



**NCHER**



**BRIEFING**

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

The NCHER Fall Legal Meeting is less than 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](mailto:srepp@ncher.org).

We hope to see you in New Orleans!

## U.S. House Elects Rep. Mike Johnson as New Speaker

Yesterday, the U.S. House of Representatives elected Rep. Mike Johnson (R-LA) to serve as the next Speaker of the House, replacing Rep. Kevin McCarthy (R-CA) who was voted out of the position earlier this month. Speaker Johnson's election concludes a three-week period in which the House did not have a leader as Republicans struggled to nominate a member who could bring their fractious party together. According to his [official bio](#), Speaker Johnson previously served as Vice Chairman of the House Republican Conference and on the House Judiciary Committee, including as Chairman of its Subcommittee on Constitution and Limited Government, and the House Armed Services Committee. He also serves as a Deputy Whip for the 118th Congress and was a past-chairman of the Republican Study Committee, the largest caucus of conservatives in

Congress. On higher education, Rep. Johnson was an original cosponsor of House Joint Resolution 45, a resolution under the Congressional Review Act to nullify the U.S. Department of Education federal loan forgiveness plan.

Speaker Johnson represents Louisiana's Fourth District, which includes the 16 parishes in the northwest and western regions of the state. He was first elected to the House of Representatives on December 10, 2016, by the largest margin of victory in his region in more than 50 years and is currently serving his fourth term in Congress. His district includes important military installations, including Barksdale Air Force Base, headquarters of the Air Force Global Strike Command, and Fort Johnson (formerly Fort Polk) and the Army's Joint Readiness Training Center, as well as the Louisiana National Guard's Camp Minden Training Site and other assets.

With the election of a Speaker, the House is expected to return to legislative business, including attempting to pass a number of individual appropriations bills that make up the discretionary portion of the federal budget. In remarks following his election, Speaker Johnson said that he would like the House Appropriations Committee to consider the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. He would also like the House to pass a short-term Continuing Resolution (CR) to extend federal funding until January 2024 or later so that the lower chamber has time to pass their individual bills and work with the Senate. The current CR expires on November 17, 2023.

For additional coverage of Speaker Johnson, see the following articles:

[5 challenges facing new Speaker Mike Johnson | The Hill](#)

[In a raucous vote, House GOP picks a mild-mannered speaker \(rollcall.com\)](#)

[All you need to know about Speaker Mike Johnson | The Hill](#)

## Department of Education Releases Final Rules on Financial Responsibility, Administrative Capability, Ability to Benefit

Earlier this week, the U.S. Department of Education released [final rules](#) implementing new regulations around financial responsibility, administrative capability, certification procedures, and ability to benefit. The Department said that it will publish the final regulations in the Federal Register on October 31, 2023. With the new package of rules,

the Department [said](#) that it will better protect taxpayers from the negative effects of sudden college closures, restrict colleges from withholding course credits paid for with federal money from students' transcripts, require colleges to clearly communicate to students how much financial aid they will receive, and provide a more streamlined process for states to approve postsecondary opportunities for students without a high school diploma or its equivalent. For a fact sheet summarizing each of the new rules, click [here](#).

## House Democrats Send Letter to President Requesting Supplemental Funding for Student Aid Administration

Earlier this week, 14 House Education and the Workforce [Committee Democrats sent](#) a letter to President Joe Biden urging the administration to include additional student aid administration funding for the U.S. Department of Education's Office of Federal Student Aid (FSA) in the supplemental appropriations request for domestic spending. In the letter, the Democrats expressed concern that FSA may not be able to "effectively and proactively" communicate with federal student loan borrowers as they reenter repayment following the end of the student loan repayment pause. The letter also warned of potential poorer service for borrowers, declines in communications between the Department and loan servicers, and other negative consequences as FSA seeks to implement the new SAVE Plan, address historical inaccuracies in preexisting IDR plans, and implement the Free Application for Federal Student Aid Simplification Act without additional appropriations. The members also urged the President to consider "the declining capacity and increased responsibilities of the Department" as it finalized the domestic supplemental appropriations package. Despite this letter, the White House Office of Management and Budget did not include additional funding for FSA in its supplemental request to Congress.

## National Student Clearinghouse Research Center Releases New Data Finding Undergraduate Enrollment Rose This Fall

Yesterday, the National Student Clearinghouse Research Center released [new data](#) that found undergraduate enrollment went up 2.1 percent this fall, the first time that student headcounts have increased since before the pandemic. The data revealed that all major sectors saw undergraduate enrollment growth. Community college enrollment rose 4.4 percent, which accounted for over half of the increase, a significant reversal after the

sector saw some of the largest student losses during the beginning of the pandemic. While overall enrollment rose, the Clearinghouse said that first-year enrollment declined in fall 2023, dropping 3.6 percent year-over-year and nearly reversing gains made in fall 2022. First-year enrollment fell 6.1 percent at four-year public institutions and 4 percent at private nonprofit colleges and universities. The number of first-year students pursuing bachelor's degrees also dropped 6.1 percent. National Student Clearinghouse Research Center Executive Director Doug Shapiro characterized the data as a "mixed bag" and said that it is hard to know what is driving these trends. He noted that "associates are doing better than bachelor's and certificates are doing better than associates." For additional coverage, see this article from [Higher Ed Dive](#).

## 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:

- [\(GENERAL-23-90\) Alert: Research Institutions Targeted by Atlassian Confluence Data Center and Server Vulnerability](#)
- [\(GENERAL-23-89\) FSA Enforcement Bulletin, October 2023 – Federal Student Aid Announces New Public Reporting of Agency-Issued Suspensions and Debarments](#)
- [\(GENERAL-23-88\) Volume 2 – School Eligibility and Operations \[2023-2024 Federal Student Aid Handbook\]](#)
- [\(GENERAL-23-87\) Veterans Day Federal Holiday Processing and Customer Service Hours](#)

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## 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

- 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).

the organization are being 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.

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## General News

[Higher Ed Dive](#) reports on the new Free Application for Federal Student Aid, slated to be released by the U.S. Department of Education in December, will affect state grant programs for college students.

[Inside Higher Ed](#) reports on a new report by the State Higher Education Executive Officers Association, which estimates nearly 220,000 more students will qualify for Pell Grants under the new federal aid formula included in the FAFSA Simplification Act.

[Yahoo News](#) reports that student loan borrowers are turning to Tiktok for guidance as they plan to return to repayment.

[Forbes](#) provides an update on the U.S. Department of Education's federal student loan forgiveness plan, which is the subject of negotiations by a negotiated rulemaking committee.

[Inside Higher Ed](#) reports that the U.S. Department of Education is working to clear a backlog of applications for borrower defense to repayment but many colleges and universities are unsure how to respond to notifications of the claims.



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