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DAILY BRIEFING

Monday, June 21, 2021

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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](#).

Department of Education Begins Public Hearings on Negotiated Rulemaking Sessions

Today, the U.S. Department of Education kicked off its virtual public hearings for interested parties to comment on the rulemaking agenda where multiple negotiated rulemaking committees will prepare proposed regulations for programs authorized under Title IV of the Higher Education Act. As previously reported, the Department has proposed an extensive and diverse list of suggested topics including: change of ownership and change in control of institutions of higher education, certification procedures for participation in Title IV programs, standards of administrative capability, ability to benefit, borrower defense to repayment, discharges for borrowers with a total and permanent disability, closed school

discharges, discharges for false certification of student eligibility, income contingent repayment plans, the Public Service Loan Forgiveness Program, mandatory pre-dispute arbitration and prohibition on class action lawsuit provisions in institution's enrollment agreements, financial responsibility for participating institutions of higher education, gainful employment, and Pell Grant eligibility for prison education programs. The Department has stated that it was interested in comments on regulations that would address gaps in postsecondary outcomes, such as retention, completion, student loan repayment, and loan default, and they would give specific consideration to disparate impacts by income, race/ethnicity, gender, and other demographic characteristics.

During today's proceedings, multiple commenters talked about the need for one simplified and streamlined Income-Driven Repayment plan including one that is more affordable; support for reinstatement of the gainful employment regulations that are reflective of all types of institutions of higher education and ensure due process; greater transparency in the Public Service Loan Forgiveness program and the ability to qualify for partial forgiveness; and issues associated with borrower defense to repayment rules. Many of the commenters were borrower advocates who recommended that the Department ensure the makeup of the negotiating committees include both industry participants and students and borrowers. The public hearings will resume on Wednesday, June 23, and Thursday, June 24, and written comments can also be submitted by the July 1 deadline. The public hearings are the first step in the process of issuing new regulations; the negotiated rulemaking committee meetings will be held virtually and are expected to convene in late summer of 2021. For more information on the public hearings, visit the [Negotiated Rulemaking for Higher Education 2020-21 website](#).

Sens. Warren, Smith, Markey Send Letters to Federal Servicers Requesting Information on Steps to Place Borrowers Back Into Repayment

Today, Sens. Elizabeth Warren (D-MA), Tina Smith (D-MN), and Ed Markey (D-MA) sent a letter to the Chief Executive Officers of all federal student loan servicers requesting information about the steps the companies are taking to transition millions of federal student loan borrowers back into repayment once the pause on student loan payments and interest ends in October 2021. "Millions of borrowers have had relief from their student loan payments and interest for more than a year during the COVID-19 pandemic - but they now risk being thrown into extraordinary financial hardship when their payments resume," the [letter](#) states. "We support cancelling \$50,000 of debt for each borrower to relieve this burden on our economy, but in the interim, we are requesting information on how your company is preparing for this transition to repayment and the steps it is taking to ensure that it adequately supports borrowers." The letter asks the servicers to respond to 12 questions by July 6th, including the following:

- How many borrowers will be transitioning back to repayments in October 2021?
- What are specific steps that the companies have taken and will take to ensure borrowers are successfully transitioned back to student loan repayments in October 2021?
- How are the companies informing borrowers enrolled in auto-payment that their accounts will be auto-debited as of October 2021?
- What proactive approaches have the companies taken to ensure that student loan borrowers are in the right payment plan once their payments resume?
- What steps have been taken to ensure all eligible borrowers can benefit from income-driven repayment plans and Public Service Loan Forgiveness before payments resume?
- Has the companies identified at-risk student loan borrowers who struggled prior to the pandemic and so are likely to struggle once their payments go back into effect?
- How many student loan borrowers have contacted the companies about a change in their financial circumstances?

For more coverage, see this article from [CNBC](#).

