

WASHINGTON UPDATE

MAY 2021

House Education and Labor Committee Republicans Ask GAO to Examine the Federal Student Loan Program's Finances

On May 6, 2021, House Education and Labor Committee Ranking Member Virginia Foxx (R-NC) and House Higher Education and Workforce Investment Subcommittee Ranking Member Greg Murphy (R-NC) sent a letter to the Government Accountability Office (GAO) asking it to examine the findings from a report on the federal student loan program's finances that was commissioned by former Education Secretary Betsy DeVos in 2018. The request follows a prior demand by the same Committee Republicans to the Department of Education that it immediately turn over the analysis that was first reported in *The Wall Street Journal (WSJ)*. According to the *WSJ* article, over the course of three decades, Congress' various administrations and federal watchdogs had "systematically made the student loan program look profitable when in fact defaults were becoming more likely." The analysis found that the Department miscalculated student loan budgetary projections for years, and the lawmakers claim the Department is "hiding information from the public that could provide a more accurate depiction of the budgetary impact" of the federal student loan program.

It was reported that Secretary of Education Miguel Cardona told the House Appropriations Committee at a hearing held on May 5, 2021 that he supported the Department's decision to not release the report.

A copy of the lawmakers' letter is found at:

https://republicans-edlabor.house.gov/uploadedfiles/5621_gao_studentloanscore_final.pdf.

Biden Reveals American Families Plan

On April 28, 2021, President Joe Biden rolled out its American Families Plan. The American Families Plan includes:

- Offering two years of free community college to all Americans, including DREAMers, costing \$109 billion.
- Providing two years of subsidized tuition and expanding programs in high demand fields at HBCUs, TCUs, and MSIs for families earning less than \$125,000, costing \$39 billion.
- Providing up to \$1,400 in additional assistance to low-income students by increasing the Pell Grant award.
- Investing in completion and retention activities in colleges and universities that serve high numbers of low-income students, particularly at community colleges, States, territories, Tribes, costing \$62 billion.

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- Investing in teacher preparation programs to improve the quality of teacher preparation at HBCUs, TCU, and MSIs, costing \$400 million.

A Fact Sheet for the American Families Plan is available at:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/fact-sheet-the-american-families-plan/>.

Senate HELP Committee Approves Nomination of James Kvaal to Serve as Under Secretary of Education

On April 21, 2021, the Senate Health, Education, Labor, and Pensions (HELP) Committee advanced the nomination of James Kvaal to be Under Secretary of Education by a bipartisan vote of 13-9. In addition to every Democrat on the Committee, Senators Richard Burr (R-NC), Susan Collins (R-ME), Lisa Murkowski (R-AK), Bill Cassidy (R-LA), Roger Marshall (R-KS), Tim Scott (R-SC), Mitt Romney (R-UT), and Jerry Moran (R-KS) voted to advance Mr. Kvaal's nomination.

At the hearing, Chairman of the Senate HELP Committee Patty Murray (D-WA) said: "I have no doubt that when confirmed, Mr. Kvaal will fight for students, and against special interests – because it's what he has always done. Mr. Kvaal's record shows he is clearly qualified to serve as Under Secretary of Education, and I'm pleased to support his nomination."

Mr. Kvaal's nomination now heads to the Senate for consideration, although a timeline has not been set.

A copy of Senator Murray's press release is found at:

<https://www.help.senate.gov/chair/newsroom/press/help-committee-votes-to-advance-labor-and-education-nominees-julie-su-cindy-marten-james-kvaal->

House Democrats Introduce Bill to Regulate For-Profit Conversion

On April 21, 2021, Representative Lucy McBath (D-GA), along with Representatives Sara Jacobs (D-CA) and Kathy Manning (D-NC) as co-sponsors, introduced H.R. 2700, the *For-Profit College Conversion Accountability Act*, which sets forth the process of converting a for-profit institution to a nonprofit institution of higher education. The bill was introduced following an April 20, 2021 hearing held by the House Education and Labor Committee, which addressed the conversion process.

