

NCHER Membership Meeting

Monday, June 3, 2024, 3:30 p.m. – 5:00 p.m.

AGENDA

- I. Call to Order and Certification of Quorum**
Diana Barber, Incoming Chair
- II. Announcement of Parliamentarian**
- III. Consideration and Approval of Minutes – June 5, 2023 Meeting**
- IV. Chair's Report**
Diana Barber, Incoming Chair, NCHER Board of Directors
- V. President's Report, Including Update on NCHER's Advocacy, Communications, Research, Operations, and Financials**
James P. Bergeron, President
- VI. Open Forum to Review Short-Term Strategic Solutions Included in the NCHER Strategic Plan, Results from the Recent Membership Survey, and Proposed Changes to NCHER's Bylaws**
Jimmy Parker, Chair, NCHER Membership Committee
- VII. Old and New Business**
- VIII. Adjournment**

NATIONAL COUNCIL OF HIGHER EDUCATION RESOURCES
MEMBERSHIP MEETING MINUTES
June 5, 2023

The National Council of Higher Education Resources (NCHER) held a membership meeting on June 5, 2023, at the Hilton Fort Lauderdale in Fort Lauderdale, Florida.

Ms. Christiana Thornton called the meeting to order at 2:30 p.m. and thanked the membership for attending the meeting. She announced a quorum was present and that Mr. Ron Gambill would serve as Parliamentarian. Ms. Thornton said that the membership was provided with the minutes from the last meeting held on June 8, 2022, and that she hoped everyone had a chance to review them. Motion by Mr. Ron Gambill to approve the June 8, 2022 meeting minutes; seconded by Mr. Jimmy Parker; ADOPTED BY VOICE VOTE.

Chair's Report

Ms. Thornton began her report by welcoming everyone to the NCHER Annual Conference. She said that the next six months are going to be incredibly impactful for the students and families that each of the organizations serve in the respective states. For the first time in about a year, the U.S. Department of Education and its Office of Federal Student Aid (FSA) are talking about moving all student and parent borrowers back into repayment on their federally held loans. This is an important milestone coming out of the pandemic and a monumental task that will fall not only to federal student loan servicers, but state and nonprofit organizations who have close relationships with students and parents. It is currently unclear when the U.S. Supreme Court will rule on the constitutionality of the Department's federal student loan forgiveness program, setting the 60-day clock for the restart of repayment; how FSA will carry out its plan to provide additional time to struggling borrowers to resume their payments; or what approach the White House will take if the court strikes down the program. Obviously, these three questions are central to payment restart, but the messaging coming from federal officials is refreshing compared to where we have been for the last three years.

Later this month, FSA will finally release the new FAFSA [Free Application for Federal Student Aid] that is supposed to streamline the student aid application process. All state and nonprofit organizations will need to work in partnership with their federal and state stakeholders and institutions of higher education to reach out to students and families and assist them with the new form and technology so they can complete the required information and access financial aid on time. The Department and FSA are continuing to implement the special mandatory assignment process and Fresh Start for guaranty agencies. The Department is finalizing a new and significantly generous Income-Driven Repayment plan that is likely to incentivize more borrowers to consolidate into the Direct Loan program to receive the benefit. FSA just selected the winners of its Unified Servicing and Data Solution or USDS, which will be responsible for carrying out its vision for federal student loan servicing. States are continuing to enact new laws or regulations around student loan lending and servicing. And Congress is in the middle of the annual budget and appropriations process that will determine the funding levels for many postsecondary education programs, including whether our guarantors can continue to receive Account Maintenance Fees in support of college access and success activities. She concluded her remarks by noting that NCHER and its staff are essential to influencing federal and state policies while mitigating challenges to member portfolios, assisting them in working with state regulators, and giving them the tools to carry out our public service missions to help students and their families.

President's Report, Including Update on NCHER's Advocacy, Communications, Research, Operations, and Financials

Mr. James Bergeron began his report by thanking Ms. Thornton for her almost two-year tenure as Board Chair. He said that it has been a busy two weeks for White House officials and members of the U.S. House of Representatives and U.S. Senate. While many members were enjoying time with their families and friends on Memorial Day, federal policymakers were busy crafting a bipartisan, bicameral agreement dubbed the "Fiscal Responsibility Act" to raise the nation's debt ceiling. Of interest to the NCHER membership and maybe a surprise to many observers, the compromise agreement requires the Department of Education to restart payments on federally held loans no later than the end of August and caps discretionary spending for the next two years. The House-passed version of the legislation prohibited the Department from moving forward on its federal student loan forgiveness program and new, generous Income Driven Repayment Plan but those provisions were dropped from the final agreement. While the White House says that the budget agreement simply codifies its plan for restarting federal student loan payments and Education Secretary Miguel Cardona has been quoted extensively saying that the agency was committed to repayment, the legislation is notable in that it really restricts the options that the Department has if the U.S. Supreme Court overturns the loan forgiveness program. As has been talked about extensively, progressives have masterfully moved the goal posts when it comes to loan repayment. These left-leaning groups are rightly upset that the White House agreed to the language in the "Fiscal Responsibility Act" since they were hoping that the payment pause would be extended again. He said that the inclusion of student loan policies in the Republican debt ceiling package – and the criticism that House Republicans have endured from conservatives for dropping the loan forgiveness provision from the final agreement - solidifies the view that higher education is one of the most polarizing issues separating Democrats from Republicans.

