

THE NATIONAL ASSOCIATION OF GRADUATE-
PROFESSIONAL STUDENTS

Legislative Letters

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Updates in Higher Education



Image Credit: Kaylyne Glover, "The Capitol"

Hello, everyone! It has been a while since the last time we have released a legislative letter, and a lot has happened in that time! The American Rescue Plan passed, and two more record-setting spending bills have been introduced: The American Jobs Plan and American Families Plan. The future of the NSF has also been under debate in congress with the Endless Frontier and NSF for the Future Acts. The Department of Education provided relief to federal student loan borrowers (forgiveness is still under debate), expanded SNAP benefits to many students, and has begun a review of their Title IX policies. The white house issued their prospective 2022 budget, with large increases to the Department of Education, NSF, and EPA. In the courts: student athletes make the case for pay and sponsorship, the status of transgender athletes is under debate, and LGBT students bring suit to the Department of Education, directly challenging the religious exemption to Title IX.

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THE EXECUTIVE BRANCH

DEPARTMENT OF EDUCATION

Student Loans

On March 18th, the department [announced](#) that it will streamline debt relief determinations for borrowers whose claims that their institution engaged in misconduct were approved. The Department projects that this will help 72,000 borrowers receive \$1 billion in loan cancellation. Updates to the program will be posted to StudentAid.gov/borrower-defense.

In a [March 29th announcement](#), the Department provided relief for borrowers with permanent disabilities from having their discharged loans be reinstated. From the announcement: “this will ensure that no borrowers are at risk of having their loans reinstated... for failure to provide earnings information during the COVID-19 emergency.” The Department estimates that this will rescind the reinstatement of more than \$1 billion in loans from 41,000 borrowers, and assist up to 230,000 borrowers in total.

The department also [announced](#) on March 30th that it will be expanding the pause on student loan interest and collections to all defaulted loans in the Federal Family Education Loan (FFEL) program. These changes will be made retroactive to March 13th, 2020. This will extend relief to over 1 million borrowers, 800,000 of whom were at risk of having federal tax returns seized to cover the defaulted loans. The Department will also be working to return tax refunds seized or wages garnished since last March.

Expansion of HEERF Program and SNAP Benefits

On March 19th, the department [issued guidance](#) on the use of funds under the Higher Education Emergency Relief Fund (HEERF), expanding their use for students and institutions. Under the new guidelines, institutions will be able to use their grants to discharge student debt, support student services, and reimburse themselves for lost revenue dating back to Mar 13th, 2020.

The department also informed postsecondary institutions that they may conduct direct outreach to students who meet the expanded SNAP eligibility set forth in President Biden’s Jan 22nd executive order. You can find out if you qualify under this program [here](#).

Secretary Cardona stated in the announcement that “One of my first priorities is to ensure that institutions of higher education have the financial support and resources needed to support their students...”

Title IX

On April 6th, the department [announced](#) that they will be performing a comprehensive review of the their enforcement of Title IX in light of President Biden’s March 8th executive order “Guaranteeing an

Educational Environment Free from Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity.” The Office of Civil Rights published [a letter](#) announcing a public hearing on the issue and soliciting public comment as the rulemaking process continues.

Appointments

On May 3rd, Richard Cordray [was appointed](#) as COO of Federal Student Aid. Cordray has previously served as the Attorney General of Ohio, and the Director of the Consumer Financial Protections Bureau. In an interview with [Politico](#), he stated his eagerness to take on the job, and that this is “A perfect opportunity for us to make very good progress forward on thinking about how we finance and make available higher education.” His appointment was not without its detractors, however, as Rep. Virginia Foxx (R- NC) stated: “I am skeptical that a failed Democrat politician, who has a history of getting consumed by politics instead of caring for consumers, has the capability and serious character required to carry out the duties of COO of FSA.”

WHITE HOUSE AND OTHER AGENCIES

2022 Budget Proposal

On April 9th, President Biden released his [preliminary budget proposal](#) for FY 2022. Included in this proposal was a record **41% increase to the Education Department** budget. [Included](#) in the \$102.8 billion allocation is an *additional* \$3 billion for Pell Grants and \$20 billion for Title I grants. The proposal also includes significant research investment: a **20% increase to both the NSF and EPA** budgets and a **\$14 billion dollar allocation to climate change research**.

Student Loan Forgiveness

With [further pressure](#) being placed on the President to fulfill his campaign promise to sign federal student loan forgiveness, two statements have been made recently that may give borrowers hope: White House Press Secretary Jen Psaki stated that the President would be “more than willing” to sign legislation that would relieve the \$10,000 per borrower which he outlined in his campaign.

