

THE NATIONAL ASSOCIATION OF  
GRADUATE-PROFESSIONAL STUDENTS

# Legislative Letters

August 29th, 2021

[Subscribe](#)

## Updates in Higher Education

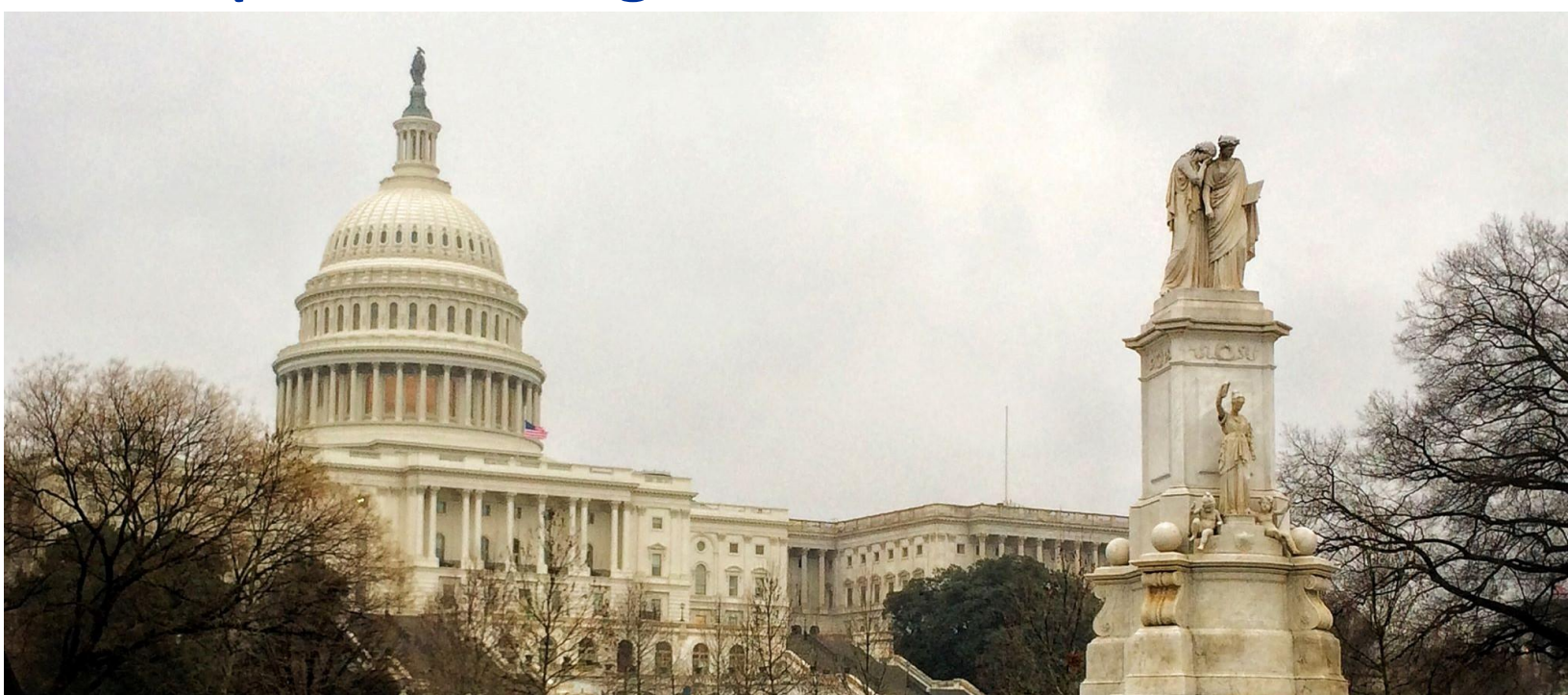


Image Credit: Kaylynne Glover, "The Capitol"

Hello and welcome back! Let's take a look at what has been going on in higher education policy!

The 2022 budget and infrastructure packages have occupied congress as of late, with initial instructions now having been passed to congress, and infrastructure expected to be voted on within the next month. Student debt has also been at the forefront, with forbearance being extended for a final time, and a hearing taking place in the Senate Judiciary committee. Significant action also taking place on Title IX, with new rulings coming out in the courts and in the Department of Education.

