



Conference of Southern Graduate Schools

Graduate Education in a Changing Legal Landscape

Mackenzie Wilfong, Esq.

Vice President of Legal Affairs and General Counsel

Tulsa Community College



Legal Issues Update

Mackenzie Wilfong, J.D.
Vice President of Legal Affairs
General Counsel



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How can there possibly be more, alas there are.

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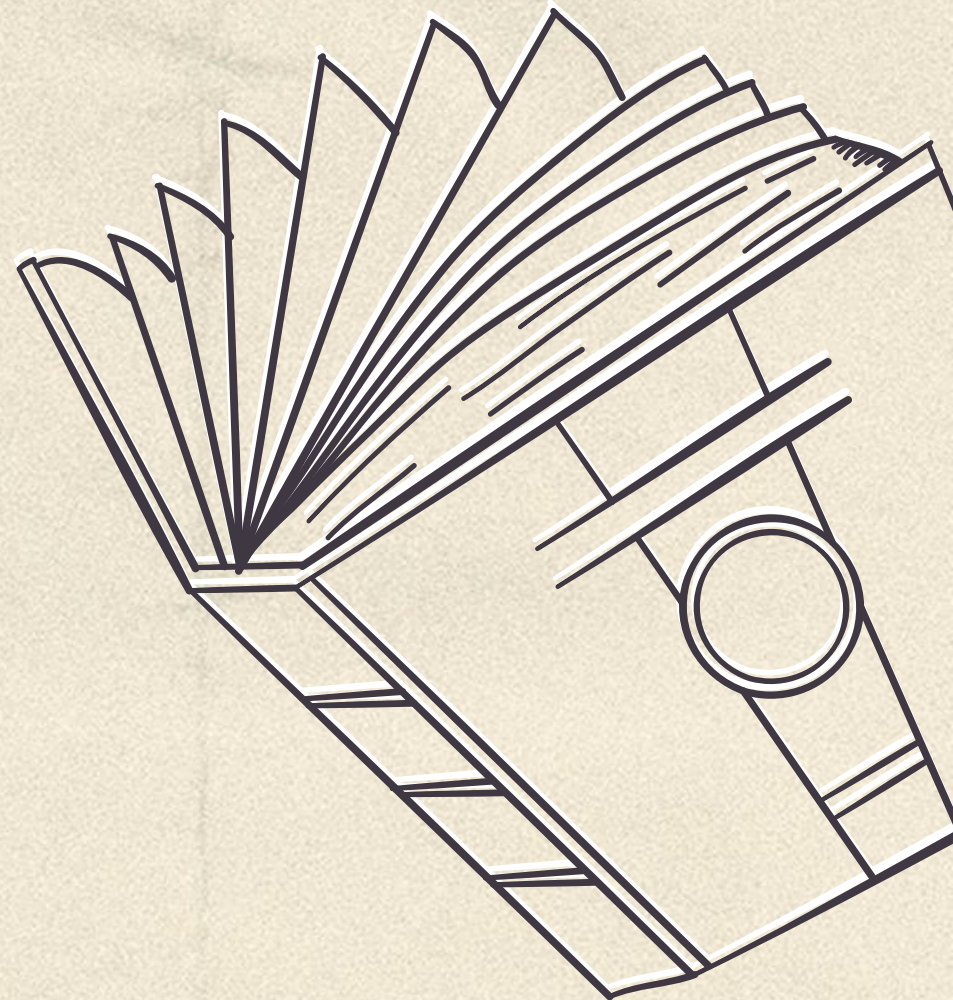
Cases and controversies

