2017 and Community Colleges

In Washington, DC, it is a time of political transition and many unknowns for higher education policymaking. The following outlines some of the major national issues facing community colleges and their students as the 115th Congress convenes and President-elect Donald Trump takes office.

Community Colleges and National Perceptions

Community colleges are probably better understood and valued than at any other time in their history. This stems in part from the Great Recession, when colleges gained recognition for providing a lifeline for those seeking to acquire the necessary skills and credentials to secure employment. Enrollments swelled and the media took notice. The Obama administration provided community colleges with sustained promotion. The new institutional emphasis on student success also helped.

Community colleges have been buoyed by the broad recognition that higher education is a virtual necessity in attaining a family-sustaining, middle-income lifestyle in today's economy. A growing amount of more refined and comprehensive (if yet incomplete) data demonstrating the economic returns to particular community college credentials buttress this perspective.

But the news is not all good: recent polls suggest that fewer people think that higher education is necessary for economic success. Data released by the Public Agenda in September found that the percentage of Americans who responded "yes" to the question "Is college necessary?" declined from 55% to 42% between 2009 and 2016 after rising from 31% in 2000. Forty-six percent said that college was a questionable investment because of loan debt and limited job opportunities. These growing reservations are concentrated among white Americans, while Latino and African-American populations place greater value on attaining higher education. This swing in whites' views has high relevance given that less well-educated white voters swung decisively to support President-elect Trump in the recent election. In this instance, their votes seemed to say, "We don't necessarily want college, but we do want greater economic opportunity." It's a paradox given the facts.

Community college presidents may therefore want to examine how their efforts at providing economic opportunity, social mobility, and inclusiveness are viewed by the public. Community colleges are clearly seen by many as providing a gateway to a better life, without having acquired some of the negative perceptions attached to four-year colleges. The case for needed resources should take these and other factors into account as the value proposition is made.

Funding

Securing needed support for federal student aid and other critical programs that impact community colleges will certainly be a major focus in 2017 and will likely face stiff challenges.

In its waning days, the last Congress chose not to finalize FY 2017 appropriations legislation. At the request of the incoming administration, the Republican leadership instead elected to approve a continuing resolution (CR) running through April 28, with final FY 2017 funding decisions to be made before it expires. Left hanging in the balance was whether to reinstate the year-round Pell Grant (YRP). The YRP was included in Senate Labor-HHS-ED appropriations legislation but not its House counterpart, and was not included in the CR. Getting the year-round Pell Grant included in the final FY 2017 legislation will be a top AACC priority, but it will be a tough fight.

The budget prognosis for FY 2018, which begins October 1, is problematic. The Trump administration's signaled its general orientation to federal budget policy by nominating Rep. Mick Mulvaney (R-SC) as the next director of the Office of Management and Budget (OMB). Mulvaney, a co-founder of the conservative House Freedom Caucus, is a staunch advocate of sharply reduced domestic federal spending. His new position will give him a prime position to champion this goal. It remains unclear how the Trump administration can achieve its goal of new infrastructure spending, tax cuts, and increased defense appropriations either by blowing a hole in the federal budget, or making unprecedented cuts in domestic appropriations and popular entitlement programs.

The overall FY 2018 cap for domestic appropriations (resulting from the 2011 Budget Control Act) is limiting but not as draconian as the caps that loomed for the previous four years and averted through Republican-Democrat negotiations. The FY 2018 cap provides about $3 billion less for domestic programs than in FY 2017. However, efforts may be made earlier in 2017 to reduce this cap and to use resulting savings for increased military spending.

In the fight for resources, the job-training programs may come under particular duress as these are generally associated with organized labor, a prime Democratic constituency. Other discretionary programs also may be targeted for reductions.

