

EDUCATION INSIDER: The Biden Regulatory Agenda

December 2020

W/A Whiteboard
Advisors

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WHY EDUCATION INSIDER?



SURVEY INSIDERS



ANALYZE RESULTS



REPORT INSIGHTS



DRIVE ACTION

About Education Insider

Launched in 2009, the *Education Insider* captures insights on policy and political trends from Congressional staff, federal officials, and other Insiders close to the policymaking process.

Our goal is to cut through the noise and demystify the policymaking and political environment that surrounds Pre-K-12 and postsecondary education.

The views expressed by Insiders do not necessarily represent the viewpoints of Whiteboard Advisors or any of its employees.

Who Are the Insiders?

Leaders who are shaping federal education policy, including those who have served – or are currently serving – as policy and political influencers, such as:

- Current and former White House and U.S. Department of Education leaders;
- Current and former Congressional staff;
- State education leaders, including former state school chiefs and governors; and
- Leaders of major education organizations and think tanks, as well as other key influencers.

OVERVIEW

- This edition of *Education Insider* asks the Insiders when the Biden administration will be able to make changes to education policy that do not require congressional action.
- Estimating the timetable for policymaking is, of course, not an exact science—so the choices given were: within the first six months, during the first year, during the second year, other, or not at all.
- A total of 14 issues spanning K-12 and higher education were selected for inclusion in the survey based on informal feedback and suggestions from Insiders and publicly available information about the Biden education agenda. We also asked Insiders to flag “other issues to watch” as a part of this survey.
- As is always the case, Insiders were asked only to opine on topics where they have an informed perspective. Insiders are asked to opt out if they lack familiarity with a given issue.

Executive Summary

When will the Biden administration most likely take action on the following policy issues, if at all?

	Within the first six months	During the first year	During the first two years	Other	Will Not Happen
DACA	78%	19%	3%	0%	0%
School Discipline	38%	38%	19%	0%	6%
Anti-Gender Discrimination	37%	40%	13%	3%	7%
K-12 State Assessment Flexibility	78%	4%	7%	0%	11%
Supporting Student Mental Health	35%	31%	12%	8%	15%
Alternative K-12 Funding	23%	15%	12%	8%	42%
Desegregation	22%	44%	11%	11%	11%
For-Profit Charter Restrictions	11%	33%	26%	19%	11%

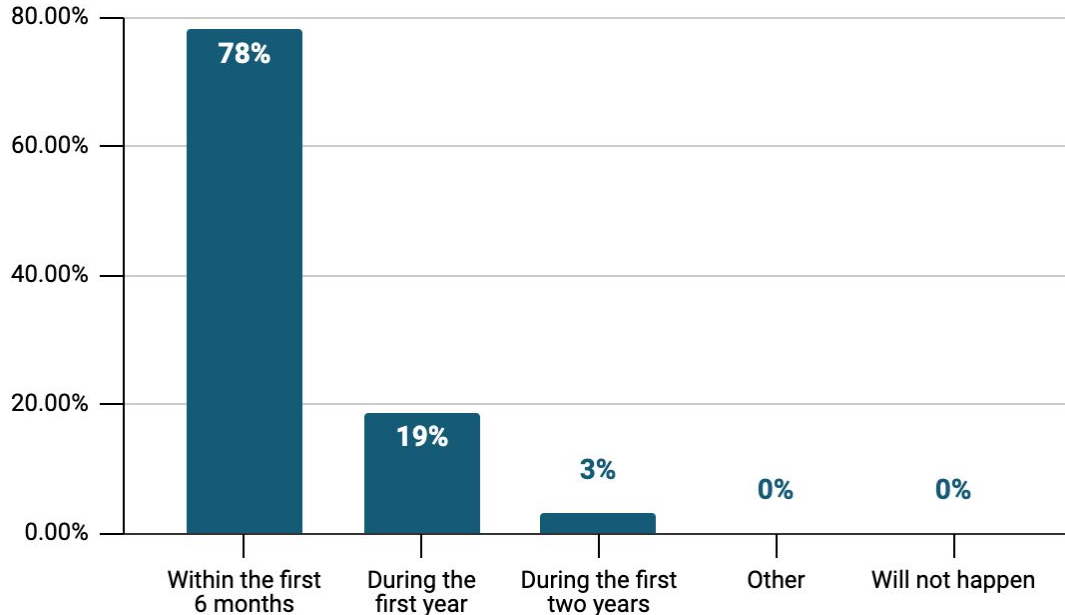
Executive Summary

When will the Biden administration most likely take action on the following policy issues, if at all?

	Within the first six months	During the first year	During the first two years	Other	Will Not Happen
Borrower Defense to Repayment	56%	19%	25%	0%	0%
Student Loan Forgiveness	56%	19%	0%	0%	25%
Sexual Harassment under Title IX	18%	24%	35%	0%	24%
Gainful Employment	13%	44%	38%	6%	0%
Dual Enrollment Funding	6%	19%	38%	6%	31%
Bundled Services Interpretation	0%	20%	47%	7%	27%

DACA

Issuing guidance and/or rules for protections under the deferred action for childhood arrivals (DACA) for eligible young immigrants.



