

Washington Update – September 20th

The current state of play in Washington: After yet another tragedy this week with the mass shooting at the Navy Yard, Congress is back to work. We would like to ensure we recognize those who lost their lives in this tragic event. The families impacted from lost lives were not just military families but civilians who worked as contractors in an environment where they felt they were safe and serving their country in their own way. Our hearts and thoughts extended to those families just blocks from not just the Capitol but many of our homes, parks and schools. As a result, gun issues are back on the table but few see any movement forward

Congressional focus at the moment is on the budget, the debt ceiling and the Affordable Health Care Act (ACA) that begins in earnest in January of 2014. As you recall, Congress failed to reach a budget this summer and as a result we are looking at a looming deadline of no funding for the government in place for FY14 as of September 30th. While a continuing resolution (CR) is being discussed, the funding for the health care act seems to be a bargaining chip in this process. The House has approved a continuing resolution for the government to be funded until December 15th with the caveat that no provisions in the ACA be funded. The Senate has stated this bill will not pass and the White House has indicated a veto if by chance the Senate did pass it. So the threat of a government shutdown looms as you have heard on the news. It is likely this will be resolved and the CR will be approved, but a larger issues looms right behind it – the debt ceiling. The debt ceiling has to be raised again to allow the federal government to pay bills and to keep agencies functioning. If the House loses on its efforts for defunding ACA in the CR – then it is likely to be visited again with the Debt Ceiling limit debates begin in earnest this month as well.

Another issue complicating these two issues with the Government's budget (thus the Department of Education budget impacting our programs) is sequestration which begins in earnest as well at the beginning of 2014. This is another item included in the Debt Ceiling and Budget discussions – eliminating sequestration. The elimination of those provisions will prevent massive cuts in all agencies but doesn't meet the goals of some members of Congress to slash the deficit. So we have deficit hawks and those who want to keep the agencies funded at 2013 levels playing a game of chicken with only days until the game is over.

This issue changes daily and we will continue to update you as a resolution becomes more clear. Most feel that a government shutdown will not happen in the end but will come very close before true negotiations are held.

Reauthorization of the Higher Education Act

The Higher Education Act is scheduled to be reauthorized next year. Both the House and the Senate have begun to have information hearings on different topics to evaluate potential topics for the Reauthorization process. While the House has had several information hearings, the Senate began with their first hearing yesterday on the topic of the responsibility of managing the higher education system – the states, the

accreditors and the federal government. Chairman Harkin (D-I) stated his plan to have 12 more hearings over the next several months and then begin drafting the bill. The House has had two hearings to date, focusing on Veteran's support at Institutions and Collaborations to reduce college costs. The challenge with the scheduled goal to have language for the bill by the beginning of the year is that the ESEA Reauthorization has yet to be completed. This bill was scheduled to be completed last Congressional year.

The hearings and even the President's plan to combat rising college costs will be blueprints for what we could see in the actual text of the reauthorization bill.

Hearings:

House Committee on Education and the Workforce:

9-11-13 Supporting Service Members and Veteran's in Higher Education

Chairwoman Foxx (R-NC) at the start of this hearing noted that the higher education community has a responsibility to tailor programs and coursework to ensure the needs of this unique student population are met and taxpayer resources are used wisely and efficiently. Fortunately, many schools are rising to the challenge.

During her opening remarks, Rep. Foxx highlighted the University of North Carolina's work to build a network of veteran services and programs known as the UNC Partnership for National Security. Kimrey Rhinehardt, Vice President for Federal and Military Affairs at the University of North Carolina, explained the importance of implementing specific support systems for veteran students. "Veterans are not your typical students. They come to us from a highly structured, bureaucratic environment and are often uneasy with the loosely structured, bureaucratic environment of the University."

To help veterans more easily transition into academic life, Ms. Rhinehardt said, "one of our top priorities is to centralize information sharing using a technology-based platform, providing a virtual 'one-stop-shop' for veterans... We believe that the 'one-stop-shop' approach works well for the University, the student veteran, and for the military."

