

NASPA Public Policy Division Legislative Update

June-July 2018

Public Policy Update:

Federal Legislative Update

Federal Budget/Appropriations:

- On 7/11 the House Appropriations Committee approved a \$177.1 billion fiscal 2019 bill to fund the departments of Labor, Education, and Health and Human Services. It's unclear if it will be brought to the floor for a vote.
- The Senate wants to combine a Labor-HHS-Education bill with the defense spending measure.
- The House is pushing to pass all of their appropriation bills, while it is unclear, even with a much reduced summer recess, whether the Senate has enough time on its calendar to do so before the September 30 deadline.
- The House Appropriations subcommittee that oversees education spending approved a bill that would give the Education Department a \$43 million boost, funding it at \$71 billion in fiscal 2019, which begins Oct 1. The proposal increases the budget for TRIO, career and technical initiatives, and early childhood education initiatives. The bill rejects the Trump administration's proposed cuts to several areas, including the Office for Civil Rights, Student Support and Academic Enrichment grants, Impact Aid and after-school programs.

Immigration and DACA:

- In late April (25th), The DC District court issued yet another injunction on the expiration of the DACA program. Judge John D Bates said the decision to rollback the program was "arbitrary and capricious because the Department failed adequately to explain its conclusion that the program was unlawful." The decision gave DHS 90 days to deliver a stronger case. If they fail to do so, USCIS will then need to start re-accepting new DACA applications.
- On 6/21 the House voted down a conservative-backed bill sponsored by Judiciary Committee Chairman Bob Goodlatte, R-Va., and on 6/27 voted down a compromise bill negotiated by leadership (H.R. 6136). [NASPA had signed onto a letter](#) with Hispanic Associations of Colleges and Universities (HACU) and 25 other associations expressing opposition to H.R. 6136.
- 7/12 House Majority Leader Kevin McCarthy confirmed that the House will vote on a Democratic bill to dismantle US Immigration and Customs Enforcement (ICE).

HEA Reauthorization:

- NASPA has also released a letter to Alexander and Murray regarding the PROSPER Act: https://www.naspa.org/images/uploads/main/NASPA_Response_to_HELP_Committee_HEA_Comments_20180223.pdf
 - Key points in the statement include: support for a simplification of FAFSA
 - Expanding the Pell program, including to incarcerated individuals through a Second Chance Pell Program
 - Maintenance of TRIO programs
 - And an emphasis on Civic engagement
- This past month, the Senate has indicated that it would not be producing legislation to reauthorize HEA during 2018
- Chairwoman Foxx of the House Ed and Workforce Committee continues to push on PROSPER but there are not enough votes in the House to bring the bill to the floor.

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Student Borrowers

- (6/16) the Federal Register released an announcement that the Department will be allowing additional time (as we expected) until July 1, 2019 for institutions to comply with disclosure requirements in the Gainful Employment regulations and invites comment on this action
- (July) Politico reports that Education Secretary Betsy DeVos will formally delay, by two years, an Obama-era rule governing state oversight of online colleges that was supposed to take effect over the weekend. The Education Department will publish a notice in the Federal Register that postpones the "state authorization" rules for distance education programs until July 2020, which gives the Trump administration time to write its own rule. The Education Department backed off from its initial proposal to delay part of the rule that affects foreign schools receiving federal student aid. The department said that it was persuaded that the provisions are "core protections for students enrolled in campuses abroad." The main justification for the delay of the rest of the rule, according to DeVos' notice, is concern from colleges that it's burdensome and confusing. The department has already announced plans to open a negotiated rulemaking process to rewrite the rule.