Notable Comments

“This will be a priority for the Biden team and an easy early win. They are going to be looking for quick wins that are not controversial and this is clearly one.”

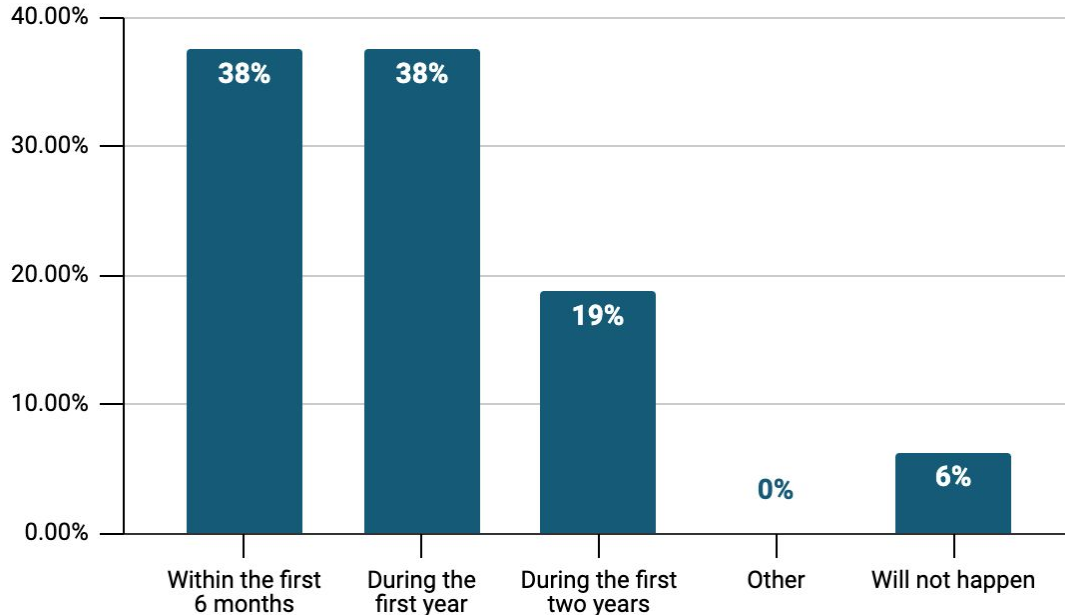
“Strikes me as an incredibly high priority especially given the dip in Latino support in the last election.”

“Guidance - definitely within the first 6 months; executive orders - definitely within the first 6 months. Regs seem far off.”

“I don’t see how this cannot be a day 1 priority. There is bipartisan support in Congress. Protections will be developed quickly.”

Disparities in School Discipline

Issuing new rules and/or guidance about school discipline that considers how disparities in suspension and expulsion rates could be seen as evidence of discrimination.



Notable Comments

“I expect urgency on just about everything, but this seems pretty low-hanging since it's a carryover from the Obama years.”

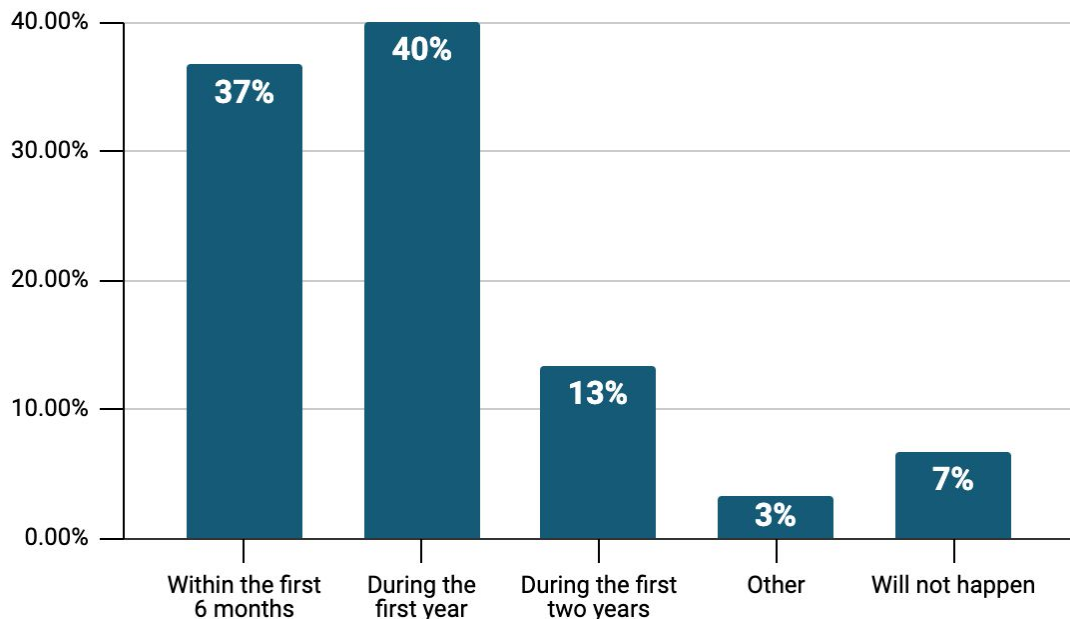
“Likely will require some sort of committee or commission so that will drag it out.”

“Connected to more energy in the office of civil rights.”