Other institutions are focused on improving data collection so they can develop tailored programs that meet the specific needs of military and veteran students. **Dr. Russell Kitchner**, American Public University System's (APUS) Vice President for Regulatory and Governmental Relations, described APUS' efforts to expand technology and implement "a more meaningful formula for calculating its military and veteran student graduation rate." This data-driven approach has allowed APUS to track veteran student performance, assess their online learning environment, and expand their most effective programs to help veteran students accomplish their education goals.

Providing veterans and service members with adequate emotional and social assistance is also key to creating a successful academic environment. As Saint Leo University President **Arthur Kirk** noted, "We must be more than just military and veteran friendly, we must be military and veteran supportive." In addition to implementing veteran-specific counseling centers and organizations, Mr. Kirk said faculty and

staff at Saint Leo University receive extensive training in identifying and addressing issues that veterans are likely to face in pursuing their education. Mr. Kirk concluded, “The sense of community that these efforts build on campus benefits our entire student body – veterans and non-veterans alike.”

9-18-13 Keeping College Within Reach: Improving Access and Affordability through Innovative Partnerships.

During the hearing, witnesses highlighted ways postsecondary institutions are forming innovative partnerships with private sector entities to help reduce costs, strengthen degree programs, and enrich coursework to better meet the needs of a changing student body.

Jeffrey Docking, President of Adrian College in Michigan, explained how working with area businesses helped the small liberal arts school overcome steep declines in student enrollment and unprecedented operating deficits. “We looked for innovative partnerships with businesses that could advance the college’s education mission while cultivating talent needs in our business community.

Dr. Charles Isbell, Professor and Senior Associate Dean for the College of Computing at Georgia Tech University highlighted their goals with new online options. The school leaders have joined with AT&T and Udacity to deliver the first fully-online Master’s program in Computer Science through the Massive Open Online Courses (MOOC) platform. The initiative will offer students the skills they need to compete in the 21st century workforce at a fraction of the cost of traditional on-campus programs. This is the first of its kind in the world.

Laureate Education Chief Executive Officer of Global Products and Services **Paula Singer** noted federal regulations can prevent them from doing so. “Speed in innovation is also important to maintaining our institutions’ ability to compete in a global marketplace where institutions and students in other countries are increasingly able to leap-frog over our own,” Ms. Singer said. “How regulators adapt and respond to existing and new forms of innovation in higher education will determine whether institutions are able to meet the rapidly changing needs of students in the U.S. and to remain competitive worldwide.”

Senate Health Education Labor & Pensions:

The Triad: Promoting a System of Shared Responsibility. Issues for Reauthorization of the Higher Education Act

Panelists:

Dr. Paul E. Lingenfelter, Former President, State Higher Education Executive Officers Association, Boulder, CO

Dr. Terry W. Hartle, Senior Vice President, American Council on Education, Washington, DC

Dr. Susan D. Phillips, Provost and Vice President for Academic Affairs, University at Albany, SUNY, Albany, NY Dr.

Marshall A. Hill, Executive Director, National Council for State Authorization Reciprocity Agreements, Boulder, CO

The hearing was focused on the on the multi-layered system the federal government uses to oversee colleges and universities receiving federal student aid. The system, known as “the triad,” involves a web of requirements placed upon institutions by the U.S. Education Department, state regulators and accrediting bodies.

At the federal level, colleges and universities have long complained that they are unduly burdened by an array of legislative and regulatory obligations that are often confusing and unevenly enforced by the Education Department, an argument articulated Thursday by Terry W. Hartle, senior vice president for government and public affairs at the American Council on Education. Before piling on any additional responsibilities for colleges, Hartle said, Congress ought to commission an independent review of the existing approval and eligibility process that institutions go through to participate in the federal student aid programs.

The reauthorization of the Higher Education Act is taking place against the backdrop of an Obama administration proposal to develop a rating system for colleges based on student outcomes and value. The Education Department on Thursday announced that it had begun an effort to gather input on how to develop metrics for those rating system. The administration plans to develop and implement a ratings system by 2015, but it will need the help of Congress to implement its ultimate goal of linking a rating system to federal student aid dollars.

