



Federal Update: Higher Education

Presented for MEFA by:

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Confidential and Proprietary January 2022

Topics



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- Current state of:
 - Congress
 - Administration
 - Department of Education
- Recent Changes
- Predictions for 2022



Disclaimer

The material provided in this document is based on the knowledge reasonably available as of the date of the presentation and is solely the opinion of the presenter.

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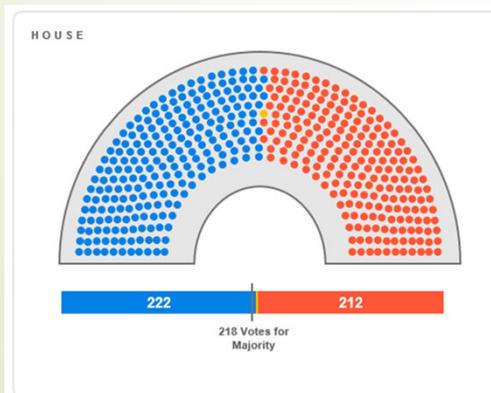
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Current Cast – Senate and House

House

House Education and Labor

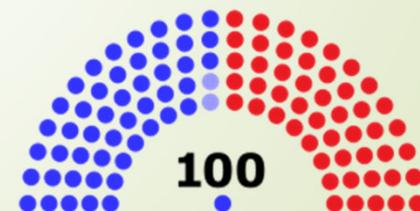
- Chair Bobby Scott
- Ranking Member Virginia Foxx
 - Higher Education and Workforce Investment Subcommittee



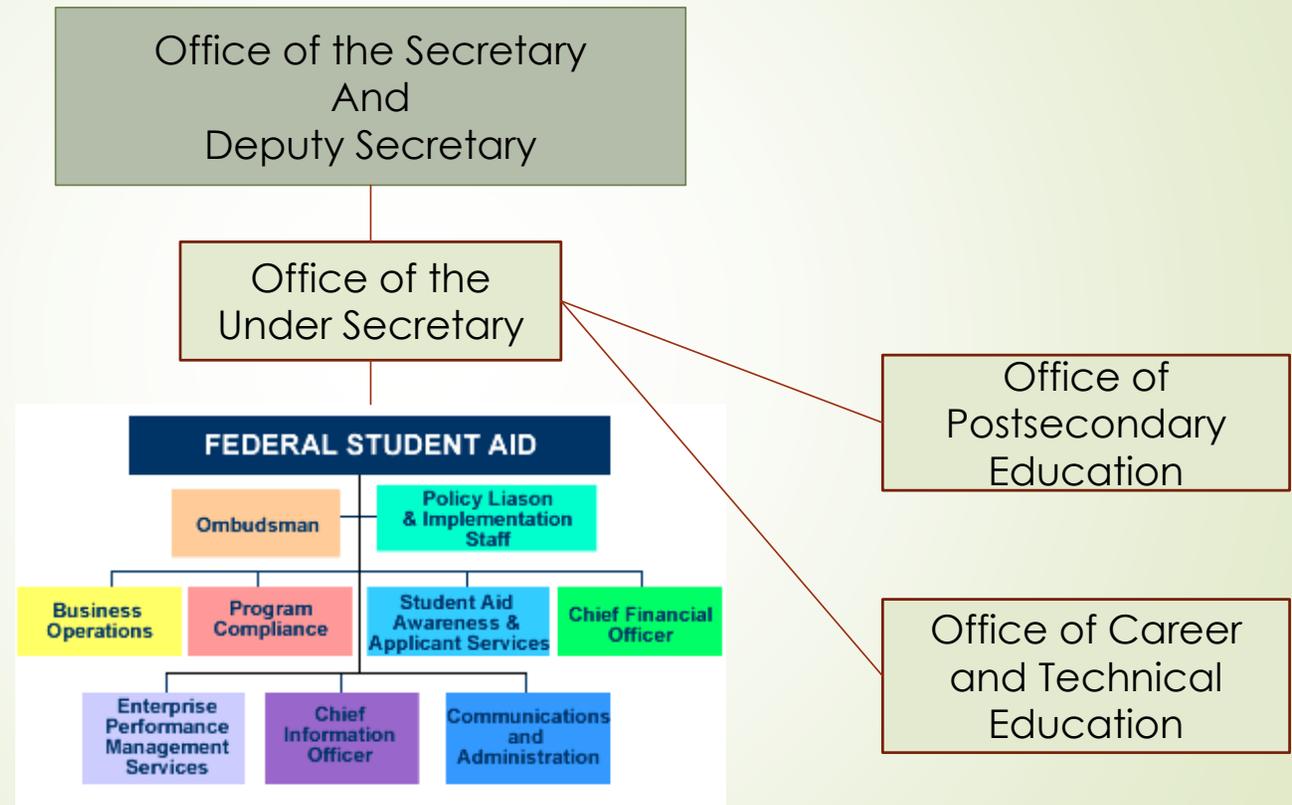
Senate

Health Education Labor and Pensions

- Senator Patty Murray: Chair
- Senator Richard Burr – Ranking Member



Biden Administration





Biden Administration Priorities

- Higher education access and affordability
- Simplification
- Campus crime transparency
- Enforcement
- Graduate school unionization
- IX enforcement
- STOP Act

