



# SHEEO

STATE HIGHER EDUCATION EXECUTIVE OFFICERS ASSOCIATION

## Federal Policy Update

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MHEC Annual Meeting

November 14, 2023

Tom Harnisch, Vice President for Government Relations, SHEEO

# Today's Presentation

- **Budget and appropriations**
- **Federal Legislation**
- **FAFSA Simplification**
- **Student Loan Repayment**
- **Regional Tech Hubs**
- **Regulations**

# Budget and Appropriations

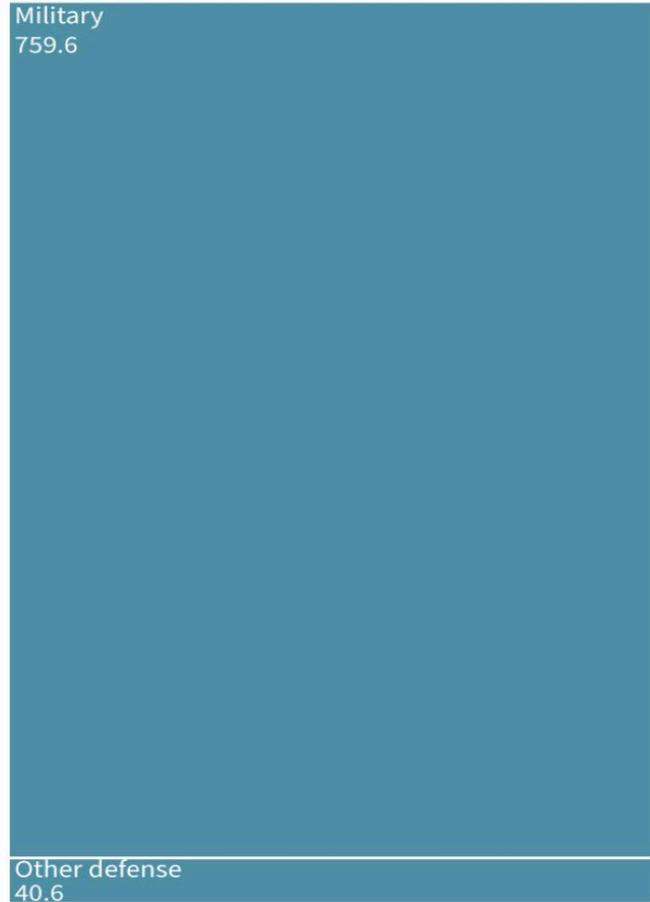
- The federal budget was due on October 1, but a continuing resolution (CR) will keep the government funded until November 17
- House Speaker Mike Johnson and the House GOP conference has proposed a “laddered CR” to keep the government funded
- The “laddered CR” would not include budget cuts or funding for Israel. The funding for some budget bills would continue until January 19 for some spending bills, and Feb. 2 for others
  - Labor-HHS-Education would be in the second tranche
- The bill is generally a “clean” CR (but does include a 1-year extension of the farm bill)
- House conservatives want to avoid a massive omnibus spending bill before the December holidays, as has been the practice in recent years. This would lead to negotiation of individual spending bills.
- Democrats and the White House want a clean CR



# Budget and Appropriations

- Senate Appropriations Committee completed work on all appropriations bill this summer, essentially flatlining spending in accordance with the debt ceiling agreements. Broad bipartisan support.
- House has called for deep cuts to non-defense discretionary spending bills, but have struggled to pass their bills out of the chamber
- Speaker Johnson has promised to discharge the Labor-HHS-Education spending bill, essentially bypassing the full committee and go straight to the floor this week