That affordability theme also permeated Thursday’s hearing on the triad, perhaps foreshadowing a larger battle over how, and whether, to use the Higher Education Act to prod colleges to keep down costs. Several Democratic Senators Thursday questioned whether the interlocking oversight triad of federal, state and accrediting bodies had gone far enough to keep down the costs of college.

Senator Elizabeth Warren, a Democrat from Massachusetts, for instance, pointedly asked: “Whose job is it to ensure that college is affordable?”

Harkin, who has been supportive of Obama’s call for a rating system, also suggested Thursday that accreditors should be more involved in controlling college costs. “I’m not sure accreditors need to be left off the hook on affordability,” he said. The Obama administration has also suggested using accreditation as a lever to push colleges on affordability -- a role that many institutions object to as inappropriate.

Alexander, while not discussing the Obama proposal directly, did say he would oppose using the Higher Education Act to create any “mandates about ways to cut college costs” or “prescriptive Washington definitions of quality.”

Source: Inside Higher Ed

Department of Education

VAWA/Campus Safety and Security Changes Negotiated Rulemaking

Last spring Congress passed and the President signed VAWA reauthorization was completed and included a section that impacts institutions and reporting requirements in the Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The Department of Education is accepting nominations for negotiators to be chosen for serving on a panel in January and February. The committee/panel will prepare proposed regulations to address the changes made in the VAWA reauthorization. The committee may be also asked to propose additional changes to clarify and update the existing campus safety and security reporting requirements. The Department will accept nominations until October 15th, 2013. The individuals selected must have demonstrated expertise or experience in the relevant subjects under negotiation as well as those who reflect the diversity among program participants.

<http://www.gpo.gov/fdsys/pkg/FR-2013-09-19/html/2013-22868.htm>

President's Plan to Combat Rising College Costs

President Obama has outlined an ambitious new agenda to combat rising college costs and make college affordable for American families. His plan will measure college performance through a new ratings system so students and families have the information to select schools that provide the best value. And after this ratings system is well established, Congress can tie federal student aid to college performance so that students maximize their federal aid at institutions providing the best value. The President's plan will also take down barriers that stand in the way of competition and innovation, particularly in the use of new technology, and shine a light on the most cutting-edge college practices for providing high value at low costs. And to help student borrowers struggling with their existing debt, the President is committed to ensuring that all borrowers who need it can have access to the Pay As You Earn plan that caps loan payments at 10 percent of income and is directing the Department of Education to ramp up its efforts to reach out to students struggling with their loans to make sure they know and understand all their repayment options.

Paying for Performance

- Tie financial aid to college performance, starting with publishing new college ratings before the 2015 school year.
- Challenge states to fund public colleges based on performance.
- Hold students and colleges receiving student aid responsible for making progress toward a degree.

Promoting Innovation and Competition

- Challenge colleges to offer students a greater range of affordable, high-quality options than they do today.
- Give consumers clear, transparent information on college performance to help them make the decisions that work best for them.
- Encourage innovation by stripping away unnecessary regulations.

Ensuring that Student Debt Remains Affordable

- Help ensure borrowers can afford their federal student loan debt by allowing all borrowers to cap their payments at 10 percent of their monthly income.

- Reach out to struggling borrowers to ensure that they are aware of the flexible options available to help them to repay their debt.

Higher Ed Groups Ask Supreme Court to Strike Down Michigan Ban on Considering Race in College Admissions

A group of higher education associations has weighed in on a new college admissions case before the U.S. Supreme Court, urging justices to strike down the state of Michigan's ban on the consideration of race and ethnicity in admissions decisions. ACE and 48 other associations submitted an amicus brief on Aug. 30 in *Schuette v. Coalition to Defend Affirmative Action*, which is scheduled for oral arguments Oct. 15.

The case follows closely on the heels of another high-profile Supreme Court university admissions case, *Fisher v. the University of Texas at Austin* (UT). The court issued a decision in *Fisher* in June, agreeing with the higher education community that diversity on college campuses offers unique educational benefits to students and is a compelling government interest. It ordered lower courts to reexamine the challenge to UT's use of race and ethnicity in its admissions process.