Amidst this pressure for larger amounts of relief, White House Chief of Staff Ron Klain [stated](#) that Biden has asked the Department of Education to prepare a memo about his legal authority to cancel student debt of up to \$50,000 per borrower. In [previous statements](#) that Biden has made, his primary concern with this amount has been his authority to enact this policy without congressional approval.

Scientific Integrity Task Force

On May 10th, the White House Office of Science and Technology policy (OSTP) [announced](#) the co-chairs and formal launch of its scientific integrity task force. The primary work of the task force is to “conduct a thorough review of the effectiveness of agency scientific-integrity policies,” and is required to issue a report within 120 days of its initial meeting. More details on the goals of the task force can be found in the [original executive order](#) which formed it.

THE LEGISLATIVE BRANCH

LEGISLATION

American Rescue Plan

On March 13th, [Joe Biden signed the American Rescue Plan](#) (ARP), a [\\$1.9 trillion COVID relief plan](#), which included expansions of unemployment and rental benefits, \$1400 direct payments to individuals, and \$40 billion in funding for colleges and universities. The President's fact sheet on the bill is available [here](#).

One [notable rule change](#) that we have not previously discussed is to the 90/10 rule, governing for-profit universities. The rule states that a Title IV-participating institution must obtain *at least* 10% of its yearly revenue from sources other than Title IV. Rather than just Title IV funds, this has changed to “federal funds that are disbursed or delivered to or on behalf of a student.” The argument for this change was to protect veterans from being unfairly targeted by for-profit institutions: GI Bill and other VA programs will no longer count towards the 10% minimum. As the new rule is fairly broad, it will likely have much wider impact, as many other federal programs will no longer count under this umbrella. The rule will be up for negotiation after October 2021, and will be effective on January 1st, 2023.

American Jobs Plan

The second large spending bill to be brought forth by President Biden is the [American Jobs Plan](#), focusing on infrastructure. Totalling \$2 trillion over the next 8 years, the bill allocates approximately \$620 billion to transportation, as well as \$310 billion to broadband, electrical and water systems. The bill also includes \$400 billion in clean energy tax credits, as well as a \$590 billion investment in domestic manufacturing, R&D, and job training. This includes \$200 billion for improving research capacity across the country, specifically targeting rural areas and HBCUs. The [Committee for a Responsible Fiscal Budget](#) projects that the bill will be deficit-neutral after 15 years, and deficit-negative in the long term.

The latter provisions have sparked [significant debate](#) on the definition of infrastructure, and whether these “human” or “research infrastructure” provisions fall under this umbrella. With many Republicans balking at the high price tag, bipartisan support is [not expected](#), though Democrats may seek to pass the bill through the reconciliation process. Sen. Roy Blunt (R-MO) [has stated](#) that a narrowed version of the bill focusing on physical infrastructure would be “an easy win for the White House.”

American Families Plan

On April 28th President Biden [announced](#) the third in his series of economic bills: The American Families Plan described in the announcement as “an investment in our children and our families—helping families cover the basic expenses that so many struggle with now, lowering health insurance

premiums...” Though widespread in the issues it takes up, the \$1.8 trillion dollar bill [includes](#) \$109 billion to fund tuition free community college, an additional \$80 billion for Pell Grants, and \$62 billion for a grant program “to invest in completion and retention activities at colleges and universities.” In a similar vein to The American Jobs Plan, it is likely to struggle to obtain bipartisan support. Minority Leader McConnell stated of the two spending bills: “I don't think there will be any Republican support - none, zero - for the \$4.1 trillion grab bag...”

Endless Frontier and NSF for the Future Acts

On April 20th, majority leader Chuck Schumer introduced the [Endless Frontier Act](#), ticketed as a massive stimulus to US research, and a step toward competitive research spending with China. The bill would rename the NSF as the National Science and Technology Foundation, establish a list of “key technology areas”, and allocate \$100 billion for research in these areas. After passing through committee on Wednesday, the total allocation has been reduced to \$40 billion, and [several amendments have been added](#). Todd Young (R-IN), a co-author of the bill, characterized some of these additions as “poison pills.”

An alternative bill was introduced to the house, the [NSF for the Future Act](#). It establishes a similar technology directorate, though now focused on several “societal challenges”, and would double the organization's budget over the next five years.

Student loan Disclosure Modernization Act

On April 30th, the Student Loan Disclosure Modernization Act was reintroduced in both houses of Congress. The bill is designed to simplify the Plain Language Disclosure Forms for federal loan programs, requiring that they emphasize the material terms of the loan, are signed by the student *every time* they take out a loan, and are tested by consumers to ensure that borrowers fully understand the terms of their loans.

