1. Reauthorization of the Higher Education Act

The Higher Education Act (HEA) is the law that gives the federal government the authority to distribute federal aid to students and institutions, and covers many other policy areas that affect all higher education sectors. The Act is up for renewal this year, and both the House and Senate have offered their ideas for how to update the law. If as is expected, no higher education legislation is enacted by the end of 2014, the HEA will automatically renew for one year. However, the legislation introduced by both chambers is still significant, and will serve as starting points for the next Congress.

Prior to the July 4 Congressional recess, the House Education and the Workforce Committee introduced three separate pieces of legislation to update the HEA, taking a piecemeal approach to what is typically addressed in a single bill. These bills passed the House in late July, but will not be taken up by the Senate this year.

Additionally, the Senate Health, Education, Labor and Pensions Committee introduced its own comprehensive legislation.

The House legislation establishes a competency-based education demonstration project, creates a “College Dashboard” for prospective students, and provides financial counseling for students participating in the federal loan program. Below is a list of the bills considered and passed by the House:

**Advancing Competency-Based Education Demonstration Project Act of 2013 (H.R. 3136) [PASSED 414-0]**

- Directs the Secretary of Education to implement competency-based education demonstration projects. The secretary is authorized to waive current statutory and regulatory requirements that impede the creation of competency-based education programs.
- Requires an annual evaluation of each demonstration project to determine program quality, the progress of participating students towards earning a degree, obstacles related to student financial assistance, and the extent to which other legal barriers may exist that prevent the success of competency-based education.

In a related matter, the U.S. Department of Education announced on July 22 a new round of its “experimental sites” initiative, which waives certain rules for federal aid programs so institutions can test new approaches without losing their aid eligibility. The result may be that institutions increase their experiments with competency-based programs. The Department’s initiative means that even if the Senate does not pass the above bill, the Department has the authority to achieve the means and ends of the bill.
Strengthening Transparency in Higher Education Act (H.R. 4983) [PASSED BY VOICE VOTE]

- Requires the Secretary of Education to create a College Dashboard to replace the current College Navigator; the College Dashboard website would be updated annually and provide information for each institution of higher education that receives title IV funding.
- Requires that the College Dashboard include information on the completion rates of all students, including contemporary students and Pell Grant recipients.
- Instructs the Secretary of Education to provide a link to the page of each institution listed on a student’s FAFSA.
- Directs the Secretary of Education to coordinate with other federal agencies to ensure all published higher education data is consistent with the information available on the College Dashboard.

NACIQI and Advisory Committee for Student Financial Assistance Act (H.R. 5134) [PASSED BY VOICE VOTE]:

H.R. 5134 would extend the National Advisory Committee on Institutional Quality and Integrity (NACIQI) and the Advisory Committee on Student Financial Assistance for one year. This bill will also be considered under suspension of the rules.

Colleges and universities across the sectors should be wary of the College Dashboard and the related College Scorecard initiative. Different institutions have different missions and serve widely varying populations. There is no universal, valid standard measure that would be meaningful to students selecting a college. These concerns may be partially addressed by the proposed reporting on completion rates for “contemporary” students in addition to first-time-in-college students.

Empowering Students Through Enhanced Financial Counseling Act (H.R. 4984)

- Ensures students who participate in the federal loan program receive interactive counseling each year and when they exit their education program. The counseling students receive must reflect their individual borrowing situation.
- Provides awareness about the financial obligations students are accumulating by requiring borrowers to consent each year before receiving federal student loans.
- Informs low-income students about the terms and conditions of the Pell Grant program through annual counseling that will be provided to all grant recipients.
- Directs the Secretary of Education to maintain and disseminate an online counseling tool institutions can use to provide annual loan counseling, exit counseling, and annual Pell Grant counseling to their students.

