

HEA Summary Document

This document summarizes the outcomes on the biggest issues in the HEA for NASULGC. It does not attempt to address every issue in the act. In most cases, the document addresses the issues that were of the most concern to NASULGC prior to final passage of the conference report.

Cost

The HEA reauthorization bill signed into law addresses the issue of college costs in a number of ways. The final language represents a significant improvement over previous iterations of the bill.

- The act establishes “college affordability and transparency lists.” The Department of Education would publish on the College Navigator website in each of nine different categories, institutions in the top five percent in both “tuition and fees” and “net price,” as well as the top five percent in increases (as a percentage) in tuition and fees and net price.
- “Net price” is defined in the act as “average yearly price actually charged to a first-time, full-time undergraduate student receiving student aid... after deducting such aid.” Net price is determined by subtracting the average amount of need-based aid per aided student from the cost of attendance.
- For public institutions, the cost calculations are based on in-state rates.
- Institutions on these “top five percent” lists with respect to increases would be required to submit reports to the Secretary explaining the causes of the costs and the steps they are taking to address them.
- Institutions would not be placed on these “top five percent” lists if the actual increases are less than \$600 over the most recent three-year period.
- Each institution is required to make available a “net price calculator” that would provide estimates of the net price of attendance. As long as the calculator contains the elements of a calculator developed by the Department, each institution can develop and use its own. The estimates produced by the calculator would not be binding.
- The act also requires institutions to create “multi-year tuition” calculators based on past years’ tuition levels. This is intended to enable students and their families to project future levels of tuition. The projections are not binding.
- The bill signed into law contains provisions related to state maintenance of effort (MOE), which requires states to maintain to support their public institutions at a minimum of the average level over the past five years in order to remain eligible for the new College Access Challenge Grant Program.

Accreditation

Proposed changes to the area of accreditation posed some of the most problematic provisions of the bill. In the end, the higher education community's concerns were resolved favorably.

The bill signed into law prohibits the Secretary from dictating achievement and outcome criteria and standards that accrediting agencies must use to assess institutional quality. More specifically, the final language proscribes the Department from delving into measurement of student outcomes.

New Mandates

As expected, the new act contains a host of new mandates that apply to institutions, including the following illustrative examples:

- Peer-to-peer file sharing ("P2P"): With respect to P2P, the act requires institutions to disclose to students the penalties involved with illegal file sharing. It also requires institutions to develop a plan to combat such illegal activities. However, it does not commit institutions to use a specific technology-based deterrent.
- Emergency notification: Earlier versions of the legislation contained language that would have required institutions to broadcast information about an emergency situation within 30 minutes of the incident, regardless of its nature and amount of information available to the authorities. The final version of the law requires institutions to have procedures to "immediately notify" the campus community upon confirmation of an emergency or a significant event without specific time constraints, unless such notification would compromise containment efforts.
- Textbooks: The new law contains provisions that require institutions, "to the extent practicable," to disclose in course schedules, the International Standard Book Numbers (ISBNs) of every required and recommended book and related materials, as well as their prices. Institutions that do not have such information in time for course schedule printings, can denote "to be determined" in the course schedules. The law now includes a number of mandates on publishers as well.
- Certification of institutional finances: The new law requires institutions to annually certify to the Secretary of Education that no funds received through the HEA were used to influence federal actions.

Student Aid

- "Code of conduct": Institutions that participate in federal student aid programs must develop a "code of conduct" which prohibits a number of activities, including revenue sharing.

- Preferred lender relationships: Institutions with “preferred lender” relationships, for the federal loan program or for private loans, must meet a variety of disclosure requirements, including disclosures to borrowers.
- PLUS loan deferment: The new law makes graduate student borrowers of PLUS loans eligible for deferment.
- Pell: The new act requires the Department to provide year-round Pell grants.
- Financial aid simplification: The act includes several provisions aimed at simplifying the aid application process, including reducing the number of questions on the Federal Application for Federal Student Aid (FAFSA) and calling on the Department to develop an aid system through which students can receive earlier estimates of aid packages.

Additional Consumer Information

The act includes a host of other informational requirements on institutions. Examples include the following:

- Disaggregated graduation rates: As a result of this act, institutions are now required to disaggregate their graduation rates by students’ aid recipient status.
- Alumni information: In addition, institutions are now also mandated to compile and disclose illustrative data (not comprehensive information) on alumni, including information on their employment and graduate education pursuits.

Changes to Teacher Education/Development/Training Programs

Additional links to the elementary/secondary education federal law, No Child Left Behind (NCLB), were created in this act through new provisions related to teacher training and education programs.

- “Quantifiable goals”: The act requires each institution that receives federal student aid and operates a teacher preparation program to annually develop quantifiable goals for increasing the number of teachers in high-need areas, as designated by the Department. Additional language clarifies that institutions are not required to develop or create new programs, areas of concentration, or specific curriculum to become compliant with the new requirements.

Links to other associations’ summaries

A number of other associations have compiled additional summaries, including:

- American Council on Education (ACE): http://www.acenet.edu/e-newsletters/p2p/ACE_HEA_analysis_818.pdf.

- National Association of Student Financial Aid Administrators (NASFAA):
<http://www.nasfaa.org/publications/2008/anheasummary080508.html>.

Next Steps

Although the legislative portion of reauthorizing the HEA has been completed, the implementation stage still remains. This will mean the formulation of rules and regulations governing the new provisions, which is expected to formally start at the beginning of 2009.

The development of rules with respect to Title IV (student aid) and certain parts of Title II (teacher education/training) are subject to “negotiated rulemaking,” also known as “neg reg.” This is an opportunity for the Department and the higher education community and other interested parties to formally negotiate to develop rules and regulations governing these provisions. In preparation for rulemaking, the Department has scheduled a series of regional meetings around the country during which interested parties can raise issues and questions regarding implementation. The meetings are scheduled as follows:

- September 19, 2008, at Texas Christian University, Fort Worth, Texas
- September 29, 2008, at the University of Rhode Island, Providence Campus, Paff Auditorium, Providence, Rhode Island
- October 2, 2008, at Pepperdine University, Malibu, California
- October 6, 2008 at Johnson C. Smith University, Charlotte, North Carolina
- October 8, 2008, at the U.S. Department of Education, 8th Floor Conference Center, 1990 K Street, N.W., Washington, DC
- October 15, 2008 at Cuyahoga Community College, Cleveland, Ohio

Following the regional meetings, the community will have an opportunity to nominate negotiators on its behalf.

Details about the regional meetings as well as initial information about the rule making process are available at the following link:

<http://www.ed.gov/policy/highered/leg/hea08/index.html>.

NASULGC staff will keep the CGA apprised on neg reg and other developments.