

Policy Update – Education and Labor Committee Majority Introduces HEA Bill

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On October 15, the U.S. House Education and Labor Committee Chairman, Bobby Scott (D-VA), announced the introduction of H.R. 4674, the *College Affordability Act* (CAA), a *Higher Education Act* (HEA) reauthorization bill from Committee Democrats. The bill proposes significant modifications to many facets of higher education. Financial aid, institutional aid, accreditation, international education, reporting requirements, and more would see substantive policy and funding changes. The CAA's impact on individual higher education institutions will vary due to proposed changes in campus-based aid funding formulas, student populations served, and new proposals that will need to be more fully defined.

The *College Affordability Act* is likely to be marked up by the Committee at the end of October and could advance in the House. It is unlikely to be considered by the Senate due to policy disagreements with Senate Republicans. The bill would unofficially support \$400 billion in spending. It is not clear how and if this spending would be offset, though changes to the 2017 tax law are a likely source of revenue. The bill has received mixed reception by the higher education community. While increases to student aid are widely supported, there is fear that the proposed federal-state partnership to incentivize free community college tuition will disproportionately benefit two-year institutions at the expense of four-year institutions. Additionally, the proposed increased federal reporting requirements have the potential to force institutions to increase resources devoted to administrative functions.

The *College Affordability Act* proposes to increase the maximum Pell Grant award by \$500 and permanently index the award to inflation. The bill extends Pell Grant eligibility to 14 semesters and allows students to use their Pell eligibility on graduate programs, among other changes. The bill would also change the funding formulas for the campus-based aid programs to prioritize support for low-income students and their unmet needs while significantly increasing the authorized funding level for these programs. The bill would preserve and expand eligibility for the Public Service Loan Forgiveness (PSLF) program. The CAA would expand federal student aid eligibility to certain undocumented populations and simplify the Free Application for Federal Student Aid (FAFSA).

The bill would increase the amount of required loan counseling provided by an institution. The CAA would also expand Clery Act reporting to include hazing and harassment and require institutions to conduct a biennial campus climate and safety survey. Institutions would be required to designate an employee to coordinate compliance with the *Civil Rights Act of 1964*. The bill would also significantly inject federal oversight into the accreditation process.

This is the second HEA bill that has emerged from the House education committee majority (the 115th Congress saw the Republican PROSPER Act) in the last two years. Because the Senate education committee is still stalled in developing a comprehensive, bipartisan HEA proposal, a reauthorization that can be signed into law is unlikely until after the 2020 election. The CAA will serve as an important reference point in any future reauthorization.

A detailed overview of H.R. 4674, the *College Affordability Act* (CAA) is below.

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Title I: General Provisions

The CAA would address several regulatory priorities for Democrats including closing the 90-10 loophole, reviving more stringent **gainful employment disclosures**, and establishing a process for the conversion of for-profit institutions to non-profits. Under the bill, the National Advisory Committee on Institutional Quality and Integrity (NACIQI) would be permanently authorized.

Title I would also direct the Department of Education (ED) to enter negotiated rulemaking to develop **foreign gift reporting** requirements while also requiring institutions to report the “fair market value of staff members, textbooks, and other in-kind gifts.” ED would be required to publish a searchable database of reports filed by institutions, including reports filed as far back as January 1, 2000. The bill would update the definition of gift to include “property, human resources, or payment of any staff.”

H.R. 4674 would require that drug and alcohol-abuse programming required to participate in federal financial aid programs be “evidence-based.” Additionally, the bill would create several requirements for how institutions support homeless individuals and foster care youth, including requiring states to provide in-state tuition rates for homeless or foster care youth.

The CAA would strike the “**student unit record**” ban and would require the development of a system that uses student-level data to track and publish employment and earnings outcomes.

Highlights

- The CAA would address many Democratic regulatory concerns including the 90-10 rule and weakened gainful employment regulations.
- The bill would address what many supporters of the *College Transparency Act* have advocated for, the repeal of the student-unit record ban.
- The bill would update Section 117 foreign gift reporting regulations to require negotiated rulemaking and the reporting of in-kind gifts, while not changing the current \$250,000 threshold.

