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**WASHINGTON UPDATE**

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How will Higher Education Fair Under President Trump?

Much to the surprise of many, Donald Trump was elected president on November 8, 2016 and the Republicans maintained control of the House and Senate. With regard to higher education, both parties have said that the reauthorization of the *Higher Education Act* is a priority in the next Congress. In the Senate, Senator Lamar Alexander (R-TN), the current chair of the Senate Committee on Health, Education, Labor and Pensions (HELP), and Senator Patty Murray (D-WA), the current ranking member of the HELP Committee, both return to the Senate. The HELP Committee has been considering a number of higher education issues, including risk-sharing proposals ("skin in the game" measures). Senator Marco Rubio (R-FL) returns to the Senate and he has called for alternatives to traditional higher education and is a supporter of the for-profit sector. Senator Rubio also supports outcomes-based accreditation.

On the House side, Congresswoman Virginia Foxx (R-NC) is expected to become the chair of the House Education and the Workforce Committee. Currently, John Kline (R-MN) is the Chair and is retiring at the end of this session. Congresswoman Foxx is currently the Chair of the House Subcommittee on Education and Workforce Training.

No one knows what the Trump Administration's vision is for higher education since it was not until October when President-Elect Trump devoted a portion of a speech to higher education. At that time, he said he was concerned about high student debt levels and endorsed income-based repayment systems. Mr. Trump proposed enrolling all borrowers in a plan that would cap monthly student loan payments to 12.5 percent of their income and forgive all remaining debt after 15 years. In his speech, President-Elect Trump said: "If the federal government is going to subsidize student loans, it has a right to expect that colleges work hard to control costs and invest their resources in their students."

Many of the prognosticators suggest that the most significant changes in a Trump Administration would be the repeal of regulations that target for-profit colleges. Policy experts have suggested that the Trump Administration could change the gainful employment rules or the borrower defense to repayment rules and perhaps choose not to remove federal recognition from ACICS. In addition, the new Administration could choose not to enforce some laws and regulations as stringently, such as its guidance on handling sexual assault under Title IX.

How far President-Elect Trump goes depends on how willing he is to invest time and political capital in higher education issues. Only time will tell!

Higher Education Groups Send Letter to House and Senate Appropriations Committee Leaders Urging Them to Protect Pell Grant Spending and to Restore Year-Round Pell Grants

On October 21, 2016, over 30 student advocacy and higher education groups sent a letter to House and Senate Appropriations Committee leaders urging them to protect Pell Grant funding and to restore year-round Pell Grants. "Raiding Pell to fund other programs would exacerbate student debt and limit opportunity for the very students who most need a college education to advance in our economy and society." The letter goes on to state: "As you make decisions on funding levels in the FY 2017 omnibus bill, we urge your leadership to reject any and all efforts to take funding from the Pell Grant program."

A copy of the letter is found at: http://www.ticas.org/sites/default/files/pub_files/pell_coalition_letter_october_2016.pdf.

House Democrats Urge Protection of Pell Grant Funding

On November 1, 2016, more than 120 House Democrats urged appropriations leaders to protect Pell Grant funding and not redirect surplus away from federal student aid. The letter states: "The surplus rescissions of $1.2 billion and $1.3 billion in the Senate and House FY 2017 Appropriations bills, respectively, threaten Congress' ability to meet future needs of students. While the current fiscal climate makes the Pell Grant surplus an attractive funding vehicle for Congressional priorities outside of the Pell Grant program, we write to remind you that this funding is intended to serve the postsecondary educational needs of our nation's low-income students." The letter goes on to recommend that the appropriators use the surplus to lessen the burden of college costs for needy students by restoring year-round Pell Grants and by increasing the maximum discretionary award by restoring the annual inflation adjustment to the Pell Grant, which has expired. The value of the Pell Grant will go down without the annual inflation adjustment to the Pell Grant. The letter concludes by stating that "[b]oth restoration of year-round Pell and an increase in the maximum discretionary award in the FY 2017 appropriations vehicle will bolster efforts during reauthorization of the Higher Education Act to safeguard the value of Pell for current and future students, all while preserving enough program surplus funding to guarantee solid financial standing of the program for future years."

A copy of the letter is found at: http://democrats-edworkforce.house.gov/imo/media/doc/Pell%20Letter.pdf.

