



Thursday, October 19, 2023

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NCHER Fall Legal Meeting is Two Weeks Away, Register Today!

The NCHER Fall Legal Meeting is just two weeks away - 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](#) includes important topics of interest to the membership:

- 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.
- The impact of the *Students for Fair Admissions v. Harvard* decision on grant programs.

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. 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. 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.

We hope to see you in New Orleans!

House Still Speakerless After Two Rounds of Voting, Rep. Jordan Forgoes Future Ballots

On Wednesday, the U.S. House of Representatives convened for a second day in a row to select a new Speaker. In yesterday's [vote](#), House Judiciary Committee Chairman Jim Jordan (R-OH) received 199 votes, one fewer than his vote total during Tuesday's vote. House Minority Leader Hakeem Jeffries (D-NY) received 212 votes, and 22 votes were dispersed among other candidates such as former House Speaker Kevin McCarthy (R-CA) and House Majority Leader Steve Scalise (R-LA). In order to become Speaker, any candidate would need a minimum of 217 votes. Following the vote, Rep. Jordan announced that he would not seek a third vote for Speaker but continue to talk to the holdouts made up of moderates suspicious of his work with the House Freedom Caucus. Instead, House Republicans discussed expanding the powers of Speaker Pro Tem Patrick

McHenry (R-NC) so that the lower chamber could begin conducting legislative business. However after a four-hour meeting that took place this afternoon, a majority of Republicans voiced opposition and the conference agreed to drop the plan. It is currently unclear of the path forward.

New York Fed Releases Analysis of Borrowers Monthly Spending As They Return to Repayment

Yesterday, the Federal Reserve Bank of New York released a new [analysis](#), which reveals that federal student loan borrowers repaying their loans are expected to pare back their spending by a modest amount. The analysis was based on a nationally representative survey of consumers who were asked in August 2023 what they expected to happen when payments restart. The New York Fed found that borrowers expected to reduce their monthly spending by an average of about \$56 per month, which would translate into a decline of about \$1.6 billion, or 0.1 percentage point, from past consumer spending levels. The findings suggest that the resumption of federal student loan payments will have a relatively small overall effect on consumption. Additionally, the New York Fed asked student loan borrowers about the expected probability that they would miss a payment or a non-student-debt payment in the three months following the payment resumption. Overall, borrowers reported an average probability of missing a student loan payment of 22.6 percent.

Higher Education Organizations Ask Department of Education for 2024-25 FAFSA Release Date

Last week, a group of 12 education organizations sent a [letter](#) to Secretary of Education Miguel Cardona urging the U.S. Department of Education to announce an official release date for the 2024-2025 Free Application for Federal Student Aid (FAFSA). The groups began the letter by expressing their gratitude for the Department's regular communication about the release of the new FAFSA and the tools created to help prepare counselors, college and financial aid administrators, state leaders, and students and families for the changes to the form. However, they said that the form is typically released on October 1st and, with that date having passed, the Department must announce when the new FAFSA can be expected to be released. "Stakeholders are hard at work planning for the release, but there is a limit to how much they can do without knowing exactly when the form will become available," the letter said. "Because the timeline for completing the FAFSA will be much shorter than it has been in recent years, every day

counts when it comes to supporting students and families through the new process.”

Department of Education Issues Dear Colleague Letter to Guarantors on Bankruptcy Proceedings

Today, the U.S. Department of Education issued a [Dear Colleague Letter](#) providing guidance to guarantors and institutions of higher education participating in the Federal Family Education Loan Program (FFELP) and Federal Perkins Loan Program as they continue to implement federal regulations that govern their actions in defending bankruptcy proceedings. The letter clarifies that, in determining whether repayment of the federal student loan would impose an undue hardship on a borrower, the loan holders may fulfill their regulatory requirements by using the process outlined in the November 2022 U.S. Department of Justice Guidance to United States Attorneys. The Department said that, consistent with that guidance, the letter seeks to promote three goals:

1. To set clear, transparent, and consistent expectations for discharge that borrowers understand regardless of whether they are represented by counsel.
2. To reduce borrowers’ burdens in pursuing an adversary proceeding by simplifying the fact-gathering process. This includes use of an Attestation and, where feasible, information provided through prior submissions to the bankruptcy court and available student loan servicing records.
3. Where the facts support it, to increase the number of cases where the holder stipulates to the facts demonstrating a debt would impose an undue hardship and recommends to the court that a borrower’s student loans be discharged.
4. U.S. Department of Education News

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

General News

[Pew](#) reports that the restart of federal student loan payments could hurt state economies, especially those states that generate a [large share of their overall revenue](#) from sales taxes as a result of shifting spending patterns.

[Inside Higher Education](#) reports that the number of graduate school applications are up, but enrollment in such programs is falling. Enrollment fell by 4.7 percent in 2022, with

particularly steep drops for doctoral programs at top research universities.

[The Hill](#) reports that federal student loan borrowers are facing complications and confusion with the restart of loan payments as the U.S. Department of Education's new income-driven repayment plans hits snags in its implementation.

[CNBC](#) reports on the U.S. Department of Education's negotiated rulemaking session on loan forgiveness and the five groups that could still see loan relief.

[The New York Times](#) reports that more than 400,000 student loan borrowers had wrong monthly payments. The U.S. Department of Education said miscalculations had caused many borrowers to see higher monthly payments than they actually owed.

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