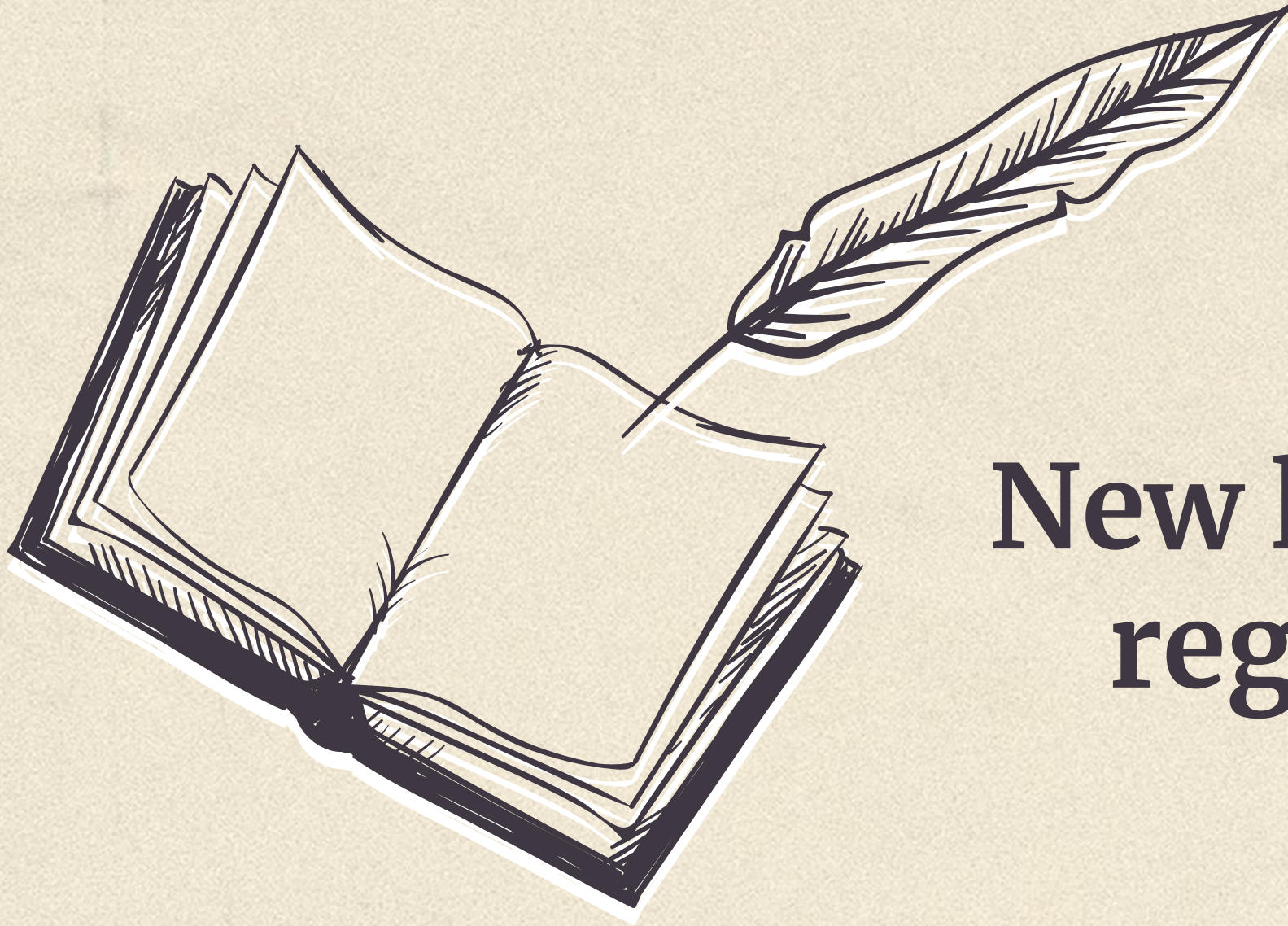
Plenty to choose from

04

Questions

Ask away





01

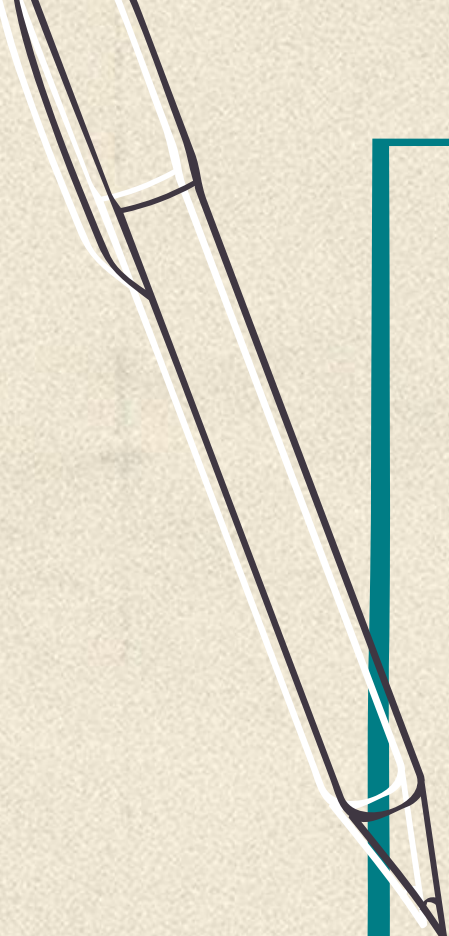
**New laws and
regulations**



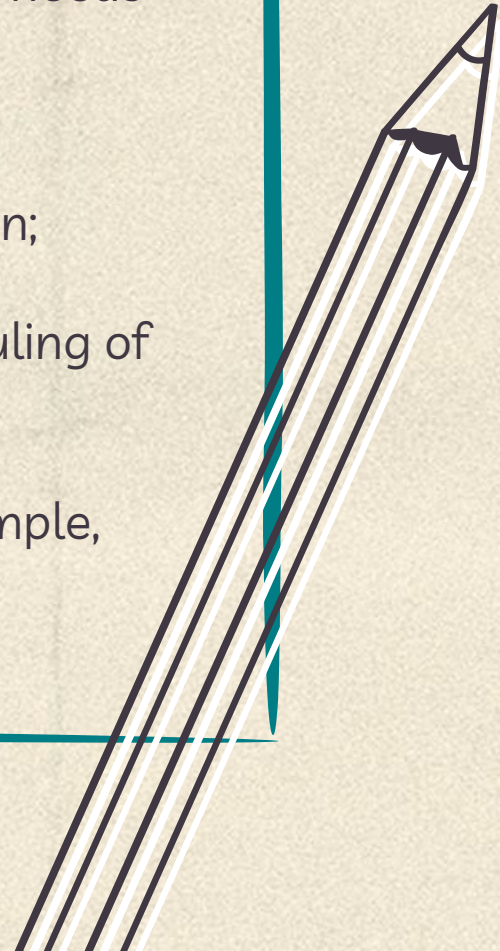
**Pregnant Workers Fairness Act
(PWFA)**

**Providing Urgent Maternal
Protections in Nursing Mothers Act
(PUMP)**

Title IX regulations



The following is a non-exhaustive (but verbatim) list of reasonable modifications contained in the proposed Title IX regulations in section 106.40(b)(4)(iii):

- breaks during class to attend to related health needs
 - expressing breast milk, or breastfeeding;
 - intermittent absences to attend medical appointments;
 - access to online or other homebound education;
 - changes in schedule or course sequence;
 - extension of time for coursework and rescheduling of tests and examinations;
 - counseling;
 - changes in physical space or supplies (for example, access to a larger desk or a footrest);
 - elevator access
- 

This will impact your students

**Start the conversations
now, prevent bigger
issue later.**

NLRB and graduate student worker unionization

Coming to a private institution near you



Regulations I am waiting on

Title IX

Final by May 2023
implemented August 2023



FLSA

NPRM to update
salary level by
May 2023



Financial Aid

NPRM R2T4,
distance ed,
state
authorization
April 2023



Gainful Employment


NPRM
April 2023



Third Party Servicer


**Worth
reading**

U.S. Department of Education Federal Student Aid office issued Dear Colleague Letter (DCL) GEN-23-03



Increases reporting requirements for institutions that use outside contractors to help run online programs. Of any part of Financial aid

