



January 12, 2018

In 2017, the Chancellor's Office was able to increase federal engagement over recent years. The Government Relations Division participated in four separate visits to Washington D.C. (February, June, October and December) to meet with Congressional offices and the Department of Education, and spoke at two Congressional briefings (February, June) focused on the priorities and goals of the California Community Colleges. As we enter 2018, the Division is focused on planning the 2018 National Legislative Summit delegation to Washington D.C, scheduled for February 12-14, in coordination with the Community College League of California and the Academic Senate for California Community Colleges. Additionally, the Division is in the process of finalizing plans for an ongoing advocacy presence in Washington D.C., and a 2018 strategy for engagement with the Federal Government, which will include a focus on the following priority issues.

HIGHER EDUCATION ACT REAUTHORIZATION

H.R. 4508 called the Promoting Real Opportunity, Success and Prosperity through Education Reform (PROSPER) Act, was approved by the House Education and Workforce Committee, and makes major changes to student financial aid, accountability, institutional aid, regulation of for-profit colleges, accreditation, sexual assault and free speech on campus. While there have been indications that changes will be made before the bill is brought to a vote of the full House of Representatives, the Division is actively monitoring the following provisions:

Federal Pell Grant Program

- Programs that are one-third to two thirds of an academic year would be eligible for Pell Grants and other Title IV student aid programs.
- The bill creates a "Super Pell" award - a \$300 annual increment (not indexed to inflation) provided to students who take 15 credits a semester, and 30 for a full academic year.
- While there are no cuts to Pell, there are no provisions for annual increases in the Pell Grant maximum award outside of the appropriations process.
- The current 12-semester (6-year) limit on Pell Grant eligibility is retained.
- Pell eligibility would be cut off after three payment periods with no credits earned, and mandate annual student loan and Pell Grant counseling.

Title IV Refunds/Risk Sharing/Student Aid Disbursements

- Students would "earn" their Title IV aid at increments of 25% of the period of enrollment. A student who completed less than 25% of the period of enrollment would earn no federal student aid; the student who completes 25% would earn 25% of the student aid.
- Consequently, only students who complete the entire term would earn 100% of their aid. This is a change from current law, under which students who complete 60% or more of the term receive the full amount.
- Colleges would be required to award federal student aid "like a paycheck," in equal installments each week or month. Colleges would be authorized to assess students 10% of the amount that they must return to the federal government.
- Under the umbrella of "risk sharing", colleges would be required to return to the federal government any Title IV funds that the student received but had not "earned."

Federal Loan Programs

- The Federal Loan Programs would be renamed the Federal ONE program. The existing in-school interest subsidy for undergraduate students who have demonstrated financial need would be eliminated.
- Student aid officers would be given discretion to reduce loan maximums for broad categories of students. Grounds on which loans could be limited:
 - Student debt levels that are excessive for program graduates (using Bureau of Labor Statistics regional average starting salary data)
 - Enrollment intensity (less than full time)
 - Credential level (degree or certificate)
 - Year of program
- Institutional cohort default rates and related sanctions would be replaced by program-level loan repayment rates. Programs with loan repayment rates below 45% for three consecutive years would lose Title IV eligibility. If a program has fewer than 30 students, a 3-year average is used.
- The Public Sector Loan Forgiveness Program would be eliminated and a single Income-Based Repayment (IBR) program would be created.

Campus-Based Student Aid Programs/Federal Work-Study

- The Supplemental Educational Opportunity Grant (SEOG) program would be eliminated with the funds being redirected into Federal Work Study (FWS). NASFAA estimates that this move would double the current FWS funding.
- The community service requirement in FWS would be eliminated; priority would be given to work-based learning opportunities.
- An amendment was added in the markup process that will allow apprenticeship programs to be eligible for FWS funds.

Institutional Aid

- Would authorize the continuation of the TRIO programs (outreach programs directed at students from disadvantaged backgrounds) but would make several significant changes to replace “prior experience” with “accountability for outcomes” and prohibit absolute, competitive, or other preference priorities to be used in awarding these funds. Ten percent would be set aside for new applicants. Mandates the addition of a 20% matching requirement for all programs that would have to be provided using non-federal funds. These changes likely put community colleges at a disadvantage when applying for TRIO funds. Their prior experience is not considered and many colleges will not be able to provide 20% matching funds. HR 4805 also changes the Hispanic-Serving Institutions (HSI) and Predominantly Black Institutions (PBI) programs by requiring a 25% completion rate.

Ability-to-Benefit Students

- All students who lack a high school diploma or its equivalent would become eligible for Title IV if they successfully take six credits at an institution.

Apprenticeships

- The Strengthening Institutions (Title III-A) program, a community college mainstay, would be eliminated and those funds would be used for a new grant program for apprenticeships. The maximum award would be \$1.5 million and would be awarded on a competitive basis to

industry-college partnerships. Federal funds would cover 50% of costs, as well as 50% of student wages.