“Guidance will be reinstated basically immediately, but they'll consider regulating to make it more enforceable, which will take longer.”

Anti-Gender Discrimination Rules

Issuing guidance and/or rules clarifying that discrimination can be based on a student's gender identity, which may be different from the sex designation on the individual's birth certificate.



Notable Comments

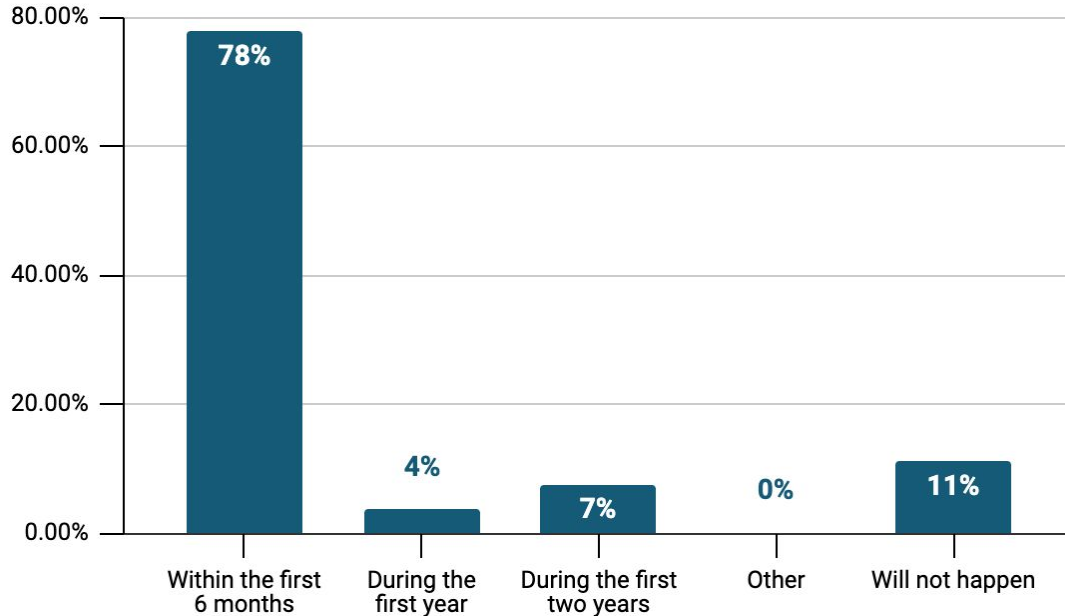
“Depends on whether reinstatement of guidance/issuance of new guidance or policy or revisions to Title IX reg. If the first (which it should be), then within the first 6 months.”

“They will likely have something out the first year, but they will get inundated with comments. Expect it will take two years or maybe slightly more to get something finalized to be implemented.”

“Proposed rule within the first year, not finalized until year 2.”

Flexibility for State Assessment & Accountability

Issuing waivers and/or guidance to allow states to adjust their approved state assessment and accountability programs.



Notable Comments

“The ESSA requirement of reporting and testing mandates that something has to be done in less than 6 months.”

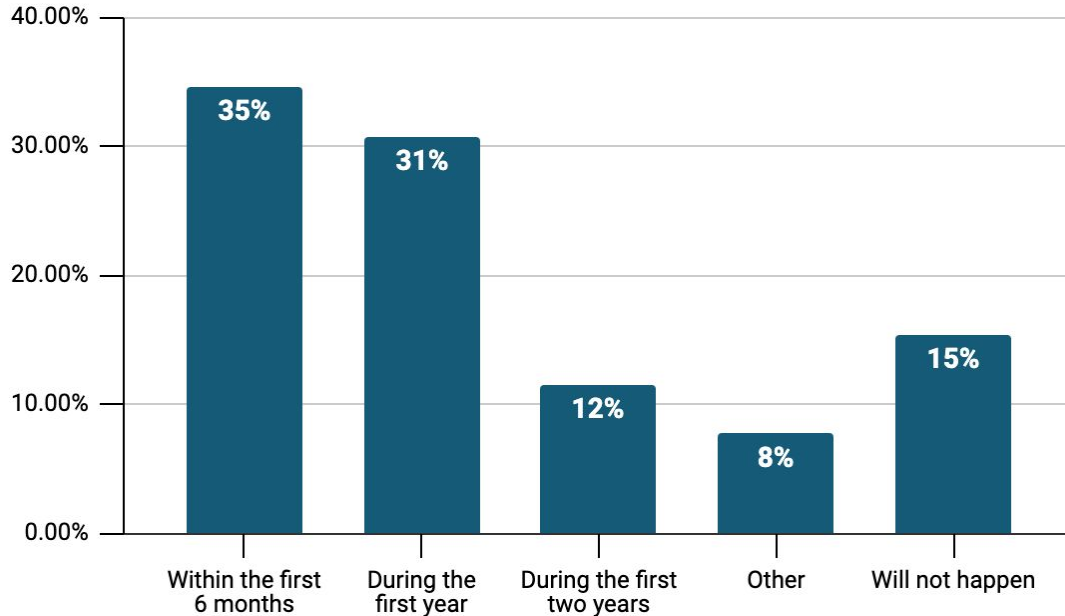
“As long as the unions remain the biggest powerbrokers in the Dem party then assessment or accountability waivers are an inevitability.”