The Senate legislation is a much broader and comprehensive document, but as noted by HELP Committee Chairman Tom Harkin (D-IA), it makes a point to address affordability, student debt, and accountability. Below is a summary of the bill addresses each of those points:

Affordability and Reducing College Costs

- Creates a State-Federal College Affordability Partnership to increase state investment in public higher education and lower the costs of tuition for students.
- Reinstates year-round Pell Grants to enable students to get their degrees faster.
-Eliminates origination fees on federal Direct Loans.
- Supports community college and industry partnerships that promote innovation in higher education.
- Expands access to dual enrollment and early college high school programs.
Addressing Student Debt

- Strengthens student loan servicing standards with consumer protections.
- Streamlines repayment plans to create a single income-based repayment option.
- Helps severely delinquent borrowers avoid default by automatically enrolling them into income-based repayment.

Holding Schools Accountable

- Providing students and policy makers disclosures and accountability metrics from schools such as loan repayment rates.
- Establishes a risk-sharing commission to explore holding low-performing institutions financially responsible for poor student outcomes.
- Changes the 90-10 rule for for-profit schools to 85-15.
- Guarantees that federal education dollars are not used on advertising and marketing.
- Creates a student complaint system.
- Authorizes several programs to reform and school leader preparation.

Helping Students and Families Make Informed Choices

- Provides notification to middle and high school students of their potential eligibility for federal aid.
- Provides additional up-front information and disclosures to prospective students.
- Standardizes the financial aid award letter.
- Strengthens entrance and exit loan counseling.

Related to the HEA, on July 22nd, the President signed into law the Workforce Innovation and Opportunity Act (WIOA) to "improve the federal workforce development system." The law seeks to:

- Eliminate 15 existing workforce development programs – 14 of the programs fall under the existing Workforce Investment Act, while one program, the Grants to States for Workplace and Community Transition Training for Incarcerated Individuals, is part of the Higher Education Act.
- Apply a single set of outcome metrics to every federal workforce program under the legislation.
- Create smaller, nimbler, and more strategic state and local workforce development boards.
- Integrate intake, case management and reporting systems while strengthening evaluations of the workforce development programs.
- Eliminate the "sequence of services," which limits an individual’s ability to take higher-level training courses until they complete basic skills courses, to allow local areas to better meet the unique needs of individuals.

The same day the law was signed, the President announced several related executive actions, which would require that federal job programs satisfy a “job-driven checklist,” calling for better coordination with employers to determine local hiring needs and greater use of data to help workers make informed decisions. Another aspect of the executive actions enforces a requirement that training programs using federal money make public how many of their graduates find jobs and how much they are paid. The American Association of Community Colleges supported WIOA and most of the executive actions.

Another major executive action was the announcement of a $25 million competitive grant to create an “Online Skills Academy,” to offer open online courses of study to help students earn credentials through participating accredited institutions.
2. Student Aid Funding

It was beneficial that Pell Grants were protected from sequestration, and that funding was restored to the other student aid programs in FY 2014. The increase in Pell to $5,730 – along with funding for SEOG, Federal Work Study, TRIO, and GEAR UP – helps low-income students get into college, stay in, and complete their higher education.

Adequate funding for Pell Grants, campus based aid, and student loans remains a top priority. Campus-based aid programs, in which federal student aid dollars are matched by institutional dollars, are crucial. SEOG provides up to an additional $4,000 in grant aid for our neediest Pell students. Federal Work Study helps students earn their way, while engaging in campus work. Perkins Loans keep our students from having to take out more expensive loans.

Incentive funding for state-based grant programs such as LEAP and CACG has been eliminated, and some states have shut down their state grant programs as a result. Now some in Congress and in the advocacy community are calling for the elimination of Perkins Loans and Supplemental Educational Opportunity Grants in the upcoming reauthorization of the Higher Education Act. The current mix of federal aid programs for undergraduates and graduate students is essential to ensuring college access and success regardless of family income.

Of course, budget constraints require all federal programs — including student aid programs — to be examined critically. When Congress considers changes to financial aid programs, it should protect the essential role of student aid in providing access for needy students, as well as avoid “trendy,” unproven, reform models that divert dollars from student access.