**Most
institutions
will need to
analyze if
they report**

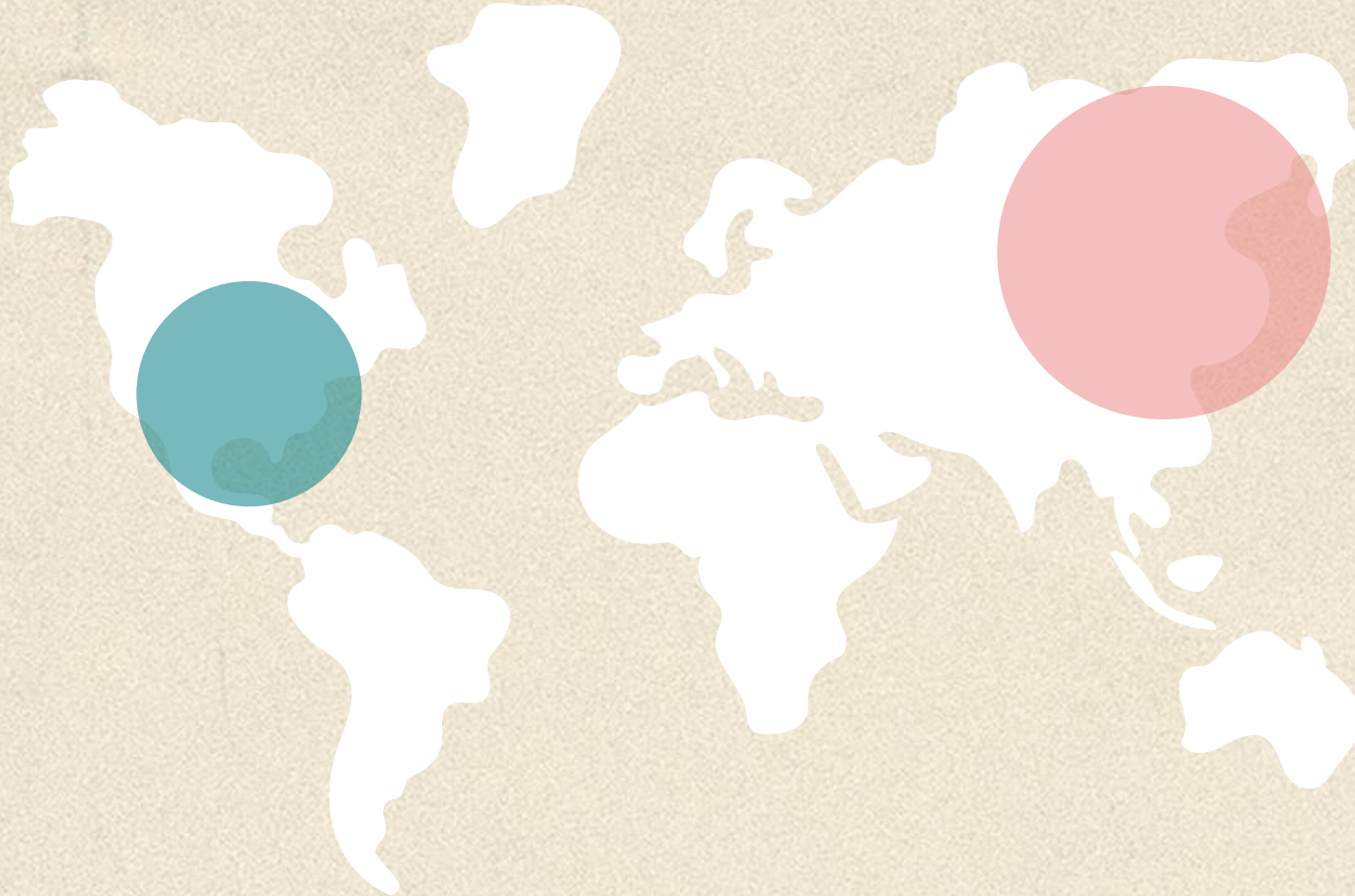


Foreign Gifts...the saga continues

Section 117 of the Higher Education Act of 1965 requires institutions that receive Title IV funds to submit to the U.S. Department of Education (DOE) disclosure reports containing information about gifts received from any foreign source, contracts with a foreign entity, and any ownership interests in or control over the institution by a foreign entity. Specifically, the law has, for some time, required institutions to report contracts with or gifts from the same foreign source that, alone or combined, have a value of **\$250,000 or more for a calendar year.**



June and November 2022 GAO reports



June 2022 Government Accountability Office (GAO) report advised colleges and universities to more closely monitor intellectual property. Agency has issued another report In November addressing technology transfer risk at universities and calling on Immigration and Customs Enforcement (ICE) to more closely monitor higher education institutions as well as foreign students.