“Why not? The trend is toward less accountability. You’d think that would worry [many] but, alas, no - educrats want less pressure, and this administration will bow more to the will of educrats than any in the ESEA era.”

“Definitely — and will combine with asking for more \$\$\$ for the innovative assessment pilot.”

Supporting Students' Mental Health

Identifying resources to help schools increase the number of psychologists, counselors, nurses, social workers, and other health professionals in schools.



Notable Comments

“This will take a while since it will require federal funding.”

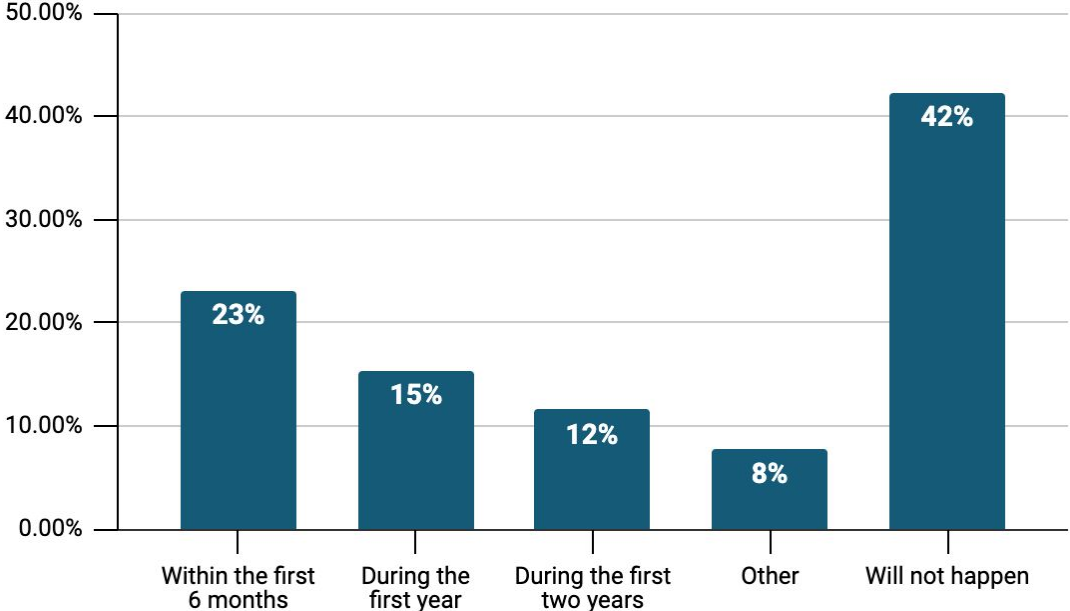
“They will update grants to make sure this is a clear priority and questions asked.”

“Clear pandemic connection, this can be an immediate deliverable.”

Alternative K-12 Funding

Identifying funding sources that do not require congressional authorization.

Funding for the major education law such as ESSA, IDEA, Perkins, etc. requires congressional action, so those would NOT be considered.



Notable Comments

“If Trump admin hasn't used \$100m of CARES, they have that. Other than admin funds, what other sources are you envisioning that don't require Congressional action.”

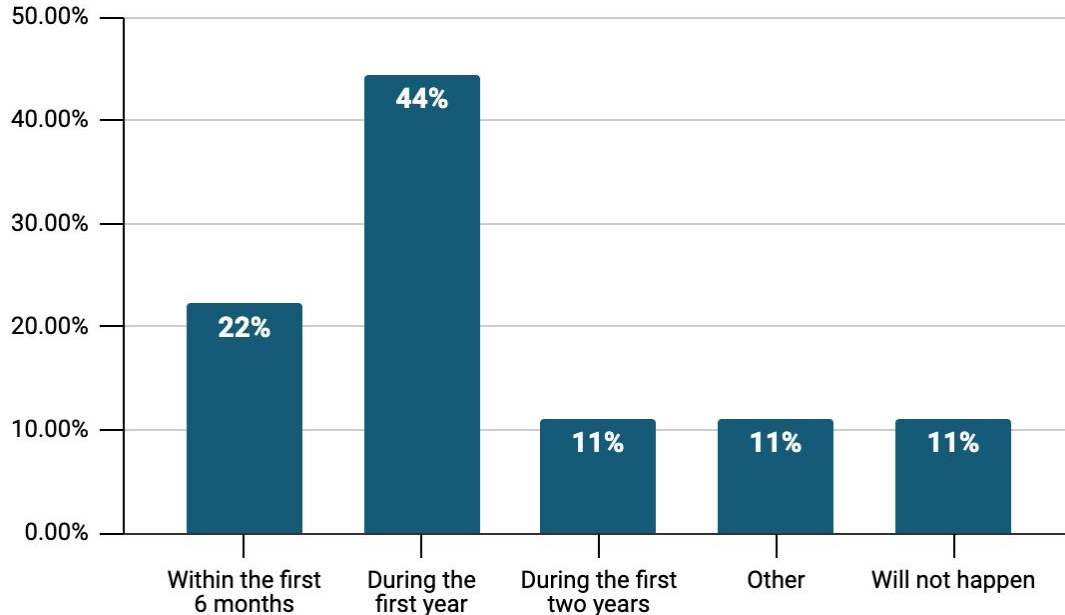
“Utilizing small, discretionary grants very differently than under DeVos.”