Accreditation

- Critically, “student learning and educational outcomes in relation to the institution’s mission” would become the sole criterion that accreditors would be required to focus upon in order to be recognized by the U.S. Department of Education (ED) secretary. This would replace the current “student achievement” as the first of 10 standards that agencies had to meet.

Transparency/Graduation Rates/College Dashboard

- The current annual institutional graduation rate disclosure—150% of the “normal time” to completion—would be eliminated. Instead, Department of Education would create a new College Dashboard to replace the current College Navigator.

For-Profit Colleges/”Single Definition” of Institution of Higher Education

- The legislation would give for-profit colleges the same statutory status as non-profit institutions of higher education through creation of a “single definition” of institution of higher education. In addition, the current “90/10” rule, which requires that for-profit institutions derive at least 10% of their overall funding from non-Title IV sources, would be eliminated.

Gainful Employment

- The HEA’s gainful employment language (GE) would be eliminated. GE regulations promulgated by the Obama Administration have been extremely controversial within the for-profit sector, and did add reporting burden to community colleges. However, they clearly resulted in the closing of many subpar programs in the for-profit industry, to the benefit of taxpayers and students.

State Authorization

- The current state authorization regulations would be repealed and the government would be barred from regulating in this area. The law clarifies that, for federal purposes, the institution is located only where it is physically present.

Free Speech Protections

- Institutions of higher education will not be eligible for Title IV funds if they have a “free speech zone” or limit speech by other means.

Sexual Assault

- Campus Climate Surveys would be required not less than every 3 years. The education secretary is required to develop sample surveys. Colleges would be required to retain the services of qualified sexual assault survivors’ counselors, and must develop a one-page form for guidance to students who may be victims of sexual assault. The legislation requires the secretary to develop model forms. Colleges would be encouraged, but not required, to enter into MOUs with law enforcement agencies with primary jurisdiction.

On the Senate side, Republicans and Democrats say they are working together on the rewrite. Senators Lamar Alexander, the Tennessee Republican who chairs the education panel, and Patty Murray (D-Wash.), the ranking member on the committee, have already begun meeting on the rewrite, which they are aiming to mark up this spring. Senator Alexander has long been a proponent of simplifying the

Free Application for Federal Student Aid. He also supports the loan simplification provisions in H.R. 4805. Senators Jeanne Shaheen (D-N.H.) and Orrin Hatch (R-Utah) are pushing a bill that would hold colleges accountable for the rate at which their former students are successfully repaying their loans. Under the bill, S. 2231, colleges would have to pay back a share of the federal loans that their students are not repaying. One area that has much disagreement between Democrats and Republicans is the role of a college in campus sexual harassment and sexual violence. Advocacy groups and Democrats voiced concerns that some of the language in H.R.4805 may conflict with the Clery Act, which requires that colleges report crimes that happen on campus. They also say some provisions would allow schools to stall on investigations if police are involved.

DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)

Another continuing resolution approved in December will keep the Federal Government funded until January 19, 2018. Congressional leaders of both parties and the President are currently negotiating to prevent a government shutdown. Immigration reform including a solution for those in the country under DACA has become key to these talks. After rescinding DACA last year and then seemingly coming to an agreement with Congressional Democrats, the President has since backed away from that stance and is now insistent that any extension of DACA will have to be attached to funding for a wall along the southern border of the United States and additional Border Patrol agents. A stall in immigration negotiations is beginning to create divisions within a bipartisan group of Senators who have been working on this issue, which could push the parties farther apart, making a solution more difficult. A similar situation is taking shape in the House but the spilt is with the Republican caucus members preparing to introduce legislation that is closely based on the priorities for the Trump Administration despite those priorities not having full support of all Republicans.

On Tuesday, January 9, 2018, the Federal District Court in San Francisco granted an injunction against the Trump Administration's rescission of the DACA program. In support of this case, the Board of Governors joined an amicus brief and Chancellor Oakley provided a declaration. The injunction requires the government to reinstate the DACA program, at least for individuals who were in the program on the date of rescission. The ruling will be appealed promptly. Until a stay or other order is issued by the Ninth Circuit Court of Appeals, individuals who are eligible to renew their DACA status, including those who have been unable to renew since rescission went into effect, should apply for renewal immediately.

DEPARTMENT OF EDUCATION CONVENES NEGOTIATED RULE MAKING ON GAINFUL EMPLOYEMENT RULE AND STUDENT LOAN FORGIVENESS

The Department's two negotiating teams on the Gainful Employment and Borrower Defense rules convened in December; each of the committees is scheduled to hold three negotiating sessions. On the borrower defense side, the negotiating team has now met twice and, recently, the Department unveiled draft regulations. The proposal was immediately met with concerns from student advocacy organizations that defrauded students would face too many obstacles for forgiveness options to be effective. The rules would also allow a practice previously banned under the Obama Administration, requiring students to sign arbitration clauses in enrollment contracts. The Department has argued that the rules are necessary to ensure a thoughtful and organized approach to loan forgiveness. The Gainful Employment negotiators convened in December to discuss a series of issue papers focused on the burden and appropriateness of the rule; no draft regulations have been released at this point.