Senator Carper Releases Report Highlighting Harm to Student Veterans Caused by Closure of For-Profit Institutions

On October 21, 2016, Senator Tom Carper (D-DE) released a report titled, "Education Denied: The Importance of Assisting Veterans Harmed by School Closures," that showed that a "significant" impact on veterans and families resulted from the closure of ITT Tech and Corinthian Colleges. According to the report, ITT Tech and Corinthian Colleges received more than $1 billion combined from taxpayers through the Post-9/11 GI Bill since 2009 and that, since 2013, almost 9,000 veterans were pursuing their education at the now-closed institutions. While the Department of Education has discharged student loans from those schools that closed, there is no comparable protection for student veterans utilizing Post-9/11 GI Bill benefits. The report recommended that Congress and the Department of Veterans Affairs should take steps to ensure that comprehensive relief is available to veterans and their families when schools abruptly close so that they do not permanently lose their benefits.

According to Senator Carper's press release of October 21, 2016: "Our nation's veterans have earned their GI Bill benefits and they deserve to attain a high-quality education. It is unfathomable to me that these brave men and women, who volunteered to serve their country in a time of war, are now being left in the lurch by some of the largest recipients of Post-9/11 GI Bill taxpayer dollars."

A copy of the press release is found at:
http://www.carper.senate.gov/public/index.cfm/pressreleases?ID=748CEC10-2B05-4677-9009-F788282FB040. A link to the report is included in the press release.

Department Publishes Borrower Defense to Repayment Regulations

On November 1, 2016, the Department of Education published the final regulations on borrower defense to repayment with the goal of protecting student borrowers against "misleading predatory practices by postsecondary institutions" and to clarify the process for loan forgiveness in cases of institutional misconduct. According to the Department, the new regulations will protect borrowers and taxpayers and hold institutions accountable by:

- Giving borrowers access to clear, consistent, fair, and transparent processes to file claims;
- Empowering the Secretary to provide debt relief to borrowers without requiring individual applications in cases of widespread misrepresentations;
- Safeguarding taxpayers by ensuring financially troubled institutions provide the government with protection against the risks they create and holding institutions whose actions lead to discharges of federal student loans responsible;
- Helping students make more informed decisions by requiring proprietary schools with poor loan repayment outcomes to include a plain-language warning in their advertising and promotional materials;
- Making sure affected borrowers have information about loan discharge when institutions close and access to an automated process; and
- Banning institutions from inducing students to sign pre-dispute arbitration agreements waiving their rights to go to court and bring class action lawsuits based on borrower defense claims.

Following the request from bipartisan members of Congress, the Department also announced plans in its press release to restore semesters of Pell Grant eligibility for qualified students who were unable to complete their programs because their institution closed. This initiative is important because students have a limited number of semesters in which they can receive Pell Grants to continue their education.

Finally, the Department's Borrower Defense Unit published its first periodic report, taking over responsibilities from the duties previously assigned to the special master. The report provides updated data on borrower defense claims received and announces the approval of more than 11,000 new claims based on agency findings concerning Corinthian Colleges' misleading placement claims. To date, over 15,000 claims have been approved with a combined outstanding loan balance for more than $247 million.

A copy of the final regulations is found at: https://ifap.ed.gov/fregisters/attachments/FR110116.pdf.

A copy of the press release of October 28, 2016 is found at: http://www.ed.gov/news/press-releases/us-department-education-announces-final-regulations-protect-students-and-taxpayers-predatory-institutions.

A copy of the report that provides updated numbers on borrower defense claims processed following the Corinthian Colleges closure is found at: http://www2.ed.gov/documents/press-releases/borrower-defense-report.pdf.

A copy of the summary of the regulations released by the Department is found at: http://www2.ed.gov/documents/press-releases/borrower-defense-final-regulations.pdf.

ED Imposes Fine on Penn State University of Almost $2.4 Million for Clery Violations

On November 3, 2016, the Department of Education announced that it is seeking to impose on Penn State University a record fine of $2.4 million for failing to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act after a comprehensive review prompted by on-campus sex offenses involving a former assistant football coach, Jerry Sandusky. The fine covers 11 findings of Clery Act noncompliance related to the University's handling of Sandusky's crimes and the University's failure to comply with federal requirements on campus safety and substance abuse.

A copy of the press release is found at: http://www.ed.gov/news/press-releases/us-department-education-levies-historic-fine-against-penn-state-over-handling-sexual-misconduct-incidents.

ED Announces Requirements for New Federal Loan Servicing System

On October 26, 2016, the Department of Education announced that FSA had issued the next phase of its procurement to acquire a single servicing platform to support the management of loan repayment for those with student loan debt serviced by the Department of Education. Under the procurement, one entity will be selected to provide the single servicing platform. A single servicing platform will increase cost efficiencies, improve communications to borrowers, improve oversight of vendors, and provide a common borrower experience. The Department anticipates the servicing contract will be awarded by February 2017.

