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# The Federal Update for May 12, 2023

From: Michael Brustein, Julia Martin, Steven Spillan, Kelly Christiansen

Re: Federal Update

Date: May 12, 2023

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## Legislation and Guidance

### Congress, White House Make Little Progress on Debt Limit Deal

Congressional leaders and President Joe Biden have made minimal progress this week on negotiations to increase the national debt limit, as the possibility of a national default inches closer. The latest estimations from the U.S. Treasury and outside organizations predict that the U.S. will surpass the current debt limit by June 1.

House and Senate leaders met with the President on Tuesday; however, no agreements resulted from the meeting. The key sticking point is reportedly whether to pass a “clean” debt limit increase, which Democratic leaders favor, or to include cuts to or caps on future spending as part of a debt limit package. The House passed a bill last month backed by Republican lawmakers that would impose cuts on future discretionary spending, along with other fiscal provisions, and temporarily increase the debt ceiling. Senate Democrats and the White House have said they do not support that legislation due to the level of spending cuts.

Congressional leaders and the President had planned to meet again today, but that meeting has been delayed to next week. In the meantime, White House and Congressional leadership staff are working to make progress on a deal, which reportedly may include spending caps and a rescission of unused COVID-19 relief funds in addition to a debt ceiling increase, but negotiations are still in flux. It remains unclear whether an agreement on raising the debt limit will also include a deal on fiscal year 2024 spending levels.

A national default would be unprecedented and have significant economic repercussions, including a potential delay in the July 1 distribution of fiscal year 2023 education funding to grantees, though the precise impact remains uncertain.

Resources:

Paul Kane and Tyler Pager, “Debt ceiling meeting between Biden, congressional leaders postponed,” May 11, 2023.

Author: KSC

### ED Issues CRRSAA Late Liquidation Guidance

Last week the U.S. Department of Education published an updated late liquidation guidance document for the Elementary and Secondary School Emergency Relief Fund (ESSER). The updates include the second round of ESSER funds as well as the Governors Emergency Education Relief Fund (GEER) and the first round of the Emergency Assistance to Non-Public Schools (EANS) program.

The late liquidation process for the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) mirrors the earlier published process for the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Under these processes, States must collect and review documentation for each late liquidation request to ensure that expenditures have been obligated in a timely manner, that there is a justification for the request beyond simply needing additional time to spend down funds, and an assurance that districts have been assessed for risk and have sufficient “capacity for liquidating funds within the extended period.”

ED recommends submission prior to December 31, 2023 for the CRRSA requests. The [updated guidance is available here](https://oese.ed.gov/files/2023/05/Updated-Technical-FAQs-for-Liquidation-Extensions-5.5.23.pdf).

Author: JCM

### House Committee Moves Resolution to Cancel Loan Forgiveness

On Wednesday the House Committee on Education and the Workforce agreed by a vote of 24-18 to a resolution under the Congressional Review Act which would rescind the President’s student loan forgiveness plan.

The Congressional Review Act (CRA) allows Congress to move for the rescission of specific rules or regulatory action. A recent memo from the Government Accountability Office (GAO) suggested that student loan forgiveness is a regulatory action and would be subject to the CRA. But such resolutions require the approval of both chambers of Congress as well as the President, and President Biden is extremely unlikely to sign this resolution.

A provision to block student loan relief was part of the House-passed proposal to raise the debt ceiling considered last month, but both the Senate and the President have said they do not support that legislation. Democrats on the Committee also warned that the resolution as written would invalidate the suspension of student loan payments and interest back to 2022, making borrowers eight months behind in their payments and subject to late fees.

The student loan forgiveness plan, which would forgive up to $20,000 of debt per student borrower earning under $125,000 per year, is also subject to litigation before the United States Supreme Court. A decision in the case is expected by the end of June, and the Department of Education has said that it will restart student loan payments no later than September for loans which are not eligible for forgiveness following the decision.

Author: JCM

## News

### Lawmakers Call for ED to Rescind OPM Guidance

Last week, a second lawsuit was filed against the University of Southern California (USC) and 2U, an online program management (OPM) company. The class action lawsuit was filed by the Project on Predatory Student Lending and alleges that prospective students were misled when considering enrollment in USC’s online Master in Social Work program. The program, including recruiting of potential studentst, is largely administered by 2U. The lawsuit alleges that while there were “different resources, access, and treatment” for students in the online program than for students in the in-person program, USC and 2U deceived students by advertising the online program as the same as the in-person program.

This lawsuit comes after a similar lawsuit filed by the National Student Legal Defense Network late last year. In that case, the complaint alleges that USC and 2U used incorrect rankings to entice students to enroll in online programs through USC’s Rossier School of Education. Both lawsuits point to the tuition-sharing agreement between USC and 2U, and argue that 2U is engaging the deceptive recruiting practices to increase enrollment and, therefore, maximize revenue.

In response to the most recent case, Representatives Rosa DeLauro (D-CT), Mark Takano (D-CA), Pramila Jayapal (D-WA) issued a press release renewing their call for the U.S. Department of Education (ED) to rescind guidance that it released in 2011. In March, they released a letter to Secretary of Education Miguel Cardona, asking ED to review and rescind the guidance.

ED’s 2011 guidance created a “bundled services” exception to the incentive compensation ban, which prevents institutions of higher education (IHEs) from providing compensation to recruiters that incentivizes securing student enrollment. The exception provided in the 2011 guidance allows tuition-sharing agreements between IHEs and OPMs to include funds for recruitment, as long as the payments are bundled with other services.

DeLauro, Takano, and Jayapal are concerned that OPMs profit from the disproportionate loan debt that students take on for these programs, and that the bundled services exception allows for aggressive recruiting for low-value degree programs. They have asked ED to rescind the “flawed” 2011 guidance and prevent OPMs and IHEs from profiting from these deceptive practices.

[The Press Release can be viewed here.](https://democrats-appropriations.house.gov/news/press-releases/delauro-takano-jayapal-call-on-ed-to-rescind-for-profit-opm-guidance-in-light-of) [The new lawsuit complaint can be viewed here.](https://static1.squarespace.com/static/62d6e418e8d8517940207135/t/6453d2437f7ad8622f42a424/1683214923582/USC+Complaint.pdf)

Resources:

Alia Wong, “University of Southern California sued over online 'diploma mill' programs,” *USA Today*, May 4, 2023.

Author: BNT

### Senate Confirms New Special Education Leader

The Senate has confirmed Glenna Wright-Gallo to be Assistant Secretary for Special Education and Rehabilitative Services at the U.S. Department of Education. The Senate voted to confirm Wright-Gallo Wednesday on a 52-44 vote. She was first nominated in December of 2021.

In a statement following the vote, Secretary of Education Miguel Cardona praised Wright-Gallo as a “lifelong educator and accomplished special education leader.” She previously worked on special education issues at the State level in Washington and Utah.

Author: JCM

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