Budget Reconciliation and the Higher Education Act (HEA) Reauthorization

Budget Reconciliation

Despite their plans, neither the House nor the Senate considered comprehensive HEA reauthorization in the 114th Congress. A great deal of preliminary work has taken place, including extensive hearings stretching over two Congresses, but prospects are uncertain for action in the coming year. Other priorities will dominate the calendar (such as confirmation hearings and budget reconciliation), and it will be difficult to move legislation in what could be a highly partisan atmosphere. This may make it difficult for senators, who need 60 votes to pass a bill, to find common ground. Finally, despite constant discussions about the effectiveness of the student financial assistance programs, most policymakers believe that the HEA programs meet their basic objectives fairly well—there are few calls for elimination or fundamental restructuring.

Therefore, smaller-scale HEA legislation may move in 2017, but HEA budget reconciliation legislation is also a possibility. Reconciliation is limited to mandatory programs, such as Social Security, Medicare, and Medicaid, where funding is provided automatically, by law, unless explicitly modified. It stands in contrast to annual appropriations, which represent less than one third of the federal budget. Reconciliation bills only require a majority of Senate votes for passage (rather than 60) and therefore can be passed without Democratic support. This is how the second "Obamacare" bill was passed in 2010, which included the $2 billion Trade Adjustment Assistance Community College and Career Training (TAACCCT) grant program.

Reconciliation does apply to the major federal student loan programs, and therefore, reductions to these programs could on the table. Changes could include

- An imposition of some type of "risk-sharing" on student loans by institutions.
- An elimination of the in-school interest subsidy for needy undergraduates, a provision that has been on the chopping block previously.
- Alterations to the income-based loan repayment provisions and Public Service loan forgiveness programs, the cost estimates for which have grown dramatically (link to GAO report).

The risk-sharing concept has gained significant traction in the Senate, and a number of policy-focused organizations have advanced proposals with variations. Nevertheless, AACC continues to adamantly oppose loan risk-sharing by institutions of higher education for many reasons, including that its incentives bear little relation to the underlying goal of promoting student success. AACC also has taken the position that any budgetary savings found in the federal loan programs should be retained in the Title IV student aid programs, with priority given to the Pell Grant program.

Higher Education Act Reauthorization

As stated, the parameters of the HEA reauthorization are uncertain. When the process does get underway, a few of the high profile issues for community colleges will include:

<u>Pell Grant Program</u>

As community college enrollments have dropped, the amount of Pell Grant funds received by students has dropped as well. For the 2015-16 award year, a total of 2.8 million community college students received awards, totaling $9.4 billion.

In the HEA reauthorization, AACC wants to ensure that current eligibility is maintained and broadened in a couple of key areas. This includes the year-round Pell Grant, as well as a new lifetime limit of 14 semesters (or its full-time equivalent) of eligibility, rather than the current 12. Also, the law needs to be amended to provide mandatory funding to continue the annual increase in the maximum Pell grant that is calculated based on the consumer price index (CPI). Finally, some type of Pell Grant funding for short-term programs (less than 600 hours or two-thirds of an academic year) is needed.

<u>Measurement</u>

AACC has made reform of the current federal graduation rates a centerpiece of its HEA reauthorization agenda. Based on the Voluntary Framework of Accountability (VFA), AACC supports a six-year graduation rate (300% of the “normal time”) that includes transfers-out. AACC also supports establishment of a national unit record data system that would not only enable students to be followed throughout their postsecondary educations, but also be linked to federal wage data records. These matches were executed for the gainful employment regulations.

<u>Federal Student Loans</u>

Slightly less than one fifth of all community college students take out federal loans, but more than one third of all full-time students are borrowers. Community college students suffer from the highest default rate of any sector of higher education, 18.5% for the most recent FY 2013 cohort. The paradox is that community college students who do borrow take out smaller loans than students in other sectors, and those who default tend to have relatively small loan balances. Defaulters are much likelier to be students who have left college without obtaining a credential. However, not all those who drop out default; nor do all those who complete their degrees repay.