Additionally, there is a misperception that federal support for low-income students is a driver of colleges’ tuition increases. Without federal student aid, institutions would have to allocate even more out of their tuition funds to provide institutional aid to needy students. It makes no logical sense that student aid drives up tuition.

Included in Chairman Harkin’s comprehensive Higher Education Act reauthorization plan is a restoration of the year-round Pell grant. A separate plan put forward by Ranking Member Lamar Alexander (R-TN) and Sen. Michael Bennet (D-CO) proposed a vastly reduced FAFSA application.

3. Title IX/Clery Act

The Clery Act affects the Title IX obligations of institutions of higher education that participate in federal student financial aid programs. The Clery Act requires institutions of higher education to provide current and prospective students and employees, the public, and the U.S. Department of Education with crime statistics and information about campus crime prevention programs and policies. This information would be bundled as annual security reports (ASRs). The Clery Act requirements apply to many crimes other than those addressed by Title IX. For those areas in which the Clery Act and Title IX both apply, the institution must comply with both laws. Current expectations from Washington add responsibilities to institutions that go well beyond engaging traditional law enforcement and the constitutional processes.
long established. There are clear financial implications that should be addressed, and all sectors should offer commentary when needed.

On June 19, 2014, the U.S. Department of Education released a set of proposed rules that would require colleges to provide prevention programs to students and employees. Such programs would cover not only sexual assault but also dating violence, domestic violence, and stalking. Institutions would have to begin tracking these incidents. These regulations would expand the Clery Act.

On July 14, the Department of Education released guidance clarifying universities' responsibilities to comply with the changes to the Clery Act made by the Violence Against Women Reauthorization Act of 2013 (VAWA). The Department issued the guidance because the statutory changes affect the ASRs that institutions must issue by October 1, 2014. The guidance primarily focuses on what new information universities must include in their ASRs and what statistics universities should be compiling. Of note, VAWA amended the Clery Act to require universities to compile statistics for incidents of domestic violence, dating violence, sexual assault, and stalking.

The guidance clarifies that universities are expect to do the following as part of a good-faith effort:

- Revise/specify in their ASRs procedures for handling matters related to domestic violence, dating violence, sexual assault, or stalking once the incident has been reported. Additionally, universities must identify the standard of evidence they will use.
- Expand their existing policy statements to include information about how universities will facilitate changes in a victim's transportation and working situations, in addition to academic and living situations, if requested by the victim.
- Include statistics for domestic violence, dating violence, and stalking crimes for calendar year 2013 in the ASRs that must be issued by October 1, 2014. In doing so, universities must ensure that the statistics for the new crime categories are accurate and complete. Universities, however, are not expected to report new crime statistics for 2013. Instead, universities will report the statistics for both calendar years 2013 and 2014 to the Department during the data collection period in Fall 2015.

The Department published its proposed rule to implement the VAWA changes on June 20, 2014. The Department is expected to publish its final rule by November 1, 2014, with the final rule taking effect on July 1, 2015. In the interim, universities must make a good-faith effort to comply with the current regulations and may reference the Department’s guidance published on May 29, 2013.

On July 25, the U.S. Commission on Civil Rights held a briefing titled, “Federal Enforcement of Title IX Sexual Harassment Law in Elementary, Secondary, and Post-secondary Schools.” The Commission examined the effect of recent federal guidance on sexual harassment in schools and how it may conflict with constitutional protections. The briefing consisted of four panels that ranged in topics, starting with the current guidance and standards in place, data on sexual harassment, as well as advocate’s opinion on the current standards and guidance.

Additionally, U.S. Senator Claire McCaskill and seven co-sponsors introduced the Campus Accountability and Safety Act bill on July 30. The bill includes the following measures:

- Annual surveys of students’ experiences would be published online, by institution.
- Colleges found to be out of compliance with federal requirements would face fines of up to 1% of their operating budgets.
• Colleges would have to designate confidential advisers to support victims and help guide them through the campus disciplinary process or law-enforcement system.
• Colleges would have to handle all sexual-violence complaints through the same process (e.g., not having a separate process for athletes).