# Budget and Appropriations

**Defense  
\$800.2 billion**

**Non-defense  
\$936 billion**

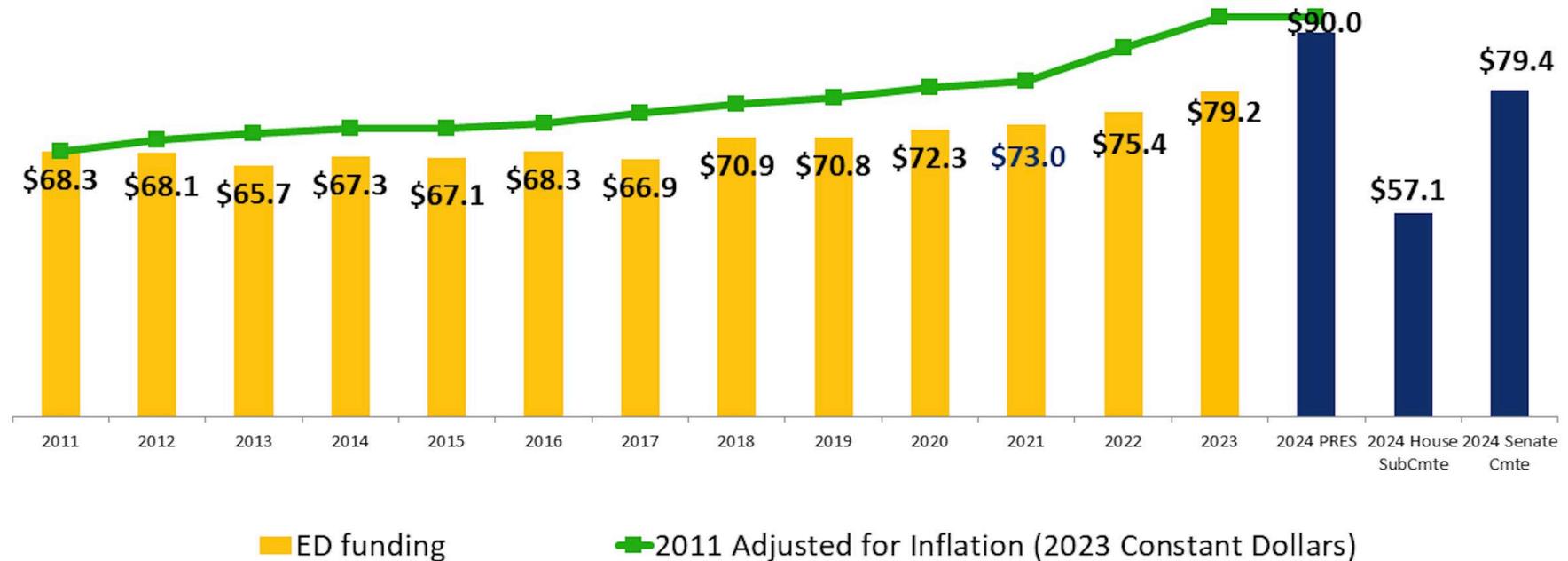

Source: White House Office of Management and Budget

Prinz Magtulis | Reuters, May 24, 2023

Estimated U.S. government discretionary spending for fiscal year 2023, in billion US dollars

# Budget and Appropriations

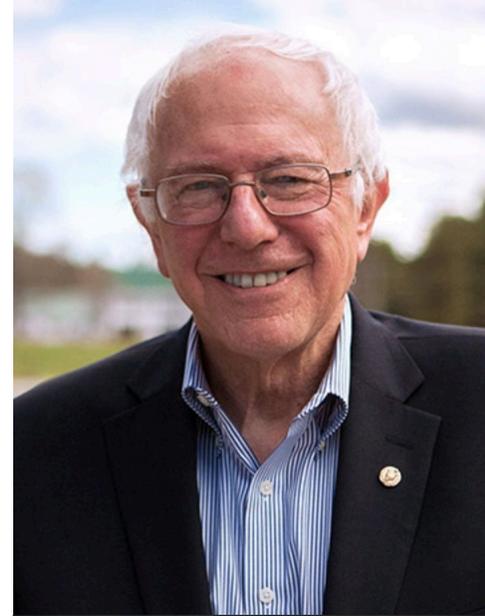
FY 2024 Education Funding Proposals Vary Widely but All Keep Funding Below 2011 Level in Inflation-Adjusted Terms  
 (Department of Education Discretionary Funding in Billions of Dollars)



Funding	FY23	FY24-President	FY24-Senate Cmte	FY24-HouseSubCmte
Max. Pell Grant	\$ 7,395	\$ 8,215	\$ 7,645	\$ 7,395
Federal Work-Study (billions)	\$ 1.230	\$ 1.230	\$ 1.220	\$ -
FSEOG (billions)	\$ 0.910	\$ 0.910	\$ 0.900	\$ -
TRIO (billions)	\$ 1.191	\$ 1.298	\$ 1.191	\$ 1.191
GEAR UP (billions)	\$ 0.388	\$ 0.408	\$ 0.388	\$ 0.388
Campus Child Care (billions)	\$ 0.075	\$ 0.095	\$ 0.800	\$ -
Graduate Assistance-National Need (billions)	\$ 0.024	\$ 0.024	\$ 0.024	\$ -
Postsecondary Student Success Grants (billions)	\$ 0.045	\$ 0.165	\$ 0.045	\$ 0.015
Hawkins-Teacher Prep (billions)	\$ 0.015	\$ 0.030	\$ 0.015	\$ -

