AACC Summary of Major Provisions of College Affordability Act (H.R. 4674)

On a party-line vote of 28 to 22, on October 31, 2019, the House Education and Labor Committee approved H.R. 4674, the College Affordability Act (CAA), comprehensive Higher Education Act reauthorization legislation. (https://edlabor.house.gov/imo/media/doc/BILLS-116hr4674ih.pdf) Committee chair Rep. Robert "Bobby" Scott (D-VA) introduced the bill on October 15, and on October 28, Rep. Susan Davis (D-CA), chair of the Subcommittee on Higher Education and Workforce Investment, introduced a substitute bill, which became the basis for committee amendments. (https://edlabor.house.gov/imo/media/doc/HR4674ANS1.pdf)

Below is a summary of some major provisions in the final version of the bill from the community college perspective in the order in which they appear. Please note that the summary does not include all items of interest to community colleges. (The American Council on Education has prepared a section-by-section analysis of the legislation: https://www.acenet.edu/Documents/Summary-College-Affordability-Act.pdf.)

TITLE I

Gainful Employment

The legislation would codify into law major features of the final gainful employment regulation promulgated by the Obama administration, but later rescinded by President Trump. Specifically, it focuses on debt-to-earnings (D/E) ratios. The bill leaves the specifics to the Secretary, including the cohort for which the D/E ratio is calculated, how the debt and earnings amounts are calculated, and the D/E ratio threshold that a program must meet to maintain eligibility. The bill also would authorize the Secretary to determine additional eligibility criteria beyond the D/E ratio and institutional disclosures. The programs subject to the gainful employment regulation would remain the same as in current law. This means that of the programs in non-profit institutions, community colleges would bear the brunt of this provision.

Postsecondary Data System

This bill would create a federal unit record data system, a long standing AACC priority. The system would include information on program of study, transfer, earnings, employment, and post-graduate education. It would not include transcript level data and information on health, disciplinary actions, grades, exam results, and religion. The student record data system would obviate institutions from duplicative reporting of student-related information now collected by means of Integrated Postsecondary Education System (IPEDS) surveys. However, institutional level data in areas other than student outcomes would continue to be collected through IPEDS, and the bill would make certain changes to this category of data. Colleges would now be required to report information on student services, marketing, recruitment, advertising, and lobbying. Another provision involves how changes are made to the data collection process, which AACC finds problematic, given the sensitivities over privacy and other concerns surrounding the provision of student data to the U.S. Department of Education (ED). After going through a specified regulatory process, the secretary of education could collect additional data elements. The data collected could be used by institutions and for other research purposes, subject to privacy conditions consistent with FERPA.

TITLE III

Institutional Aid - Strengthening Institutions

The only change made by the CAA to the Strengthening Institutions program would be to include language from the last several Labor, HHS and Education appropriations bills allowing an institution that supports an endowment fund with Title III (and V) funds to use income from that fund for student scholarships. The Title III-A authorization would be increased to $150 million. An amendment by Rep. Bradley Byrne (R-AL) to allow the use of these funds for CTE, dual or concurrent enrollment, and early college high school programs was adopted.

TITLE IV

Federal Pell Grants

Maximum Award

The legislation would raise the Pell Grant maximum award by $625 in award year 2021-22 through “mandatory” funding and would automatically increase it by the amount of the Consumer Price Index in award year 2022-23 and thereafter. The current lifetime eligibility cap of 12 semesters or its part-time equivalent would be extended to 14 semesters, a longstanding AACC priority.

Postbaccalaureate Students

The CAA extends Pell Grant eligibility to otherwise eligible graduate and professional students in their first post-baccalaureate program, a dramatic and problematic change from current law. To be eligible, students would have had to receive a Pell Grant as an undergraduate and have unused eligibility (i.e., they have used less than 14 semesters or its equivalent). They could then receive Pell as post-baccalaureate students up to the 14-semester limit.

Short-Term Programs

The CAA would add new Pell Grant eligibility for shorter term credit and non-credit programs between 150 and 600 clock hours in length over a period of at least 8 weeks. While in concept this is a very positive development and reflects one of AACC’s top reauthorization priorities, in practice, there are so many eligibility requirements that many community college programs may fail to qualify. Some of the provisions come from the bipartisan, bi-cameral JOBS Act.