Such additional regulation puts institutions in the simultaneous roles of jury, judge, and executioner. These extra-Constitutional institutional burdens would create massive cost drivers in higher education.

Florida Senate Bill 524 (which passed), Sexually Violent Predators, requires all Florida institutions of higher education to inform students and employees of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and toll-free telephone number.


Reforming and simplifying the tax code is a priority for many members of Congress. Reform plans that propose to tax private college endowments, tax tuition benefits for faculty and other campus employees, or that limit charitable giving options should be rejected.

Maintaining the charitable deduction without percentage caps or dollar limitations is critical. Both the IRA charitable rollover and tuition deduction should be extended immediately, while the committees work on longer term tax reform bills. Any efforts to reform the current higher education tax benefits should maintain the current three-tiered structure, providing benefits for saving for college, paying tuition, and repaying student loans.

Regarding tuition tax benefits, the consolidation and simplification of the various credits and deduction into one permanent tuition tax credit that maintains eligibility for all students, but eliminates the current confusing array of options tax filers now face, is needed.

On July 24, the House passed the Student and Family Tax Simplification Act (H.R.3393, also called the Black-Davis bill) by a vote of 227-187. It is unlikely to be considered by the Senate this year. The bill amends the Internal Revenue Code to provide for a new version of the American Opportunity Tax Credit, in lieu of the current Hope Scholarship and Lifetime Learning tax credits and the tax deduction for qualified tuition and related expenses, that provides for each eligible student (i.e., a student who meets certain requirements of the Higher Education Act of 1965 and who is carrying at least 1/2 the normal full-time course load) a credit of 100% of up to $2,000 of qualified tuition and related expenses (i.e., tuition, fees, and course materials, excluding expenses for courses involving sports, games, or hobbies or for expenses unrelated to academic instruction), plus 25% of so much of such expenses as exceeds $2,000, but not more than $4,000. The bill makes up to $1,500 of such credit refundable. It modifies the phaseout of such credit based on taxpayer modified adjusted gross income by increasing the income level for such phaseout. It allows an inflation adjustment to credit and phaseout amounts for taxable years beginning after 2018.

The bill eliminates the disallowance of the credit for students who have been convicted of a felony drug offense.
The bill also requires a taxpayer claiming such credit to include on the taxpayer’s tax return the employer identification number of the educational institution to which qualified tuition and related expenses were paid.

The bill excludes from gross income, for income tax purposes, amounts received as a Federal Pell Grant in taxable years beginning after 2014.

The bill has the backing of community colleges and college bookstores, which say it would simplify the tax code and better coordinate the tax benefits with Pell Grants. But the American Council on Education has warned that the measure would hurt many low- and middle-income students and families who benefit under current law, as well as graduate and adult students who make use of the tuition deduction or the Lifetime Learning Credit.

Any effort to reform the higher education benefits should not eliminate tax benefits for students and families, including graduate students, at a time when they need it most.

5. College Affordability and Restructuring Loans and Debt

There are several factors affecting college affordability, including greater numbers of low-income students attending, more middle-income families with limited funds, decreased state support for higher education in some states, and an economy that continues to recover. However, solutions should not diminish the quality of education, reduce the rigor of degrees, or conflict with institutional autonomy. For example, institutions in the independent sector also offer a great deal of student aid from its own funds to keep net tuition and fees as low as possible, and to facilitate on-time graduation so students can avoid additional years of expense.

In 2012-13, students at ICUF institutions were awarded over $171 million in institutional grant aid. Students who received such aid received an average of $11,000 each during the academic year.