In the *Schuette* case, a coalition of groups have challenged the Michigan ban, which voters approved in 2006 as an amendment to the state constitution. The U.S. Court of Appeals for the Sixth Circuit struck down the ban last year, ruling that it violates the 14th Amendment's equal protection clause, which mandates that states must apply their laws equally to all individuals and groups of people.

As the groups note in their brief, the argument in *Schuette* is different from the issues presented in *Fisher*. In *Schuette*, the state of Michigan (Bill Schuette, the petitioner in the case, is Michigan's attorney general) is not questioning higher education institutions' compelling interest in diversity, nor is it challenging the constitutionality of narrowly tailored race-conscious measures to attain it.

Instead, the groups write, this case is about a different issue, "the asserted distortion of the political process in respect of public universities' authority over their admission of students." The brief asserts that the appeals court correctly decided that the ban unconstitutionally distorts the political process to the disadvantage of racial and ethnic minorities, and therefore the Supreme Court should affirm that decision.

Source: ACE

Educational Opportunity:

Higher Education Compliance Programs and Obligations

The National Association of College and University Attorneys (NACUA), in cooperation with ACE, will hold a symposium and workshop Nov. 6-8 in Washington, DC, on "Higher Education Compliance Programs and Obligations."

College and university general counsel consistently report that complying with the ever-growing body of federal regulation is the top challenge they face. And counsel are not alone: each department, school and business unit on campus has compliance obligations.

This first-of-its-kind program will feature a symposium where thought leaders, including college presidents, higher education association executives, and legislative policy experts, discuss the big picture of compliance: Why do legislators and agencies regulate? How do we balance accountability with regulation? How can colleges adapt to their growing and changing compliance obligations?

The program will continue with a roundtable luncheon providing an opportunity for attendees to discuss the issues raised during the symposium and a two-day program of legal education workshop sessions and discussion groups, including sessions on:

- Rolling out a compliance program, keeping it running effectively, and evaluating its success;
- Collaborating with compliance partners on campus—counsel, compliance officers, risk managers and beyond;
- Risk management and how to make it part of your institution's strategy; and
- Athletics compliance, minors on campus, distance education and MOOCs, data privacy and security, sexual assault and Title IX compliance, international compliance issues, and much more.

For more information and to register, see the NACUA website.

WEBINAR: How DOMA's Demise Affects Colleges and Universities

The National Association of College and University Attorneys, in cooperation with ACE, will hold a webinar Sept. 26 on how the demise of the Defense of Marriage Act (DOMA) will impact colleges and universities.

On June 26, in *United States v. Windsor*, the Supreme Court struck down Section 3 of DOMA, which had prohibited the federal government from recognizing same-sex marriages for purposes of federal laws and benefits. Already, a patchwork of rulings is emerging from around the country as lower courts try to clarify the boundaries of this ruling.

The ruling is expected to have a significant impact on colleges and universities across many areas, including employee benefits, tax withholdings, and immigration and naturalization issues for faculty, students and staff.

In addition, dozens of states still prohibit same-sex marriage by statute or constitutional ban, raising many questions as to how colleges and universities in these states should apply their benefits programs with respect to same-sex couples.

This webinar will bring together legal experts to discuss the Windsor decision's impact on colleges and universities, specifically:

- The meaning of the Windsor decision and subsequent state decisions
- The decision's impact on both public and private institution employee benefits including health and welfare plans, tax-qualified retirement plans, and Family and Medical Leave Act rights
- Immigration issues related to foreign students, faculty and staff in same-sex marriages
- Practical issues for colleges and universities in jurisdictions where state law does not recognize same-sex marriage

For more information and to register, see the NACUA website.

Reports from the States

Budget & Finance

FL: Board of Governors adopts performance-based funding

The Florida Board of Governors (BOG) approved a 10-metric performance-based funding system Thursday for the state's 12 public universities, with most of the metrics linking funding to student performance and graduation rates. Some higher education officials questioned a metric that counted student employment or continuing education one year after graduation; data is not currently available on students who work outside the state or those in the military. The BOG also implemented three performance metrics created by state lawmakers earlier this year to distribute \$20 million to state universities.