As in the JOBS Act, programs would need to be listed on the WIOA-eligible provider list, and non-credit programs would need to be subsequently articulated into credit programs at the institution. In addition, 6 months after completing a program, students would be required to earn more than the average high school graduate—approximately $37,000. (This figure includes all those individuals who had a high school diploma as their highest educational level, but who may have been employed for decades.) Programs would also have to meet the completion and earnings requirements (as modified by the CAA) that programs of 300 to 599 clock hours in length must currently meet in order to qualify for loans. The programs would also be required to meet the CAA's gainful employment metrics. Programs would have to be part of a career pathway as defined in the Workforce Innovation and Opportunity Act (WIOA), which in turn requires a program to offer or connect to a GED program. The Secretary would have to approve programs and could take up to 180 days to do so. The Secretary also would have to re-approve programs every 3 years.

Incarcerated Students

The CAA would remove the ban instituted in 1994 on Pell Grant eligibility for individuals incarcerated in federal and state prisons, another top AACC priority. The legislation establishes several requirements that a prison education program must meet in order to be Pell eligible. The Secretary and the accrediting agencies would have to approve the institutions. The institution must have had no adverse accreditation actions in the last 5 years. Credit programs offered at the prison must confer the same credit as programs offered at the institution. No distance education programs would be eligible except under limited circumstances. The institution would be required to provide the incarcerated individual with certain information about the course of study. This includes all "restrictions related to employment" in federal law and the state laws where the facility is located and each state where the individual permanently resides for each occupation for which the course of study prepares students. Program eligibility must be renewed at least every 5 years. The bill also includes specific restrictions on direct charges. No direct charges to students would be allowed for: (1) any remaining cost of attendance beyond the amount of the Pell Grant received by a student; (2) any amount beyond the expected family contribution for students who are not eligible for Pell Grants; or (3) accommodations for disabled students. As drafted, the provisions above may also apply to programs offered to individuals incarcerated in local and county jails that are offered at the institution of higher education, though this is not likely the authors' intent.

Miscellaneous

There are some other provisions under the Pell Grant program worthy of mention. The CAA exempts remedial and noncredit courses from counting against a student's remaining Pell Grant eligibility. It moves into the Pell Grant program a previously separate scholarship program for Iraq and Afghanistan veterans' dependents. Under the Pell Grant fraud prevention provision, the Secretary would be required to report to Congress annually on "unusual enrollment history"—essentially identifying students who meet the description of "Pell runners." The report must include the name of each institution that has had more than 2% of total applicants flagged as part of an unusual enrollment history.

Federal Supplemental Educational Opportunity Grants (FSEOG)

CAA modifies the FSEOG distribution formula in a way that generally benefits community colleges. Over a period of 5 years, an institution's allocation would be increasingly based on its "fair share" amount, rather than the current distribution, which heavily favors long-standing historical program participation. The "fair share" amount is based on an institution's share of the Pell Grant funds awarded in the previous year as well as another indicator of undergraduate need. No institution with fewer than 7% of its undergraduates Pell eligible in 2 out of any 3 fiscal year periods would be eligible to receive a fair share amount.

Emergency Financial Aid Grant Program

This is a new grant program for emergency financial aid to cover unexpected student expenses. The federal share of the grants would be 50%, with institutions providing cash matching funds, though HBCUs and all MSIs would not have a matching requirement. An application would be submitted to the U.S. Department of Education with information on how "emergency" is defined, how the grant aid would be administered, and how the institution would comply with other program requirements. The institution would be required to ensure that grants were made for financial emergencies that directly challenge the students' ability to continue and complete their course of study, including loss of employment, medical conditions, food insecurity, and other reasons. Institutions with "at least 30 percent" Pell Grant recipients would receive priority. The maximum individual grant award is $750 and the maximum total grant amount a student may receive is $2,000. Students enrolled on at least a half-time basis and meeting satisfactory academic progress in an institution that is eligible for the SEOG program would be eligible for the grants.

Federal Work-Study

The FWS formula is amended to phase-in the allocation of funds to institutions based on relative student need. This is a long-time community college priority. By FY 2026 and for each succeeding fiscal year, the institution's allocation would be the "fair share" amount, rather than funding based on historical allocations.

This section authorizes use of up to $150 million for each fiscal year to award bonus payments of $5,000 or greater to private nonprofit and public institutions for enrolling and graduating high numbers of Pell Grant recipients. To qualify for the bonus fund, institutions would be required to meet certain thresholds of Pell enrollment and completion. This section is of concern to community colleges because it places community colleges in competition with selective institutions.