Title II: Teacher Quality Enhancement

H.R. 4674 would reauthorize and expand the primary grant program for teacher preparation programs (**Teacher And School Leader Quality Partnership Grants**) and adds and updates several definitions (including “digital learning” and “school leader,” among others). Expansions proposed under the Teacher And School Leader Quality Partnership Grants include support for programs targeted for school leaders and other educators, partnerships that foster instruction for English learners, and school leader preparation programs, among other new activities.

The bill would also support principal or other school leader residency programs and teacher leader development programs. The CAA would also create a new “Grow Your Own” grant program to “address subject or geographic areas of teacher or school leader shortages or to increase the diversity of the teacher or school leader workforce.” The bill would update state reporting requirements as it relates to teacher and school leader preparation programs. The bill would authorize ED to carry out “a feasibility study on the elevation of the education profession.” Finally, the bill creates several new competitive grant programs, including one focused on minority-serving institutions to increase the diversity of the education workforce, and another focused on providing “graduate fellowships to individuals who are preparing for the professorate” who then will support individuals to become STEM, special education, and English-language learner teachers.

Highlights

- The CAA would expand the existing Teacher Quality Partnership grant program to support the development of school leaders.
- The bill would increase authorized Title II funding from \$300 million to \$500 million.
- The bill would support efforts to increase diversity in the education workforce and address teacher shortages, among other efforts.

Title III: Institutional Aid

The bill would increase authorized funding for **Minority-Serving Institutions (MSI)** grant programs, including a permanent increase in mandatory funding to \$300 million. Programs like the **Hispanic-Serving Institutions - Science, Technology, Engineering, or Mathematics (HSI STEM)** would see an increase in authorized funding levels.

Highlights

- The CAA would increase authorized discretionary funding levels for many Title III MSI programs including the HSI-STEM program.

Title IV: Student Assistance

The CAA would significantly expand and alter the aid programming authorized under Title IV. For the **Pell Grant** program, the bill would provide a \$500 increase to the maximum award for 2021 and include a permanent annual inflation adjustment going forward. Eligibility for Pell Grants would extend from 12 to 14 semesters of study and allow students, with remaining eligibility, to use Pell for “the period required for the completion of the first postbaccalaureate course of study.” Pell Grants would also become eligible for short-term “job training” programs for students who do not yet have a postbaccalaureate degree. Eligible job training programs would provide between 150 and 600 clock hours of instructional time over a period of between 8 and 15 weeks, be aligned with regional workforce

needs, and provide for gainful employment. The bill would also require a report on Pell fraud and opens eligibility of Pell Grants for incarcerated individuals at certain institutions.

The bill would also increase authorized funding levels for the **Federal Work-Study (FWS)** program, reaching \$2.5 billion in FY 2025. Additionally, allowable uses for the community service set aside is increased and definition of “work-based learning” is created. The bill would create several set asides from the FWS allocation including funds for “improved institutions” that have high completion or graduation rates for Pell students. The CAA would phase in a new “fair-share” FWS formula over five years. The bill would also make changes to how institutions could use their FWS funds in supporting students with exceptional need and compensating students employed in work-based learning and community service positions. H.R. 4674 would create a “Work-Based Learning Opportunities Pilot Grant Program” that would help institutions establish or expand a program to develop work-based learning placements for students. The bill would also direct the Secretary to work with FWS administrators to develop a survey on, among other measures, the satisfaction of students with the FWS program.

Of particular impact to institutions, the CAA proposes to increase the authorized funding levels for the **Federal Supplemental Educational Opportunity Grant (SEOG)** program, but it would phase-in, over five years, a likely significant reallocation of institutional funds based on a calculation of an institution’s undergraduate student need and limit the program to those institutions with at least 7 percent of undergraduates who are Pell-eligible. It would also create a grant program to support emergency grants of up to \$750 for students for immediate challenges that would impact a course of study.