Mr. Bergeron said that, with the upcoming end of the payment and collections pause, FSA is also scheduled to end the payment of lost revenue to guaranty agencies. This will begin a new phase for guarantors who are currently focused on carrying out the requirements under Fresh Start and moving loans to the Department under the special mandatory assignment process that should be completed by the end of the year. Based on previous discussions, it is an open question on what will occur with collections over the next few months, especially as the Department continues to pressure agencies to follow their lead on not charging collection costs. While NCHER will continue to talk to guarantors about the best path forward, it makes those discussions around the transition fee and potential Voluntary Flexible Agreements all the more important. Even though the Department and FSA are struggling to carry out all of its priorities, it has not stopped the agency from moving full speed ahead on its regulatory agenda. Back in April, the Department announced its intent to create a negotiated rulemaking panel to amend federal regulations related to existing guidance on third-party servicers, changes to the standards and requirements for issuing forbearance and deferments, improvements to the Federal TRIO program, the accreditation process, state authorization, cash management, Return of Title VI aid, and distance education. NCHER anticipates a call for negotiators to occur in the next few weeks and will continue to monitor the regulatory process to ensure that potential new regulations do not impede the members' ability to work with institutions of higher education to assist borrowers in getting out of delinquency and default. Recently, FSA announced the winners for its procurement for a Unified Servicing and Data Solution, which went to several large federal student loan servicers to service the Federal Direct Loan portfolio. This could be the conclusion of a process that began in 2015 with the move to a single servicer, which then pivoted to the development of a single platform, and now envisions separate servicer websites and co-branding in the short-term as FSA revamps studentaid.gov and its processes for transferring loans that will be used to penalize low-performing contracts.

Over the next few months, Mr. Bergeron said that it is important NCHER continues its robust advocacy efforts to influence many of these issues that impact the membership. While Congress may struggle to complete the Fiscal Year 2024 budget and appropriations process, it is imperative that the members have a voice in the higher education policy debates taking place in Congress and with the Biden Administration especially if there is a chance that a bipartisan agreement can be reached on short-term Pell Grants. NCHER also needs to be sure that the one-year extension of Account Maintenance Fees continues to get included in the Continuing Resolution, the Labor, Health and Human Services, Education Appropriations Act, or Consolidated Appropriations Act that may get completed before the end of the year. He is working with the NCHER Government Relations Committee to schedule the next Advocacy Fly-In sometime in September or October which will allow members to meet with Congressional leaders and Biden Administration officials to discuss and push their advocacy priorities. Mr. Bergeron concluded by noting that he continues to be proud of the work of the members and their ability to focus on their public service missions to help students and families. He said the upcoming strategic planning process will allow NCHER to put in place a vision, a mission, and strategic goals that will better position the organization and its membership for success in the future, not just for the next three years, but for the next decade if possible. He said that he continues to believe that there is a major role for NCHER and its members to play in influencing federal and state higher education finance policy and continues to believe that NCHER is well-positioned to play a leadership role focused on advocacy, communications, legal and compliance, and operational issues impacting federal, state, and private student aid on behalf of its members.

Open Forum to Discuss Items for Inclusion in the NCHER Strategic Plan for 2024-2027

Ms. Angela Baier and Mr. Parker began their presentation by noting that the NCHER Board would soon undertake a comprehensive strategic planning process in order to revise the organization's Strategic Plan for 2024-2026. Through this process, NCHER will review its mission, goals, and strategic objectives to ensure that its activities are aligned for success in the future. Mr. Parker said that, through past strategic planning processes, the NCHER membership has indicated that it valued the important work of the organization in shaping policies governing federal and private student loan programs and that NCHER's value proposition is that it provides leading national and state advocacy, information sharing, and regulatory and compliance support to its membership to help students succeed through postsecondary education and beyond. The upcoming strategic planning process will determine, coming out of the COVID-19 pandemic, the best ways to mitigate the challenges that are preventing NCHER from achieving its strategic goals taking into consideration the political and policy environments that continue to have a major impact on the association's current and future membership and finances. Ms. Baier and Mr. Parker said that, as part of the planning process, NCHER would like to receive feedback on the return on investment and support and services provided to the membership. They asked the members in attendance a series of questions:

Value-Add/Return on Investment

- Why is your organization a member of NCHER?
- What are the two most important items that you rely on NCHER for at your organization?
- From an investment standpoint, are the dues that your organization pays to NCHER reasonable and worthwhile? Why or why not?
- Looking at the changes in the industry over the last ten years and the changes that may come over the next few years, do you think that NCHER is well-positioned to help your organization take advantage of future opportunities? Why or why not?

- What can NCHER do to help your organization adapt to the changing political and policy environment?
- How does NCHER compare to other trade associations focused on the higher education finance industry?

