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NCHER Fall Legal Meeting is Next Week, Register Today!

NCHER's Fall Legal Meeting is less than a week away, but there's still time to register if you haven't done so already. The meeting will be held 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](#). You can register to attend

either in person or remotely.

The final agenda was just released and includes important topics of interest to the membership, including sessions 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. We'll also have a Washington Update that will cover the Department of Education's current negotiated rulemaking session on federal student loan forgiveness.

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. For those joining the meeting in person, there will be an optional dinner the evening before (November 6). Details will be provided to all those coming in person. 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 contact Shelly Repp at srepp@ncher.org.

We hope to see you in New Orleans!

House Education and the Workforce Committee Chairwoman Foxx Issues Subpoena to Education Secretary Cardona for Borrower Defense Documents

On Tuesday, House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) [issued](#) a subpoena to Education Secretary Miguel Cardona for documents related to borrower defense to repayment. In a [letter](#) accompanying the subpoena, Chairwoman Foxx wrote "the U.S. House Committee on Education and the Workforce is engaged in ongoing oversight of borrower defense activities of the U.S. Department of Education... You committed during the May 16, 2023, full committee hearing that you would provide responses, in good faith, to oversight questions and inquiries... Contrary to the representations made at the hearing, the Committee has not received complete responses to every borrower defense request, and with respect to some of the requests,

the Committee has received no response.”

The subpoena directs Secretary Cardona to hand over documents related to how the Biden Administration reached a class-action settlement last year that would provide federal student loan forgiveness to hundreds of thousands of borrowers who attended mostly for-profit schools. Additionally, the subpoena requests records related to how the administration analyzes and approves policies related to borrower defense, a legal analysis of the administration’s federal loan forgiveness policies, and communication with outside advocacy groups. According to Politico, a spokesperson for the Department responded that, “The Department has already been responsive to the Committee’s requests and this escalatory action is inappropriate...Despite this political stunt, we remain committed to cooperating with Congress in good faith.”

House Appropriations Committee Chairwoman Granger Announces Retirement from Congress

Yesterday, House Appropriations Committee Chairwoman Kay Granger (R-TX) [announced](#) that she would retire from her seat and not seek re-election in 2024. “Serving my community has been the greatest honor, and I have always fought to improve the lives of my constituents,” she said in a statement. “As the first female Mayor of Fort Worth, first Republican United States Congresswoman from Texas, and the first female Republican Appropriations Chair, I have been able to accomplish more in this life than I could have imagined, and I owe it all to my incredible family, staff, friends, and supporters. As I announce my decision to not seek re-election, I am encouraged by the next generation of leaders in my district. It’s time for the next generation to step up and take the mantle and be a strong and fierce representative for the people.”

Even though Chairwoman Granger has been head of the House Appropriations Committee for only a year, her announcement was not a surprise after months of intraparty strife over the strategy to avoid a shutdown of the federal government and the conservative push to rewrite House spending bills in spite of funding levels set through the bipartisan debt limit bill that passed this summer. An ally of former House Speaker Kevin McCarthy (R-CA), she recently opposed Rep. Jim Jordan’s (R-OH) bid to become Speaker on the House Floor. House Rules Committee Chairman Tom Cole (R-OK) is seen as the heir apparent for the chair’s position as he currently also serves as vice chair of the House Appropriations Committee.

Department of Education Issues Fine to Grand Canyon University, Says it Misrepresented Doctoral Program Costs

On Tuesday, the U.S. Department of Education's Office of Federal Student Aid (FSA) [announced](#) a \$37.7 million fine against Grand Canyon University (GCU) saying that the university misrepresented the cost of its doctoral programs to more than 7,500 former and current students over several years. GCU received the most federal student aid of all participating institutions of higher education for the past four award years. An FSA investigation found GCU falsely advertised a lower cost than what 98 percent of students ended up paying to complete certain doctoral programs, and that GCU made these false claims about the cost on the school's website and net price calculators, as well as in its enrollment agreements, catalogs, policy handbooks, and other marketing materials. FSA said that the false claims violate the Higher Education Act and federal regulations that prohibit substantial misrepresentations. Additionally, based upon the substantial misrepresentations, FSA determined that GCU failed to adhere to the fiduciary standard required of a Title IV participant. "GCU lied about the cost of its doctoral programs to attract students to enroll," said FSA Chief Operating Officer Richard Cordray. "FSA takes its oversight responsibilities seriously. GCU's lies harmed students, broke their trust, and led to unexpectedly high levels of student debt. Today, we are holding GCU accountable for its actions, protecting students and taxpayers, and upholding the integrity of the federal student aid programs."

For further coverage, see these articles from [Yahoo Finance](#) and [Business Insider](#).

Politico: Department of Education Approves Adjusting Interest and Providing IDR and PSLF Credit for Repayment Errors

Yesterday, Politico Education Reporter Michael Stratford tweeted that the U.S. Department of Education released a memorandum providing authority to adjust accrued interest and provide credit for Income Driven Repayment (IDR) and Public Service Loan Forgiveness (PSLF) payments for borrowers recently placed in administrative forbearance due to incorrect repayment amounts and other matters. The memorandum sought approval to use the Secretary of Education's "compromise" authority under the Higher Education Act to direct federal student loan servicers to take these actions. The memorandum described the official request from Federal Student Aid (FSA) as follows: "FSA recommends that the Department use the Secretary's compromise

authority to adjust any interest that accrued for affected borrowers while their accounts are being remediated. The memo also requests approval to grant credit toward IDR and PSLF for borrowers who were taken out of repayment status and placed in administrative forbearance to resolve these servicing errors.”

The memorandum cited a seven-step test that FSA adopted in 2021 for evaluating whether to apply “non-standard” corrections to borrower accounts in the instance of errors. These steps include whether the absence of a non-standard fix would subject the Department or one of FSA’s vendors to the risk of litigation and whether the use of only standard corrections would result in “substantial reputational risk” to FSA. The memorandum indicates the recommended policies were approved by Under Secretary James Kvaal on October 29, 2023.

Federal Reserve Concludes Two-Day Meeting, Decides to Maintain Federal Funds Rate

Yesterday, the Federal Reserve concluded a two-day meeting of its Federal Open Market Committee (FOMC) where officials decided to maintain the target range for the federal funds rate between 5.25 and 5.50 percent. In a [statement](#), the Fed said recent indicators suggest that economic activity expanded at a strong pace in the third quarter and the unemployment rate remains low. At the same time, job gains have moderated since earlier in the year but remain strong. FOMC members said that inflation remains elevated and the committee will continue to assess additional information and its implications for monetary policy and that it is strongly committed to returning inflation to its 2 percent objective. For further coverage, see this article from [The New York Times](#).

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:

- [\(GENERAL-23-92\) 2024-2025 College Financing Plan](#)
 - [Final Regulations: Financial Responsibility, Administrative Capability, Certification Procedures, Ability To Benefit \(ATB\)](#)
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General News

[NBC News](#) and [The Hill](#) provide further coverage of the U.S. Department of Education's recent proposal on federal student loan forgiveness, which is more narrow than the plan rejected by the U.S. Supreme Court.

[Fox Business](#) reports that a new poll commissioned by Newsweek shows that about one in four Americans with student loan debt said they will boycott student loan payments and 33 percent said that they may consider refusing to pay.

[Higher Ed Dive](#) reports that the U.S. Department of Education has delayed issuing final regulations on Title IX rules, missing its self-imposed deadline.

[CNBC](#) reports on the ten states where student loan borrowers have the highest monthly payments—and where they owe the most overall.

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



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