02 Cases and Controversies



When are creepy Facebook messages unconstitutional?

Counterman vs. Colorado

Set for oral argument before the U.S. Supreme Court

April 19, 2023



Harassment of University officials

Patton v. Ind. Univ. Bd. of Trs. (S.D. Ind. Feb. 7, 2023)



Student at Indiana University, was suspended after he was arrested and charged with terroristic mischief for what appeared to be a bomb threat.

Subsequently sent repeated emails “trolling” various University officials as he pursued his petition for readmission.

Emails became threatening and he was arrested and prosecuted for felony intimidation.

Student brought First Amendment retaliatory arrest and Fourth Amendment false arrest claims...added some disability claims too

Institution prevailed...after seven years



Plaintiff, a former doctoral student in the Molecular, Cellular and Integrative Biosciences Program at Penn State, brought constitutional and wage claims against the University, multiple officials, and Keystone Nano, after he twice failed his thesis defense and was dismissed from the Program.

Fraser v. Penn. State Univ. (M.D. Pa. Feb. 7, 2023)



Speaking of research...don't self-deal

Hunter College, part of the City University of New York Settled with DOJ regarding improper use of NIH funds, related to the Center for HIV studies

Hunter College and a former professor used funds from the National Institutes of Health for purposes other than those in the certifications made in order to receive the grants in question. Through this Settlement Agreement, the College agreed to specific factual admissions and to pay **\$200,000**. In a related Settlement Agreement, the former professor also agreed to specific factual admissions and to pay **\$350,000**.

United States ex rel. English v. Parsons-Heitikko, et al. (S.D. N.Y. Jan. 27, 2022)