Membership Support and Services

- Knowing the services that NCHER provides to its membership, what is the most-valued service and what is the least-valued service?
- How could the membership services provided by NCHER be improved over the next year? Are there any services not currently provided that you would be interested in receiving from NCHER?
- NCHER currently has two annual conferences and two legal affairs committee meetings. Does your organization participate in any of these events? If so, what are the reasons that you do so? If not, why not? Are there any areas that could be improved upon by the organization to increase the likelihood that you would participate in these events?
- Do you have any other feedback on NCHER that you would like to provide to the Board of Directors as it continues to review and update its strategic plan?

Old and New Business

Ms. Thornton asked if there was any old and new business. There was no old or new business.

Adjournment

Ms. Thornton thanked everyone for attending the meeting. She moved to adjourn the meeting at 4:00 p.m.

NCHER Board of Directors Meeting – June 3, 2024
Chair’s Report – Diana Barber

I want to welcome everyone – Board members and the larger membership – to the NCHER Annual Conference in Clearwater. I also want to thank the program committee and NCHER staff for putting together a strong agenda with relevant and timely sessions for all of our members. Over the next three days, we’ll aim to understand the changing demographics of college students, discuss how to better leverage artificial intelligence, receive an update on the challenges associated with the rollout of the 2024-2025 FAFSA [Free Application for Federal Student Aid], examine current and emerging trends across private student loan programs, explore how to combat financial aid fraud, and discuss ways to improve compliance and mitigate risks. Dr. Beth Akers from the American Enterprise Institute will also be here to share her thoughts on how to improve the federal student loan program and how private student lending can have a greater role in financing higher education. I’m hopeful that all members will actively engage in each of the sessions, take time to share what’s working and not in each of their shops during the small group meetings, lunch, or the breaks, and talk to our generous sponsors.

I know that Angela regrets not being here in person and having to stay in Colorado. The Board’s work over the last year has made it clear that we have a lot of work to do when it comes to ensuring that NCHER is a vibrant and well-resourced organization that can effectively represent the interest of its members. Membership renewals are higher than anticipated and conference attendance is respectable, so we know that the voting and affiliate members see value in NCHER. But that could easily change over the next 12 months. Its why it is so important that we focus on successful implementation of the NCHER Strategic Plan, including working on our new goal to increase operational and compliance expertise at both the federal and state levels to assist those members who are facing a growing, complicated, and expensive regulatory environment – this involves developing a list of specific and achievable strategic solutions over a six-month period with constant oversight and review to achieve success. Earlier this year, James began this effort by putting together a set of short-term strategic solutions of items centered around advocacy and membership services that he and the NCHER team worked on over the last six months. I’ve attached a list of the short-term solutions for July to December 2024. To measure success, I plan to begin monthly informal calls as an opportunity for Board members to “check-in” on how implementation of the Strategic Plan is progressing and to raise any pressing issue for discussion.

Our effort to grow the NCHER membership will occur during a period of tremendous transition, but also new opportunities, for many of our members. Our guarantors are engaged in discussions with the U.S. Department of Education on those activities that will be supported once Fresh Start ends in a few months, which will have a profound impact on the number of agencies that will likely continue to service FFEL Loans. Our state agencies have worked tirelessly with students and families to overcome the challenges with the rollout of the 2024-2025 FAFSA, even as the 2025-2026 process has yet to move forward. Our federal student loan servicers are still working with a majority of student and parent borrowers on the return to

repayment; their work will be of the utmost importance as the onramp ends in September. Our private lenders should be able to effectively compete for additional volume with interest rates on Parent PLUS Loans rising to more than 9 percent (remember that the rate was 5.3 percent in 2020 just a few years ago) though they will have to face greater compliance costs from states licensing regimes. With renewed federal oversight of institutions of higher education, our third-party servicers may be able to play a greater role in assisting colleges and universities meet the gainful employment regulation and other rules and requirements.

All of our members are awaiting the White House and Department's final rule carrying out a new federal student loan forgiveness program, this time with provisions that impact FFELP borrowers. Similar to last year, we know that there will be legal challenges from several state Attorneys General that may prevent the Department from carrying out its new program. The loan forgiveness program comes on the heels of the Department's aggressive promotion of the SAVE Plan, adjustments to Income Driven Repayment, and changes to Public Service Loan Forgiveness that is driving up consolidation into the Direct Loan program. Congress is also beginning the annual budget and appropriations process that will determine the funding levels for many postsecondary education programs; the Labor, Health and Human Services, Education Appropriations Act that has carried a one-year extension of Account Maintenance Fees since 2015 will not get resolved until after the November election. Right now, there is an outside chance that Congress will be able to reach a bipartisan agreement on legislation expanding the eligibility for the Pell Grant program to include eligible short-term programs and whether this vehicle will carry other priorities such as new policy proposals addressing the fallout from the FAFSA. There will be new political leadership regardless of who wins the election – Federal Student Aid will need a new Chief Operating Officer with the expected departure of Richard Cordray later this month and the House Education and the Workforce Committee will have a new leader as Chairwoman Virginia Foxx is term-limited. The NCHER team – which consists of everyone in this room - are essential to influencing federal and state policies while mitigating challenges to our members' portfolios, assisting them in working with state regulators, and giving them the tools to carry out their public service missions to help students and their families.