White House Releases Unified Agenda for Spring 2021

Last week, the White House Office of Information and Regulatory Affairs released the [Unified Agenda of Regulatory and Deregulatory Actions](#) for Spring 2021. The unified agenda, the first under President Joe Biden, reports on the actions that federal agencies plan to issue in the near- and long-term. Since 1978, the agenda has provided important public notice and transparency about proposed regulatory and deregulatory actions within the Executive Branch. The following [regulatory actions from the U.S. Department of Education](#) are expected over the next year:

- **Pre-Rule Stage/Negotiated Rulemaking Sessions:** The Department plans to begin a series of negotiated rulemaking sessions to issue proposed rules on 10 topics including state-defined processes for ability to benefit, borrower defense to repayment, Pell Grants for Prison Education programs, gainful employment, improving student loan cancellation authorities, factors of financial responsibility, standards of administrative capability, change in ownership, change in control, and certification procedures, income contingent repayment, and Public Service Loan Forgiveness. The unified agenda says that various notices of proposed rulemaking will be released in April, May, June, and July 2022.
- **90-10 Rule:** The Department plans to amend the Student Assistance General Provisions governing whether proprietary institutions meet the requirement that institutions receive at least 10 percent of their revenue from sources other than federal education assistance funds. The provision was included in the American Rescue Plan Act that passed Congress earlier this year. The unified agenda says that the negotiated rulemaking session will begin in June 2021 and the notice of proposed rulemaking will be released in May 2022.
- **Total and Permanent Disability Discharge:** The Department plans to amend the regulations for total and permanent disability student loan discharge for veterans by removing administrative burdens that may have prevented at least 20,000 totally and permanent disabled veterans from obtaining discharges of their student loans. It also plans to remove administrative burdens for non-veteran borrowers who seek such discharges of their student loans by streamlining the application and certification process. The unified agenda says that an interim final rule was issued on November 26, 2019, and a final rule will be issued in August 2021.
- **Subsidized Usage Limit Applies:** The Department is repealing the limitation on lifetime subsidized loan eligibility, known as Subsidized Usage Limit Applies. The provision was included in the Consolidated Appropriations Act of 2021 that passed Congress late last year. The unified agenda says that the interim final rule was released in May 2021.
- **Inflation Adjustment for Transparency in College Tuition:** The Department plans to use the Consumer Price Index to update the provision in current law that requires the Secretary of Education to make available, through the College Navigator website, a set of lists describing college affordability. Institutions are exempt from inclusion on the list and the reporting requirements if the dollar amount of the increase is less than \$600 during a three-year period. The unified agenda says that final action will occur in September 2021.

Department of Education IG Releases Audit on Suspension of Collections for Federally Held Student Loans

The U.S. Department of Education Office of Inspector General (OIG) recently conducted a review of how the Office of Federal Student Aid (FSA) implemented the suspension of involuntary collection of federally held student loans in response to the COVID-19 pandemic. In its [audit](#), OIG noted that, "FSA took quick action to implement processes that generally achieved positive results in suspending and refunding most involuntary collections on defaulted Department-held loans." Specifically, the OIG found that FSA

suspended administrative wage garnishments (AWG) and U.S. Department of Treasury offsets for over 96 percent of the borrowers that FSA collected payments for within 90 days of March 13, 2020, the start of the suspension period. While the report broadly approved of the Department's actions, OIG urged FSA to address the AWG of 1,930 borrowers still being collected on as of October 23, 2020. In its concluding remarks, OIG also urged FSA to adopt best practices for proactively identifying payments eligible for refund and develop and implement procedures to obtain and track the U.S. Department of Justice's progress on suspending and refunding payments involuntarily collected during the suspension period on Department-held loans. In its response, FSA gave its commitment to further analyzing those garnishments. "In order to determine if any employers continue to send wage withholdings in violation of the Coronavirus Aid, Relief, and Economic Security or CARES Act, and in violation of FSA's written orders to suspend garnishment, FSA will temporarily re-open the AWG 'lockbox' for a period of six weeks, then-FSA Acting Chief Operating Officer Robin Minor said. "This six-week period should allow for sufficient time to cycle through the various pay schedules that borrowers experience. Any AWG payments that are received from employers during this period will be analyzed, FSA will forward a final list of non-compliant employers to the Inspector General for additional action."