For the **TRIO programs**, the bill would increase the minimum award to \$220,000, limit ED’s ability to reject proposals due to technicalities, and increase authorized funding to \$1.12 billion with out-year inflationary increases. For the **Gaining Early Awareness and Readiness for Undergraduate (GEAR UP)** programs, the CAA would tweak the proposal review process, application requirements, and raise the authorized funding level to \$500 million.

The bill would make reforms to the **Child Care Access Means Parents in School (CCAMPIS)** program and authorizes the program at \$200 million. The CAA would also introduce a \$250 million “**Jumpstart to College**” grant program to assist eligible institutions and states in the establishment of early college high school or dual enrollment programs.

H.R. 4674 would make significant changes to **accreditation**. These include having accreditors evaluate short-term job training programs and programs enrolling incarcerated students that have access to Pell funds. The bill would also create a technical review panel that would establish outcomes measures as part of the standards for accreditation used by accrediting agencies. These outcomes include completion, progress towards completion, and workforce participation. Accrediting agencies would have to adopt common definitions for several terms including “sanctions, adverse actions, and any other action that an accrediting agency or association may take with respect to an institution of higher education...” Accreditors would also differentiate the institutions they oversee by assigning them to comparable groups that would have different benchmarks. The Secretary would be able to require an accrediting agency to revise performance benchmarks

The bill would make changes to the “separate and independent” requirement related to programmatic accreditors. Members of an accrediting body would not be permitted to be elected or selected “by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization.” Membership of a board would also have to include one public member for each four

members of the board. The bill would also require that dues paid to the accrediting body are paid separately from any dues paid to any related membership organization and the budget of the accrediting agency “is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.”

As part of Title IV eligibility and accountability provisions, the CAA would include a new “**adjusted cohort default rate**,” with ineligibility thresholds and interventions set for institutions having over 20 percent adjusted cohort default rates. It would also set up the development of an “**on-time repayment rate**” metric for institutional accountability.

The bill would make revisions to the **TEACH Grant** program, raising the grant to \$8,000 for junior and senior year undergraduate teacher candidates and modifying the service requirements. The CAA would also create a competitive \$1 billion **Community College Student Success** grant program for community colleges to improve student outcomes. Additionally, the bill would create a \$500 million **Pell Grant Bonus** program for non-profit institutions, with at least 25 percent Pell recipients, as a reward for Pell students achieving normal time completion.

For the federal loan programs, the bill would eliminate **loan origination fees** and eliminate interest capitalization after forbearance or deferment. The bill would also consolidate current loan repayment into two plans, a standard repayment plan and an income-based repayment plan, with automatic enrollment for delinquent loans. The CAA would modify **Public Service Loan Forgiveness (PSLF)** and expand it to cover employment in veterans or military service organization, farmers and ranchers, and certain health care practitioners.

The CAA would create a new **Direct Perkins Loans** program and set up a program to allow borrowers with private student loans to refinance into the Federal Direct Loan program. It would make modifications to the expected family contribution calculation and revise need analysis and zero expected family contribution. It would also simplify the **FAFSA** application process to allow for information exchange between ED and the Departments of Treasury, Agriculture, and Health and Human Services, as well as limit filing to one-time for certain students. ED would also be required to set standards for institutions for financial aid award offers and modify exit counseling requirements. The CAA would also repeal the current limitation on financial aid for those with drug-related convictions.

The CAA would update the **Clergy Act** amendments related to crime statistics to include reporting on harassment and hazing incidents and increase civil penalties for failures to report to \$100,000. Institutions would also be required to provide students with educational programming on hazing. The Secretary would also be required to develop an online campus safety and climate survey, which institutions would be required to administer every two years and publish campus-level results. While the survey would be standardized, institutions would be allowed to add additional questions to the survey. The CAA would also require institutions to review and report on deaths, sexual assaults, and hospitalizations by students in any study abroad programs approved for credit, including incidents occurring on off-campus property.

