

AACC LEGISLATIVE UPDATE

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David Baime, AACC SVP for Government Relations and Policy Analysis

Jim Hermes, AACC Associate VP for Government Relations

WEBINAR TOPICS

- Appropriations Outcome
- CTE Reauthorization
- Department of Education Regulations
- DACA/Dream Act
- HEA Reauthorization/Aim Higher Act
- Public Charge
- Elections Overview

FY 2019 FUNDING

- More Bills Passed Than in Previous Years, Though CR Was Necessary
 - Bills combined into 2-3 bill “minibuses”
- Additional \$ Provided in 2017 Budget Agreement Greased Skids
 - Additional \$68 billion on top of previous budget caps for NDD programs
 - \$18 billion more than last year
- Without New Budget Deal, NDD Cap Will Drop \$54 Billion in FY 2020
- Tax Bill, Additional Spending Increasing Rhetorical Emphasis on Deficit, But Little Concrete Movement

LABOR, HHS AND EDUCATION FUNDING

- FY 2019 LHHS Now Enacted (Paired with Defense Appropriations Bill)
- About \$1 Billion More Than Last Year
- Some Significant Increases:
 - \$100 increase in Pell Grant maximum (to \$6,195)
 - \$70 million boost in CTE Basic State Grants
 - \$25 million increase in adult education
 - TRIO, GEAR UP also increased
 - Very small increases for institutional aid programs

CTE REAUTHORIZATION

- Legislation to Reauthorize the Carl D. Perkins CTE Act Signed Into Law July 31
 - Strengthening CTE for the 21st Century Act – H.R. 2353
 - Passed both chambers with overwhelming bipartisan votes
- Important Changes in the Bill Include:
 - Revamped accountability measures
 - Increased alignment with WIOA
 - Greater emphasis needs of business and industry
 - More elaborate state planning process
- Continued Focus on Sub-Baccalaureate Programs of Slight Concern
- ED Will Start Issuing Implementation Guidance Soon – AACC Working Closely With Administration

ED REGULATIONS –GAINFUL EMPLOYMENT (GE)

- Department of Education (ED) Has Formally Proposed Rescinding Gainful Employment (GE) Regulations
 - Continuation of Trump administration's tilt to for-profits
- Disclosures Required Under GE Would Be Altered and Placed Into Enhanced College Scorecard
- AACC Filed Comments on NPRM
 - Supported continued GE regulation with an emphasis on debt to earnings (Obama Approach)
- New Scorecard Will Include Programmatic Debt Levels and Earnings – AACC Supports
- Scorecard Data Rely on Title IV Recipients Only

ED REGULATIONS – GE CONT'D

- ED To Miss Nov. 1 Deadline: Rescission of GE Regulation Will Not Occur in 2019
- For-Profit Industry Continues to Contract
 - Public Perception of Industry Lags That of Non-Profit Higher Education
- Borrower Defenses to Loan Repayment (Separate Regulation)
 - AACC Filed Comments with ACE et al.
 - For-profits Feel Most Impact – Not Directly Relevant to CCs for Most Part
 - Affirmative vs. defensive (default) claims
 - Group vs. individual claims
 - Full vs. partial relief
 - “Burden of Proof”
 - ED will also miss Nov. 1 deadline on borrower defense regulations

ED REGULATIONS – ACCREDITATION ET AL. NEG REG

- ED is Proposing to Review and Revise a Series of Regulations Generally Impacting Educational Aspect of Colleges
- Emphasis on Fostering Innovation
- Regulatory Review to Include:
 - Accreditation
 - Distance Education
 - Credit Hour
 - Competency-Based Education/Prior Assessment
 - State Authorization
 - New Providers
 - Relationship Between Program Length and Licensure
 - Other Topics
- 3 Subcommittees