Before I conclude, I want to thank Angela Baier for her leadership as Chair of the NCHER Board of Directors over the last year – her thoughtful demeanor helped us get through some very difficult discussions in a respectful way. I also want to thank Wendy McAlister for her steadfast work on the stewardship of NCHER's budget over the last four years and Christiana Thornton and Chad Tate for their service as Immediate Past Chair, Chair, and (for both of them) Chair-Elect while simultaneously charting a path forward for their own organizations.

Once again, thank you again for attending today's meeting and the NCHER Annual Conference. I look forward to having robust discussions over the next few days on those issues that impact you to make sure that NCHER is effectively representing your interests at the federal level.

Short-Term Strategic Solutions – July to December 2024

Legislative/Advocacy

- Hold an NCHER Advocacy Fly-In in order to push the organization’s legislative priorities through the appropriations and authorization processes (July 2024).
- Secure legislative language extending Account Maintenance Fees in the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act for Fiscal Year 2025.
- Secure report language leveraging the support of state and nonprofit organizations to assist struggling borrowers in the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act for Fiscal Year 2025.
- Meet with staff of senior members of the House Education and the Workforce Committee and Senate Health, Education, Labor, and Pensions Committee.
- Meet with White House/Department of Education officials/transition officials to discuss executive branch agenda for 2025.

Membership Services / Operations

- Recruit 2-3 new members to join NCHER, consistent with our target sectors included in the Membership Plan.
- Fully implement “NCHER University,” which is an issue library of select topics that includes a legislative and regulatory history, proposals for reform, impact on the membership and its services, etc.
- Implement “Lunch and Learn” webinars conducted by subject matter experts, based on the subjects identified through “NCHER University”.
- Successfully set up and hold initial meetings of the NCHER Working Group on Artificial Intelligence.
- Encourage more active participation across the membership, such as the development of an online community for NCHER members.
- Develop a menu of virtual webinars (maybe in six-month increments) for the membership, which could serve as an opportunity to generate new income and sponsorships.

- Set up a small group of members to create a state-level regulatory and compliance structure. Such approach could start with issuing a Request for Information (RFI) to industry consultants and/or law firms on best approach; then issuing a Request for Proposal (RFP) to industry consultants and/or law firms for the development of a legislative and regulatory tracker across states with the capacity to search key words and track relevant legislative activity and breaking news.
 - Create an NCHER State Law and Regulations Committee, to join the four other NCHER committees, to encompass those members interested in engaging in state-level regulatory and compliance action
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Completed items – January to June 2024

- Secured legislative language extending Account Maintenance Fees in the Labor, Health and Human Services, Education, and Related Agencies Appropriations Act for Fiscal Year 2024.
- Rebutted efforts to use Account Maintenance Fees as an offset to H.R. 6585, the Bipartisan Workforce Pell Act, as the bill headed to the floor of the U.S. House of Representatives.
- Secured legislative language on second-chance rehab in the introduced federal student loan legislation authored by House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC).
- Appointed 2-3 affiliate members to serve as liaisons to the Board of Directors.
- Successfully examined new approaches to increase administrative support to NCHER and its membership, which included moving the NCHER staff to contractors.
- Conducted internal survey on membership services to identify new initiatives that should be carried out to ensure alignment for the future.

NCHER Board of Directors Meeting – June 3, 2024
Treasurer’s Report – Wendy McAlister

The Treasurer’s Report includes comments related to the NCHER Profit and Loss Statement as of April 30, 2024 and the proposed budget for the fiscal year ending June 30, 2025.

NCHER Profit and Loss Statement as of April 30, 2024

As of April 30th, NCHER had recorded approximately \$767,000 in total revenue, including membership dues, committee and meeting income, conference income, interest and dividends and other miscellaneous income. Membership dues are approximately \$53,000 under budget due to the loss of 3 voting members and 5 affiliate/school members. Total committee and meeting revenue is under budget currently and will be under budget at the end of the fiscal year. Registration revenue was lower than anticipated given the fact that only one Legal Affairs Meeting was held during the year whereas two were budgeted. Conference income is also under budget with lower than anticipated attendance at the Legislative and Leadership Meeting. The total number of registrants for the Annual Conference at 65 (51 paid) is slightly below the forecast.

NCHER has recorded approximately \$810,000 in operating expenses through the first ten months of the fiscal year. Most of the accounts are at budget or below budget and expected to stay that way through the end of the fiscal year. There are however, a few outliers. The independent contractors line item is over budget given the move to consulting agreements with two former employees (expense would have otherwise been reflected in salaries). Medical insurance is also over budget due to the early payout of a contractual obligation to cover healthcare for a retired officer/former president of the corporation. Accounting and Bookkeeping is over budget due to the decision to extend the arrangement with the accountant beyond the period that was anticipated when preparing the budget. The subscriptions line item is over budget due to the payment for a subscription to POLITICO Pro that was previously covered under the contract with the firm that provided NCHER with lobbying support. Travel expenses for the Legal Affairs Committee meeting are also over budget due to unanticipated travel costs associated with sending one of the staff coordinators to the event. Finally, the hotel expense for the Legislative and Leadership Meeting was higher than expected. The budget was prepared assuming that the conference would be shorter in length and smaller in scale.