“Likely part of a new relief package.”

“I'm skeptical this can happen without Congress.”

Desegregation

Reinstating guidance that supported schools in legally pursuing desegregation strategies and recognized institutions of higher education's interests in creating diverse student bodies.



Notable Comments

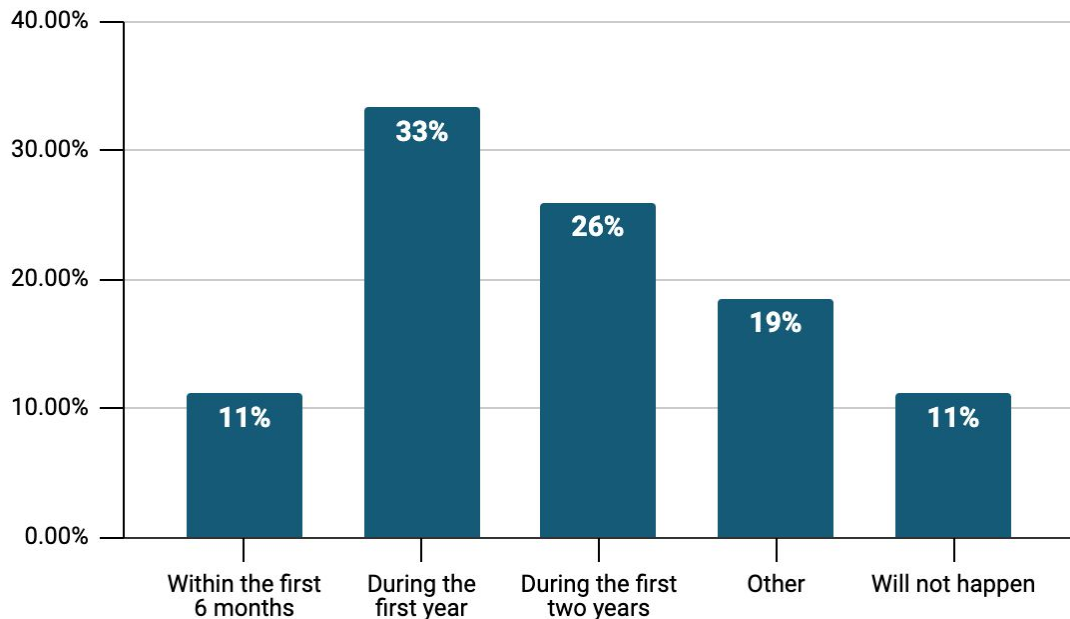
“I suspect [the Biden] administration will pull out many of the previous guidance that were set aside by [the Trump] administration, right away.”

“This seems fraught without clear paths forward. I don’t see this being able to move fast. Might have to be a second term issue.”

“I think they will incentivize integration strategies.”
“This will be complicated but definitely worth it.”

For-Profit Charter Schools

Restricting the use of federal funding for “for-profit” charter schools.



Notable Comments

“It will likely be trickier to close loopholes for for-profit management companies without unintentionally limiting other for-profit vendors who serve the entire K-12 community.”

“Anti-charter energy seems high but I’m not sold the Dems really are anti-charter. I think this will disappoint the unions.”

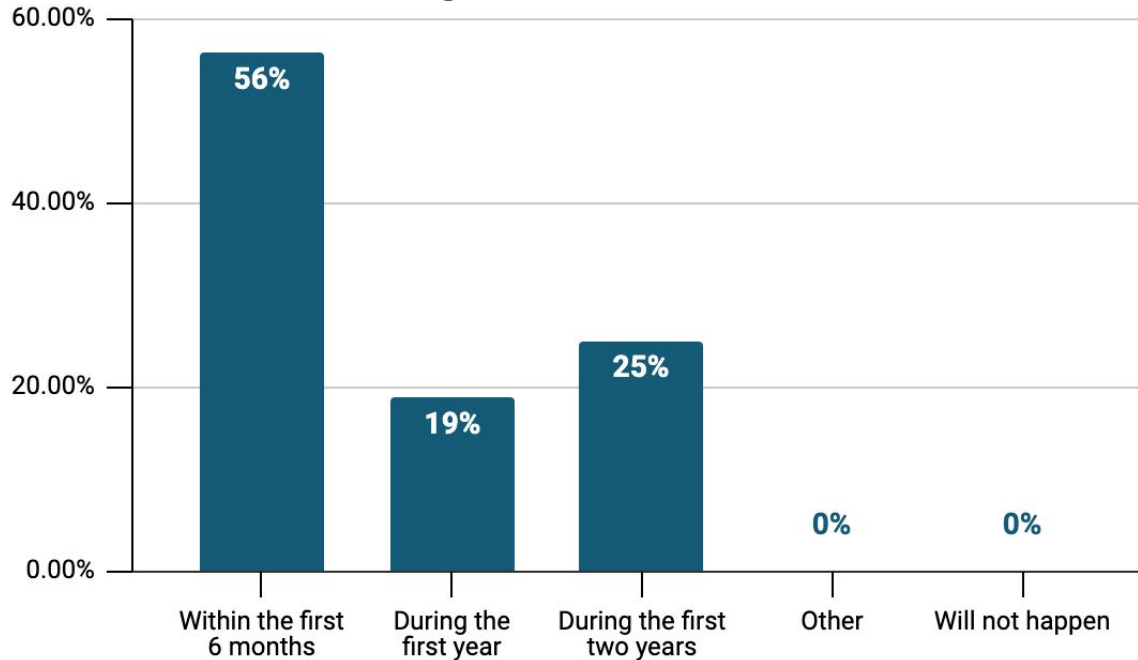
Other Issues to Watch in K-12

What other issues should be on the radar of those working in and around K-12?