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The legislation would create eligibility requirements, require nonprofit conversions to be made public in advance, prevent institutions from marketing themselves as nonprofit institutions until the Department of Education grants approval, and create an office within the Department of Education to monitor conversions and determine institutions' nonprofit eligibility.

Representative McBath said in a press release: "In my own district, we saw first-hand what happens when an institution of higher education attempts to evade accountability. The closure of Argosy University in 2019, after months of misleading students and an attempt to convert to nonprofit status, ripped off thousands of students and veterans, leaving them with untransferable credits, huge amounts of student debt, and degrees that aren't worth anything."

A copy of Representative McBath's press release is found at: <https://mcbath.house.gov/press-releases?ID=C20242A6-BB20-4B0C-9762-A73AC2295059>.

The hearing held on April 20, 2021 by the House Education and Labor Committee was titled, "For-Profit College Conversions: Examining Ways to Improve Accountability and Prevent Fraud." In his opening statement, Chairman Bobby Scott (D-VA) expressed his view that there is a need for greater oversight to protect students and taxpayers from for-profit institutions that make the transition to traditional nonprofit institutions. He cited data from the U.S. Government Accountability Office (GAO) that 59 institutions have transitioned from for-profit to nonprofit status in the last decade. He stated that in one-third of those transitions, the for-profit owners or officials held leadership roles in the nonprofit buyer. Chairman Scott noted that due to the lack of oversight from the U.S. Department of Education, many of the transitions did not receive proper investigation for misconduct and some for-profit institutions have transitioned to nonprofit institutions in name only.

Ranking Member Virginia Foxx (R-NC) said in her opening statement that the nation's postsecondary education system is in crisis with declining high school graduation rates, increasing skill-gaps, COVID-19 learning losses, increasing college costs, federal student loan debt, and an infiltration by China on U.S. college campuses. She expressed disappointment that these issues were not being addressed during the hearing and instead there was a focus on for-profit colleges converting to nonprofit status, which only impacts 0.14 percent of such colleges per year.

The archived webcast can be found at: <https://edlabor.house.gov/hearings/for-profit-college-conversions-examining-ways-to-improve-accountability-and-prevent-fraud>.

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Senator Sanders and Representative Jayapal Introduce Free Community College Bill; Other House and Senate Democrats Introduce Similar Bills

On April 21, 2021, Senator Bernie Sanders (I-VT) and Representative Pramila Jayapal (D-WA) introduced the *College for All Act*, which would make community colleges tuition free for all students and would make public colleges and universities tuition-free for all students from families with annual incomes below \$125,000. The bill would also double the maximum Pell Grant from \$6,495 to \$12,990. The bill would:

- Create a new federal-state partnership where the federal government would cover 75 percent of the costs and states would contribute the remaining 25 percent. In exchange for the funding, states and localities would have to sustain and expand existing tuition-free programs; and
- Authorize \$10 billion in federal funding each year to cover student support programs at colleges and universities across the country.

A copy of Senator Sanders' press release is found at: <https://www.sanders.senate.gov/press-releases/college-for-all-act-introduced/>.

On April 27, 2021, Senator Tammy Baldwin (D-WI) and Congressman Andy Levin (D-MI) reintroduced *America's College Promise Act*, which would create a new partnership between the federal government and states to help them waive tuition for eligible student residents for two years of community and technical college programs.

A copy of Senator Baldwin's press release is found at: <https://www.baldwin.senate.gov/press-releases/americas-college-promise-act-2021>.

Related to these bills, Senator Brian Schatz (D-HI) and Congressman Mark Pocan (D-WI) reintroduced the *Debt-Free College Act*, which would establish a federal-state partnership that provides a dollar-for-dollar federal match to state higher education appropriations in exchange for a state commitment to pay for the full cost of attendance without a student having to take on debt.

A copy of Senator Schatz's press release is found at: <https://www.schatz.senate.gov/press-releases/schatz-pocan-reintroduce-legislation-to-end-student-loan-debt-crisis-2021>.