The bill would require institutions to designate a **liaison to assist homeless and foster care students**. It would also require institutions to provide **annual disclosures and counseling to borrowers**, including Parent PLUS borrowers, on loan terms, borrower rights, current balances and anticipated payments, among other notices. The Secretary of Education is required to develop an online loan counseling tool

for institutions. Institutions would also be required to develop and post policies for pregnant or expectant student parents.

The CAA would set up a new \$162.5 million grant program for institutions or education agencies to support efforts to improve **remedial education**. The Secretary is also directed to run **competency-based education (CBE)** demonstration projects and set up a Competency-Based Education Council to examine and make recommendations on future CBE support.

The bill includes new requirements for institutional agreements with other entities that provide educational programming. For proprietary, for-profit institutions, it would alter the 90-10 revenue rule to require that not less than 15 percent of these institutions' revenues come from "sources other than Federal education assistance funds." The CAA would also require all institutions to designate an employee "to coordinate compliance with title VI of the *Civil Rights Act of 1964*." The bill would further revise the Department's handling of the experimental site program, negotiated rulemaking process, and borrower defense to repayment procedures.

Of particular note, the bill would set up a new **America's College Promise Federal-State Partnership** formula grant program for states and tribes, which for each eligible student covered, would fund up to 75 percent of the average community college tuition and fees "in all states" for the 2021-2022 award year. The level of support would be automatically increased in the out-years. The required state share would be equal to 25 percent, which could include state need-based aid or aid that covered costs of attendance other than tuition. To get access to these funds, states and tribes would be required to waive resident tuition and fees for eligible students, provide details on evidence-based reforms to improve student outcomes, align K-12 and college requirements, and move to ensure that associate degrees are "fully transferrable to, and credited as, the first 2 years of a related baccalaureate program at a public institution of higher education in such State." Any grant funds left over after waiving tuition and fees, could be used for completion interventions, dual enrollment programs, training programs, college readiness efforts or for improving affordability at four-year public institutions. States would be required to maintain financial support for operational expenses at four-year, public higher education institutions at or exceeding the average amount the state provided over the three previous fiscal years. The program is expected to be funded at \$1.6 billion in the first year and grow to over \$16 billion after 10 years.

The CAA would also provide for an additional \$500 million **Student Success Fund** to support state efforts to improve student outcomes.

Highlights

- The CAA would increase the maximum Pell Grant award by \$500, permanently index the award size to inflation, expand Pell access to 14 semesters and postbaccalaureate study, and open access to eight to 15-week job training programs.
- The bill would increase, but reallocate institutional distributions, for both the Federal Supplemental Educational Opportunity Grant (SEOG) and Federal Work-Study programs, as well as increase TRIO, GEAR UP, and CCAMPIS programs.
- The CAA would mandate new reporting on harassment and hazing, incidents during study abroad, and require biennial campus climate and safety surveying.
- The bill would also eliminate loan origination fees and create new grant programs aimed at incentivizing free community college and improving student outcomes.

Title V: Developing Institutions

H.R. 4674 would update Title V to encourage Title V institutions to develop partnerships with institutions of higher education outside of the United States. The bill would update activities funded by **Promoting Postbaccalaureate Opportunities For Hispanic Americans** program to include “Faculty Development Activities.” Allowable uses under this section would include faculty exchanges, financial support for graduate students interested in becoming faculty at HSIs, and research support for early career faculty, among other uses. Authorized funding for levels for programs under Title V would increase to \$465 million from \$275 million.

Highlights

- The bill would increase funding for Title V institutions and would create new support for faculty and graduate students at HSIs.

Title VI: International Education Programs

The CAA would make several changes to **international education and foreign language training** programs. These include eliminating the “Technological Innovation And Cooperation For Foreign Information Access” program and updating the “Business and International Education Programs.” One update would include simplifying the federal match for programs under this section. Authorization for the “Institute For International Public Policy” would be repealed. The CAA would allow the Secretary to give priority for Title VI grants to MSIs or “institutions of higher education... that propose significant and sustained collaborative activities with one or more minority-serving institutions.” The bill would also increase authorized funding to \$125 million for Title VI programs.