Title IX:

- On September 22, 2017 Secretary DeVos withdrew Obama-Era Title IX guidance on sexual violence and campus sexual misconduct.
- Since Sept. we have been waiting on an update to the interim guidance in lieu of the 2011 Title IX DCL and 2014 Q&A Guidance. The Department announced intent to issue a notice of proposed rulemaking to clarify schools' obligations in addressing sex discrimination and complaints of sexual misconduct and the procedures by which they must do so by March 2018 (12/14)
- While we were expecting a NPRM and corresponding call for comment by the end of April, we learned in May from the federal regulatory agenda and a quicktake on Inside Higher Ed, that Department of Education is not planning on releasing draft regulation regarding campus sexual misconduct until September.

Affirmative Action:

- (July) The Trump administration plans to rescind guidance related to colleges using race-based policies in admissions to promote diversity, according to news reports. Rescinding the guidance wouldn't change the law but some worry that doing so is meant to cause confusion and further signals the Trump administration's desire to unravel affirmative action. Civil rights advocates say the administration's move only furthers intolerance and discrimination by supporting systematic racial biases.

Trans Rights:

- In March ED indicated that the Department will no longer be investigating Title IX cases regarding trans individuals rights to bathroom access. Other forms of harassment of trans individuals would qualify as sex discrimination, but the use of public facilities does not.
- Trump announced in July, on Twitter, that transgender Americans would be barred from serving in the military "in any capacity." That triggered at least four court injunctions, preventing the policy from taking effect while litigation proceeded. A March version of the ban, which Defense Secretary James Mattis said was crafted by military experts, would allow transgender people to serve openly in their "biological sex."

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- On April 14, a federal judge announced that the revised U.S. ban on transgender military service isn't much different from the original announced by President Donald Trump and that a lawsuit over the directive must go to trial.
- New study by NPR, Robert Wood Johnson Foundation, and Harvard School of Public Health showed that 64% of trans survey participants indicated that they experienced discrimination in college. Data indicates that the federal rollbacks that we have been seeing go against the needs of trans students.

Travel Ban and International Students:

- A final decision on the third iteration of the travel ban was released in late June 2018. The Supreme Court ruled in favor of the administration, stating that the President's anti-Muslim rhetoric should not determine his presidential power to issue the executive order. Most students and scholars will not be directly affected by the ban, though those traveling with tourist B visas may feel the impact of the ban. Further, the international higher education community may continue to feel unwelcome.
- As a reminder, the 3rd iteration places restrictions of varying degrees on entry to the United States from Iran, Libya, Syria, Yemen, Somalia, Chad, North Korea, and Venezuela.
- (7/3) China's embassy in Washington has issued a notice warning Chinese nationals about high medical bills and violent crime in the U.S. In a notice posted on the embassy's website, Beijing warned Chinese nationals traveling in the U.S. that they could face pricey medical bills, poor "public security," and warrantless searches and seizures by customs agents.

State Legislation Update

Trans Rights:

Since the start of the 2018 State Legislative Session, the Policy and Advocacy Team at NASPA has seen movement on 26 bills across 14 states. This summary includes changes observed concerning tracked legislation over the past few weeks. NJ S 705, which was enacted on 07/03/2018, will create a Transgender Equality Taskforce to assess legal and societal barriers to equality and provide recommendations to the New Jersey Legislature. HI HB 1489, which was enacted on 07/06/2018, works to prohibit and prevent discrimination on the basis of sex, including gender identity or expression, or sexual orientation, in any state educational program or activity or those that receive state financial assistance.

In-State Tuition for Undocumented Immigrants

Since the start of the 2018 State Legislative Session, NASPA's Policy and Advocacy Team has seen movement on 26 bills across 14 states regarding in-state tuition for undocumented immigrants. This summary includes changes observed concerning tracked legislation over the past few weeks. CA AB 2210, which was read a second time, amended, and re-referred to the Committee on Appropriations on 07/05/2018, would extend resident tuition to refugees and holders of certain special immigrant visas.

Guns on Campus:

Since the start of January, the Policy and Advocacy Team at NASPA has seen movement on 36 bills across 16 states. This summary includes changes observed concerning tracked legislation over the past few weeks. KS HB 2042, which died in conference on 06/05/2018, would have removed restrictions on concealed carry on campuses.