Federal Housing Administration Takes Steps to Remove Barriers to Homeownership for those with Student Loan Debt

Last week, the Federal Housing Administration (FHA) announced [updates](#) to its student loan monthly payment calculations, which aims to provide more access to affordable single family FHA-insured mortgage financing for creditworthy individuals with student loan debt. The updated policy aligns FHA's student loan debt calculation policies with other housing agencies, helping to simplify originations for borrowers with student loan debt obligations. For FHA Single Family Title II mortgages, the new policy removes the current requirement that lenders calculate a borrower's monthly payment of one percent of the outstanding balance for student loans that are not fully amortizing or are not in repayment. The new policy bases the monthly payment on the actual student loan payment, which is often lower, and helps home buyers who have student debt meet minimum eligibility requirements for an FHA-insured mortgage. For more coverage, see this article from [WKBN](#).

Bill Introductions

H.R. 4002 - To expand access to graduate education by amending the Federal Pell Grant program to include postbaccalaureate study. Sponsor: Rep. Kuster, Ann M. [D-NH-2] (Introduced 06/17/2021) Cosponsors: (3)

Latest Action: House - 06/17/2021 Referred to the House Committee on Education and Labor.

[Press Release](#): Kuster, Burchett, Schrier, Upton Introduce Bipartisan Legislation To Make Graduate Education More Affordable for Low-Income Students

H.R. 4004 - To prohibit federal funding for institutions of higher education that have partnerships with schools or other organizations funded by North Korea. Sponsor: Rep. Lesko, Debbie [R-AZ-8] (Introduced 06/17/2021) Cosponsors: (4)

Latest Action: House - 06/17/2021 Referred to the Committee on Foreign Affairs, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee.

[Press Release](#): Lesko Introduces Bill To Bar Federal Funds From Supporting Educational Institutions Tied To North Korea

U.S. Department of Education News

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

Member News

ConServe [announced](#) that it had been named for the second year in a row, one of the 2021 Workplace Wellness Award recipients by *Rochester Business Journal (RBJ)* in the category of Employer of the Year. The RBJ

created the Workplace Wellness Awards to celebrate Rochester-based employers who promote health and wellness in the workplace. "We are honored once again to be recognized by the *RBJ* as a Workplace Wellness honoree", said George Huyler, Vice President of Human Resources at ConServe. "The health and well-being of our employees and their families is very important to us and we remain committed to investing in our employees by providing them with extensive support and comprehensive benefit packages.



General News

[CNBC](#) reports that Sens. Elizabeth Warren (D-MA), Tina Smith (D-MN), and Edward Markey (D-MA) are warning of 'extraordinary financial hardship' when federal student loan payments resume.

[Yahoo Finance](#) reports that the Biden Administration has announced it is wiping away hundreds of millions of dollars more in student loan debt, covering borrowers who said they got ripped off by their school as broad student loan debt forgiveness awaits.

[Marketplace](#) reports that nearly 9 million Americans, 50 and older, still have student debt, either from loans they took out to pay for their own education or for their kids' educations, according to new data out this month from the U.S. Department of Education. The total amount of debt they owe is growing faster than for any other age group.

[Inside Higher Ed](#) reports the U.S. Senate is expected to take up a House-passed bill that would standardize federal elections across the country – potentially making it easier for college students to vote.

[Higher Ed Dive](#) reports that more than 100 organizations, many of them within the higher education realm, issued statements assailing bills arising across the U.S. that aim to restrict teaching of racism and related topics.

[Inside Higher Ed](#) reports that Google recently announced a \$50 million unrestricted grant to 10 Historically Black Colleges and Universities. The funds will go toward supporting scholarships, career support programs, and technical infrastructure for in-person and remote learning.

[Insider](#) reports that a GoBankingRates poll found 52 percent of Americans support blanket student loan forgiveness.

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