NCHER

DAILY BRIEFING

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Department of Education Issues New Standard for Reviewing Borrower Defense to Repayment Claims

The U.S. Department of Education recently released an electronic announcement rescinding the methodology originally announced on December 10, 2019 and updated in August 2020 by former Secretary of Education Betsy DeVos that provided for partial relief for borrower defense to repayment claims. The announcement also provided more details on the March 18, 2021, announcement that approved borrower defense to repayment claims will be reviewed and assessed using a rebuttable presumption of full relief. Under the 2019 methodology, a borrower's relief was tied to how close the average earnings of the attended program were to those of a comparison program. The electronic announcement states that the methodology was flawed because it unfairly determined relief for students based upon data that may not have included them and then incorrectly used statistical concepts that were not suited for the task at hand. While acknowledging that in some cases partial relief could be appropriate, the electronic announcement states that the Department has not yet identified a formula-based partial relief methodology that would result in consistent determinations and not run into flaws with data availability or other issues. In determining the amount of relief on new and existing claims, the Department will apply a rebuttable presumption that full relief should be awarded to the borrower. That presumption may be rebutted or bolstered by the evidence received by the agency or hearing official from the school, borrower, or other sources. The electronic announcement states that the Department will continue to look at this issue, solicit stakeholder input, and consider other avenues to better address the issue, such as through the development of new federal regulations.

Department of Education Announces New Closed School Discharges for 115,000 Former Borrowers from ITT Tech

Today, the U.S. Department of Education **announced** that it will provide $1.1 billion in closed school discharges to an additional 115,000 borrowers who attended the now-defunct ITT Technical Institute (ITT). According to the Department, the decision is based on a new review of the problems leading up to ITT's closure and extends relief to borrowers whose attendance at the institution overlapped with a period during which the school engaged in widespread misrepresentations about the true state of its financial health and misled students into taking out unaffordable private loans that were allegedly portrayed as grant aid. Approximately 7,000 of the borrowers covered by the new closed school discharges also have approved borrower defense to repayment claims. The department estimates that 43 percent of these borrowers are currently in default, and the majority of the borrowers covered by this action did not enroll elsewhere during the three years after ITT's closure. The latest action brings the total amount of federal student loan discharges approved by the Department since January 2021 to $9.5 billion, affecting over 563,000 borrowers.

"For years, ITT hid its true financial state from borrowers while luring many of them into taking out private loans with misleading and unaffordable terms that may have caused borrowers to leave school," said Secretary of Education Miguel Cardona. "Today's action continues the Department's efforts to improve and use its targeted loan relief authorities to deliver meaningful help to student borrowers. At the same time, the continued cost of addressing the wrongdoing of ITT and other predatory institutions yet again highlights the need for stronger and faster accountability throughout the federal financial aid system."

House Clears Budget Resolution, Triggering the Start of the Reconciliation Process

Earlier this week, the U.S. House of Representatives passed Senate Concurrent Resolution 14, a budget blueprint that lays out tax and spending priorities over the next year. The resolution passed by a party-line vote of 220-212. With the adoption of the budget resolution, House and Senate Democrats will be able to begin the budget reconciliation process that will be used to carry out the White House's American Families Plan. Under the resolution, both the House Education and Labor Committee and Senate Health, Education, Labor, and Pensions Committee have until September 15th to assemble their part of the reconciliation package that is likely to create a new free community college program and increase funding for Pell Grants.

Yesterday, House Speaker Nancy Pelosi (D-CA) reiterated the importance of House committees meeting the September deadline. A tentative leadership-developed schedule being circulated shows that the House Education and Labor Committee could markup its bill on September 9th. In a statement released on Tuesday, Speaker Pelosi stressed that she would like to pass a budget reconciliation bill that can get through the Senate by October 1st.

For more coverage, see this article from ***Politico***.

Financial Regulators Send Letter to Corporate Stakeholders Acknowledging Concern Over Transition Away From LIBOR

On Monday, Treasury Secretary Janet Yellen, Federal Reserve Board of Governors Chair Jerome Powell, Securities and Exchange Commission Chair Gary Gensler, Federal Reserve Bank of New York President and Chief Executive Officer John Williams, and Commodity Futures Trading Commission Acting Chair Rostin Behnam penned a **letter** to corporate stakeholders that acknowledges the challenges that the transition away from the London Interbank Offered Rate (LIBOR) presents to certain Main Street companies. The stakeholders had expressed concern about the availability of alternative rates that will meet their needs and of obtaining loan agreements based on the Secured Overnight Financing Rate promoted by the Alternative Reference Rates Committee, and raised considerable operational, technological, accounting, tax, and legal challenges. In the letter, the financial regulators state that, while they are not positioned to adjudicate the selection of reference rates between banks and their commercial customers, "a smooth transition will be best supported if financial institutions offer alternatives to USD LIBOR that meet borrower needs and if this is done in a timely fashion." The letter indicates that the transition is at a critical junction and the regulators are concerned to hear that the nonfinancial corporations are, in most cases, not yet being offered such alternatives despite the short amount of time left in the transition.