ED's OCR Announces a Virtual Public Hearing for Improving Enforcement of Title IX

On May 17, 2021, the Department of Education's Office of Civil Rights (OCR) announced that it will be holding a virtual public hearing on June 7-11, 2021 to gather information for the purpose

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of improving enforcement of Title IX of the Education Amendments of 1972. OCR will be seeking comments from the public on steps the Department can take to ensure that schools are providing students with educational environments free from discrimination in the form of sexual harassment.

The notice for the hearing includes:

- The agenda for the virtual public hearing;
- The format of the hearing;
- Information about how members of the public can participate in the hearing, including how to register to provide a live comment during the hearing and how to submit a written comment; and
- Information about how to attend the hearing virtually.

A copy of the announcement is found at: https://www.ed.gov/news/press-releases/department-educations-office-civil-rights-announces-virtual-public-hearing-gather-information-purpose-improving-enforcement-title-ix?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

A copy of the notice is found at: <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-publichearing.pdf>.

ED Announces Availability of \$36 Billion in *American Rescue Plan* Funds to Students and Institutions

On May 11, 2021, the Department of Education announced the availability of more than \$36 billion in emergency grants provided under the *American Rescue Plan (ARP) Act* for postsecondary education. These funds will assist over 5,000 institutions that can provide emergency financial aid to millions of students and “ensure learning continues during the COVID-19 national emergency.” With this announcement, institutions will be able to target resources to all students with exceptional financial need. Institutions can also use the funds to retain students by providing academic or mental health support systems for students. “Additionally, institutions can reengage students by discharging student debts at their institution accrued during the pandemic.” A portion of the institutional funds can be used by public and private nonprofit institutions to implement evidence-based practices to monitor and suppress coronavirus in accordance with the public health guidelines.

A copy of the press release is found at: <https://www.ed.gov/news/press-releases/us-department-education-makes-available-36-billion-american-rescue-plan-funds-support-students-and-institutions>.

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A copy of the “Higher Education Emergency Relief Fund III Frequently Asked Questions” is found at:

https://www2.ed.gov/about/offices/list/ope/arpfaq.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=&utm_source=CER+Daily+News&utm_campaign=35d13c8ab4-EMAIL_CAMPAIGN_2018_07_31_05_42_COPY_01&utm_medium=email&utm_term=0_936a52d124-35d13c8ab4-297037085.

A copy of the new rule on student eligibility, which will allow undocumented students, those enrolled in the Deferred Action for Childhood Arrivals, and international students to access the emergency grants, is found at: <https://www2.ed.gov/about/offices/list/ope/finalheerfnfr.pdf>.

ED Announces Richard Cordray as COO of FSA

On May 3, 2021, the Department of Education announced that it has selected Richard Cordray as the Chief Operating Officer (COO) of Federal Student Aid (FSA). Mr. Cordray is the former Director of the Consumer Financial Protection Bureau (CFPB) and the former Attorney General of Ohio. FSA is responsible for managing the \$1.6 trillion portfolio of student loans owed by 45 million Americans. During his tenure at the CFPB, the CFPB brought enforcement actions that returned over \$12 billion to 30 million Americans. Many members of the higher education community have concluded that Mr. Cordray will take aggressive action on student loans and for-profit colleges.

A copy of the announcement is found at:

<https://www.ed.gov/news/press-releases/us-department-education-announces-richard-cordray-chief-operating-officer-federal-student-aid>.

FSA Reminds Institutions of Annual DUNS Number Registration

On April 29, 2021, Federal Student Aid (FSA) reminded institutions that they must complete the annual DUNS number registration process as soon as possible. The G5 website verifies the Data Universal Numbering System (DUNS) number in the General Services Administration (GSA) System for Award Management (SAM.gov) website before carrying out administrative actions that involve a DUNS number. Completing the registration process now will allow schools to be automatically set up to later receive a Unique Entity Number (UEN), a new school identifier expected to be a mandatory implementation in all Department of Education systems in April 2022.

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A copy of the announcement is found at:

<https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-04-29/reminder-annual-duns-number-registration-renewal-system-award-management-database-ea-id-general-21-28>.