Community colleges have a broad federal loan agenda for the HEA reauthorization. It includes giving colleges some authority to reduce loan amounts for students; prorating loan amounts based on enrollment intensity; “decoupling” institutional Pell Grant penalties from those tied to loan defaults; limiting the aggregate amount that associate degree students can borrow; simplifying income-based loan repayment; encouraging more frequent loan counseling; and improving loan servicing.

<u>Accreditation</u>

The accreditation process is a flashpoint of divergent opinions about higher education. Accreditation legislation will probably be considered in some form in the next Congress. For more on accreditation, see the accountability section below.

U.S. Department of Education Administration and Executive Branch Regulations

A new administration means a new set of players guiding the many agencies with which community colleges interact. None are more important that the U.S. Department of Education (ED), followed by the Department of Labor. The proposed nominate of Betsy DeVos as secretary of education has garnered a great deal of attention, focusing on her staunch advocacy for charter schools and school choice, as we all her substantial contributions to Republican politicians. DeVos has left no meaningful record on higher education issues, making the selection of sub-cabinet posts within ED of critical importance. The fast-food executive Carl Puzder has been tapped as secretary of labor. Puzder has stated his opposition to the Obama administration's controversial adjustment to the overtime rules. These rules had been set to take effect December 1, but were invalidated by a Texas court.

Title IX

The Obama administration's enhanced use of the Title IX statute to address sexual assault on campuses has been extremely controversial and seemed to satisfy no one. Colleges and universities experienced difficulty in complying with changing regulations and guidance, as well as with a bureaucracy that often seemed inefficient, with extraordinary time needed to resolve Title IX cases. Part of the tension arose from the inherent challenges of applying Title IX to campus sexual assault, which was not contemplated when the statute was first drafted.

Despite this, an unequivocally positive outcome of the Obama Title IX initiatives is that colleges have become more sensitized to the imperative of providing a secure environment for all students. In addition, students themselves are more aware of the realities of campus sexual assaults.

Because of the issue's complexity and its political attention, the Trump administration will be challenged as it wades into this area. A likely outcome of the change in administrations will be a less aggressive enforcement approach, without in any way signaling a lack of concern for the victims of sexual assault. Colleges are looking for a movement away from the use of subregulatory guidance to implement Title IX. Subregulatory guidance is less formal than that of regular regulation, but it does not allow for formal public input and many colleges have felt compelled to follow ED's pronouncements. The use of subregulatory guidance has been decried by a number of Republican members of Congress, particularly the requirement that campuses use a "preponderance of evidence" standard in sexual assault proceedings.

In any legislation that the 115th Congress might consider on Title IX and sexual violence in 2017, AACC will be working to ensure that it reflects some of the primary features of community colleges, including the fact that they are not generally residential campuses and that their students are older, on average, than those in other sectors.

Gainful Employment

The gainful employment (GE) regulations promulgated by ED have proven to be highly problematic for community colleges and AACC is asking Congress and the Trump administration to take them back to the drawing board. The underlying objective of the GE rules—to ensure a minimum level of accountability in certain Title IV-eligible programs—is legitimate. However, the current statutory definition of what constitutes a "gainful employment" program is not valid. In non-profit higher education, it includes a large swath of community college programs (basically, all Title-IV eligible certificate programs) while bypassing hundreds of programs, including some at community colleges, that are explicitly designed to prepare students for specific careers. The GE focus on student debt in relation to earnings is appropriate because it can help encourage prospective students to make better choices about their postsecondary education program.

The primary issue that community colleges have had with the GE regulations has been the administrative burden. The cost of implementation has far exceeded their benefit, either in impacting program eligibility or consumer information produced alongside the key debt-to-earnings ratios. The linkage of student-level Title IV data to Social Security earnings has marked a significant advancement in federal policy. These data have shown, in fact, that community college program completers fare far better than those attending for-profit institutions.