Highlights

- The bill would update and consolidate the current Title VI programs to eight programs. Authorized funding levels would increase to \$125 million.

Title VII: Graduate and Postsecondary Improvement Programs

The CAA would authorize several grant programs focused on graduate and undergraduate students at **minority-serving institutions (MSIs)**, students with disabilities, and other populations. The bill would authorize up to \$850 million for the creation of an **MSI Innovation Fund**, which would provide planning grants of up to \$150,000 or implementation grants of up to \$10 million focused on enrolling and graduating disadvantaged students, including low-income students, students entering postsecondary education over the age of 21, and military students. Funding could be directed towards recruitment, increasing graduation rates, and teacher preparation programs, among other initiatives. MSIs would receive grant priority. The bill would also authorize a new \$30 million grant program to improve graduate opportunities at **Asian American and Native American Pacific Islander-Serving Institutions (AANAPISIs)**.

Title VII of the CAA would also require the establishment of an Office of Accessibility at all institutions of higher education to provide information and support to students with disabilities; authorize grant programs for supporting faculty, staff, and administrators in providing accessible education; authorize a grant program to support implementation of universal design frameworks for courses and educational materials; authorize the creation of a National Technical Assistance Center and a National Coordinating Center for Inclusion of Students with Intellectual Disabilities; establish a formula grant program to

support transition to and success in postsecondary education for homeless and foster youth; and reauthorize the **Fund for the Improvement of Post-Secondary Education (FIPSE)**; among other provisions.

Highlights

- The bill would authorize various grant programs to support disadvantaged undergraduate and graduate students at minority-serving institutions.
- The bill would require establishment of an Office of Accessibility at all institutions.

Title VIII: Additional Programs

The bill would reauthorize and consolidate several Title VIII programs, many of which have never had appropriated funding. The CAA would create the “Ronald V. Dellums Memorial STEAM Scholars Program,” which would provide scholarships for students to enter the STEAM workforce. STEAM would be defined as “science, technology, engineering, arts, and mathematics.” Authorized funding for the **“Patsy T. Mink Fellowship Program,”** which funds postgraduate fellowships for minorities and women, would be \$10 million. Changes would also be made to the **“Centers of Excellence for Veteran Student Success”** and **“University Sustainability”** programs. A new section to increase access to open educational resources would be created. Programs that would repealed include “Project Grad” and “American History for Freedom,” among others.

Highlights

- The bill would establish a new STEAM program and would eliminate several programs that have never received funding.

Title IX: Directives to the Secretary of Education

The bill would prevent the Secretary of Education from implementing the **Title IX regulations** proposed in November 2018. The Secretary would also be directed to explore the feasibility of a single certification form for TEACH Grants, PSLF, and other loan programs. The Secretary would also be directed to “assign a unique numeric identifier to at least each campus of each institution of higher education” participating in Title IV.

Highlights

- The bill would prevent the implementation of the Title IX campus sexual assault regulations that ED is in the process of promulgating.

Title X: Amendments to Other Laws

The CAA would revise the **Family Educational Rights and Privacy Act (FERPA)** to allow for the sharing of education credentials to allow for reverse transfer degrees. It would also call for IPEDS to include data disaggregated by race in a manner that captures all the racial groups specified in the American Community Survey.

Highlights

- The bill would propose changes to several related education laws including the *Family Educational Rights and Privacy Act (FERPA)* and the *Education Sciences Reform Act of 2002 (ESRA)*, among others.

Sources and Additional Information:

- The Committee's press release and additional details on the bill, including summary, fact sheets and additional materials can be found at <https://edlabor.house.gov/the-college-affordability-act-facts>.
- Text of the bill is available at https://edlabor.house.gov/imo/media/doc/SCOTVA_047_xml.pdf.