Looking at the bottom line, NCHER had recorded a net operating loss of approximately \$43,300 as of April 30th. With the addition of \$13,200 in net realized and unrealized gains and losses on investments, NCHER’s net loss as of April 30th was approximately \$30,100. Although the Board originally projected a budgetary deficit of approximately \$145,000 for the year, the expectation is that we will end the year with a net operating loss of approximately \$187,000 due to the budget overages outlined above.

NCHER Budget for Fiscal Year Ending June 30, 2025 (FY 25)

A few items of note with respect to the FY 25 budget:

- **Membership Dues:** This line item includes \$616,500 for membership dues and assumes the loss of three members.
- **Committee and Meeting Income:** This line item includes \$10,000 for registration fees associated with one in-person Legal Affairs Meeting to be held in October at the law office of Hinshaw & Culbertson.
- **Conference Income:** The budget for this category includes registration fees and sponsorships totaling \$83,900 for both the Legislative and Leadership Conference and the Annual Conference.
- **Consultant Expenses:** This line item includes \$483,200 for consultants, including NCHER's President, Senior Advisor and administrative support.
- **Medical Insurance:** This line item includes \$22,000 for insurance coverage to be provided to a former employee under a severance agreement.
- **Professional Fees:** This line item includes \$13,600 for accounting and financial review services.
- **Subscriptions:** This line item includes \$8,000 for a 12-month subscription to POLITICO Pro.
- **Telecommunications Expenses:** The budget for this category of expenses is \$21,375 including costs associated with CommonLine, computer consulting, and computer software. The total reflects savings associated with moving away from the current telephone provider when the contract expires in November of 2024.
- **Committee and Conference Expenses:** The budget includes expenses associated with one in-person Legal Affairs Meeting, the Legislative and Leadership Meeting, and the Annual Conference.
- **Net Ordinary Income:** Looking at the bottom line, the proposed budget would result in net ordinary income of approximately \$102,225.

Membership Applications

Since the last Board meeting, NCHER has received applications from the Missouri Scholarship and Loan Foundation and TransUnion for affiliate membership. Under the current policy, both organizations have been granted provisional membership pending an affirmative vote by the Board of Directors.

NCHER Board of Directors Meeting – June 3, 2024
President’s Report – James Bergeron

Good morning and welcome to Clearwater! Before I begin, I just want to thank Angela Baier for serving as Chair, Chad Tate as Chair-Elect, Christiana Thornton as Immediate Past Chair, and Wendy McAlister as Treasurer of the NCHER Board of Directors. Over the last year, we have had some long and some difficult conversations (with Wendy, many of those usually took place early in the morning after daycare drop-off) and I’m convinced that our organization is stronger because of them. As detailed in the Chair’s Report by Diana Barber, we have a lot of work to do over the next 12 months. Many of the new initiatives that will be rolled out in a few weeks are the result of the NCHER Strategic Plan put in place last year and will go a long way in helping us accomplish our four strategic goals, especially the new goal to increase our operational and compliance expertise at both the federal and state levels to assist those members facing a growing and complicated regulatory environment. Some of the strategic solutions have already been carried out – today, for example, we welcome Kelly Lipinski, Bob Collins, and Joe Santoro as new Liaisons to the Board. Other items may take time as the Board discusses how best to prioritize time and resources, including what new ideas may need to be explored to take advantage of unforeseen opportunities or mitigate against unanticipated challenges. I hope that each of you will review the short-term strategies developed for July to December 2024 and provide feedback to Diana and myself during the upcoming “check-in” call.

Three years ago, the Board made a strategic decision to reduce the organization’s budget deficit (which was incurred by maintaining our current membership services through the COVID-19 pandemic and subsequent extensions of the federal student loan payment and collections freeze) over a three-year timeframe. As detailed in the Treasurer’s Report, we’re on track to meet our objective at the end of this upcoming fiscal year and post a surplus that can be used to replenish the reserves. Like many of our members, we’re doing more with less, we’re leaner though not necessarily meaner. I know that some of you may be wondering if we can maintain – and strengthen - the value proposition of NCHER given the move to consulting agreements. The answer is unequivocally yes. All of us have maintained our strong commitment to NCHER since mid-February and I am confident that we will continue to do so. The new arrangement has already allowed me – as examples - to gather valuable information about upcoming hearings in Congress and strengthen my contacts in the White House, which I am using to assist our membership.