ED REGULATIONS – ACCREDITATION ET AL. NEG REG

- Focus on Accreditation
 - Requirements for accrediting agencies in their oversight of member institutions
 - Requirements for accrediting agencies to honor institutional mission
 - Criteria used by the Secretary to recognize accrediting agencies, emphasizing criteria that focus on educational quality
 - Developing a single definition for purposes of measuring and reporting job placement rates
 - Simplifying the Department's process for recognition and review of accrediting agencies

ED REGULATIONS—ACCREDITATION ET AL. NEG REG

- AACC Presented Public Testimony September 6 and Filed Written Comments September 14
 - Emphasis on centrality of accreditation to ensuring accountability in new environment
- Designated Under Secretary Diane Auer Jones Most Visible Spokesperson
- Negotiated Rulemaking Sessions Expected to Convene Early in 2019
- Draft Regulations Will Be Provided at Opening Sessions to Facilitate Progress
- Regulations Could Be Beneficial or Otherwise
- Consensus Will Be Difficult to Reach

ED REGULATIONS – TITLE IX

- ED Expected to Issue Title IX Regulations Imminently
 - Regulations in development for many months
- Regulations NOT Subject to Neg Reg Because Non-Title IV (Education Amendments of 1972)
- Title IX Policy Related to Campus Sexual Assault Has Been Previously Carried Out Through Subregulatory Guidance
- Administration Had Earlier Withdrawn Obama Era Guidelines (2011, 2014)
- Press Reports (NY Times Primarily) Indicate a Variety of Likely Changes, Including:
 - Limiting campus responsibility in various ways
 - Limiting coverage to on-campus incidents
 - “Clear and convincing” burden of proof permitted
 - Allowing accused to question claimants
 - Encouraging mediated resolution

DACA / DREAM ACT

- No Resolution Since Program Formally Rescinded
 - DHS remains under court order to accept renewal applications
 - Senate and House votes on various bills all failed
- Recent Action Has Been in Courts
 - 3 federal courts have issued preliminary injunctions requiring DHS to continue receiving renewal applications
 - Federal district court in Texas declined to issue preliminary injunction to halt the program
 - Challenge by Texas and other attorneys general against DACA
 - Ruling a pleasant surprise
 - Cases progressing through appeals process
 - May wind up on Supreme Court's docket
- Regardless of Outcomes in Court, Ultimate Goal is Legislation that Provides Path to Citizenship for Dreamers



HIGHER EDUCATION ACT REAUTHORIZATION

- Neither Chamber Will Pass a HEA Reauthorization Bill this Year
- No Senate Bill – Alexander Announcement in Late June
- Senate Democrats Have Issued Priorities
- AACC has Filed Comments with HELP on Reauthorization Position, Accountability
- Reauthorization Bill Approved on Party-Line Vote by Ed/Workforce
 - PROSPER Act – H.R. 4508
 - AACC did not support, along with all of non-profit higher education
 - Reports are that, despite considerable efforts, Chairwoman Foxx many votes short
 - Bipartisan counseling bill cleared House
- House Dems Offered Aim Higher Act

PROSPER ACT THEMES

- “Reforming” the HEA, Not Merely Reauthorizing - Rep. Foxx Believes HEA is Failing
- Emphasis on Meeting Current Workforce Needs/Skills Gap
- Program Simplification and Streamlining
- Unfunded Programs Eliminated, Authorization Levels Set at Current Levels or Reduced
- Tilt Towards Newer Providers, Away from Traditional Higher Education

PROSPER ACT – THE GOOD

- New Eligibility for Short-Term Workforce Development Programs
- Institutional Discretion to Limit Student Borrowing in Defined Circumstances
- Reinstatement of Pell Grant Eligibility for Ability-to-Benefit Students with Six Credits
- Full-Time Status Maintained at 12 Credit Hours
- Elimination of Student Loan Origination Fees Additional Counseling for Student Borrowers
- Early Awareness of Financial Aid Availability
- 300% Time Completion Rate Metric to Reflect Community College Population