Thad Potter, Director of Legislative Affairs, [legislative@nagps.org](mailto:legislative@nagps.org)

# THE EXECUTIVE BRANCH

## DEPARTMENT OF EDUCATION

### Student Loan Forbearance Extended for the Final Time

On August 6th, the Education Department [announced](#) a final extension to the Federal Student Loan Forbearance that has been in effect since March of 2020. The expiration date for the program will be January 31st, 2022. From the announcement: “The payment pause has been a lifeline that allowed millions of Americans to focus on their families, health, and finances ... this final extension will give students and borrowers the time they need to plan for restart and ensure a smooth pathway back to repayment.” At the time of this announcement, the program has prevented more than \$70 billion in interest from accruing on student loans.

### Broad Student Loan Forgiveness Unlikely in Immediate Future

Though President Biden campaigned on forgiving \$10000 per-borrower in student loans, it seems increasingly unlikely that this will be coming any time soon. Back in April, President Biden [directed the Education Department](#) to examine his authority to cancel student debt by executive order. With no word from the department or the White House, and nothing in the 2022 budget which appears to be targeted at this sort of program, it appears that an act of congress would be required to get this policy enacted. Speaker Pelosi [recently joined](#) this side of [the debate](#), going so far as to state “The president can’t do it - so that’s not even a discussion.” This is in opposition to [statements made](#) by several senators on the issue.

### Rulemaking Committee on Loan Servicing, Public-Service Forgiveness

After a series of [public hearings](#) in late June, the Department of Education [announced](#) earlier this month that they will be establishing a rulemaking committee to rewrite regulations around Public Service Loan Forgiveness as well as several issues surrounding student loan servicing, including income-based repayment, borrower defense to repayment, and pre-dispute arbitration. Also included in these negotiations will be Pell Grant eligibility for prison education programs, as well as false certification and permanent disability discharges.

### Title IX: Hearings and Enforcement for the Fall Semester

In early June, the Dept of Education hosted [virtual public hearings](#) on Title IX and collected written comments on its enforcement, starting their comprehensive policy review. [Two items featured prominently](#) in the hearings, and have had significant developments since then. First, the Trump-era policy which prevented decision-makers from considering the statement of any party who did not appear at a hearing subject to cross-examination. This policy [was vacated](#) by a Federal Judge last month, and the Department appears to have [no interest](#) in reinstating it. Second, discrimination on the basis of sexual orientation and gender identity. The department has since [clarified](#) that Title IX’s protections *do* extend to these cases, as previously applied to Title VII in [Bostock v. Clayton County](#).

## WHITE HOUSE AND OTHER AGENCIES

### Office of Science and Technology Policy

On May 28th, the senate voted to confirm Eric Lander as the Director of the White House Office of Science and Technology Policy (OSTP). In a statement after the vote, Lander remarked that “America’s future depends on science and technology like never before. In elevating OSTP to the Cabinet, President Biden made clear that science and technology will be central to solving the nation’s most urgent challenges.” As Director of the OSTP, Dr. Lander will be coordinating the [ongoing review](#) of scientific integrity policies across federal agencies.

Since his appointment, the OSTP has hosted several public hearings: on [equity in science](#), climate change, and artificial intelligence. It has also [solicited public comments](#) on their activities with the scientific integrity task force, and issued [guidance](#) on research security and researcher responsibility.

# THE LEGISLATIVE BRANCH

## LEGISLATION

### 2022 Budget and Infrastructure

After [returning from their Summer recess early](#), and a [standoff](#) between Speaker Pelosi and 9 house democrats, the \$3.5 trillion budget resolution has passed the house. Across both chambers, the [Education and Labor budgets](#) total approximately \$1.5 trillion, but we will have to wait and see how these break down as the process continues. That being said, [the instructions for the committees](#) do indicate that Education will be a large priority. They call for an increase in the maximum Pell Grant award, investments in research infrastructure and HBCU’s, and “health equity (maternal, behavioural and racial...)” Also built-in to this bill is a non-binding commitment to vote on infrastructure by September 27th.

The infrastructure package has gone through significant revision since the president’s initial proposal, focusing more on traditional infrastructure. The bill [includes](#) \$274 billion in spending on transportation and transit, \$89 billion on energy and water infrastructure, and \$48 billion on broadband.

### US Innovation and Competition Act

After [significant debate](#) and changes both in and out of committee, the Endless Frontier Act, along with several other bills, has now been bundled into the [US Innovation and Competition Act](#), which passed the senate on June 8th. The package contains provisions which limit gifts from foreign countries to Universities, restrict federal funds from researchers who are participating in some nation’s “talent recruitment programs”, and deny visas to individuals who are deemed to be a risk of misappropriating “sensitive or emerging technologies.”

