



Monday, October 2, 2023

## In Today's Edition

- Weekly Rundown
- NCHER Fall Legal Meeting: Preliminary Agenda Now Available, Register Today!
- House and Senate Pass Short-Term Continuing Resolution Averting Shutdown, Excludes Funding Flexibility for FSA
- Department of Education Releases New Details About Possible Federal Student Debt Relief Plan, Membership of Negotiated-Rulemaking Committee
- Politico Interviews Under Secretary of Education James Kvaal As Federal Student Loan Payments Officially Restart
- U.S. Department of Education News
- Member News
- General News



## 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](#).

## NCHER Fall Legal Meeting: Preliminary Agenda Now Available, Register Today!

NCHER will hold its Fall Legal Meeting on Tuesday, November 7, 2023 at the law offices of McGlinchey Stafford in New Orleans (Pan American Life Center, 601 Poydras St, # 1200). This one-day meeting should be of interest to lawyers and non-lawyers alike. The registration fee is \$400 for members and \$500 for nonmembers. For more information or to register, visit the [meeting website](#).

The [Preliminary Agenda](#) was just released and includes many important topics of interest to the membership. This includes sessions such as a Washington Update, which will include a regulatory update, an update on current initiatives of the Consumer Financial Protection Bureau (CFPB), risks and rewards of artificial intelligence in consumer finance, best practices in incident response to data breaches, an update on the current term of the U.S. Supreme Court with a focus on Community Financial Services Association of America v. CFPB and Loper Bright Enterprises v. Raimondo, legal, policy, and operational issues with the resumption of repayment and collections, and the impact of the Students for Fair Admissions v. Harvard decision on grant programs. While NCHER is making arrangements for a virtual option, registrants should be aware that active participation for remote registrants will be limited. Please indicate when registering whether you will attend in person or virtually. Similar to the past, meeting attendees will need to make their own hotel reservations. There are several hotels within walking distance of the law firm. A non-exclusive list is posted on our website. Finally, NCHER will provide CLE credit for those in attendance.

NCHER would like to thank Kelly Lipinski and our friends at McGlinchey Stafford for hosting the meeting. If you have any initial questions on the meeting, please reach out to Shelly Repp at [srepp@ncher.org](mailto:srepp@ncher.org).

We hope to see you in New Orleans!

## House and Senate Pass Short-Term Continuing Resolution Averting Shutdown, Excludes Funding Flexibility for FSA

Over the weekend, both the U.S. House of Representatives and U.S. Senate passed [H.R.5860, the Continuing Appropriations Act of 2024](#), a short-term Continuing Resolution (CR) to keep the federal government funded through November 17th,

averting a shutdown. In the House, the bill passed under suspension of the rules by a 335-91 vote with all Democrats voting but one to support the measure and 90 Republicans voting against the measure. In the Senate, the legislation passed by a vote of 88-9 with all no votes from Republicans.

The quick passage of both chambers was set about on Saturday morning when House Speaker Kevin McCarthy (R-CA) abandoned previous efforts to link the House's CR with border security provisions and new caps on federal spending. Instead, Speaker McCarthy used the Senate's CR as a base, eliminated all of the additional funding requested for Ukraine, and stripped out many of the policy extensions, including language that would have allowed the U.S. Department of Education to spend additional funding to manage the return to federal student loan payment and other activities associated with loan servicing. Following passage of the CR, the House Republican leadership notified members the two-week recess that was supposed to start today was canceled and, instead, the chamber would continue to consider several funding bills in an effort to move the budget and appropriations process forward. Conservative hardlines in the lower chamber, led by Rep. Matt Gaetz (R-FL), also gave notice that they will offer and move a motion to vacate the Speaker's position because of their opposition to a CR and working with Democrats to keep the federal government open - that vote is expected to take place this week.