PROSPER ACT – THE ‘MOSTLY’ GOOD

- Revised Formula for Federal Work Study
 - Would likely result in most community colleges qualifying for larger awards
 - Matching requirement increased from 25% to 50%
 - Institutes new metric of ‘student need’
 - Difficult to assess impact
 - Doubles the current funding authorization
- New Authority for Competency-Based Education



PROSPER ACT – THE ‘MOSTLY’ GOOD

- Creates New Apprenticeship Grant / Work-Based Learning Program
 - Not limited to registered apprenticeships
 - Eligible recipients must include institution and industry partner
 - College would not necessarily be lead partner
 - 50% match requirement
 - Funds could cover 50% of wages
 - No direct funding for education
 - Funding is permitted for equipment and curriculum development
- 15-Credit Pell Bonus
 - \$7 billion over 10 years
 - Won't help most community college students



PROSPER ACT – THE BAD

- New Accountability Metric - Programmatic Repayment Rates
 - Would replace institutional cohort default rates (CDRs)
 - Programs that have repayment rates of less than 45% for three consecutive years lose eligibility
 - Student is counted as being in repayment if less than 90 days delinquent
 - Impact of this proposal is difficult to assess
 - Some programs would be eliminated
 - Requires substantial data collection and analysis
 - ED's inspector general cited this proposal as “nearly impossible to successfully implement”

PROSPER ACT – THE BAD

- Completion Rate Threshold for Title III and V Grants
 - Institutional eligibility would be tied to a minimum graduation/transfer rate requirement of 25% of “normal time”
 - Applied to Hispanic-Serving Institutions, Predominantly Black Institutions, and other Minority Serving Institution programs
 - Would not apply to HBCUs and Tribal Colleges

PROSPER ACT – THE BAD

- For-Profit Industry Makes Out Big
 - Single definition of institution of higher education
 - Elimination of 90/10 rule
 - Eliminates distance education requirements
 - No longer requires “regular and substantive interaction between students and instructors”
 - Non-eligible providers can access Title IV funds (via eligible institution)
 - Elimination of gainful employment and state authorization regulations

PROSPER ACT – THE UGLY

- Elimination of Title III-A, Strengthening Institutions Program
 - Program currently funded at \$99 million
 - Multi-year competitive grant to help institutions that serve a large percentage of low-income students
- Reduced Federal Investment in Students
 - \$14 billion reduction in direct spending
 - Eliminates subsidized loans
 - Low-income borrowers would accrue more interest
 - Eliminates Supplemental Educational Opportunity Grants
 - Nearly 400,000 community college students benefit from SEOG
 - New income-contingent repayment plan is less generous than current law

PROSPER ACT – THE UGLY

- Risk-Sharing via Return to Title IV (R2T4) Modifications
 - Constitutes a major new financial obligation for community colleges
 - Changes the current structure of R2T4 to create new tiers of institutional repayment
 - All of a student’s “unearned” federal student aid to be returned to federal government
 - Responsibility to repay R2T4 funds shifts
 - 90% from college
 - 10% (maximum) from student
 - Currently, colleges pay on the front end and then bill the student
 - Based on limited data, R2T4 payments for many colleges would at least double

PROSPER ACT'S KEY OMISSIONS

- Repeal of the Ban on Federal Student Unit Record Data System
- Improvements to Pell Grant Program
 - Tying maximum award to inflation
 - Increasing the semester limitation to 14 full-time semesters/equivalent
 - Second chance Pell
- Ensuring State Funding Support via State Maintenance of Effort Provisions
- State-Based Dual Enrollment Grant Program
- Simplifying and Consolidating Direct Loan Repayment Options with Low-Debt Borrowers in Mind
- Enhanced Student Loan Servicing

AIM HIGHER ACT – HOUSE DEMOCRATS’ HEA BILL

- Hugely Ambitious Comprehensive Reauthorization Legislation that Incorporates a Variety of Democrats’ Bills and Amendments Offered During Markup
- H.R. 6543 <http://democrats-edworkforce.house.gov/aim-higher>
- Introduced by Rep. Bobby Scott, D-VA, Ranking Member of Ed/Workforce Committee
- Along With Huge Funding Increases, Federal Oversight Would Increase
- Not Clear How Bill Might Be Tailored to Reflect Fiscal and Political Realities