# Federal Legislation

- There are contrasting visions from top lawmakers on the future of higher education policy
- **Chair Bernie Sanders (I-VT)-College for All Act**
  - Free community college for all
  - Free public four-year college for those making less than \$125,000 annually/\$250k couples through a state-federal partnership
  - Tuition eliminated at HBCUs/HSIs/MSIs
  - Doubles Pell Grants for students and public and private nonprofit campuses
  - \$10 billion to scale evidence-based practices and strategies
  - Triple TRIO Funding
  - Double GEAR UP funding
- **Ranking Member Bill Cassidy (R-LA)-Lowering College Costs and Student Debt Act (Package of 5 bills)**
  - Federal unit record data system
  - Uniform financial aid letters
  - Better information on student loans
  - Streamlines and reduces the array of loan repayment options
  - Ends Graduate PLUS Loans, allows institutions to set lower borrowing limits by program



# Federal Legislation

- Piecemeal approach to the reauthorization of the Higher Education Act (HEA). The HEA was last authorized in 2008.
- List of issues:
  - Tighter reporting requirements on foreign gifts and contracts
  - Expanding Pell Grants to short-term programs
  - Risk-sharing on student loans
  - Ensuring free speech on campus
  - Accreditation reform
- Some of these issues have bipartisan support, while others don't.
- GOP lawmakers are frustrated by the Biden Administration's aggressive changes to policy via the regulatory process.
- Little hope of a comprehensive HEA reauthorization in this Congress.



# FAFSA Simplification

**FAFSA**® Form

Free Application for Federal Student Aid

July 1, 2024 – June 30, 2025

Federal Student Aid  
AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION

Use this form to apply free for federal and state student grants, work-study, and loans. Or apply free online at [fafsa.gov](https://fafsa.gov).

### Apply by the Deadlines

For federal aid, submit your application as early as possible, but no earlier than **December XX, 2023**. We must receive your application no later than **June 30, 2025**. Your college must have your correct, complete information by your last day of enrollment in the 2024–25 school year.

For state or college aid, the deadline may be as early as December 2023, and you may need to complete additional forms. Check with your high school counselor or a financial aid administrator at your college. See the state deadlines on page 2. If you are applying close to a deadline, we recommend you submit your FAFSA form online at [fafsa.gov](https://fafsa.gov).

- The new FAFSA is expected to be released in mid or late December
- Some states with early deadlines have adjusted their state financial aid deadlines due to the late start, and some have launched their state applications
- Some outstanding issues
  - “Investment” farms
  - How professional judgement will be used for the number of children in college
  - Restriction on state agency use of federal tax information
  - The process for parents/contributors without social security numbers