Designated High Impact Service Providers



Department of Agriculture

- 1 Farm Services Agency
- 2 Forest Service
- 3 Food and Nutrition Service
- 4 Natural Resource Conservation Service
- 5 Rural Development



Department of Commerce

- 6 Census
- 7 United States Patents and Trademarks Office



Department of Education

- 8 Federal Student Aid



General Services Administration

- 9 USA.gov



Department of Health and Human Services

- 10 Centers for Medicaid and Medicare Services



Department of Homeland Security

- 11 Citizenship and Immigration Services
- 12 Customs and Border Protection
- 13 Federal Emergency Management Agency
- 14 Transportation Security Administration



Department of Housing & Urban Development

- 15 Housing and Urban Development



Department of the Interior

- 16 Bureau of Indian Affairs
- 17 Bureau of Trust Fund Administration
- 18 Fish and Wildlife Service
- 19 National Park Service



Agency for International Development

- 20 Agency for International Development



Department of Labor

- 21 Employment and Training Administration
- 22 Employee Benefits Security Administration
- 23 Occupational Safety and Health Administration
- 24 Office of Workers' Compensation Programs



Office of Personnel Management

- 25 Federal Employment Services
- 26 Retirement Services



Small Business Administration

- 27 Small Business Administration



Social Security Administration

- 28 Social Security Administration



Department of State

- 29 Passport Services



Department of Transportation

- 30 Build America Bureau



Department of the Treasury

- 31 Treasury Department
- 32 Internal Revenue Service



Department of Veterans Affairs

- 33 Veterans Benefits Administration
- 34 Veterans Health Administration



Cross-Agency Coordination

- 35 Recreation.gov

The included entities are identified as High Impact Service Providers (HISPs) and are subject to OMB Circular A-11 Section 280 activities including an annual enterprise-wide CX capacity assessment and action planning, designation of at least two high impact services, improved performance management for designated services, customer feedback collection and public reporting.

<https://performance.gov/cx/>

US BY THE PEOPLE FOR THE PEOPLE WITH THE PEOPLE

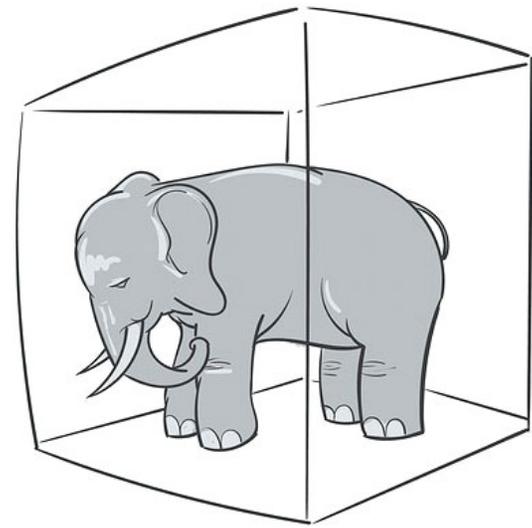


Biden Exec Order

Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government

- Single sign on for payments, lower payment applications
- Automatic certification for federal employees, including military
- Status prompts info about other services such as food stamps, health care subsidies

Student Loan Forgiveness



ELEPHANT IN THE ROOM



Other Players

- ▶ State Ombudsman
 - ▶ Arwen Thoman, Deputy Director of AG Healey's Insurance and Financial Services Division (IFSD).
 - ▶ Erica Harmon, IFSD's Program Analyst, will serve as Deputy Student Loan Ombudsman.
 - ▶ Division of Banks for licensure
- ▶ Rohit Chopra – Director CFPB
- ▶ Seth Frotman – CFPB
- ▶ Robert Cameron – Private Loan Ombudsman - CFPB



Current Events

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Congress

- ▶ Build Back Better Act
 - ▶ Passed House, being negotiated by Senate
- ▶ \$40 billion for Higher Education and Workforce
 - ▶ \$550 Pell increase (but not for for-profit schools)
 - ▶ \$10 billion for HBCU's
- ▶ Is free college dead?
- ▶ Priorities for 2022

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Department of Education Priorities

① So
② Many
③ Things

- ▶ COVID Waivers Oversight and Repayment Restart
- ▶ PSLF Temporary Waivers
- ▶ Servicer Transitions
- ▶ Next Gen
- ▶ Office of Enforcement
 - ▶ STOP Act
- ▶ Negotiated Rulemaking x 2