Getting Into the Bureaucracy

Underneath the higher profile policy issues described above, the U.S. Department of Education's student financial assistance regulations and implementation guidance play a tremendously influential and often problematic role for community colleges. There is no disputing the responsibility of the federal government to ensure that taxpayer funds are used as directed, and this, in turn, requires significant campus resources and attention. However, government policies must be communicated and operationalized clearly and consistently. Community college officials consistently decry a regulatory apparatus that is byzantine, constantly fluctuating in key aspects, and marked by a punitive posture towards institutions that are simply trying to serve students. Many assert that this relationship has deteriorated, despite the efforts of many committed individuals across the government.

The new administration has an important, if tedious, responsibility to dig into the bowels of the bureaucracy to ensure that it works fairly and efficiently. This includes supporting departmental personnel, articulating clear rules and regulations that are changed only when necessary, and viewing colleges as true partners in delivering essential student aid funds. This administrative reform is entirely independent of any potential Congressional activity and should begin immediately.

For-Profit Colleges

The Obama administration launched a number of regulatory and related policy proposals designed to combat low-performing for-profit institutions. The Trump administration, following other Republican administrations, is likely to ease up on for-profit institutions, starting with gainful employment. As mentioned, Secretary of Education-designee Betsy DeVos is a harsh critic of K-12 public education and may look to for-profit colleges to play a more prominent role at the postsecondary level.

Other Regulatory Issues

There are a variety of Obama administration regulatory initiatives that will undergo close scrutiny by the incoming administration. These include the state authorization of distance education programs and related issues, borrower defense to repayment regulations, and the federal definition of credit hour. Some of these regulations may be formally withdrawn, or simply not enforced. Also, of immense importance is the administration of the federal student loan program, particularly in regard to loan servicers. AACC will be working to influence these and other activities.

Immigration/DACA

The charged statements on the immigration issue by President-elect Trump have caused reverberations on community college campuses across the country. The national debate has moved dramatically from the aftermath of the 2012 presidential election, when the Senate passed comprehensive immigration reform legislation with 68 votes. The Trump administration will undoubtedly create more restrictive immigration policies; what form they will take remains uncertain. But, it’s safe to say that prospects for enactment of the DREAM Act and more liberal immigration policy are a thing of the past.

Community college officials are focused most intently on the incoming administration’s policy concerning the Deferred Action on Childhood Arrivals (DACA) policy of the Obama administration. Under DACA, individuals who arrived in the U.S. before the age of 16, have a high school diploma or are in college, and who meet other conditions, are exempted from deportation, and could receive Social Security numbers and work authorization. DACA status is granted for two years at time and is renewable. While it is not known how many students attending community colleges have received DACA status, it is undoubtedly a very large number.

The Obama administration issued an executive order to create DACA and as such, it can be repealed by the Trump administration. Alternatively, the incoming administration could choose to simply not renew the expiring terms of DACA individuals. The Trump policy has not been articulated, and it is conceivable, because of the nature of the DACA designees—those who generally did not come to America under their own agency and have demonstrated a commitment to advancement—that the policy will be continued. More information on DACA can be found at http://www.acenet.edu/news-room/Documents/ACE-Issue-Brief-Immigration-DACA-Sanctuary-Campus.pdf

Since the election, some community colleges have announced that they are sanctuary campuses, although the precise implications of this declaration are unclear. Colleges remain under a variety of obligations to cooperate with legal authorities and are not in a position to release much information about students under FERPA. However, this publicity may provide security for otherwise anxious undocumented individuals. So, as in other areas, the Trump administration will have important decisions to make.

Infrastructure

Candidate Trump proposed extensive investments in the nation's infrastructure. There is broad agreement that the nation's economic performance would be enhanced by an upgrading and modernizing of many aspects of the national infrastructure.