- **LEARNING LOSS.** “Will anything be done to deal directly with horrendous learning loss that has occurred in the pandemic? This ought to be the number one concern - by far. But in Wonderland where Alice can’t figure out what’s happening, it won’t be on the radar screen at all, except to serve as a cause for the ever-continuing call for more \$\$.”
- **NATIONAL TUTORING PROGRAM.**
- **QUALITY CURRICULUM.** “Funding to implement a strong core curriculum continues to be a challenge, and federal funds, for the most part, cannot support this cost. Federal policy leaders (along with state/local leaders) need to be aware of this challenge — along with the fact that many districts still do not have a districtwide curriculum — the quality, or lack thereof, of core curriculum is an issue that touches every student, and a weak (or non-existent) curriculum impacts vulnerable students the most.”
- **TEACHERS.** “Teacher salaries, working conditions, teacher diversity. Not linking these teacher issues to Title I. Teacher shortages, elevating the role of the teacher, discussion about teacher pay.”
- **THE DIGITAL DIVIDE.** “Working to improve access to high speed internet and devices. The growing achievement gap.”
- **SPECIAL ASSISTANCE FOR STUDENTS WITH DISABILITIES.**

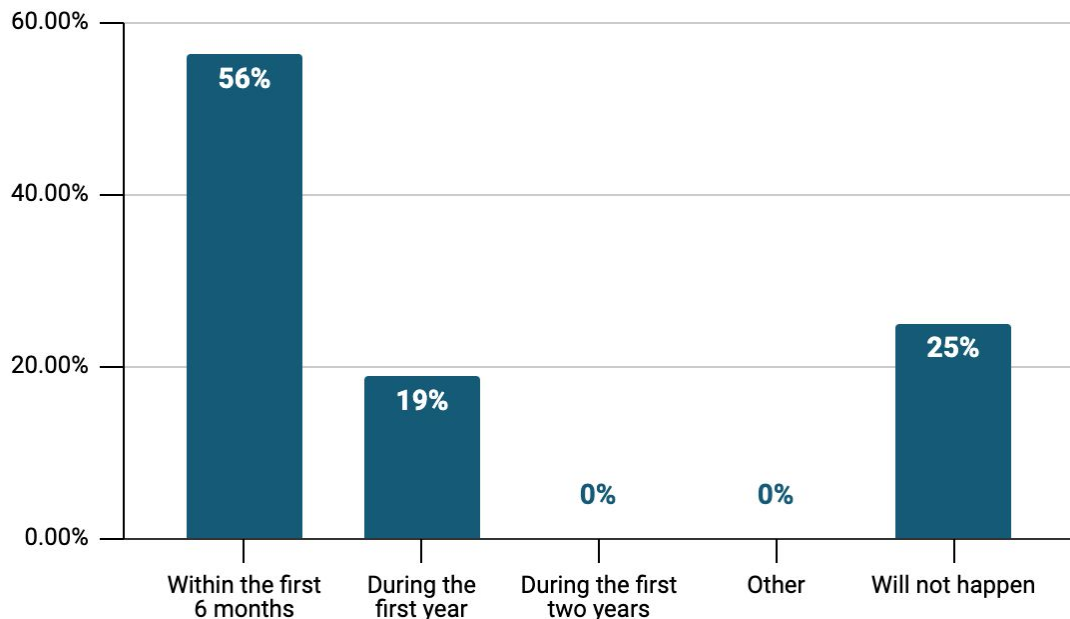
Protecting Student Borrowers from Fraud

Proposing new "Borrower Defense" rules under the Higher Education Act to provide relief to students who were on the wrong side of institutional fraud or misconduct by institutions benefitting from federal student aid.



Forgiving Student Loans

Forgiving some amount of federal student loans for qualifying individuals.



