days after June 30, 2023. “Any well-meaning person would have assumed people were going to start paying back that which they owed the last day of August,” Ranking Member Cassidy said in an interview with Politico. “Now we hear it’s at least 90 days and probably longer. The people who owe these debts are going to be the ones confused and without guidance. They’re going to pay a price because the administration made a decision for short-term political gain.” Ranking Member Cassidy has joined House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) in criticizing the Department for what they view as a lack of proper planning for restarting payments. The lawmakers have demanded that the agency brief them on its plans for restarting student loan payments this fall.

For additional coverage, see this article from [Politico](#).

ARRC Releases Meeting Readout for June 2023

The Alternative Reference Rates Committee (ARRC) recently released the [readout](#) from its meeting held on June 22, 2023. In the meeting, ARRC members discussed continued progress in the transition from LIBOR [London Interbank Offered Rate] to SOFR [Secured Overnight Financing Rate] as LIBOR publication will end this week. The highlights note that SOFR swaps reached a new high of interest rate risk traded, and the volume of SOFR swaps increased while LIBOR trading has declined to minimal levels. During the meeting, Loan Syndications and Trading Association (LSTA) staff noted an acceleration in the pace of remediation of leveraged loans, one of the key remaining market segments that needed to transition away from LIBOR ahead of tomorrow. LSTA staff also noted that approximately 40 percent of institutional loans had already transitioned, with that

percentage likely increasing significantly once loans reach their next rate reset date. LSTA staff also indicated that the majority of LIBOR-linked Collateralized Loan Obligations have not yet reached the 50 percent threshold of underlying loans transitioning away from LIBOR but the majority are assumed to prepare for transition. The Operations/Infrastructure Working Group also provided an updated on the DTCC LIBOR Replacement Index Communication Tool, which they recommend that all determining persons, agents, and other parties responsible for disseminating information use this system for communicating rate/conforming changes.

CFPB Releases 2022 Fair Lending Annual Report to Congress

Today, the Consumer Financial Protection Bureau (CFPB) released its [Fair Lending Annual Report to Congress](#), which describes the Bureau's fair lending activities in enforcement and supervision, guidance and rulemaking, interagency coordination, and outreach and education for calendar year 2022. In that year, the CFPB's fair lending work centered on the consumers and communities most affected by unlawful discrimination, which included working with federal and state partners to address redlining. The Bureau's work also included the release of several reports shining a light on factors that may influence fair access to credit, including how people in under-resourced rural areas struggle to access financial services and the challenges faced by justice-involved individuals and families. The CFPB also issued several rules and guidance documents reaffirming the importance and applicability of fair lending protections for prospective applicants, applicants for credit, and existing account holders. Through enforcement and examination activity, interpretive rules and advisory opinions, circulars, and other tools, the Bureau indicated that it made clear fair lending must be a top priority for all financial institutions.

The report includes a section titled, Future of Fair Lending, which states that the CFPB is focused especially on the increased use of advanced and emerging technologies in financial services. "Consumers and small businesses are not well-resourced to fight back against—and may not even know they are subject to—algorithmic bias, digital surveillance and data harvesting, dark patterns, and advanced technologies that are black boxes," the report says. Over the last year, the Bureau has increased its expertise in data science and analytics to ensure that it can identify fair lending violations at each stage of the credit lifecycle. The CFPB said that it will hold creditors and service providers accountable for fully complying with fair lending and other federal consumer financial laws, regardless of

the technology they choose to use.

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:

- [\(GENERAL-23-51\) Independence Day Federal Holiday Processing and Customer Service Hours](#)
- [Notice of New Matching Program: Computer Matching Agreement](#)
- [Notice of System Records: FUTURE Act System \(FAS\)](#)
- [System of Records: National Student Loan Data System \(NSLDS\)](#)
- [Systems of Records: Common Origination and Disbursement \(COD\) System](#)
- [NSLDS Transfer Student Monitoring & Financial Aid History User Guide and Record Layouts \(June 2023\)](#)

Member News

The North Carolina State Education Assistance Authority (NCSEAA) and Educational Credit Management Corporation (ECMC) [notified](#) affected industry partners that NCSEAA's Federal Family Education Loan Program (FFELP) guaranty portfolio has been assigned to ECMC, effective November 1, 2023. According to the press release, NCSEAA has successfully served as North Carolina's guaranty agency since 1966. However, the Board of Directors of NCSEAA has determined it is time to transition away from the FFELP guaranty program and NCSEAA notified the U.S. Department of Education of its decision to exit the program. The Department has directed that the portfolio be transferred to ECMC.

General News

[Inside Higher Education](#) reports on today's ruling by the U.S. Supreme Court striking down Harvard University's and the University of North Carolina's policies on raced-based admission practices.

[Bloomberg](#) reports that consumer advocates are telling the White House that federal student loan forgiveness is still possible even if it is struck down by the U.S. Supreme Court.

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