On the federal advocacy side, the U.S. Department of Education continues to aggressively push forward on its revised plan to provide federal student loan forgiveness following the negotiated rulemaking process that was completed last year. The public comment period on the Notice of Proposed Rulemaking (NPRM) expired two weeks ago. NCHER led the effort on a letter from the industry trades expressing interest in providing targeted debt relief to struggling borrowers authorized by the Higher Education Act, though expressed concern that certain items in the proposed rule clearly

violate the statute in material and new ways that puts it at risk of legal challenges that could result in implementation delays and possibly its complete undoing. The letter urged the Department to address all potential conflicts between the Higher Education Act and the proposed rule to ensure that it complies with the law. The trades also criticized some of the specific provisions that did not reach consensus during neg-reg such as the provision to forgive the outstanding balance of a Federal Family Education Loan (FFEL) if the loan first entered into repayment on or before July 1, 2000. I want to thank Vicki Shipley for her leadership in “herding the cats” for the industry.

Since the NPRM was released by the Department, I’ve been asked when the proposed rule will become final and if there will be legal challenges from Republican states. The timing question is a tough one. The Department received 125,800 public comments on the NPRM, which is a huge number. Even though the Department can bundle many of those comments together, it’s going to take time to sift through and respond to them. Because of that, I’m thinking that we’ll see the final rule sent to the White House Office of Information and Regulatory Affairs (OIRA) sometime in late-June or more likely July; OIRA will then have a 30-day timeframe to review the final rule before sending it back to the Department for publication in the *Federal Register*. I would expect the final rule to be out in late-July or more likely August. It is important to keep in mind that several of the public comments raised substantial issues that may take time to resolve – for example, many progressives urged the Department to release the NPRM on economic hardship and incorporate its provisions into the final rule. The Democratic National Convention is currently scheduled to take place August 19-22 – I would bet that the final rule will be out before then.

There will definitely be challenges from Republican Attorneys General who are waiting until the final rule is released and published before moving forward with a lawsuit challenging the merits of the NPRM and seeking a preliminary injunction. Since Kansas and Missouri have taken the lead in challenging the Department’s previous loan forgiveness plan and the SAVE [Saving on a Valuable Education] / Income Driven Repayment (IDR) Plan, I would expect them to file a suit challenging the plan. Unlike with the previous forgiveness plan, the standing argument will be much easier to make in this case since the NPRM includes forgiveness for FFEL borrowers.

Minute-by-minute coverage of the botched rollout of the 2024-2025 FAFSA [Free Application for Federal Student Aid] seems to be slowing down, though we know that some colleges and universities are still having difficulty in packaging aid and Federal Student Aid (FSA) is still processing paper forms. ECMC, and its funding partners, are working overtime to close the FAFSA completion gap. The National College Attainment Network’s Tracker says that, as of May 17, 2024, 41.5 percent of the high school class of 2024 has completed a FAFSA. There have been 1.73 million completions nationally, a -15.5 percent change compared to last academic year. Many policymakers are also appropriately asking about the 2025-2026 process, which is months behind schedule. As a comparison, the draft 2023-2024 FAFSA was released on May 18, 2022, for public comment to ensure that it was ready to go on October 1st.

There has also been increasing chatter for Congress to pass legislation addressing some of the recommendations proposed by the American Council on Education (ACE) and the higher education community. The community has urged the House and Senate to take action and advance legislation to protect students from any future harm caused by the current FAFSA delays and improve the federal student aid system. The groups want a long-term assessment of how the FAFSA delays have impacted low-income and other students, as well as how it has impacted institutions of higher education; a hold-harmless protection for institutions of higher education that processed original ISIRs [Institutional Student Information Record]; revisions to the family farm and small business exclusion and restoration of the housing question back on the form, and a move of the FAFSA deadline from January 1 to October 1, among many provisions. Its too early to see if either or both the House Education and the Workforce Committee and Senate Health, Education, Labor, and Pensions (HELP) Committee plan to move legislation similar to what has been proposed by ACE, but interest is high and select provisions could be added to a year-end budget and appropriations package in the lame duck after the November election.

In four months, the remaining COVID-19 pandemic flexibilities are slated to end, including the on-ramp around the restart of federal student loan payments and Fresh Start. Similar to the Department's recent two-month extension of the deadline for borrowers to consolidate into the Direct Loan program to take advantage of the IDR account adjustment and Public Service Loan Forgiveness, many observers believe that the White House will be under increasing pressure to extend the on-ramp until the end of the year as we get closer to the end of September. In contrast, Fresh Start will end and the question becomes what's next. The guarantor community has been in active conversations with the Department leadership and hopes to have a new funding structure in place since there will be little collections activity for the foreseeable future.

Over on Capitol Hill, both the House and Senate Appropriations Committees have completed the hearing process on the Department of Education's budget request for Fiscal Year 2025. As is tradition, the House has taken the lead in appropriations and recently announced that the Labor, Health and Human Services, Education, and Related Agencies Appropriations Subcommittee will consider its bill in just four weeks, on June 27th and the Full Committee will consider the bill two weeks later on July 10th. The committee also said that it envisions cutting labor, health, and education programs by more than 10 percent, a repeat of last year's funding process that foreshadows another multi-month clash expected to drag beyond the election in November. In short, we'll have to wait a few extra months to secure final language extending the authority to pay Account Maintenance Fees and see if we can make further progress on pressuring FSA to use state and nonprofit organizations to help struggling borrowers.