The announcement is available at: http://www.ed.gov/news/press-releases/us-department-education-announces-requirements-new-federal-loan-servicing-system.

ED Announces Deadline for Challenging the Draft Debt-to-Earnings Ratios

On October 23, 2016, the Department of Education issued Electronic Announcement #94 announcing that beginning October 24, 2016, institutions will have 45 days to submit challenges to certain underlying loan data used to calculate the draft debt-to-earnings ratios. The final day to challenge is December 7, 2016.

A copy of the Electronic Announcement is found at:
https://ifap.ed.gov/eannouncements/102116GEAnnounce94DraftDEChallengePeriod1024to120716.html.

ED Announces Distribution of Draft GE Debt-to-Earnings Rates

On October 13, 2016, the Department of Education released Electronic Announcement #92 announcing the upcoming release of the draft Gainful Employment Debt-to-Earnings rates. The Electronic Announcement said that the National Student Loan Data System (NSLDS) would generate and send the "GE Debt Measures Backup Data" detail files to institutionally designated Student Aid Internet Gateway (SAIG) mailboxes during the week of October 17, 2016. On October 20, 2016, the Department released Electronic Announcement #93, which announced the release of the GE Debt Measures Backup Data detail files during the evening of October 19, 2016. The detail files contained the draft Gainful Employment (GE) Debt-to-Earnings (D/E) rates for each GE program at the institution as well as the data used to calculate the rates.

A copy of Electronic Announcement #92 is found at:
https://ifap.ed.gov/eannouncements/101316GEEA92UpcomingDraftDERatesDistribution.html.

A copy of Electronic Announcement #93 is found at:
https://ifap.ed.gov/eannouncements/102016GEAnnounce93DERatesDistributedViewerToolAvail.html.

ED Issues Notice Seeking Third-Party Comments Concerning the Performance of Accrediting Agencies Under Review

On October 14, 2016, the Department of Education issued a notice in the *Federal Register* seeking written third-party comments concerning the performance of accrediting agencies under review by the Secretary. The review includes the application for an expansion of scope for the Accrediting Bureau of Health Education Schools (ABHES).

A copy of the *Federal Register* is found at: https://www.gpo.gov/fdsys/pkg/FR-2016-10-14/html/2016-24893.htm.

The College Board Issues 2016 “Trends in Student Aid” and “Trends in College Pricing”

On October 26, 2016, the College Board released its 2016 “Trends in Student Aid” and “Trends in College Pricing.” The latter shows moderate increases in published tuition and fees ranging from 2.2% to 3.6% across all sectors between 2015-2016 and 2016-2017. According to the report, “tuition and fees are still rising at a faster rate than the financial and family income needed to cover costs.” The “Trends in Student Aid” found that in 2015-2016, loans from federal and nonfederal sources combined constituted 36% of the funds used by undergraduates and grants constituted 55% of the funds used by undergraduates. Further, federal education tax credits and deductions reach more students than subsidized and unsubsidized Direct Loans combined and reach almost twice as many students as Pell Grant recipients. Total federal loans to graduate students increased by 34% between 2005-2006 and 2010-2011, but declined by 17% between 2010-2011 and 2015-2016. Average debt for borrowers entering repayment in 2013-2014 with only graduate school debt was $45,890, compared with $19,650 overall.

Copies of the two reports are available at: https://trends.collegeboard.org/college-pricing.

TICAS Report Indicates that Loan Debt for Class of 2015 has Increased

The Institute for College Access and Success (TICAS) issued a new report on loan debt from the Class of 2015, which indicated that 68 percent of graduating seniors had student loans with the average debt of $30,100. The percentage of graduating students with student loans was about the same for the Class of 2014, but the average debt rose by 4 percent from last year. According to the report, almost one-fifth or 19 percent of the debt load was private education loans and 47 percent of undergraduates with private education loans did not use the maximum amount of federal loans available.

The report showed that state averages for debt at graduation in 2015 ranged from $18,850 to $36,100. High-debt states are concentrated in the Northeast and Midwest, with low-debt states located in the West.

The report offered the following recommendations:

- Reduce the need to borrow by increasing Pell Grants;
- Help keep loan payments manageable by simplifying and improving the income-driven repayment (IDR) plan;
- Help students and families make informed choices through better data and consumer information (i.e., College Scorecard, net price calculators, shopping sheet, and loan counseling);
- Strengthen college accountability with risk sharing and incentives to improve student outcomes, enforcing policies that complement risk sharing, and ending eligibility for the worst performers; and
- Reduce risky private loan borrowing.

A copy of the TICAS report is found at: http://www.ticas.org/content/pub/student-debt-and-class-2015.

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