For further coverage, see the following articles:

[Shutdown averted as Biden signs seven-week spending bill - Roll Call](#)

[5 takeaways from a near shutdown and Washington's dysfunction | The Hill](#)

[Gaetz plans move to oust McCarthy, says GOP needs new leader - Roll Call](#)

## Department of Education Releases New Details About Possible Federal Student Debt Relief Plan, Membership of Negotiated-Rulemaking Committee

Last week, the U.S. Department of Education [announced](#) that it was releasing an [issue paper](#) laying out its initial set of policy considerations for the negotiated rulemaking committee charged with providing federal student loan forgiveness. The paper identifies five questions about distinct categories of affected borrowers, including questions about

borrowers whose balances are greater than what they originally borrowed, whose loans first entered repayment decades ago, who attended programs that did not provide sufficient financial value, who are eligible for relief under programs like income-driven repayment but have not applied, and borrowers who have experienced financial hardship and need support, but for whom the current student loan system does not adequately address. The issue paper will be discussed at the first meeting of the Student Loan Relief Committee, which is scheduled to take place October 10 and 11, 2023.

The Department also released a [list](#) of the individuals who will serve on the negotiated rulemaking committee. The list includes Scott Buchanan from the Student Loan Servicing Alliance and Benjamin Lee from Ascendium Education Solutions as representatives of FFELP holders, servicers, and guarantors.

## Politico Interviews Under Secretary of Education James Kvaal As Federal Student Loan Payments Officially Restart

Today, Politico posted a recent interview that it had with Under Secretary of Education James Kvaal who discussed the return to repayment for federally held borrowers. In the interview, Under Secretary Kvaal said that the U.S. Department of Education has been preparing for the restart for some time and is ready but that it will be a challenge for some borrowers. “We know it may take some borrowers some time to find room in their budgets to make student loan payments, and we’re going to do everything we can to support them through this process,” he said. He said that the Department is closely monitoring how student loan borrowers are faring and how loan servicers perform as payments resume. He also said the Department is considering releasing publicly more data about its student loan portfolio. Here’s the transcript of the interview:

### **Is the Education Department ready to resume collecting payments in October?**

There’s no question this is a big transition for us – and for more than 28 million borrowers. And the borrowers I talk to – there’s a lot of anxiety, there’s a lot of confusion. People are worried about making room in their budgets for student loan payments. Some people have already begun making payments. Others, it may take some time for them to adjust. But we have been preparing for this moment for quite some time. And we are working very hard to communicate with borrowers about the options that are available to them and to put in place safeguards for borrowers and to work with our servicers around delivering the best possible customer service to borrowers.

**Can you give us a sense of how you've organized and structured the Department to monitor the return to repayment?**

It's a very, very high priority for all of us, from the Secretary on down. ... There are meetings every single day, of course. Multiple meetings every day to talk about how we're doing, to review the progress we're making, and to make sure we're doing the best possible job we can – helping borrowers through this transition.

**You've mentioned in the past targeted outreach to at-risk populations of borrowers. What will that look like? And when will that begin?**

We're communicating directly with borrowers, and we are sending them information that we think is particularly useful to them. So, for example, for borrowers who have never been in repayment before – we're giving them a little information about how this works. For borrowers who we think may struggle to afford their repayments, we're encouraging them to take a look at the SAVE plan and other IDR plans. So we want to make sure we're communicating with borrowers in ways that are the most useful possible to them. In the coming months, we are going to be doing additional targeted messages to borrowers who are most at risk of delinquency or who become delinquent. And we are going to be doing everything we can to test different approaches to reach them and help them take advantage of the benefits that come with a federal student loan.

**What are some of those methods?**

We've worked really hard to fix the loan forgiveness programs. ... When the Biden administration began, even most people we knew were eligible for loan forgiveness were not getting it. We've taken Public Service Loan Forgiveness from 7,000 borrowers to 660,000 borrowers, for example. And, similarly, helping borrowers who've been in repayment for decades, borrowers with disabilities, borrowers who were cheated by a for-profit college. So we want to make sure that option is available for borrowers who are eligible for that kind of help. We've also created the SAVE repayment plan, the most affordable repayment plan ever. It's an income-based plan. So what you pay every month is based on how much you earn. And it'll have the lowest monthly payments for most borrowers, especially borrowers who are struggling with high debts and low incomes.