HEARINGS AND OVERSIGHT

House Science Committee on US Research

On April 15th, the house science committee hosted [a hearing](#) on “Reimagining our Innovation Future”, to consider strategic challenges faced by the US research enterprise. Though competition with China was cited as a primary motivation for increasing research funding, Chair Bernice Johnson (D-TX) cautioned against pursuing R&D “solely through the lens of competition.”

THE JUDICIAL BRANCH

THE SUPREME COURT

Pay for College Athletes?

On March 31st, the Supreme Court heard arguments on [NCAA v. Alston](#), which asks the question: do the NCAA eligibility rules regarding compensation of student athletes violate federal antitrust laws? After a 9th Circuit decision that these policies *do* violate antitrust laws, the justices [appeared to be favorable](#) to student payment, citing the billions of dollars in revenue from collegiate sports, as well as “the bizarre nature of a market that depends on free labor.”

Currently, several state laws are set to [take effect](#) on July 1st, which would prevent institutions from “prohibiting student-athletes from receiving compensation from third parties for the rights to their name, image and likeness.”

Department of Justice

Memo on Title IX

Clarifying [a memo](#) released by the Department of Education in January, the Department of Justice released [a memo](#) stating that the Supreme Court Case [Bostock v. Clayton County](#) does apply to the execution of Title IX. The case originally held that title VII’s (dealing with University employees) definition of “sex” prohibited discrimination on the basis of sexual orientation and gender identity. The extension of this decision to students comes amidst significant debate over the status of transgender athletes in collegiate sports and several states [implementing bans/limits](#) on transgender athletes.

DOJ to Appeal Ruling on Eviction Moratorium

On May 5th, a federal court [ruled against](#) the CDC eviction moratorium. In the 20-page decision, District Judge Dabney Friedrich ruled that the Public Health Service Act does not grant the CDC the legal authority to impose a moratorium on all residential properties nationwide. The CDC previously sought to extend the moratorium to June 30th at the behest of President Biden. After the decision, Brian Boynton, Acting Asst. Attorney General for the Civil Division, stated that “In the department’s view, that decision conflicts with the text of the statute, Congress’s ratification of the moratorium, and the rulings of other courts.”

LITIGATION

Students file suit against Department of Education

On March 29th, 33 former and current students of religious institutions [filed a suit](#) against the Department of Education, asking that the religious exemptions to sex-based discrimination as it applies to LGBT students be declared unconstitutional. [The students allege](#) that the Education Department failed to protect them from discrimination and other harmful practices at their institutions, stating “when the government provides public funds to private actors, like the colleges

and universities... the Constitution restrains the government from allowing such private actors to use those funds to harm disadvantaged people”.

Three additional institutions not mentioned in the suit have [motioned to intervene](#) in the suit, stating that the “the very existence of Title IX’s religious exemption is at stake”.

Transgender Athlete case reaches Court of Appeals

[Earlier this month](#), the 9th Circuit Court of Appeals [heard arguments](#) in the case of two Idaho student athletes challenging the state’s law regarding transgender athletes. The first student is transgender and wished to compete in the women’s cross country team, and the second is a cis-female who feared invasive tests to prove her gender that are outlined in the law. Both plaintiffs’ standing came under scrutiny by the judges, as the first student is no longer attending their university, while the second is not subject to such tests as she is not transgender. We will have to wait and see how the court rules on the case, and how later challenges to similar laws will develop.

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[NCAA announces that it will not allow championship events in areas with discrimination](#)

[Sorority opens doors to nonbinary students](#)

[“A flier, and so much more” Defining racism and free speech on campus](#)

[Missouri makes controversial changes to diversity and inclusion centers](#)

The State of Higher Education

[Inside Higher Ed: Driving Transformation in Higher Education](#)

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Higher Education Policy

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Reports

[Higher Education's Response to the COVID-19 Pandemic: Building a more sustainable and democratic future.](#)

[The scope and effect of Transcript withholding on students, states, and institutions](#)

[House Science Committee: Scientific Brain Drain in Federal Agencies](#)

[President's Alliance on Higher Education and Immigration: Legislative Recommendations](#)

[Hobsons: How the Pandemic Changed Admission Practices in 2020 and beyond.](#)

[EAB Survey: Low income and First-gen students and difficulties with the FAFSA](#)

[AAUP: Faculty Compensation and University COVID Responses](#)

[What employers want: survey results from Association of American Colleges and Universities](#)

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Presentations

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