FAFSA Simplification

Pell Grant recipients would file a FAFSA just once, instead of annually. After this initial application, students would maintain the Expected Family Contribution (EFC) if their circumstances did not significantly change. Applicants would annually certify via a simple, consumer-tested form, that their dependency status had not changed, and whether their need or eligibility for federal financial assistance had substantially changed. Such applicants would either re-file the FAFSA or receive a professional judgement determination from their financial aid administrator.

The bill directs ED to make every effort to allow applicants to utilize the Data Retrieval Tool (DRT) to automatically populate the electronic forms with tax return information. The Secretary would be required to examine whether IRS information could be used to generate an EFC without additional information. This section requires the Secretary to report on these simplification efforts at least once every other year.

This section would reduce the number of questions that applicants must answer when completing their FAFSA by placing the applicant into one of three pathways: (1) Applicants (or in the case of a dependent student, the student's parents) who benefited from a means-tested federal benefit program in the previous two years may automatically skip all financial questions and be deemed to have zero EFC; (2) Applicants (or in the case of a dependent student, the student's parents) who did not participate in a means-tested federal benefit program in the previous two years, but who have an adjusted gross income of less than $60,000 and do not have to file lettered tax schedules with their federal income tax (other than the schedule EIC or schedule R), would be required to complete a limited number of questions; or (3) All other applicants (those who file lettered tax schedules other than the EIC or R or who have an adjusted gross income of over $60,000) would be required to complete the remainder of the financial questions in the FAFSA.

Child Care Access Means Parents in School (CCAMPIS)

The maximum grant that an institution could receive would be increased to 2% of its Pell Grant allocation, up from the current cap of 1%. The CAA would add a new "Performance Bonus," under which institutions that have exceeded their performance levels in their grant for at least 3 years and have demonstrated need could receive a bonus up to 20% of the annual grant amount they currently receive. Institutions would use bonuses for the same purposes as their base grants. The Secretary may award bonuses if the amount appropriated for the program exceeds $140 million. (The current appropriation is $50 million.) Institutions would be required to provide assurances that child care facilities funded by the grant meet one of several indicators of quality, a somewhat more stringent provision than the current requirement that facilities meet all state and local licensing requirements.

Per a committee amendment, the use of funds would be extended to services in the evening, in the summer, and to expectant parents. In addition, institutions that are CCAMPIS grantees would be required to provide on their website information regarding the availability of child care subsidies for student parents and the dependent care cost allowance available to parents with dependent children.

Jumpstart to College

Dual enrollment programs would be supported by this new $250 million program. Grants would be made both to partnerships between non-profit postsecondary institutions and local educational agencies as well as states. At the institutional level, priority would be given to programs that serve high percentages of low-income students. Students enrolled in supported programs could not be charged tuition. Institutions receiving funds could be required to pay an increasing match, starting at 20% and then increasing to 50% by the sixth and final year of the award. A variety of specific conditions are placed on the grants. Also, funds could not supplant existing dual enrollment expenditures by states. AACC has supported the legislation on which this new program is based.

Community College Student Success Grants

The CAA would authorize $1 billion annually for new community college student success grants. The CAA provisions come from stand-alone legislation previously introduced by Rep. Grace Meng (D-NY). The grant program is modeled on the Accelerated Study in Associates Programs (ASAP) that originated in the City University of New York community colleges. The CAA program would provide grants to colleges to help them increase the number of students who graduate within 150% of normal time or transfer. The program would fund planning and implementation grants for institutions to conduct community college student success programs. Institutions would need to contribute a cash match that would increase over the course of the grant. Only full-time students would be eligible to participate in such a program, which would provide them with an amount that covers any tuition and fees not otherwise covered by financial aid, as well as intensive counseling and tutoring services to help them succeed.