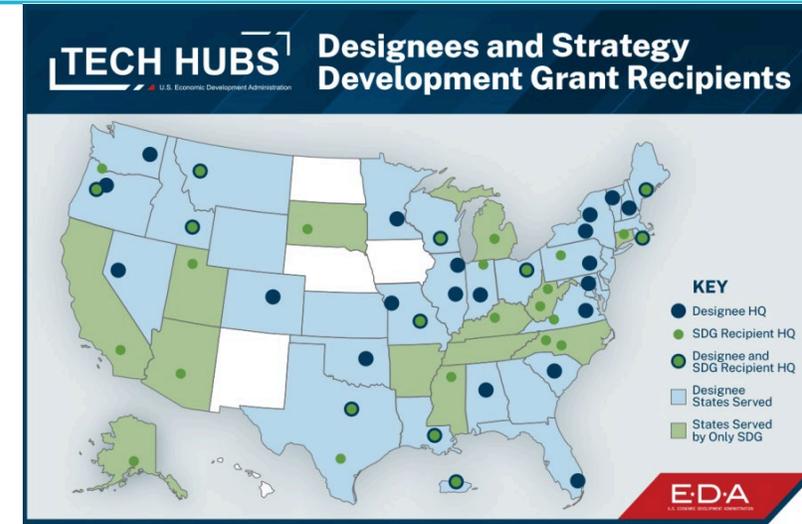
# Student Loan Repayment



- In August, the Biden Administration launched the Saving on a Valuable Education (SAVE) Plan
- Details
  - Borrowers pay 5 percent of their income above 225 percent of the federal poverty level instead of 10 percent of their income above 150 of the federal poverty level.
  - Single borrowers earning less than \$32,800 or a family of four making less than \$67,000 annually will have \$0 repayment.
  - Borrowers with principal balances were \$12,000 or less will receive forgiveness after 10 years of payments. For each additional \$1K borrowed above that, the plan adds an additional 12 payments for a max of 20 or 25 years.
  - Balance will not grow from unpaid interest, even if interest is accruing
- 5.5 million borrowers have signed up for the SAVE plan thus far

# Regional Technology Hubs

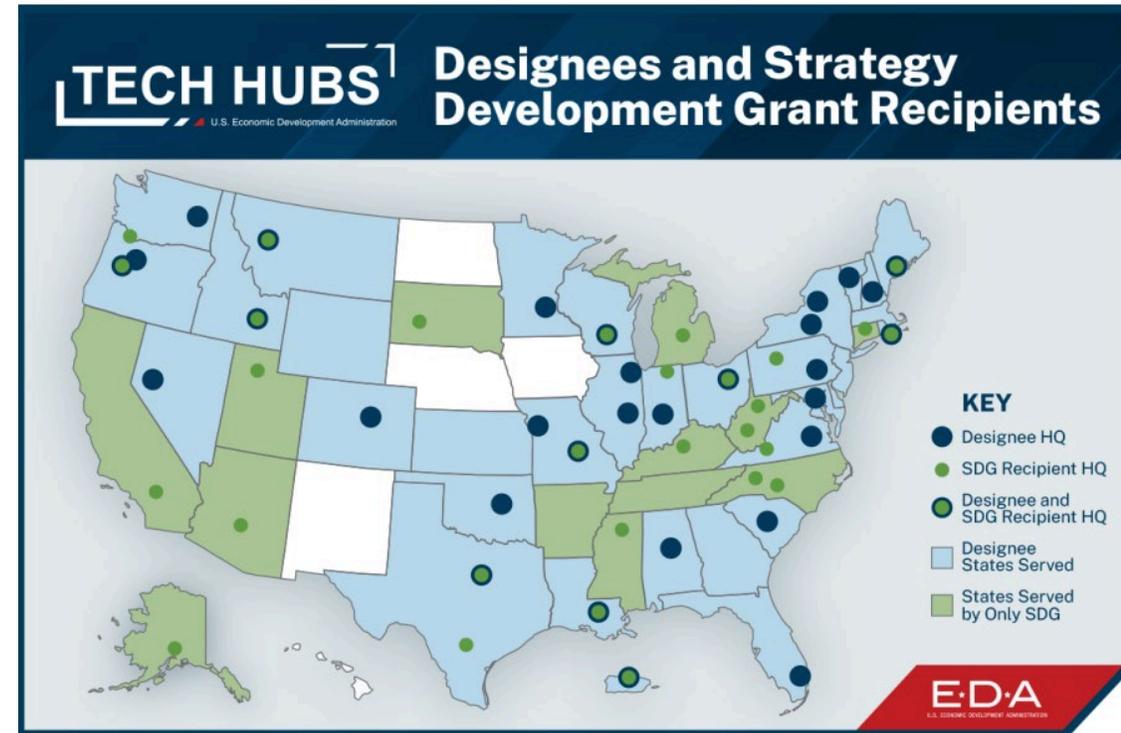
- The CHIPS and Science Act, signed by President Biden in August 2022, included investments in regional tech hubs. SHEEO advocated for this program.
- The Regional Tech hubs program invests in regional consortia consisting of private industry, the public sector, nonprofits, and academia.
  - Focused on workforce, economic growth, innovation and commercialization, economic and national security.
  - Hubs will be eligible for more funding opportunities, branding and technical assistance, foreign direct investment, and intellectual property guidance.
  - Hubs can compete for up to \$75 million in federal funding.
  - 18 coalitions in addition to the Hubs received Strategy Development Grants to compete for future rounds of funding.
  - The Biden administration announced 31 tech hubs in 32 states and Puerto Rico from a pool of 200 applications.
  - Six include Tribal nations, 22 benefit small/rural communities, four are low populations states, four are in coal communities, 12 have ties with labor organizations, 14 are in states that historically receive less federal funding.