## HEARINGS AND OVERSIGHT

### Student Debt

On August 3rd, the Senate Judiciary Committee hosted [a hearing](#) on Student Loan Bankruptcy Reform. In his opening remarks, Chair Durbin remarked on the crushing weight of student loans and the great difficulty involved in discharging them. “Proving undue hardship is nearly impossible ... you have to convince a bankruptcy judge it’s hopeless that you will ever repay, while the department of education ... is arguing against you. In 2017, the Wall Street Journal looked for [successful] undue hardship cases. They found 4.” He also drew attention to [a bill](#) which would reinstate a waiting period after which it would be easier to get student debt discharged through bankruptcy. Ranking member Grassley remarked that “We have to deal with it at a larger scale ... we must look at the entire higher education ecosystem to solve these challenges.”

# THE JUDICIAL BRANCH

## THE SUPREME COURT

### Eviction Moratorium

In late June, the Supreme Court [declined to lift](#) the Biden Administration’s eviction moratorium, citing its upcoming expiration date. The court did, however, [state](#) that any future policies would require an act of congress to implement. With no such act, the CDC extended the moratorium in late July, and was struck down shortly after. In early August, the CDC issued a second moratorium, which was then challenged on the same grounds. The court again [ruled against](#) the moratorium on August 26th, stating that “Congress was on notice that a further extension would almost surely require new legislation, yet it failed to act...”

### Pay for College Athletes

On June 21st, 2021, the Supreme court ruled in favor of student athletes in the case NCAA v. Alston. [Starting on July 1st](#), the NCAA has suspended their amateurism rules, allowing student-athletes to profit from their names, images, and likeness in deals with third-parties. At this time, 19 states have already passed legislation allowing and regulating these deals.

## Department of Justice

### Brown University Settles after Denying Readmission

Between Fall 2012 and Fall 2017, [Brown University denied readmission](#) to many students after they had taken mental health leaves. The Department of Justice reached [a settlement](#) with the University on August 10th, resolving that the University violated Title III of the ADA by not allowing the students to return to campus. As part of the settlement, the University must revise its readmission policies,

provide training on the new policies to its faculty and staff, and pay nearly \$700,000 to the students who were harmed by the policy.

## LITIGATION

### **Kesterson v. Kent State University**

[Kesterson](#) is a former student athlete at Kent State who was sexually assaulted by the son of her then softball coach in her freshman year. She reported this to her coach at the conclusion of her sophomore year, as well as several other administrators at the university. Despite being mandatory reporters, none of them notified the proper authorities. In fact, the coach was claimed to have taken retaliatory action against Kesterson. One question of the case was if the University violated her rights under Title IX. The sixth circuit court appeals ruled that the university *did not*, as the coach is not considered an “appropriate person” to put the institution on notice of student-on-student sexual harassment under Title IX. [This begs the question](#), who is an appropriate person, and how is a student supposed to identify them under the duress of a sexual assault?

### **Klaassen v. Trustees of Indiana University**

One of the [several challenges](#) to University Vaccine mandates, this case was the first to make it to the supreme court. In it, a group of students sought to challenge the requirement that all students, faculty and staff (subject to medical and religious exemptions) receive a COVID-19 vaccination prior to arrival for the Fall semester. Justice Barret denied the request with [little explanation](#).

# IN RELATED NEWS...

## ONGOING/UPCOMING CAMPAIGNS

Sign on to letter urging loan forgiveness:

<https://www.nationofchange.org/2021/05/18/urge-biden-administration-to-cancel-student-loan-debt>

## RELEVANT READS

### Diversity, Inclusion, and Social Justice

[Is a fair Title-IX system possible?](#)

[Higher Education: Equalizer or Engine of Inequality?](#)

[Inside Higher Ed: Equity Now](#)

### The State of Higher Education

[Improving the student experience when in-person learning isn't possible](#)

[How will the pandemic change post-secondary education?](#)

[Families Underestimate the Cost of College](#)

[A crash course in Career Development](#)

### Higher Education Policy

[State Higher Ed Funding Increases for 8th Straight Year](#)

[Seizing the Moment: how can universities use recent funding and adapt to the new landscape?](#)

## REPORTS AND PRESENTATIONS

[Phone2Action: Raising Money in a Challenging Time](#)

[\(Forbes Summary\) New America: General Perceptions of Higher Education \[Graphics from the report\]](#)

[\(Inside Higher Ed Summary\) Changing Landscape of Online Education Report](#)

[The Hope Center: Real College During the Pandemic \[Basic Needs Insecurities\]](#)

## Other Newsletters

[Open Campus' Weekly Dispatch](#). "Each week, we try to highlight how college is (or is not) working for citizens and communities."

*Want to let us know how we can improve? [Give us feedback!](#)*