Community colleges have a legitimate stake in a new infrastructure effort. Their ability to deliver state-of-the-art-technical education is inextricably linked to having up-to-date facilities and the fixed equipment and educational resources that go with them, but they continue to receive a small share of public funding for higher education facilities. Considering the trends of local and state divestment in postsecondary education and the critical need to remain globally competitive, federal investment in our country's higher education physical capital is economically justified and integral to the nation's future prosperity. The collective facility needs of community colleges are massive, but federal investments can play a key role, in part by leveraging other funds. Some of the areas where this investment might be made include nursing and health careers, advanced manufacturing, cybersecurity, information technology, engineering, homeland security, etc.

Congress has shown a willingness to support infrastructure. Legislation passed by the Senate in 2009 included substantial funding for community colleges, as did the American Graduation Initiative, passed by the House in 2010. In looking towards 2017, a few basic concepts for a federal infrastructure effort could be as follows: projects should be awarded on the basis of relative need as determined by states, which would be required to demonstrate the impact of the proposed project on workforce outcomes. A state match of 33% of the total cost of a project would be required. A $5 billion investment over three years would help community colleges begin to make necessary improvements to their physical plant. Support should be provided in a sufficiently flexible fashion as to accommodate the multiple financing mechanisms used by community colleges, which may include the ability to use debt financing with federal support. Funds should be used for new construction as well as renovation.

AACC also supports a one-time, $1.5 billion, two-year Community College and Industry Partnerships program that engages key players, particularly business and industry, in expanding, modernizing, and otherwise improving community colleges' ability to educate the workforce for jobs for which there is demand, emphasizing objectives established in any infrastructure legislation. The uses of program funds need to be flexible and should include faculty and curriculum development to align programs with industry needs; equipment acquisition; development of innovative program designs, such as competency-based models, apprenticeships, and other workplace learning; and facilitation of broad-based college/business coalitions, including sector-based initiatives.

Tax Reform

Tax reform appears to be at the top of the Republican agenda, strongly supported by President-elect Trump and Congressional leaders. Tax reform legislation is being worked on now, and should be moving in early 2017, though it will take months to complete. The implications for community colleges, and society as a whole, are huge.

Tax reform may be a top-to-bottom rewriting of the entire tax code. The key goals are to reduce both individual and corporate tax rates by eliminating literally hundreds of tax expenditures (i.e., deductions, credits and other preferences) and simplify the code. The guiding logic is that it encourages a more efficient resource deployment by dramatically scaling back the government's tilting of economic behavior to meet various social goals. The elimination of most provisions in the tax code also facilitates compliance and enforcement.

However, community colleges and their students currently benefit from several tax provisions. In the tax reform process, all of these preferences could be modified or eliminated. Chief areas of action that may impact community college interests include

- The charitable contributions deduction, which could be dramatically reshaped and limited.
- Section 127 of the IRS Code, which allows employees to receive up to $5,250 each year of employer-provided educational assistance tax-free.
- Provisions related to the use of tax-exempt bonds for public financing.
- American Opportunity Tax Credit (AOTC) and Lifetime Learning tax credit.
- Student loan interest deduction.

As just about every aspect of American economic activity is potentially impacted by tax reform, lobbying will be furious. However, Congressional tax reform advocates bite the political bullet and become willing to alienate key constituents in an effort to dramatically change current law, for an ultimately stronger economy. AACC will be working to influence and keep abreast of this tsunami-like process with an eye toward preserving the AOTC and enhancing its benefits to low-income students; preserving Section 127, a mainstay for many community college students; and working to encourage continued (and hopefully growing) contributions to colleges.

The budget reconciliation process, described above, will likely be used to shepherd tax reform through Congress. The process will very likely consume most of 2017, if not longer, but substantive work is expected to begin early this year.