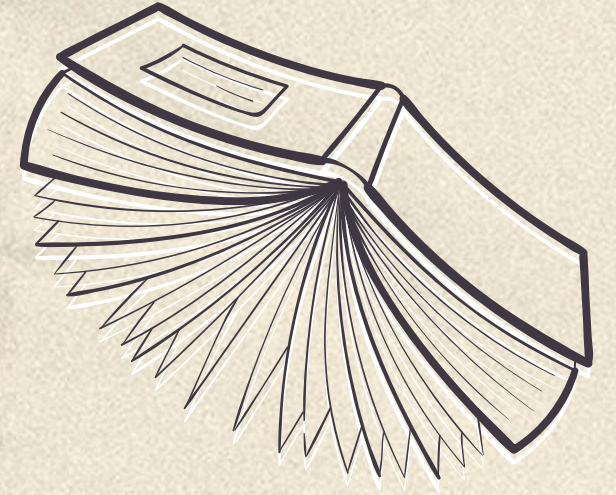


Challenging ADA Accommodations



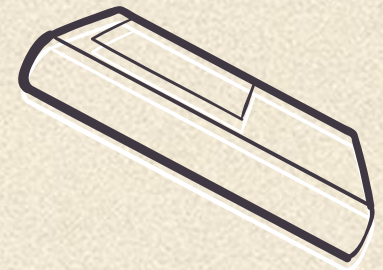
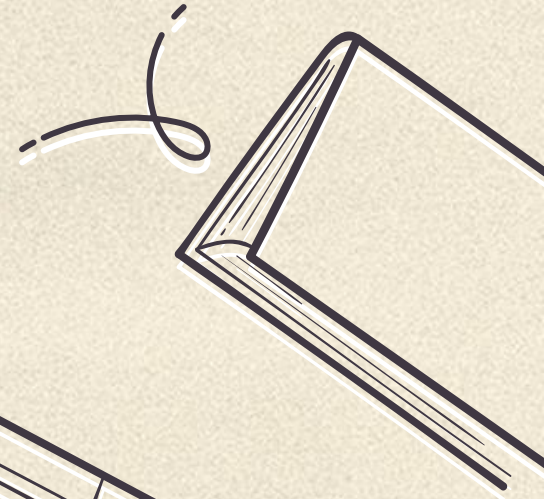
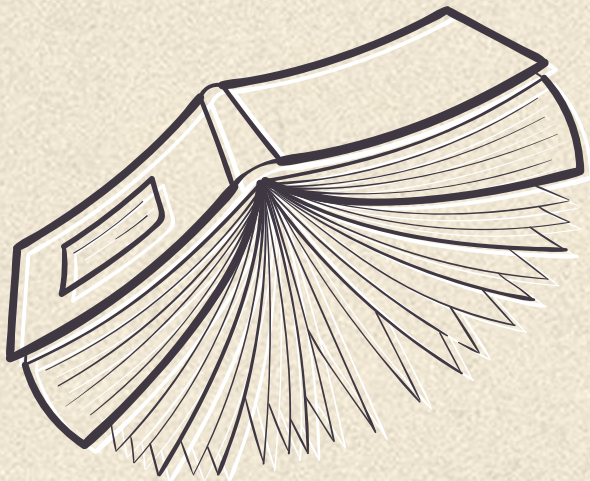
Service dogs in clinical rotations sites and allergies from patients

- Nursing student at the University of Michigan-Flint and clinical intern at Hurley Medical Center diagnosed with Generalized Anxiety Disorder and had a history of panic attacks.
- Two weeks before the start of this rotation, Bennett emailed Hurley's Human Resources Department, to apply for an accommodation that would allow her “to utilize” the dog during her rotation
- Brought Pembroke Welsh Corgi with her on a six-week rotation on two floors with post-surgical and immunocompromised patients.
- Multiple staff and patients experienced allergic reactions, including one that required medical treatment.
- Center engaged in an individualized assessment, adjusted the desired accommodation only after individuals reported allergic reactions, required her to keep the dog on a different floor and allowed her to crate her service animal during direct patient care timeframes with the opportunity to take necessary breaks as needed either from your own demands or the dogs.



03

Down to business



The Department of Education published in the *Federal Register* a request for information on measures and metrics to assess low-value postsecondary education programs—those which are “most likely to leave students with unaffordable loans and provide the lowest financial returns for students and taxpayers.”

DOE intends to increase accountability of “low-value” programs by annually publishing a list of the programs with the lowest financial value. DOE also intends to send letters to implicated institutions.