AIM HIGHER ACT– KEY PROVISIONS

- Greatly Enhances Pell Grant Program:
 - Maximum grant increased by \$500; indexed to inflation
 - Creates eligibility for short-term training (under specified conditions)
 - Extends lifetime limit to 14 semesters FTE
 - Provides access to Pell Grants for prisoners under defined circumstances
 - Makes most funding mandatory (enhancing funding reliability)
- Loan Program Changes:
 - Elimination of origination fee
 - Allows refinancing of loans at lower rates
 - Simplifies IBR participation
 - Students >120 days delinquent moved automatically into IBR
 - Alters FSEOG and FWS formulas to benefit CCs

AIM HIGHER ACT – KEY PROVISIONS CONT'D

- Creates a New Federal-State Partnership with State Maintenance-of-Effort and *Free Community College*
- Creates \$250 Million Grant Program for Dual Enrollment and Related HS Programs
- Creates Grant Program to Support Remedial Education
- Creates New Community College Completion Grant
- Allows Dreamers to Access Federal Aid
- Simplifies FAFSA and Application Process
- Creates Unit Record Data System
- Contains Extensive Title IX Provisions

AIM HIGHER ACT – KEY PROVISIONS CONT'D

- Accreditation:
 - Allows federal government to reject accreditors' standards
 - Increases required disclosures
 - Mandates agency procedures when standards are not met
 - Involves agencies in competency-based education in pilot mode
- Makes Greater Investments in MSIs, Including Hispanic-Serving Institutions and Predominantly Black Institutions
- Incorporates Borrower Incidence Into Default Rates
 - AACC Priority
 - Institutions with high default rates receive assistance from ED
- For Profit Regulation:
 - Changes 90/10 rule to 85/15
 - Clamps down on for-profit to non-profit conversions
 - Prohibits colleges that spend less than 50% of revenues from using federal funds for marketing, advertising, recruiting, and lobbying

DHS PUBLIC CHARGE REGULATIONS

- Immigrants May Be Denied Legal Permanent Residency if They Are Found Likely To Become a “Public Charge”
- Participation in Broader Range of Government Programs Would Be Considered
 - Only receipt of cash assistance (i.e., TANF) and long-term institutional care now considered when making public charge determination
 - Under proposed regulations, participation in the following programs may also be considered:
 - Non-emergency Medicaid
 - Supplemental Nutrition Assistance Program (SNAP)
 - Medicare Part D low income subsidy
 - Housing assistance (Section 8)
 - Education and Job Training Programs Not Included
 - Similar Test Applied to Those Seeking Change in Status (i.e., student visa to employment visa)
 - Does Not Apply to LPRs Applying for Citizenship
 - Proposed Rule Narrower Than Drafts Released Earlier This Year

NOVEMBER 6 NATIONAL ELECTIONS

- House Rated Better than 50/50 to Move to Democratic Control
 - Ds must take 23 seats
- If House Goes Democratic:
 - Rep. Bobby Scott (D-VA) likely to become Chair of Ed/Workforce Committee
 - Rosa DeLauro (D-CT), strong CC supporter, likely to chair Subcommittee on Labor, HHS, and Education appropriations
 - Richard Neal (D-MA), Chair of Ways and Means
- Senate Extremely Likely to Remain in Republican Control
 - Lamar Alexander (R-TN) will have one more term to serve as HELP committee chair
- Reliable Post-Election Predictions are Not Possible, But Optimism Remains that HEA Reauthorization Can be Achieved in 116th Congress
- 36 Governors Races Will Greatly Impact Higher Education Policy

CONTACT US ANYTIME!

David Baime: dbaime@aacc.nche.edu

Jim Hermes: jhermes@aacc.nche.edu