Federal Family Education Loan Program

Cohort Default Rates

The CAA changes the cohort default rate (CDR) calculation and metrics for maintaining student aid eligibility by taking into account the institution's student borrowing rate, a longtime AACC priority. Specifically, to produce a new "adjusted" CDR, the rate as currently calculated would be multiplied by the percentage of an institution's enrollees who take out federal student loans. The thresholds that institutions must not exceed in order to maintain Title IV eligibility are correspondingly adjusted. Institutions that exceed an adjusted CDR of 20% for 3 straight years risk losing eligibility (as opposed to the 30% non-adjusted CDR cap in place now). The CAA also introduces longer-term adjusted CDR snapshots. Institutions that have an adjusted CDR above 15% for 6 straight fiscal years or 10% for 8 consecutive fiscal years risk losing aid eligibility. For the longer time periods, however, institutions would only lose eligibility if they exceeded the adjusted CDRs and ED determines that they have not made adequate progress in meeting standards for student achievement established by the relevant accrediting agency or association. The new provisions also lay out a scheme by which a category of educational programs may maintain eligibility if it falls below the relevant adjusted CDR, even if the institution itself fails the CDR test. Categories are basically defined as degree and non-degree programs. For example, an institution's degree programs may remain eligible if their adjusted CDRs fall below the relevant threshold, even if the institution's overall adjusted CDR, based on its degree and non-degree programs, exceeds the threshold.

Federal Work-Study

During the committee markup, Rep. Susan Bonamici (D-OR) introduced an amendment in the form of H.R. 4637, Opportunity to Address College Hunger Act. The amendment was adopted, adding a requirement for institutions to notify students participating in the Federal Work-Study (FWS) program of their potential SNAP eligibility. Specific aspects of the notification would be determined by the Secretary and include, to the extent feasible, contact information for the local SNAP office in the student's state of residence.

General Provisions Relating to Student Assistance Programs

Online Survey Tool for Campus Safety

Working with other agencies, the Secretary would be required to develop a standardized online survey tool regarding student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking. The survey would have to be administered every 2 years, and to the maximum extent practical, must ensure that an adequate, random, and representative sample size of students complete the survey. This requirement seems to conflict with another requirement that students must be provided anonymity in survey responses. The Secretary could impose financial penalties on institutions that failed to comply with any of these provisions.

Remedial Education Grants

Five-year, competitively awarded grants of not less than $500,000 would be authorized to help institutions improve remedial education programs. The programs must use two or more assessment measures in placing students in remedial education programs. Institutions must have a plan for sustaining the program when funding ends. The bill would require ED to use an independent evaluator to choose among applicants and evaluate the program. Participants selected for evaluation must provide detailed information to the evaluator on students who receive services under the grant, so that program results can be generated. Students supported through this program are eligible to receive Title IV aid for 2 years, rather than 1 under current law for all other students.

Competency-Based Education (CBE) Demonstration Grants

The Secretary would be authorized to select eligible entities to voluntarily carry out competency-based educational demonstration projects for 5 years and receive waivers and other flexibility. Enrollment in approved programs must be between 25 and 3,000 students, though colleges could expand CBE enrollment to 5,000 students after a second review by ED. The substantial conditions and reporting requirements associated with participating in this program far exceed those applied to traditional assessment programs; so much so that its likely appeal to institutions is unclear. Also, the legislation's conception of CBE strongly emphasizes technical training programs, in contrast to many current CBE programs on community college campuses. On a positive note, a broad variety of statutory requirements could be waived by the Secretary. Finally, a CBE council would be created and, after 6 years, would make recommendations about ways that the HEA could be changed to better accommodate CBE.

Civil Rights Coordinator

Institutions would be required to designate a Civil Rights Act Title VI coordinator. Colleges would be required to file an annual report that describes all such complaints reported against an institution. Institutions would be required to notify students about the coordinator and how to make claims.

Income-Based Repayment (IBR)

The CAA would simplify the federal loan repayment options, moving to one income-based repayment plan for loans made after July 2021 or for current borrowers who elect IBR after that time. The repayment amount would be set at 10% of the difference between the borrower's income and 250% of the poverty line for a given family size. That percentage would be reduced by 10 percentage points for every $1,000 in income above $80,000 for a single borrower and for every $2,000 above $160,000 for a married borrower. Any remaining loan balance would be forgiven after 20 years of repayment. Monthly payments under this plan could exceed what they would be under the standard repayment plan for higher income borrowers. Unpaid interest would not be capitalized.

Fixed Repayment Plan

The CAA modifies the standard repayment plan to differ based on the amount of loans taken out. Repayment of loans with a balance below $20,000 would be made over 10 years. Balances between $20,000 and $30,000 would be over 15 years, between $30,000 and $40,000 over 20 years, and balances over $40,000 could be paid back over 25 years. Borrowers could elect to pay in shorter amounts of time than called for by their relevant plan.