Tallahassee Democrat (Date posted: September 13, 2013)

IA: Regents propose tuition freeze in exchange for funding increase

The Iowa Board of Regents proposed a plan this week to extend the undergraduate tuition freeze for a second year at the state's three public universities in exchange for a 4 percent state funding increase. The additional revenue will both maintain the tuition freeze and fund programs to boost graduation rates and bolster educational quality. The tuition freeze proposal is part of a larger \$652.7 million funding request to be considered in the upcoming legislative session.

Des Moines Register (Date posted: September 12, 2013)

ID: Governor mandates “zero-based budgeting” for state universities

Idaho Gov. Butch Otter (R) has directed the state's four public colleges and universities to rank the importance of each of their programs in anticipation of the tight state budget session. The institutions have until next August to submit their rankings.

KLEW (Date posted: September 5, 2013)

MO: Governor's tax cut veto upheld; education funding released

The Missouri General Assembly failed to override Gov. Jay Nixon's (D) veto of a bill that would have significantly reduced state taxes. Earlier this year, Nixon warned that higher education funding would be cut if the legislature overrode his veto of the tax measure. As a result of the failed override vote, Nixon released \$215.2 million for education, mental health, and other state programs.

The Kansas City Star (Date posted: September 11, 2013)

Economic & Workforce Development

LA: State seeks to bring back college graduates

Last month the Louisiana Board of Regents launched Operation Recall, a project aimed at using data to identify and target Louisiana college graduates who left the state and invite them to return home to fill high-tech jobs. The board will partner with an information-gathering company to match individuals with jobs in the state. State agencies expect a shortfall of skilled workers over the next several years.

The Advocate (Date posted: August 29, 2013)

Student Aid, Access & Affordability

SC: Gov. Haley calls for extending lottery scholarships to summer semester

South Carolina Gov. Nikki Haley (R) has asked the state's higher education commission to include summer semesters in the state's lottery scholarship program. Currently, state lottery aid scholarships are limited to fall and spring semesters. The program would still maintain the \$10,000 cap on lottery aid to each student and uphold the eight semester eligibility limit. The commission has agreed to establish a task force to study the governor's proposal.

The State (Date posted: September 9, 2013)

Student Success

TN: Governor promotes "Drive to 55" college attainment goal

Last week Tennessee Gov. Bill Haslam (R) launched the state's *Drive to 55* college attainment goal, which aims to boost the percentage of state residents with a college degree or certificate to 55 percent by 2025. Haslam also stated that he will include policies aligned with the 55 percent goal in his upcoming budget proposal and legislative agenda.

The Tennessean (Date posted: September 5, 2013)

National Reports

Higher Education Pays: But a Lot More for Some Graduates than Others (Summary) (Report) (Related Story)

CollegeMeasures.org

This report indicates that several variables influence post-college earnings, including the degree earned by the student, the institution which awarded the degree and the field in which the degree was earned. The author argues that too few students know their projected earnings before postsecondary enrollment and taking out loans to finance their education. Four lessons on college earnings are included in the report.

Land-Grant but Unequal: State One-to-One Match Funding for 1890 Land-Grant Universities

(Summary) (Report) (Related story)

Association of Public and Land-Grant Universities (APLU)

The author of this report concludes that states have failed in their obligation to match federal funds for extension and research activities at 10 of 18 historically-black land-grant universities. States shortchanged institutions by a collective \$31 million in extension funding and \$25 million in research funding between

2010 and 2012. Four policy recommendations are listed in the report.

State Report

Virginia: *Study of the Economic Impact of Virginia Public Higher Education: 2013 Update* (Report)
(Related Story)

Virginia Business Higher Education Council

The author of this study found a substantial “economic footprint” of Virginia’s public colleges and universities, estimating that every \$1 invested in Virginia public higher education yields a return of \$1.29 in state revenue and an additional \$17.40 in gross domestic product. In addition, the report indicates that nearly 30 percent of institutions’ revenue is generated from out-of-state sources, including federal contracts and grants and nonresident tuition revenue.

Source: AASCU