COVID Waivers/Repayment Restart

- ▶ Possible relief include
 - ▶ Three month “grace”
 - ▶ Delayed credit reporting and default
 - ▶ Delayed income driven plan recertification
- ▶ All FFEL defaults during COVID in process of being reversed
- ▶ Operation Fresh Start???
- ▶ Borrower defense to repayment and TPD changes



Next Gen

- ▶ Aidan virtual assistant
- ▶ Annual Student Loan Acknowledgment
- ▶ Borrower Defense to Repayment application
- ▶ Business Process Operations (BPO)
 - ▶ Edfinancial Services LLC,
 - ▶ F.H. Cann & Associates LLC,
 - ▶ MAXIMUS Federal Services Inc.,
 - ▶ <https://maximus.com/fsa>
 - ▶ Missouri Higher Education Loan Authority (MOHELA), and
 - ▶ Texas Guaranteed Student Loan Corporation (Trellis Company)
- ▶ FSA Partner Connect
- ▶ Interim Servicing Solution (ISS)
- ▶ Loan Simulator
- ▶ myStudentAid mobile app
- ▶ Public Service Loan Forgiveness (PSLF) Help Tool
- ▶ StudentAid.gov features
- ▶ Entrance and exit counseling
- ▶ Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act



What's Next

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Negotiated Rulemaking X 2

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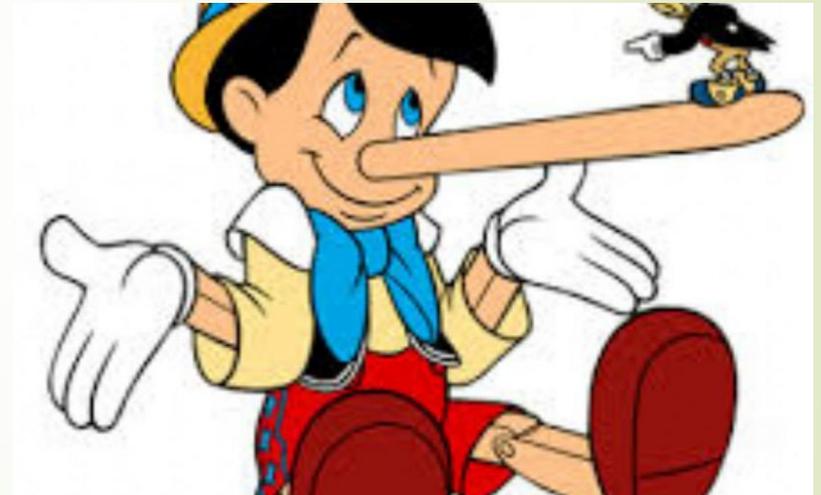
Issues List – Session One

- 
- ▶ Borrower Defense to Repayment (3)
 - ▶ Public Service Loan Forgiveness (2)
 - ▶ Income Driven Plan
 - ▶ Mandatory Arbitration
 - ▶ Closed School Discharge

- 
- ▶ Total and Permanent Disability
 - ▶ False Certification
 - ▶ Pell for Prisoners
 - ▶ Interest Capitalization

Borrower Defense – Key Definitions

- ▶ Prospective student: Any individual who has contacted an eligible institution for the purpose of requesting information about enrolling at the institution or who has been contacted directly by the institution or indirectly through advertising about enrolling at the institution.
- ▶ Substantial misrepresentation: Any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment.





Pre-dispute Arbitration

- Schools may not:
 - Require students to use internal process for borrower defense related complaints
 - Prohibit class action claims for borrower defense related issues
 - Unless a court decides claim may not proceed as a class action
 - Must disclose the following in new enrollment agreements and exit counseling
 - “We agree that neither we nor anyone else will use this agreement cannot be used to stop you from being part of a class action lawsuit in court. You may file a class action lawsuit in court or you may be a member of a class action lawsuit even if you do not file it. This provision applies only to class action claims concerning our acts or omissions regarding the making of the Direct Loan or our provision by us of educational services for which the Direct Loan was obtained. We agree that only the court has exclusive jurisdictions to decide whether a claim asserted in the lawsuit is a claim regarding the making of the Federal Direct Loan or the provision of educational services for which the loan was obtained.”
- A student can voluntarily enter into an arbitration agreement, but all records and outcomes must be provided to the ED and these records will be published in a centralized database



Neg Reg Take II

Institutional Programmatic and
Eligibility Committee

90/10 under [34 CFR 668.28](#);

Ability to benefit under [34 CFR 668.156](#);

Certification procedures for participation in title IV, HEA programs under [34 CFR 668.13](#);

Change of ownership and change in control of institutions of higher education under [34 CFR 600.31](#);

Financial responsibility for participating institutions of higher education under [34 CFR 668.15](#) and [34 CFR part 668](#), subpart L, such as events that indicate heightened financial risk;

Gainful employment (formerly located in [34 CFR part 668](#), subpart Q); and

Standards of administrative capability under [34 CFR 668.16](#).