While student debt is a concern, most students have manageable debt, and repay their loans – a fact that is being lost in current media coverage. Nationally, 30% of graduating seniors have no debt; in Florida, that number is only 50%. Students must have access to the loans necessary to help pay for college. Student loans should be understandable and predictable for all students and parents and as low-cost as possible. Federal priorities should include a low-interest rate, maintaining the in-school interest subsidy, and discouraging excessive borrowing. However, the federal government should not be making a profit from those who must borrow, including graduate students and parent borrowers. Recent changes to PLUS Loan eligibility need to be reexamined. The Department of Education is seeking comments on recommended changes to eligibility standards for PLUS Loans. The proposed regulations, published on August 8, would update the criteria for determining if a potential PLUS Loan parent or student borrower has an “adverse credit history” that prevents the applicant from getting the loan. By Department estimates, the change would expand loan access to 371,000 borrowers.
6. Teacher Preparation

The Department of Education has announced that the new regulations for college teacher preparation programs are being expedited this summer. The Secretary proposes

(1) regulations under Title II of the Higher Education Act so that annual State report cards on teacher preparation submitted to the Department as part of the Title II reporting system provide “more meaningful” data on the performance of each teacher preparation program in the state, and

(2) to amend the regulations governing the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program under Title IV of the HEA so as to condition TEACH Grant Program funding on teacher preparation program quality and to update, clarify, and improve the current regulations and align them with Title II reporting system data.

Strengthening legislation that would ensure high-quality teacher preparation programs, and build capacity at institutions with limited resources, makes sense. However, regulations that are not based on actual practice or valid research – such as the use of value-added test scores of K-12 students to reward, punish, or even close teacher preparation programs whose graduates teach those students, should be opposed.

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7. Veteran and Servicemember Education

The federal investment in educational benefits for veteran and military students is appreciated. Particularly important are the Post-9/11 GI Bill and its “Yellow Ribbon” program, which have opened educational opportunities for many veterans. All sectors of higher education in Florida are committed to offering a supportive environment for veterans on their campuses. Veterans should be able to receive good consumer information. Greater emphasis is being placed on accessing information resources already available from the Department of Education, and continued progress in this area is encouraged.

In July 2014, Congress passed legislation that would require public universities that want to continue receiving GI Bill benefits to offer recent veterans in-state tuition. Veterans’ spouses and dependents would also be eligible for the benefit. The bill now awaits President Obama’s signature. The Florida Legislature passed similar legislation in 2014.

It is understood that veterans often face special circumstances when it comes to issues such as the award of academic credit. At the same time, it is extremely concerning for the federal government to get involved in a process that is fundamentally an academic function. Market forces and competition for student enrollment should be allowed to flourish with review of performance designed to identify best practices.
8. **A Federal Value Metric, Earnings & Educational Value**

Before the 2015 academic year, the U.S. Department of Education plans to develop a new ratings system “to help students compare the value offered by colleges and encourage colleges to improve.” These efforts are underway to create a metric for rating and comparing the value of colleges and to base the amount of aid to a low-income student not exclusively on need, but, also, on the rating of the college he or she chooses to attend. The results will be published on the College Scorecard. The Department is holding public hearings to obtain input from higher education institutions and organizations. However, a major concern from all higher education sectors is using the same criteria to “grade” institutions with widely varying missions and student bodies. What would be the full effects of these changes on higher education in Florida? The Department has stated that the ratings will be based upon such measures as

- Access, such as percentage of students receiving Pell grants;
- Affordability, such as average tuition, scholarships, and loan debt; and
- Outcomes, such as graduation and transfer rates, graduate earnings, and advanced degrees of college graduates.

The benefits of higher education are multi-dimensional, and not all are easily measurable. Initiatives that would help students find their best fit colleges make sense, but Pell grant awards should not be reduced simply because of the college they choose to attend. Certainly, these metrics should not be driven by USDOE rulemakers.

Related to efforts to develop a federal value metric, some see financial return as synonymous with educational value. A college education does typically increase lifetime earnings – by approximately $1 million on average – so it offers a big return on financial investment. Likewise, unemployment rates decline, on average, with degree or certificate attainment. More importantly, however, a college education helps develop qualitative values that enrich lives, promote good citizenship, and foster creativity and innovation. These do not seem to be part of the discussion.