Strada Report Examines How to Connect Two-Year Students to a Four-Year School

Strada Education Network recently released a new report titled, **How to Connect 2-Year Students to a 4-Year School — and a Career**. According to the report, about 80 percent of students enrolling in community college say that they intend to move on to a four-year institution and earn a bachelor's degree, but only 15 percent achieve that goal within six years. The report notes that Northern Virginia Community College (NOVA) and George Mason University have come together to reduce barriers to further enrollment and help students connect with a field of study, a completed degree, and a career. Strada recommends the following strategies to help community college students further enroll in a four-year degree program:

- Bring faculty together — from both two- and four-year institutions — to build a seamless curriculum.
- Offer an individual success coach. The NOVA/George Mason program, called ADVANCE, enhances traditional advising by pairing a student with an advisor who works with them at both the two-year school and the four-year college, broadening the kind of problems addressed through campus advising.
- Invite community college students to be part of the four-year university's culture. From students' first day in the program, ADVANCE students have access to the programming and services available at the four-year school they aspire to attend.
- Engage with local and regional employers to discuss the skills they expect from students and how those skills relate to college degrees. The idea is to create more transparency for students, faculty, and employers about how lessons learned in the classroom relate to real-world industry needs.

CFPB Ombudsman Issues 2021 Mid-Year Update

The Consumer Financial Protection Bureau (CFPB) Ombudsman's Office recently issued its Mid-Year Update 2021, which includes updated figures on individual inquiries that the office received in the first six months of Fiscal Year 2021 and feedback and recommendations that were made to the CFPB. Of interest to the NCHER membership, the report says that the office received 844 individual inquiries from individuals, companies, consumer and trade groups, and others from October 2020 to March 2021. The report also says that the Ombudsman's office held process discussions with organizations in the Northeast region that assist consumers on the following topics:

- Racial and Economic Equity: reflections, projections, and suggestions for processes supporting the Bureau's priority.
- CFPB Inclusive Engagement: reaching, recognizing, and connecting with specific consumer communities.
- CFPB Enforcement Actions and Redress: how consumers learn about outcomes.
- Connecting in with the CFPB: avenues and processes to communicate.
- The Consumer Complaint Process: awareness, usability, and demographic information.

The Office also reports that it will be conducting a post-examination survey of supervised entities. The Ombudsman's Office within the CFPB has wide responsibility and should not be confused with the Bureau's Private Education Loan Ombudsman, a separate function.

U.S. Department of Education News

For today's *Federal Register*, click here.
The following announcement was posted to the Information for Financial Aid Professionals website:

- Labor Day Federal Holiday Processing and Customer Service Hours (EA ID: GENERAL-21-52)
- Reminder – FISAP due Oct. 1, 2021 (EA ID: CB-21-10)
- 2021–22 Supplemental Campus-Based Funds (EA ID: CB-21-11)
- 2022–2023 Expected Family Contribution (EFC) Formula Guide (EA ID: APP-21-13)
- Rescission of Borrower Defense Partial Relief Methodology (EA ID: GENERAL-21-51)

- Second Pell Grant Administrative Cost Allowance Payments for 2020–21 Award Year (EA ID: GRANTS-21-07)
- Third and Final Pell Grant Administrative Cost Allowance Payments for 2019–20 Award Year (EA ID: GRANTS-21-08)

General News

Inside Higher Ed reports that community colleges are trying a host of strategies – such as cash incentives, marketing campaigns, ice cream socials, free books, and re-enrollment drives -- to attract students this fall after steep enrollment declines during the COVID-19 pandemic.

The Chronicle of Higher Education reports that top colleges and universities are continuing to miss goals for enrolling more low-income students.

Forbes reports on how much student loan debt has been cancelled by President Joe Biden since he took office and how much debt is left.

The Black Wall Street Times reports that Sen. Elizabeth Warren (D- MA) is continuing to push the President to cancel up to $50,000 in student loan debt.

The Philadelphia Inquirer includes an op-ed by Pittsburgh Hispanic Chamber of Commerce Policy Advisor John Dominquez who argues that transparency about what college degrees are worth is the solution to the student loan debt crisis.

Forbes examines total and permanent disability discharge provisions for federal student loans, and says that qualified borrowers can apply to have the federal government forgive their outstanding student loans, eliminating their obligation to repay the debt.

Inside Higher Ed reports that most first-year students struggled to learn when the COVID-19 pandemic moved classes online, in part because of limited access to technology and resources, according to a new report.

The Chronicle of Higher Education reports that members of the high school class of 2021 — whose entire senior year was marred by a global pandemic — are mentally exhausted, but optimistic about their first year of college, according to new data on students entering college this fall.

Inside Higher Ed reports that a bill supported by both Democrats and Republicans would eliminate the costs and burdens that students with disabilities face in accessing college accommodations.

Inside Higher Ed reports that institutions of higher education may feel more empowered to enact COVID-19 mandates now that the Food and Drug Administration has approved Pfizer's vaccine -- and some colleges have already taken action.

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