**Given the data you've seen so far – and the Department's projections about what might happen – what is your expectation about how many borrowers will actually**

**resume paying in the coming months? And how many do you expect will avail themselves of the “on-ramp” flexibility?**

It's hard to make projections because I'm not aware of anything like a three-and-a-half year pause on payments — and then payments then resuming — in the private sector or the public sector. So, it's a little difficult to know what will happen. What I can say is: We're monitoring how borrowers are doing very, very carefully. And we know it may take some borrowers some time to find room in their budgets to make student loan payments, and we're going to do everything we can to support them through this process.

**Do you have any sense, though, of how many borrowers are ready to make payments — looking at those who've paid so far, or uptake in re-enrolling in auto-pay, or other things like that?**

Obviously there was some number of borrowers who made payments in August even before interest resumed. It seems like some borrowers had been saving up payments and wanted to avoid those interest charges. We also are tracking very carefully the number of people who are enrolled in auto-debit, who have signed up for a new repayment plan, who have been in touch with us for any one of those types of steps to prepare for repayment. So that's something we're watching very closely.

We're monitoring the impact our communications have. We look at how many people open those emails, how many people click through to the action we're suggesting that they take. And we're going to keep watching very carefully how borrowers are doing and doing our best to help them.

**Is it true you've asked servicers to report on a daily basis how borrowers are performing? And that's an increased cadence of how they report to you?**

We're always in touch with servicers on a daily basis anyway, and I would say the cadence of communications has certainly increased over the last couple of months as we've looked toward the return to repayment. And we are working with them very carefully so that we know, for example: how are call centers doing? Are borrowers able to get help? Are they getting accurate information? Are servicers processing repayment plan enrollments? Are they processing loan forgiveness eligibility? So, we're in close communication with borrowers, with servicers, about all of those things. And I think we have a pretty clear picture of what's happening at each servicer.

**But, in other words, will you know, on a day-by-day basis in October, how many borrowers are paying and how many are missing their due date?**

Well, some of the metrics are useful on a daily level. Some are more useful on a monthly level. So, a question of like, how many borrowers are current? That's a question we want to look at monthly. But, yes, we are in very close communication with them, and we have a clear picture of how borrowers are doing.

**What are the things you look at daily?**

I don't want to get into the specifics of what goes back and forth. We're in very, very close communication with [servicers]. We have many calls with them every day. And, and we're looking at all of the steps that we think are necessary for borrowers to return repayment successfully and tracking how we're doing.

**Have you made any decisions about data you're going to proactively release about borrower performance once repayment starts?**

We are taking a look at what data we have that would be useful. There's a long history at [the Office of Federal Student Aid] of publishing data on the student loan portfolio and on servicer performance. And we think that kind of accountability is helpful. So, we do intend to promote transparency through the return to repayment. We're looking at whether there's additional information that we might post on the FSA Data Center or other places that would be useful to people who I think, rightly, care a lot about this.

**On the funding for loan servicing. Even with a continuing resolution that includes the anomaly you're requesting, do you expect you'll still have to make customer service level cuts at some point later this year?**

Well, we'll have to see. I think there is certainly a need for more resources for us to give borrowers the support that we would like to. And FSA is modernizing its systems – in many ways carrying out plans set by the prior administration or bipartisan legislation enacted by Congress. You know, I think, rightfully so. Our systems were out of date and we will be delivering much better service to borrowers. But that comes at a cost. And we want to make sure that we're able to accomplish FAFSA simplification and student loan servicing reform, while also doing our best to help students through this transition of the return to repayment. And to do that, there's a certain amount of resources we need.

*(POLITICO note: The continuing resolution funding the government through Nov. 17 that Congress passed over the weekend does not include the funding flexibility on student loan servicing that the White House had requested. In an email on Saturday an Education Department spokesperson said the agency would “do the best it can with the resources available to support borrowers as they return to repayment” but added that “it is critical for Congress to pass government funding bills that fully fund” Federal Student Aid.)*

**Some of the debt that you're going to be collecting on in October was previously approved for loan forgiveness under the now-defunct one-time debt relief program. Did the Department conduct a legal analysis about whether that debt is legally enforceable?**

Well, we are, as you know, looking at all available options to provide additional loan forgiveness to as many borrowers as possible. And we have already reviewed more than 24,000 public comments and this question was certainly among them. We are preparing soon to begin negotiations over some of the most promising ideas that we've heard. And our goal is to move through that process as quickly as possible.