The higher education sectors in Florida should support transparency initiatives that give prospective students a diverse array of valid information on best fit colleges and possible career earnings, while opposing efforts to assess quality through narrow metrics. To be effective, the available consumer information must be clearly understandable and user-friendly, such as that demonstrated by NAICU’s University and College Accountability Network (UCAN), now with more than 800 participating private nonprofit colleges.

While the U.S. Department of Education has announced that the ratings system will have a delayed rollout, it intends to release a draft in fall 2014.

9. **College Completion**

There is an important, heightened, and newly focused federal conversation taking place regarding college completion, a priority of all higher education sectors in Florida. College completion is an important federal goal. However, if the federal government implements new initiatives in this area,
(1) any proposed changes in the distribution of federal aid should be made public before a vote,

(2) Congress should not make inappropriate rules on the awarding of academic credit, which is integral to each institution’s mission,

(3) if states are to coordinate any such efforts, the structure for participation by independent colleges will be sensitive to the fact that those institutions are not state entities, and

(4) regional accreditation should continue to set the institutional bar of quality.

NAICU has a project, Building Blocks to 2020, highlighting successful programs at private nonprofit colleges, which has drawn praise from federal officials. The higher education sectors in Florida should continue to support initiatives that positively affect students’ college completion, but should oppose concepts that would create new credentials by devaluing degree requirements.

10. Higher Education Reform

Reform is not new to higher education; it is a central characteristic. The strength of the American higher education system is its diversity, and its inter-state and non-governmental nature. The sectors’ differing missions reflect the unique character of the American people and are essential to the U.S.’s continued role as the world’s leader in economics, the arts, and pluralism. It is in the national interest that higher education reform efforts be collaborative in nature and based on proven ideas from campus, rather than on unproven federal mandates imposed on institutions as a condition of Title IV aid.

The costs imposed upon institutions by over-regulation are both burdensome and tangible drivers of increased costs. Quality has taken a back seat, especially in negotiated rulemaking processes. The U.S. has long been a global leader in higher education, yet policymakers and meddlers seem to want to regulate change for change’s sake.

There needs to be a continued focus on the value of the diversity of institutions, the importance of access for all segments of our citizenry, and the market-driven quality that has occurred through what President Leebron of Rice University describes as “the competitive and dynamic environment we operate in.”

The Higher Education Coordinating Council gives us a forum to provide concrete, knowledgeable, and effective collective advocacy for Florida.

11. State Authorization/SARA

The U.S. Department of Education has once again offered a one-year delay in implementation of state authorization regulations. A June 24 Federal Register notice parallel to one issued last June explains that an institution can qualify for the delay if the State in which it is located is in the process of establishing an authorization process that is acceptable to the Department of Education.
An institution that does not meet the state authorization requirements must obtain an explanation of “how an additional one-year extension will permit the State to finalize its procedures so that the institution is in compliance.” The institution must provide that explanation to Department staff upon request. A request for the explanation would most likely be made during an institution’s Title IV recertification review, since enforcement of the authorization requirement is handled through that process.

The state authorization requirements addressed in this notice are those that require an institution to be authorized in the state in which it is located. They do not deal with the authorization of distance education programs. The portion of the state authorization regulations dealing with distance education were struck down in court and are not currently in effect. A negotiated rulemaking committee recently considered proposed new distance education rules, but failed to reach agreement. New federal regulations dealing with state authorization of distance education programs will not take effect until the current regulatory process is completed. Remaining steps in that process include the publication of proposed regulations, acceptance and review of public comments, and publication of final regulations.

The requirements that remain in effect are those requiring an institution to be authorized by the state in which it has its main location or in which it has an additional physical location offering at least half of an educational program. Unfortunately, constantly changing and inconsistent interpretations of the regulatory requirements have proven to be confusing to states and institutions alike. Often, an institution is unaware its authorization is in question until an issue is raised during recertification review. The Department of Education has declined to make available a list of states that are out of compliance, so—delay or not—the confusion is likely to continue.

Information prepared by Independent Colleges and Universities of Florida for the Higher Education Coordinating Council.