Notable Comments

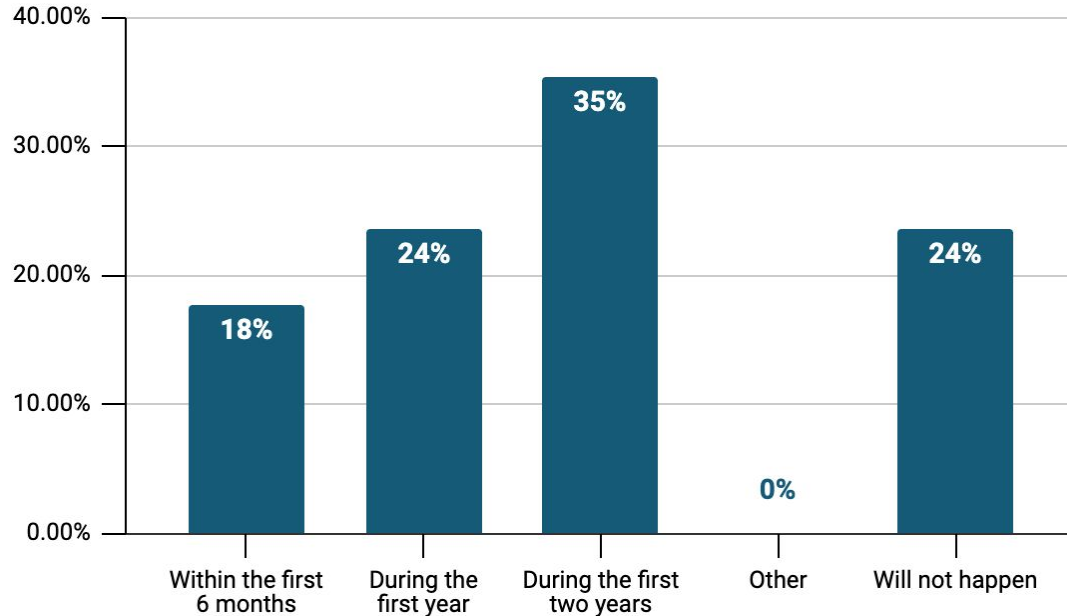
“I don't necessarily think this will mean full-scale debt forgiveness. But I do believe that the Biden Administration will prioritize making sure defrauded borrowers receive the forgiveness they deserve.”

“The legal barriers and the cost are too high, particularly given the risk that a Republican Senate punishes the Administration for taking this action”

“This is about the stupidest "popular" idea that exists. Why would you add hundreds of billions of dollars to the national debt without any accompanying reforms or cost controls or help to students currently in college?”

Sexual Harassment under Title IX

Revising the rules for when and how school officials address and adjudicate claims of sexual harassment.



Notable Comments

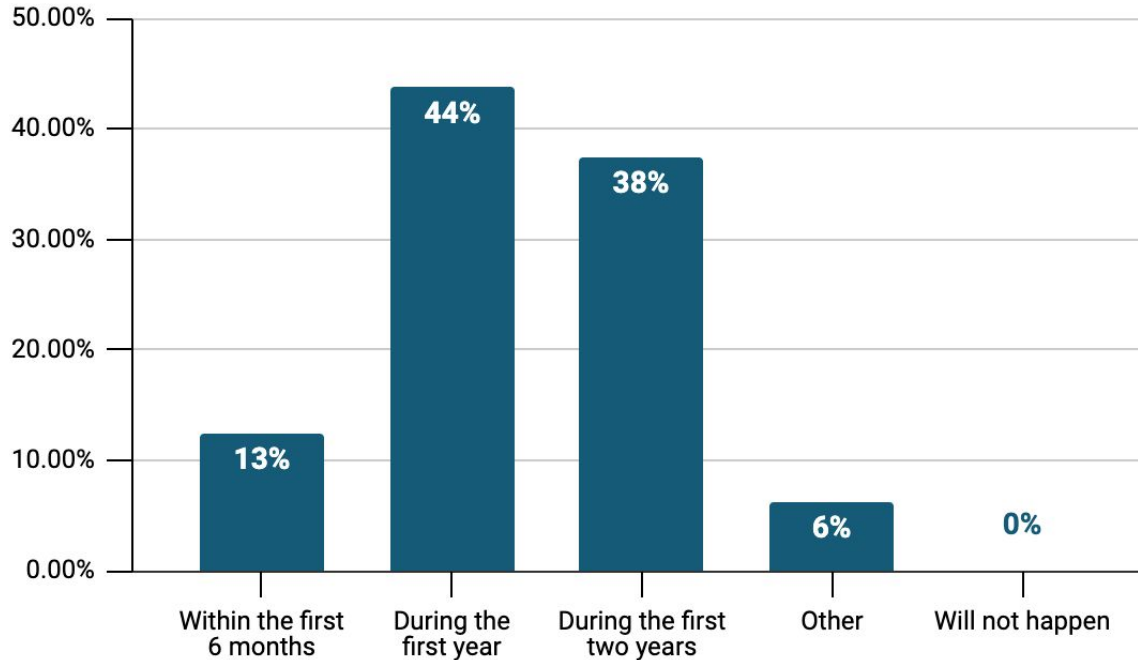
“This will be a priority but won’t be easily changed. Two years minimum.”

“New rules will come out sometime in Q2 at the latest.”

“Washington is a sideshow here because Congress is not going to act on this and the federal courts are dismantling the Obama-era guidance on their own.”