Source: EDA.gov

# Regional Technology Hubs

- Hubs include
  - Safe and autonomous systems (3)
  - Quantum edge (2)
  - Biomanufacturing (6)
  - Precise and predictive medicine (5)
  - Energy transition (5)
  - Supply chain (2)
  - Semiconductor manufacturing (4)
  - Materials manufacturing (4)



# Overtime Rule

- The Biden Administration has proposed changes to the Fair Labor Standards Act overtime pay requirements
- To be exempt from overtime pay employees must be three criteria:
  - Must be salaried
  - Must earn at least \$35,568
  - Primary duties must be executive, administrative, or professional
- In 2016, the Obama Administration proposed increasing the minimum threshold from \$23,660 to \$47,476. This was overturned by a 2017 federal court ruling. The Trump Administration increased it to **\$35,568** per year starting January 1, 2020. The Biden Administration would increase it to **\$55,068**, a 55 percent increase. This would extend eligibility to 3.6 million workers nationwide. Housing compensation does not count.
- College faculty and non-faculty focused on teaching are not covered under this rule due to the “teacher exemption”
- Student workers are not covered under this policy
- Non-faculty members making less than the salary threshold will have to be paid on an hourly basis and will be eligible for overtime pay. This includes admissions personnel, registrars, student affairs professions, and IT staff.
- Higher education associations generally opposed, arguing it will lead to layoffs or higher tuition

# New Regulations

Source: ED.gov

- Just released: The Biden administration just announced new regulations starting on July 1, 2024
  - Gainful Employment
  - Financial Responsibility
  - Administrative Capability
  - Certification Procedures
  - Ability to Benefit
- Ongoing: Current negotiated rulemaking over student loan forgiveness, expected to finish up in December
- Early 2024: Institutional Quality and Accountability Negotiated Rulemaking
- Non-Title IV: We are still waiting on the new Title IX regulations, which are on a separate process and timetable

# Gainful Employment

- Yesterday, the Biden Administration released the “Gainful Employment” rule directed at for-profit colleges and career programs at two-year colleges
- The Gainful Employment Rule:
  - “A debt-to-earnings rate that compares the median annual payments on loan debt borrowed for the program to the median earnings of its Federally aided graduates. For a program to pass, its graduates’ debt payments must be no more than 8% of annual earnings or 20% of discretionary earnings, which is defined as annual earnings minus 150% of the Federal poverty guideline for a single individual (about \$21,870 in 2023).”
  - “A new earnings premium test that measures whether the typical graduate from a program who received Federal aid is earning at least as much as a typical high school graduate in the labor force (i.e., either working or unemployed) in their State between the ages of 25 and 34. This is equal to roughly \$25,000 nationally but varies across States.”
- “Programs that fail either metric in a single year will be required to provide warnings to current and prospective students that the programs could be at risk of ineligibility for the title IV, HEA Federal student aid programs in subsequent years. Programs that fail the same metric in two of three consecutive years will not be eligible to participate in Federal student aid programs.”

# Gainful Employment

- “The Department projects that about 1,700 programs that enroll nearly 700,000 students per year will fail at least one of the two metrics in a single year—about one-quarter of all enrollment in GE programs.” 90% of these programs are in the for-profit sector.
- “The GE program accountability framework will go into effect on July 1, 2024, with the first official metrics published in early 2025. The first year that programs may become ineligible is 2026.”
- The Department is also creating a Financial Value Transparency (FVT) Framework “that will provide information to all students in all programs on the typical earnings outcomes, borrowing amounts, cost of attendance, and sources of financial aid to help students make more informed choices.”
- The reporting requirements for these transparency provisions will start July 1, 2024, but the new website will be built and launched afterwards with the first acknowledgment requirements starting in 2026

# New Regulations-Financial Responsibility

- *Regulation: Institutional closure is disruptive to students; this rule protects taxpayers from potential losses when institutions show warning signs.*
- Mandatory trigger events that will result in requests for letters of credit or other forms of financial protection from institutions. This includes:
  - Have a failing financial responsibility composite score.
  - Being at risk of losing access to financial aid due to high cohort default rates, failing the 90/10 test, or having a large share in failing gainful employment programs.
  - Declaring financial exigency or entering receivership.
  - Taken steps to manipulate financial composite score or discourage Department oversight.