Accountability

The issue of accountability—whether institutions are achieving their goals consistent with publicly defined objectives—permeates much of the current public policy debate in higher education. It is accompanied by the perception that the access problem has largely been solved, calling for a greater emphasis on quality and completion. While there may never be agreement on how the extraordinarily diverse set of higher education institutions in the U.S. should be evaluated, there is no question that the methods of measuring their activity are becoming increasingly refined and more broadly applicable across institutions. This is particularly the case with post-graduate earnings and learning outcomes—two of the key elements of AACC's Voluntary Framework of Accountability.

Some of the issues that Washington policymakers are grappling with, directly or indirectly, include

- What is the purpose of higher education, primarily for educating and training the workforce or for broader, non-economic goals? In an economy that demands postsecondary education for career success, is the distinction between liberal arts or general education and career/technical education legitimate?
- How can the various accountability criteria embedded in various federal statutes be aligned and integrated? The different performance reporting requirements and standards in the HEA, Workforce Innovation and Opportunity Act (WIOA), and Perkins Career and Technical Education Act are costly and undermine more comprehensive institutional evaluation.
- How can industry certifications be integrated into a federal accountability framework, given that they are not comprehensive across all programs and simply not relevant to many programs, particularly in the general studies areas?
- Can the federal government meaningfully leverage improved performance of higher education institutions? How would the applicable standards be determined, given the

variety of colleges and students; and how could federal engagement assist colleges in improving performance?

- How does the federal role in setting standards interact with those of the states?
- What is the "value added" sought for in postsecondary programs? What sort of return on investment, if one decided that was an appropriate metric, would justify public support?

The federal statute governing the recognition of accrediting agencies by ED is the logical focus of Congress' concerns about quality in higher education and in protecting students from sub-par or even fraudulent institutions. Key members of Congress have stressed the need for some sort of minimum quality standards for colleges, without articulating them. Last year, legislation introduced in the Senate would have *required* accreditors to set "bright line" standards for completion rates, default rates, and loan repayment rates, with the flexibility to differentiate between types institutions. Other legislators have stated their insistence that accreditors hold colleges responsible for meeting whatever student achievement goals they establish. All this is a sign that the *status quo* around accreditation may be crumbling.

AACC provided a review of the current state of the accreditation debate last November: http://aacc.nche.edu/newsevents/News/articles/Pages/11062016_1.aspx. In this communication, the association advised its members to become as engaged as is feasible in the accreditation process, particularly in relation to the effort launched by the regional accrediting agencies (C-RAC) to provide further review of institutions with low completion rates. It should be kept in mind that this gatekeeping role for accreditors is far removed from the traditional role played by accreditation, at least for non-profit institutions who created the process.

Carl D. Perkins Career and Technical Education Act Reauthorization

Carl D. Perkins Career and Technical Education (CTE) Act reauthorization legislation was worked on extensively in both chambers in 2016, with the House overwhelmingly passing a bill on a bipartisan basis. Therefore, it is quite possible that reauthorization legislation will move in 2017, since one of the primary obstacles to Senate action in 2016—Republican unhappiness with the Obama administration's implementation of the Every Student Succeeds Act (ESSA)—has been removed.

AACC supported the House legislation, which updated the Perkins CTE Act without fundamentally changing the allocation of funds. Some of the positive changes included earnings indicator was added as a postsecondary measure; and industry impact with programs was enhanced, including workplace learning. The use of funds was streamlined relative to current law, but adequate institutional flexibility was retained. The Senate had taken the lead on crafting legislation and, though a draft was released, never moved the bill. AACC's position on

the Perkins CTE Act reauthorization can be found at
http://www.aacc.nche.edu/newsevents/News/articles/Pages/11062015_1.aspx

Read AACC's document for the Trump transition team at http://aacc.nche.edu/newsevents/News/articles/Documents/Legislative_Agenda_for_Trump_Admin.pdf. We encourage you to join us in Washington for the National Legislative Summit, which AACC sponsors with ACCT, February 13-16.

For more information, consult www.aacc.nche.edu/advocacy.