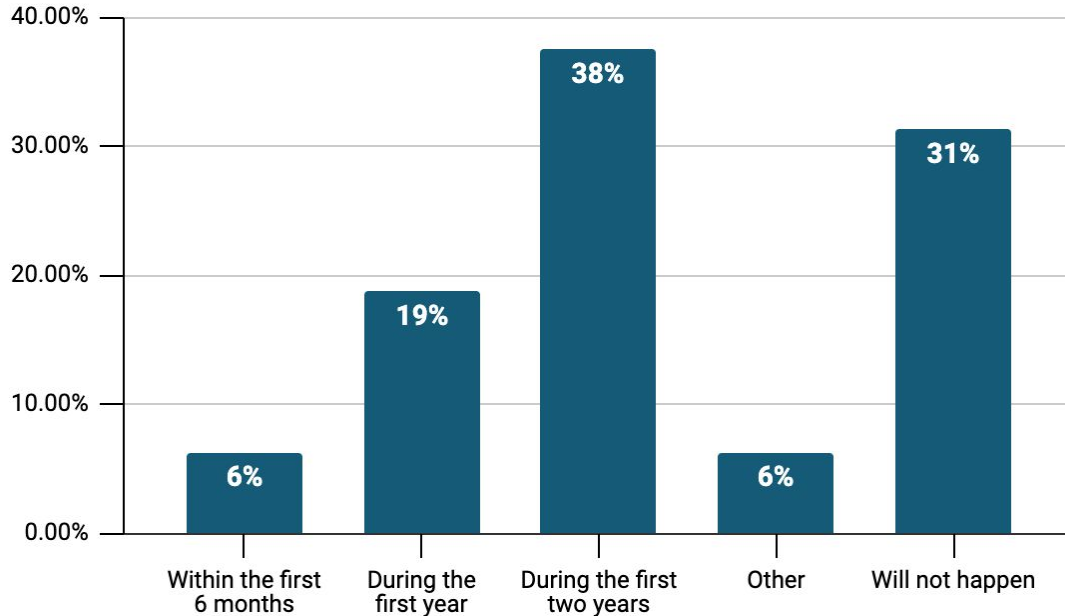
Gainful Employment

Proposing new gainful employment rules under the Higher Education Act.



Dual Enrollment

Allowing Pell Grants to be used for dual enrollment programs.



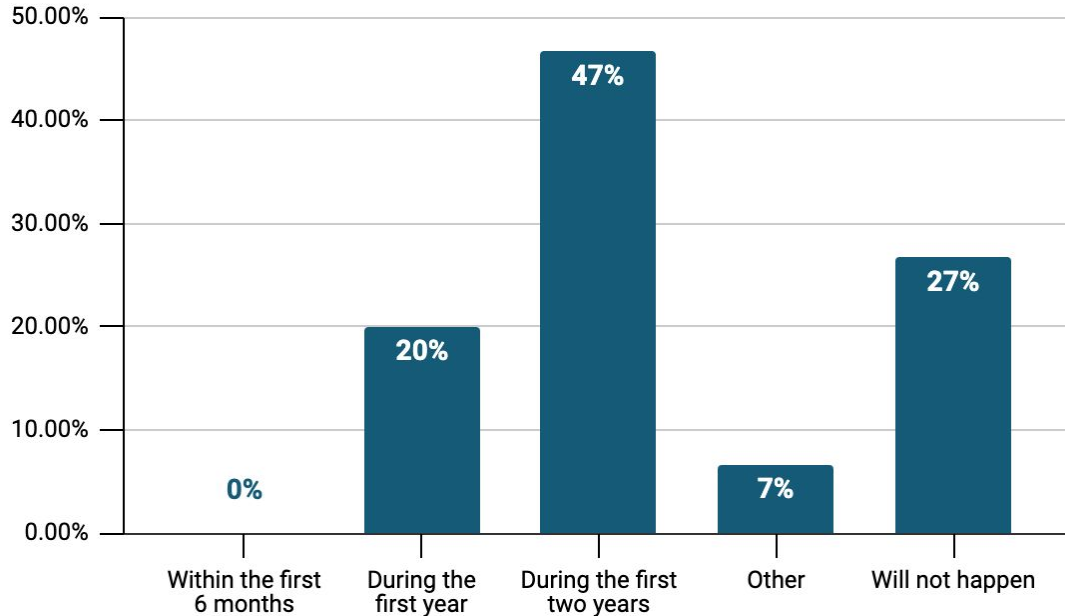
Notable Comments

“ED already has an experimental site doing this. It can't do much more (arguably expand the experimental site) without Congressional authorization.”

“If the Department wants this to happen, it will likely be through a pumped-up pilot project.”

Bundled Services Interpretation

Revising the interpretation that allows for a “tuition sharing” agreement if a provider offers “various” (or bundled) services.



Notable Comments

“I’d expect this process to start during the first few months.”

“It may take longer than guidance usually does because of the challenges with addressing existing long-term contracts.”

Other Issues to Watch in Higher Education and Workforce Development

What other issues should be on the radar of those working in and around higher education and workforce development?

- **EQUITY.** “Greater focus on equity in higher education - seeing students access and complete higher education.”
- **ACCREDITATION RULES.** “I'd keep an eye out on accreditation and tweaks to the rules put in place during the Trump Administration.”
- **STUDENT LOAN SERVICE CONTRACTS.** “Top priorities for the Biden Administration will have to be around the expiration of student loan forbearances on 12/31, the expiration of student loan servicer contracts a year from now, and the ongoing needs and asks of institutions dealing with COVID.”
- **TUITION AND FEE FREE COLLEGE.**



Questions?

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