<https://www.federalregister.gov/documents/2021/12/08/2021-26571/negotiated-rulemaking-committee-negotiator-nominations-and-schedule-of-committee-meetings>



Negotiators and Advisors

- ▶ (1) A labor economist or an individual with experience in policy research, accountability, and/or analysis of higher education data.
- ▶ (2) A compliance auditor with experience auditing institutions that participate in the title IV, HEA programs.

How to Stay Informed



- <https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/index.html?src=rn>
 - Issue papers
 - Live streams and recordings
 - NPRM
 - Final Rule
 - Background docs
- Twitter (day of mostly) #negreg
- Higher ED publications
- Inside Higher Ed
- NASFAA
- Chronicle of Higher Education

Re-Entering Repayment

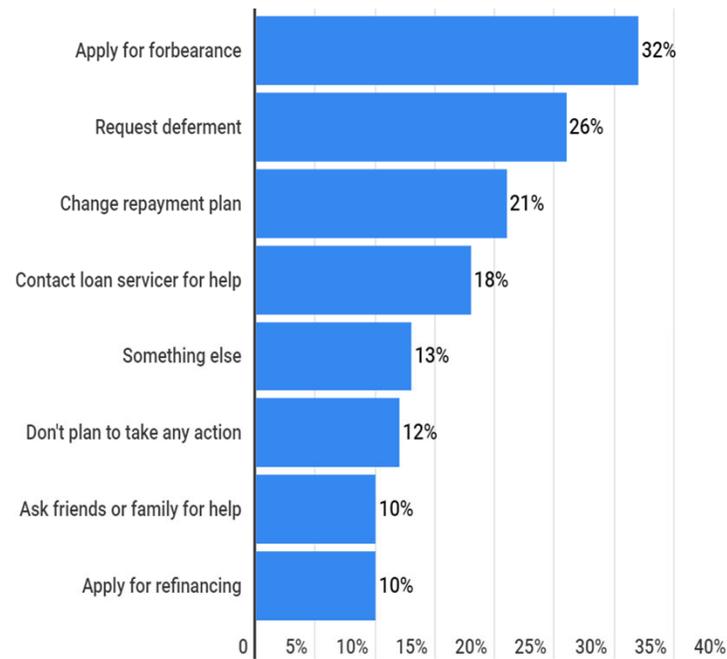




POST COVID WAIVERS

- 42 million entering repayment
 - 3.5 were at least 31 days past due prior to the waivers
- 22% reached out for more info when the waivers were first deployed
- Only 54% of borrowers thought the waivers applied to them
- 42% have not made a payment during the waivers
- 13% will have moved
- 6.2% will be unemployed
- 21% surveyed in December felt comfortable resuming repayment
 - 55% weren't sure they could pay on time consistently
- 65% did not know what their payment would be once it resumed
 - 2/3 didn't know how to change plans if needed

Plans after forbearance expires (among borrowers who don't think they'll be able to keep up with payments)



Source: Student Loan Hero survey of 360 federal student loan borrowers who don't think they'll be able to make their monthly student loan payment once forbearance expires, conducted Nov. 6-16, 2020. Respondents could select multiple answer choices.

COHORT DEFAULT RATES

Published Year	Cohort Year	$\frac{\text{Borrowers in the Numerator}}{\text{Borrowers in the Denominator}}$
2022	2019	$\frac{\text{Borrowers who entered repayment in 2019 and defaulted in 2019, 2020 or 2021}}{\text{Borrowers who entered repayment in 2019}}$
2023	2020	$\frac{\text{Borrowers who entered repayment in 2020 and defaulted in 2020, 2021 or 2022}}{\text{Borrowers who entered repayment in 2020}}$
2024 	2021	$\frac{\text{Borrowers who entered repayment in 2021 and defaulted in 2021, 2022 or 2023}}{\text{Borrowers who entered repayment in 2021}}$



Other Prognostications



Resources

- ▶ Servicing regulations
 - ▶ <https://www.mass.gov/regulations/209-CMR-1800-business-of-debt-collectors-student-loan-servicers-third-party-loan-servicers>
- ▶ High Impact Service providers
 - ▶ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/13/fact-sheet-putting-the-public-first-improving-customer-experience-and-service-delivery-for-the-american-people/>
- ▶ Neg Reg
 - ▶ <https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/index.html?src=rn>
- ▶ Next Gen
 - ▶ <https://studentaid.gov/data-center/next-gen>