House Education and the Workforce Committee Chairwoman Virginia Foxx (R-NC) is still trying to make the case to her leadership and her Republican colleagues that the lower chamber should move H.R. 6951, the College Cost Reduction Act, as an alternative to

the Biden Administration's student loan policies. The bill includes several provisions to reform the federal student loan program such as allowing borrowers to rehabilitate their FFELP and Direct Loans a second time (a request from NCHER), collapsing the myriad of repayment plans, and eliminating Parent PLUS and Grad PLUS while raising federal loan limits, among many provisions. I'm suspicious that, despite Chairwoman Foxx's relentless work ethic, the House is going to be able to find time to consider the bill. There are more pressing items on the docket and Republicans are more focused on immigration and other hot button issues. In fact, Chairwoman Foxx is already pivoting and moving to the upcoming introduction of the fifth piece of her plan to reauthorize the Higher Education Act. The next package dubbed the SUCCESS Act aims to better align educational opportunities with the demands of the workforce, usher in innovation, and bolster access to education for all students, especially non-traditional and low-income students. The bill would reform Federal Work Study to develop more career-relevant work opportunities for students; give states flexibility to secure state workforce pipelines through a revamped workforce-tailored public service loan forgiveness program; bolster state data systems to streamline data sharing between states that are interested in tracking education and labor market outcomes; promote student access through online education; encourage institutions to develop educational models like competency-based education; and test innovative initiatives, such as three-year degrees, for students through experimental sites.

All of these higher education bills are quickly becoming markers for Republicans for next year if they maintain the majority in the U.S. House of Representatives and/or take the majority in the U.S. Senate. With that said, similar to a potential FAFSA reform package discussed above, I could see the bipartisan agreement reached on short-term Pell making it into an end-of-the-year budget agreement that may be taken up in the lame duck in November. The main problem with that legislation is the pay-for, which could easily be addressed in a larger package. But I don't think any other provisions will make it over the finish line and into law. The wild-card in this process is where does Senate HELP Committee Chairman Bernie Sanders (I-VT) stand and does he want anything in exchange for stepping out of the way. I guess that I could see Senate Democrats asking for a reduction in interest rates for federal student loans given the 1 percent jump in rates coming on July 1st (an idea pushed by Ranking Member Bobby Scott (D-VA) over the years) that probably would meet Republican resistance. But to date, I have yet to hear the Chairman talk about anything outside of free college.

There's no secret that this is an election year – the White House and the Department of Education's constant press releases on loan forgiveness are a reminder that higher education policy is a major priority for the President and an issue that he will highlight in the coming campaign. The conventional wisdom is that the White House and the Department are proposing their new federal loan forgiveness plan in order to woo greater support from younger voters – and that's certainly true. But I'm not so sure that the White House's strategy is paying off here. Vox recently released a survey on young voters. Instead of finding that they were interested in climate change, student loan cancellation, or the war in Gaza, the survey found that young voters are a lot like the

average American, concerned first and foremost with the state of the economy and feeling the impact of rising prices. In fact, student loans were ranked as the fourth lowest-priority issue according to those surveyed. The survey also found that many young voters trusted Biden over Trump on student loans – a bright spot for the administration – but not on the economy and jobs which are high priorities right now. If the President is reelected, it won't be because of student loans, though is likely to be one of the narratives on November 6th and we are likely to see an acceleration of borrower-friendly policies in 2025.

Issue	Priority
Inflation	73%
Healthcare	71%
Jobs and the economy	70%
Government spending and the federal deficit	63%
Corruption	63%
Social Security and Medicare	62%
Education	56%
Abortion	55%
Crime	54%
K-12 education	52%
Israel and Palestine	52%
Race relations	52%
National security and foreign policy	51%
Climate change and the environment	50%
Election integrity	46%
Immigration and the border	46%
Regulating businesses	43%
Oil and gas exploration	42%
Ukraine	39%
Student loans	39%
LGBTQ issues	38%
College	37%
China	27%

Regardless of what happens in the election in November, NCHER and our members are going to see several new faces in February at the NCHER Legislative and Leadership Meeting. But it won't be as many as you would think. With Chief Operating Officer Richard Cordray's departure in a few weeks, the Department will have a new leader of FSA. That's true. But if the President wins reelection, I would expect many of the political staff in the White House and Department to stay, a departure from traditional norms when we usually see mass exits of staff burnt out after four years of late night and weekend meetings. Many of the political staff – James Kvaal, Ben Miller, Rich Williams, etc. - are policy wonks who have spent their careers in these types of jobs and have pushed for loan cancellation, bankruptcy discharge, and other progressive policies for years and believe they are close to accomplishing their goals. If former President

Donald Trump is victorious, I would expect a return to the construct from 2016 with outsiders serving as Secretary of Education and in high levels of the White House and Department of Education. The House Education and the Workforce Committee will have a new leader with Chairwoman Foxx term-limited if Republicans can hang on to their majority, but Ranking Member Scott intends to remain in office. If the Senate flips to Republican control, the Chair and Ranking Member will change but the faces stay the same: Sen. Bill Cassidy (R-LA) and Sen. Sanders. The results from November are going to have a material impact on our industry so we need to continue to engage Congress and the Biden or Trump Administration on our advocacy priorities similar to our approach in 2016 and 2020.