Loan Forgiveness goes to DC

Supreme Court Will Hear Arguments on Student Debt Forgiveness in February

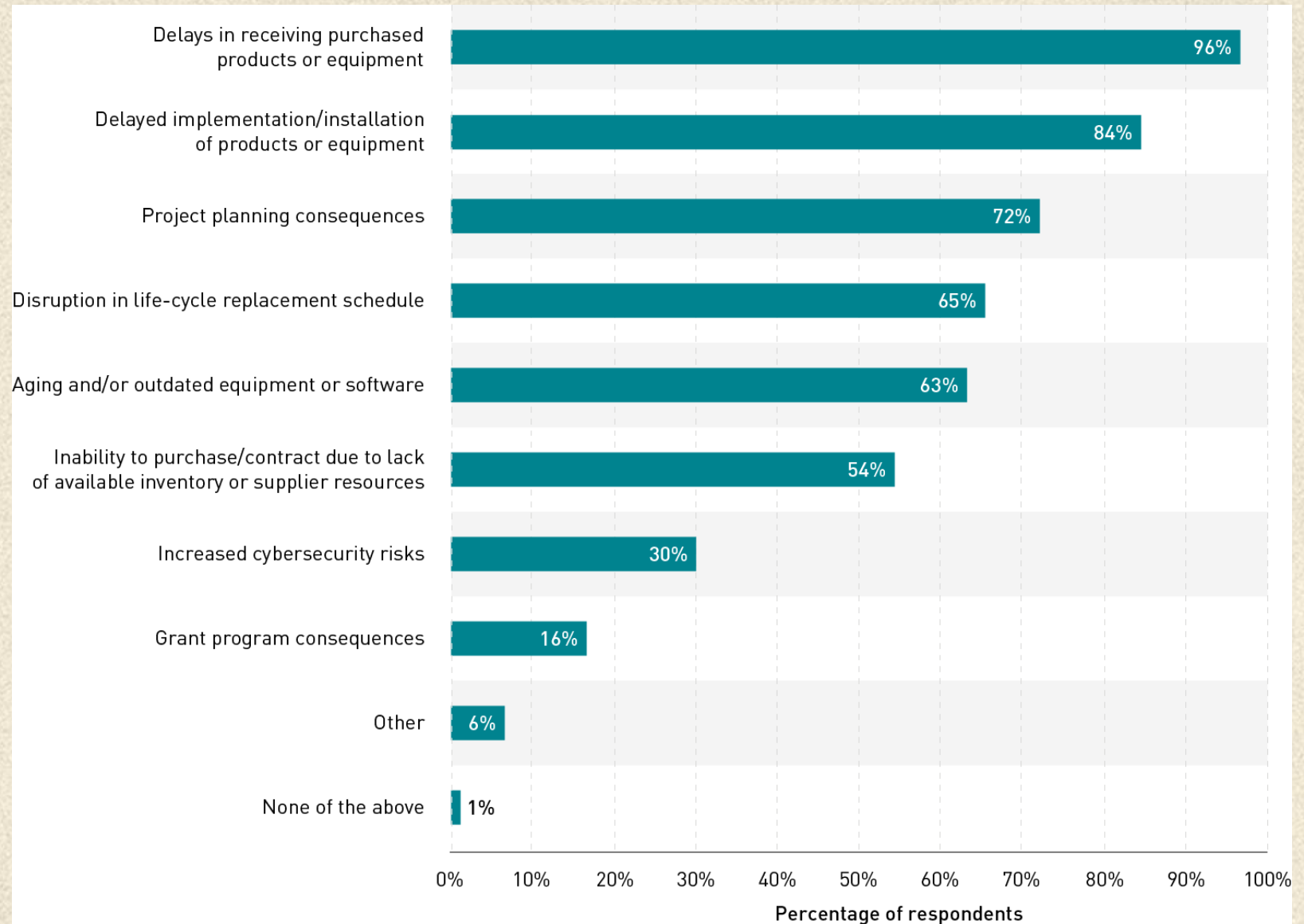
The U.S. Supreme Court has announced that it will hear arguments on two cases challenging the Biden administration's proposal to forgive \$10,000 of student loan debt for individuals or \$20,000 for those who received a Pell Grant.