# New Regulations-Financial Responsibility

Source: ED.gov

- *Regulation: Institutional closure is disruptive to students; this rule protects taxpayers from potential losses when institutions show warning signs.*
- Discretionary triggers could result in a requirement to provide financial protection based upon a case-by-case determination.
  - Subject to adverse accreditor actions, such as show case order or probation.
  - Experiencing significant fluctuations in federal student aid volume.
  - Closing programs or locations that enroll significant shares of students.
  - Subject to adverse actions by states and other federal agencies.

# New Regulations-Administrative Capability

- *Regulation: institutions needs to demonstrate that they are capable of administering Title IV programs.*
- Institutions must have adequate financial aid counseling for students, including information on cost of attendance and sources/types of financial aid.
- Requires institutions to provide adequate career services.
- Strengthen requirements that institutions develop and follow adequate procedures to evaluate a student's high school diploma.
- Institutions need to provide, within 45 days of finishing coursework, geographically accessible clinical or externship options for the completion of a program.

# New Regulations-Certification Procedures

- *Regulations: These rules pertain to the agreement institutions sign with the Department to participate in financial aid programs.*
- Prevents institutions from withholding transcripts for credits paid for with Title IV aid.
- Requires distance education providers comply with state laws related to closure in any state where they serve students.
- Requires all programs to show they meet any required programmatic accreditation and state licensure requirements so that students can obtain employment (if the state has them).
- Limit career training programs to no more than 100% of the length mandated by the state for certification or licensure.
- Entities with direct or indirect ownership of a proprietary or private nonprofit institution sign the institution's Program Participation Agreement.
- Allows the Department to request teach-out plans or agreements from provisionally certificated institutions at the risk of closure.

# New Regulations-Ability to Benefit

- *Regulations: HEA has “ability to benefit” (ATB) alternative for students without a high school diploma to pursue and access financial aid.*
- Safeguards to ensure state processes are adequate and establish reporting requirements for institutions to participate in the state process.
- Defines an eligible career pathways program (ECPP) and sets clear documentation standards for institutions to demonstrate compliance.

# Ongoing Negotiated Rulemaking-Student Loans

- Exploring issues of
  - Accrual of unpaid interest
  - Borrowers who are eligible for forgiveness but did not apply to the right programs
  - Students who attended institutions that provided them minimal financial value to make the loans affordable
  - Loans created long ago without the current benefits
  - Potential types of hardship that borrowers face and how can the Department help those borrowers

# Upcoming Negotiated Rulemaking-2024

Source: ED.gov

- Federal TRIO Programs
- Secretary's recognition of accrediting agencies
- Return of Title IV funds
- Cash management
- Third-party servicers and related issues
- Definition of “distance education”

# SHEEO Daily Policy Update



Tuesday, November 29, 2022

[\*Upcoming Virtual Event: College Civic Learning for an Engaged Democracy: New Urgency, New Vision, New Educator–Policy Leader Alliances\*](#)

#### **SHEEO in the News**

[\*Press Release: National Organizations Collaborate to Improve Student Aid Offers & Transparency on the Cost of College\*](#)  
*Paying for College Transparency Initiative* (Date posted: November 29, 2022)

[\*A New Push to Make Financial-Aid Offers More Transparent\*](#)  
*Chronicle of Higher Education* (Date posted: November 29, 2022)

[\*10 higher ed associations try to tackle confusing financial aid offers — again\*](#)  
*Higher Ed Dive* (Date posted: November 29, 2022)

#### **National Policy Update**

[\*Report: The Future of Fair Admissions Issue Brief 3: Transparency and Accountability\*](#)  
*Education Reform Now* (Date posted: Fal 2022)

[\*Bipartisan Bill Would Allow Drug Felons Access to Education Tax Credit\*](#)  
*Thomson Reuters* (Date posted: November 28, 2022)

[\*Higher Ed Organizations Press for Dreamer Deal\*](#)  
*Diverse* (Date posted: November 28, 2022)

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# Questions and Contact Information

**Tom Harnisch**

**Vice President for Government Relations**

**State Higher Education Executive Officers Association**

**[tharnisch@sheeo.org](mailto:tharnisch@sheeo.org)**