**Finally, bigger picture on return to repayment, what would you say most concerns you as we approach Oct. 1? Where are the biggest risks?**

I want to make sure that borrowers understand how hard we're working to improve the student loan system, and that there are better options available than there were three years ago. But it's still true that a lot of borrowers don't take advantage of the loan forgiveness programs we offer or the affordable repayment plans. And I want to make sure that we're doing everything we can to help borrowers understand that payments are due and interest is accruing. And it's time for them to get in touch with us and make a plan to manage their student loan debt.

## 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:

- [\(GENERAL-23-84\) 2023 Virtual Federal Student Aid Training Conference – Registration Now Open](#)
- [\(APP-23-16\) Announcing the 2024–25 FAFSA Prototype](#)



- [Cohort Default Rate Guide for Guaranty Agencies and Lenders \(2023\)](#)
  - [\(LOANS-23-10\) National Default Rate Briefing for FY 2020 Official Cohort Default Rates](#)
  - [\(GENERAL-23-83\) Single Audit Guidance: Suggested Audit Procedures for 2023 Compliance Supplement Special Test and Provision 3 - Using a Servicer or Financial Institution to Deliver Title IV Credit Balances to a Card or Other Access Device](#)
- 

## Member News



### **Edfinancial Services: Position Opening for Chief Compliance Officer (CCO)**

The CCO is responsible for the administration of Edfinancial's compliance management program which includes the primary components of written policies and procedures, training, monitoring and corrective action, the goal of which is compliance with all applicable federal and state laws and regulation. The CCO reports directly to the Chief Executive Officer. Collaboration with other company departments is necessary to direct compliance issues to appropriate channels for investigation and resolution and will work with General Counsel as needed to resolve difficult legal compliance issues. The CCO communicates directly with the U.S. Department of Education and leads various projects for the Company. Various other responsibilities of the CCO and the compliance department include, but are not limited to:

- Act as an independent review and evaluation body to ensure that compliance issues/concerns within the organization are being

- Conduct surveys, inspections, audits, and investigation periodically to assess staff readiness and to identify where corrections are needed.
- Re-evaluate areas of previous deficiency to identify improvements.
- Present evaluations and reports to the CEO monthly and to Senior Management at least annually but typically quarterly.
- Investigate complaints and coordinate action plans with other departments.
- Utilize knowledge of the company's purpose and applicable statutes, rules and regulations, procedures, and practices, to respond to other departments and external requests for assistance or information.
- Track all developments in connection with new laws and regulations issued by federal and state governments, particularly those directly related to student loan servicers.

Edfinancial is looking to hire a new CCO to start as soon as possible. Interested parties should send their resume to Wanda Hall, CCO, via email at [whall@edfinancial.com](mailto:whall@edfinancial.com).

appropriately evaluated,  
investigated, and resolved.

- Coordinate external and internal quality assurance, compliance and audit reviews, and monitoring activities.
  - Access records relevant to compliance and monitoring activities and report findings.
- 

## General News

[Higher Ed Dive](#) report on how rising interest rates on federal student loans could affect college-going behavior.

[Politico](#) reports on how the restart of federal student loan payments adds to the economic challenges facing the White House.

[Inside Higher Ed](#) publishes a new report titled, “Modernizing Postsecondary Policy to Better Support Adult Learners,” which aims to identify policy barriers hindering adult learners and suggests for policymakers to create accessible, affordable pathways in postsecondary education.

[The Hill](#) reports Federal Reserve Board of Governors Member Michelle Bowman said Monday that additional interest rate hikes will likely be necessary in order to combat inflation, as rising energy prices pose a threat to recent economic progress

An online version of this Daily Briefing is available to view and print from the [Daily Briefing Section](#) of the [NCHER e-Library](#).

***Do not forward this email with this link included.  
Anyone clicking on this link will unsubscribe you from the Daily Briefing distribution.***

[Unsubscribe](#) | [Manage subscription](#)

**Copyright © 2022**

**National Council of Higher Education Resources**

1050 Connecticut Ave NW #65793

Washington, DC 20035

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

Fax: (202) 822-2142

MailPoet