FSA Announces 2021 Federal Student Aid Training Conference

On April 15, 2021, Federal Student Aid (FSA) announced that the 2021 Federal Student Aid Conference will be held on November 30 – December 3, 2021 and will be held virtually. FSA will continue to post additional information during the summer at:

<https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-04-15/2021-federal-student-aid-training-conference-we-are-virtual-again-ea-id-general-21-23>.

FTC Sends More than \$273,500 in Refunds to People Who were Scammed by Manhattan Beach Venture into Believing their Loan Payments would be Lowered or Eliminated

On May 5, 2021, the Federal Trade Commission (FTC) announced that it is sending more than \$273,500 in refunds to people who lost money to a student loan debt relief scheme that charged them illegal upfront fees and tricked them into believing their student loan payments would be permanently lowered or eliminated. According to an FTC complaint filed in September 2019, Manhattan Beach Venture deceptively marketed payment relief and loan forgiveness programs to people looking for help with their student loans.

A copy of the FTC press release is found at:

<https://www.ftc.gov/news-events/press-releases/2021/05/ftc-sends-more-273500-refunds-people-who-lost-money-student-loan>.

GAO Releases Report on How CARES Act Funds are Being Used

On April 20, 2021, the Government Accountability Office (GAO) released a new report on how institutions have utilized funding provided under the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* for emergency funds to students. As of November 2020, the Department of Education had awarded \$6.19 billion to 4,778 educational institutions that applied for emergency student aid funds from the Higher Education Emergency Relief Fund (HEERF). Of those funds, \$3.1 billion was allocated to public four-year institutions, \$1.3 billion to public two-year institutions, and \$1.1 billion to private nonprofit four-year schools. Within the total pool of funding, \$372.8 million and \$167.7 million were respectively allocated to private for-profit two- and four-year institutions.

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As of November 2020, institutions had drawn down about 90 percent or \$5.6 billion of their HEERF student aid funds, with the average grant amount per student being about \$830. About 70 percent of institutions had drawn down all of their student aid funds, and an additional 24 percent of institutions had drawn down at least half.

A copy of the GAO report is found at:

<https://www.gao.gov/products/gao-21-312r?source=email>.

Twenty-Three Organizations Write to Secretary Cardona Urging Relief for Individuals Seeking Borrower Defense to Repayment

On April 13, 2021, twenty-three organizations sent a letter to Secretary of Education Miguel Cardona urging him to address the borrower defense to repayment crisis. They asked the Secretary to provide relief to borrowers who were defrauded and who were failed by the Department under then-Secretary Betsy DeVos. The letter noted that by December 2019, the number of borrowers awaiting adjudication had increased to 200,000 from 17,000 in January 2017. The Department's decisions under Secretary DeVos led to a flood of "perfunctory denials" because the system churned out denials by ignoring ample evidence. The letter went on to say that the system also "systemically disregarded relevant evidence of school misconduct."

The organizations called on the Secretary to:

- Provide relief to borrowers who have been failed by the broken process of the last four years;
- Create a fair and efficient adjudication process for new borrower defense claims;
- Acknowledge that the individual application process, which forces students to assert legal arguments and provide extensive documentation, has prevented the most "vulnerable defrauded borrowers from obtaining relief;" and
- Take aggressive measures to more carefully safeguard Title IV funds and protect students from wrongdoing in the future.

A copy of the letter is found at:

https://www.nclc.org/images/pdf/student_loans/Cardona_Borrower_Defense_Ltr.pdf.

ACCET Announces Christopher Lamber as New Executive Director

On May 4, 2021, the Commission of the Accrediting Council for Continuing Education and Training (ACCET) announced that Christopher Lambert has been appointed as the agency's new Executive Director starting on May 17, 2021. Interim Director Judy Hendrickson recently

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announced her retirement taking effect on June 4, 2021. Mr. Lambert previously served as the Associate Executive Director of ACCSC and has extensive knowledge of the accreditation process and the regulatory environment for proprietary schools.

A copy of the ACCET announcement is found at:

https://www.career.org/uploads/7/8/1/1/78110552/5-04-21_member_notice_-_acct_executive_director.pdf.

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