The court heard arguments on both cases on Tuesday, February 28, 2023



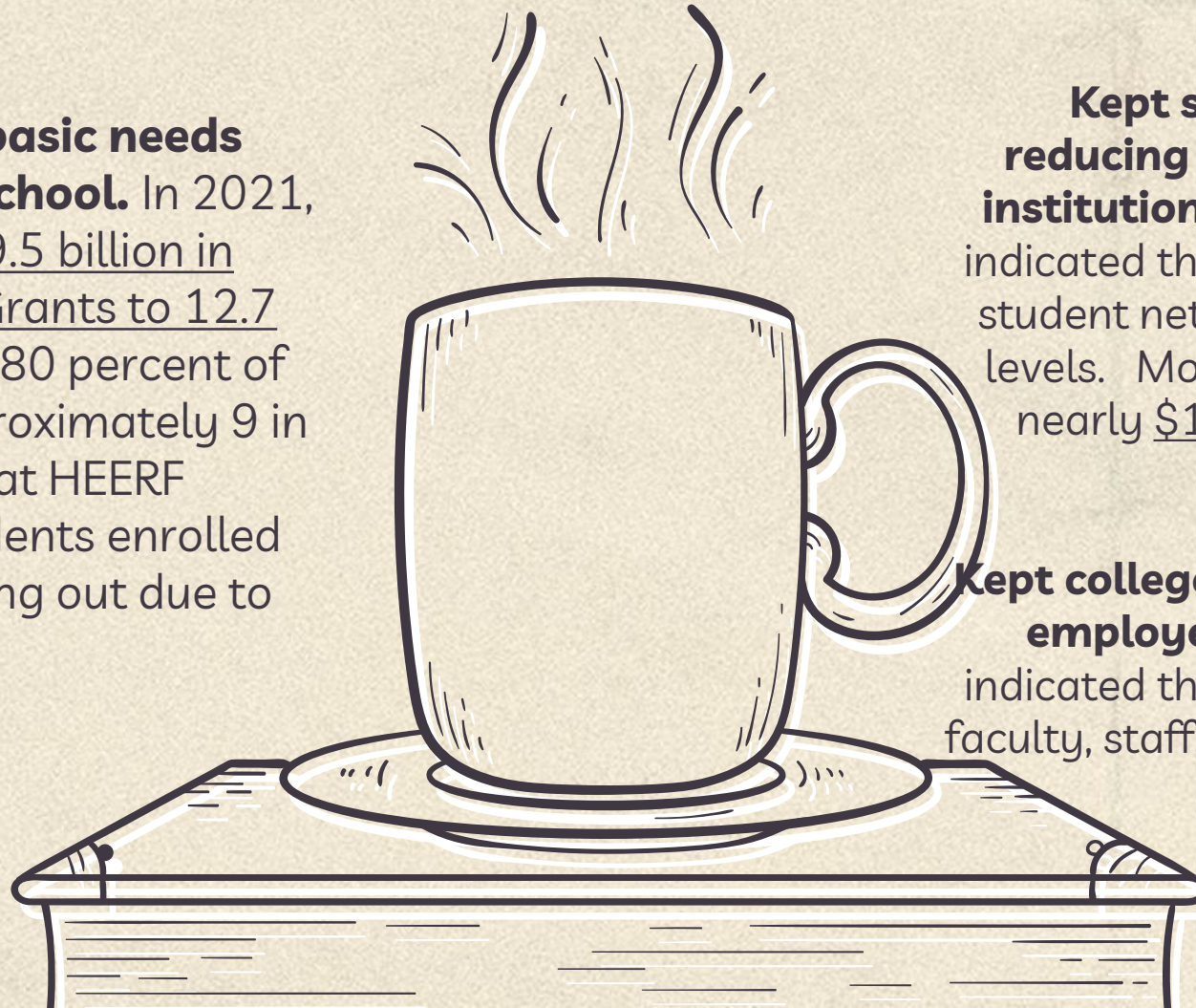


Everything takes forever



HEERF DOE Feb. 1, 2023 Report

Helped students afford basic needs and remain enrolled in school. In 2021, institutions distributed \$19.5 billion in Emergency Financial Aid Grants to 12.7 million students, including 80 percent of Pell Grant recipients. Approximately 9 in 10 institutions reported that HEERF enabled them to keep students enrolled who were at risk of dropping out due to pandemic-related factors



Kept student costs down, including reducing unpaid balances owed to the institution. Roughly 3 out of 4 institutions indicated that HEERF enabled them to keep student net prices similar to pre-pandemic levels. More than 1,400 institutions spent nearly \$1.5 billion on discharging unpaid student balances.

Kept colleges open and faculty and staff employed. More than 2 in 3 institutions indicated that HEERF allowed them to keep faculty, staff, employees, and contractors at full salary levels

So we are in Florida

Let's just talk





“If our ‘priests of democracy’ are not allowed to shed light on challenging ideas, then democracy will die in darkness...[b]ut the First Amendment does not permit the State of Florida to muzzle its university professors, impose its own orthodoxy of viewpoints and cast us all into the dark.”



—**Judge Mark Walker**