On-time Repayment Rates

For cohorts of 30 or more borrowers, the on-time repayment rate would be defined as the percentage of borrowers who have been in repayment for 3 years and who have made at least 90% of their monthly payments during those 3 years (i.e., 36 payments). For annual cohorts of less than 30, the rate would be determined based on the percentage of borrowers who entered their third year of repayment in any of the 3 most recent fiscal years. Loans would be attributed to each institution that a student attends. An institution is not subject to sanctions if its borrowing ("participation") rate is less than 20% for any of the 3 most recent fiscal years. This rate is defined as the percentage of at least half-time students who borrowed for a 12-month period ending during the 6 months immediately preceding the year for which the cohort used to determine the repayment rate is determined.

An institution may lose Title IV eligibility for 3 years if its repayment rate is less than a threshold rate set by the Secretary, for a period set by the Secretary, but only if the institution's instructional expenses are less than one-third of its tuition and fee revenue in any of the last 3 fiscal years. An otherwise failing institution could retain eligibility for a "category of educational programs" if the repayment rate for that category was over the threshold. Institutions that failed the repayment portion of the test, but passed the instructional expenditures element, would be subject to a repayment management plan.

Program Integrity

State Authorization

The legislation would slightly expand the HEA's specific requirements that states must meet to be part of the "triad." These should not be problematic for community colleges.

Accreditation

The CAA would change the accreditation provisions significantly. First, ED would establish a working group to develop a common glossary of measures that accrediting agencies may use to assess institutions along three required outcomes: (1) completion (which may include transfer), (2) progress towards completion, and (3) workforce participation (which could include licensure pass rates, job placement, or employment). Accreditors may use different measures for different institutions. Accrediting agencies must establish a single performance benchmark for each measure used. An accrediting agency may establish a different performance benchmark for each credential level. Accreditors must have standards regarding the value of credentials (including non-monetary value); faculty; student support services; recruiting and admission practices, academic calendars, catalogues, publications, and grading; and fiscal and administrative capacity.

Critically, the Secretary could require an agency to review and revise its standards or performance benchmarks, on the grounds that they are not appropriate for the peer group or that the performance benchmarks were too low. In other words, the Secretary would acquire the authority to set “bright lines” for standards of student achievement, which is of concern to AACC.

America’s College Promise

The CAA would establish a new “no tuition” community college program. To effectuate this, the Secretary would provide to states grants of three quarters of the average national community college tuition for each covered student. (After 2020-21, the average tuition covered could not increase more than 3% or the CPI, whichever is lower.) States would be required to provide the other one quarter of the funds. No tuition would be charged to students for 3 years, if they are in-state and enrolled half-time or more. States would have to maintain their spending on public higher education, including student financial assistance programs.

The legislation requires states to specify plans for improving community college programs, although it does not include strong mandates. However, states would be required to enhance their articulation policies, and within 3 years community college associate degrees in academic areas would need to be fully transferrable to a public 4-year institution. The program would receive “mandatory” funding not subject to the annual appropriations process. Funds not needed for eliminating community college tuition could be used for a variety of other purposes, including affordability at 4-year institutions. The program’s size would increase over time, to $16.3 billion in its tenth year, close to 60% of the cost of the current Pell Grant program.

Title IX: Directives to the Secretary of Education

The CAA bars the Secretary from implementing, enforcing, or taking any action on the Notice of Proposed Rule Making (NPRM) of November 29, 2018, concerning sexual assault and campus safety.

Other provisions in the bill include a longitudinal study of the effectiveness of student loan counseling; adding questions to NPSAS on food and housing insecurity; and creating an advisory committee to make recommendations about education, retention, and completion rates of students with disabilities as well as a GAO study on the challenges faced by these students.

Several other directives were added in committee. The establishment of a Federal Student Loan Cancellation Commission was introduced by Rep. Ilhan Omar (D-MN) for the purpose of studying the impact of federal student loan debt on short- and long-term socioeconomic outcomes as well as the feasibility of canceling federal student loan debt and its potential benefits. Rep. Pramila Jayapal (D-WA) proposed that the GAO study the racial and socioeconomic equity gaps at public 4-year institutions. This was amended by Rep. Frederica Wilson (D-FL) to include in the GAO study the racial breakdown and retention of faculty and staff at such institutions as well as efforts by states and higher education institutions to improve inclusion of students in historically underserved racial and income groups.

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