Over the next few months, it is important that NCHER continues its robust advocacy efforts to influence many of these issues that impact our membership. While Congress may struggle to make much progress on the Fiscal Year 2025 budget and appropriations process, it is imperative that our members have a voice in the higher education policy debates taking place in Congress and with the administration especially if there is a chance that a bipartisan, bicameral agreement can be reached on short-term Pell Grants or FAFSA reform. We also need to engage with the Consumer Financial Protection Bureau's Student Loan Ombudsman as the Bureau is sure to feel energized following the recent Supreme Court decision upholding its funding structure. I've been working with the NCHER Government Relations Committee to schedule the next Advocacy Fly-In for the week of July 22nd, which will allow us to meet with Congressional leaders and administration officials to discuss and push for our priorities.

Considering the current student loan landscape, I continue to be proud of the work of our members and their ability to focus on their public service missions to help students and families. I continue to believe that there is a major role for NCHER and its members to play in influencing federal and state higher education finance policy, and I continue to believe that NCHER is well-positioned to play a leadership role focused on advocacy, communications, legal and compliance, and operational issues impacting federal, state, and private student aid on behalf of its members. Our broad and diverse membership needs a strategic partner who can assist them in mitigating risks and taking advantage of the opportunities in the federal higher education finance space.

With that, I want to thank the Board for their support of NCHER, our mission, and our work to promote the membership. I'm happy to answer any questions that you may have.

National Council of Higher Education Resources
Summary of the Amendment to the Bylaws – June 2024

Article I (Name of Corporation) – No changes

Article II (State of Incorporation, Principal Office, Registered Agent) - No changes

Article III (Mission of the Council) – No changes

Article IV (Membership) –

- In Section 1, deletes provisions authorizing the creation of an Emeritus Membership as the Board of Directors has never set the benefits of such membership.
- In Section 3, requires that installment plan requests be provided to the Board of Directors as opposed to the Executive Committee.

Article V (Board of Directors) –

- In Section 1, specifies that the Board of Directors is responsible for the governance, supervision, and control of the affairs of the Council, and that it has the power and authority to do and perform all acts and functions for the Council.
- In Section 2, sets the composition of the Board of Directors to include at least three but no more than nine Directors elected from the Voting Membership, provided that such number totals an odd number.
- In Section 3, requires that the terms of the Directors be staggered so that up to four are elected one year and up to five the next year.
- In Section 5, strikes provisions creating an Executive Committee.
- In new Section 5, sets the Annual Meeting for the Board as June of each calendar year at the date and time determined by the Chair.
- In Section 6, reduces the number of Directors required to call meetings of the Board of Directors; clarifies differences between Annual Meeting, official meetings, and conference calls; and includes new language specifying that Board members may participate in meetings by means of a conference telephone or video conference technology, and such participation constitutes presence in person at the meeting.
- In Section 11, restructures the composition of the Nominating Committee; prior to the creation of the committee, directs the Board to determine the maximum number of available positions for Directors.
- In Section 13, includes transition language for the new makeup of the Board.

Article VI (Officers) –

- In Section 1, sets the officers of the organizations as the Chair, Vice Chair, and President.
- In Section 2, authorizes the election of the Chair by the Directors present at the Annual Meeting for a one-year term.
- In Section 3, authorizes the election of the Vice Chair by the Directors present at the Annual Meeting for a one-year term.

- In Section 4, strikes provisions creating an Immediate Past Chair.
- In new Section 4, authorizes the President to serve as Secretary/Treasurer and to carry out the activities of the Treasurer, and directs the President to work with the Chair to maintain proper internal controls.

Article VII (Membership Meetings) – No changes

Article VIII (Committees) –

- In Section 3, restructures the composition of the Audit and Finance Committee, sets a two-year term for the members, and includes provisions governing vacancies.
- In Section 4, restructures the composition of the Government Relations Committee, sets a two-year term for the members, and includes provisions governing vacancies.
- In Section 5, restructures the composition of the Membership Committee, sets a two-year term for the members, and includes provisions governing vacancies.

Article IX (Caucuses) – No changes

Article X (Rules of Order) – No changes

Article XI (Financial Matters) – In Section 2, updates references to the Internal Revenue Code of 1986.

Article XII (Indemnification) – No changes

Article XIII (Reference to Certificate of Incorporation, Amendment of Certificate of Incorporation and Bylaws) –

- Moves provisions on suspension and removal of Board members to Article V.
- In Section 1, includes new language noting that, in the event of a conflict between the Certificate of Incorporation and the Bylaws, the Certificate of Incorporation shall govern.
- In Section 5, includes new language requiring the Board to recommend by a majority vote through the adoption of an official corporate resolution that the organization be dissolved and that such resolution will be provided to the membership for consideration at the Annual Meeting or a special meeting, and notes that all actions must be subject and conducted in accordance with Delaware Corporate law.

Makes necessary technical and confirming changes across certain articles.