

Washington Potpourri

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*Presented at the 2015 Annual
NASASPS Conference*
Savannah, GA

April 28, 2015

Agenda

- Legislative Activities
- College Ratings
- Recent Regulatory Efforts
- Consumer Disclosures
- Program Reviews and Audits
- Other Oversight Agencies

Reauthorization of the *Higher Education Act* and Other Legislative Activities

FY 2015 *Cromnibus* Bill Signed into Law

- On 12/16/2014, President Obama signed the FY 2015 *Consolidated and Further Continuing Appropriations Act ("Cromnibus")* into law (P.L. 113-235):
 - The total maximum Pell Grant award for the 2015-2016 award year will be \$5,775, a \$45 increase from the 2014-2015 award year;
 - SEOG will be level funded at \$733,130,000 for the 2015-2016 award year;
 - FWS funding will increase to \$989,728,000, an increase of \$15,000,000 for the 2015-2016 award year;

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FY 2015 *Cromnibus* Bill Signed into Law, cont.

- ED is directed to add a box on the FAFSA for students to self-identify that they are foster youth or were in the foster-care system. ED must notify self-identified students of their potential eligibility for federal student aid programs; and
- The ability-to-benefit (ATB) alternative to the high school diploma or its equivalent requirement is partially reinstated retroactively to July 1, 2014 if the student is enrolled in certain programs. There is a Pell Grant limitation for new ATB students beginning July 1, 2015. Instead of being able to receive the scheduled annual maximum, new ATB students will only

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FY 2015 *Cromnibus* Bill Signed into Law, cont.

- be able to receive up to the discretionary Pell Grant maximum of \$4,860.
- To meet the ATB eligibility requirements as outlined in the *Cromnibus* bill, students must be enrolled in an eligible **career pathway program** and meet one of the following standards:
 - Achieve a score on an independently administered examination demonstrating that the student can benefit from the education or training offered. The examination, its administration, and the required score would have to be approved by the Department;

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FY 2015 *Cromnibus* Bill Signed into Law, cont.

- Meet a state-designated process that has not been disapproved by the Department;
- Satisfactorily complete 6 credit hours or the equivalent coursework, applicable toward a degree or certificate offered by the institution making the determination.
- Among other requirements, an “**eligible career pathway program**” is a program that:
 - Concurrently enrolls students in connected adult education and eligible postsecondary programs;
 - Provides counseling and supportive services to students to identify and attain academic and career goals;

FY 2015 *Cromnibus* Bill Signed into Law, cont.

- Provides opportunities for acceleration to attain recognized credentials or degrees;
- Is organized to meet the needs of adults;
- Is aligned with the education and skill needs of the regional economy; and
- Has developed and implemented in collaboration with partners in business, workforce development, and economic development.

FY 2015 *Cromnibus* Bill Signed into Law, cont.

- Other funding provisions related to higher education programs included in the bill include the following:
 - The Department of Education’s Office of Civil Rights, which conducts Title IX investigations, will receive an increase of \$1.6 million to \$100 million “to help ensure that educational institutions are protecting students from sexual violence.”

FY 2015 *Cromnibus* Bill Signed into Law, cont.

- The Department is directed to submit a report to the House and Senate Appropriations Committees no later than 120 days after enactment on enrollment and graduation information of Pell Grant recipients for the 2013-2014 award year. The enrollment and graduation information shall also be provided in the future as well.
- The Department is directed to provide an update on the progress of the interagency task force to ensure oversight of for-profit institutions.

FY 2015 *Cromnibus* Bill Signed into Law, cont.

- Finally, the bill does not contain any changes to the President's college ratings plan, although it does not fund the Department's \$10 million request to help it produce the college ratings system. Nevertheless, the Department is not prohibited from moving forward with the development and implementation of the college ratings system.

Foxx Introduces the *Supporting Academic Freedom through Regulatory Relief Act*

- On 2/13/2015, Congresswoman Virginia Foxx (R-NC), Chairman of the House Subcommittee on Higher Education and Workforce Training, Chairman of the House Committee on Education and the Workforce, John Kline (R-MN), and Congressman Alcee Hastings (D-FL) re-introduced the *Supporting Academic Freedom through Regulatory Relief Act*, H.R. 970, to prohibit the Secretary from creating or enforcing regulations related to:
 - State Authorization;

Foxx Introduces the *Supporting Academic Freedom through Regulatory Relief Act*, cont.

- Definition of Credit Hour;
- Gainful Employment; and
- Teacher Preparation.
- The Secretary shall not carry out or enforce a postsecondary institution ratings systems.
- Provides a safe harbor so that an institution may provide payment based on amount of tuition generated by the institution if there are other services provided in addition to recruitment services.

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Foxx Introduces the *Supporting Academic Freedom through Regulatory Relief Act*, cont.

- On 2/25/2015, Senator Richard Burr (R-NC) and 16 Republican Senators introduced S. 559, the companion bill to H.R. 970.

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Reauthorization of the *Higher Education Act*, HEA

- HEA expired 9/30/2014, but there is an automatic extension of one fiscal year.
- Last reauthorization of the HEA took 5 years with 13 additional extensions until HEOA enacted in 2008.

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**House Passed Four Bills in Last Session –
House Plans to Pass Series of Bills**

- On 7/23/2014, House passed H.R. 3136, *Advancing Competency-Based Education Demonstration Project*, which would provide students with new opportunities to receive a high quality education;
- On 7/23/2014, House passed H.R. 4983, *Strengthening Transparency in Higher Education Act*, which would help students gain access to facts to make informed decision about their education;

**House Passed Four Bills in Last Session –
House Plans to Pass Series of Bills, cont.**

- On 7/23/2014, House passed H.R. 4984, *Empowering Students Through Enhanced Financial Counseling Act*, which would promote financial literacy.
- On 7/24/2014, House passed H.R. 3393, *Student and Family Tax Simplification Act*, which would authorize and expand the American Opportunity Tax Credit by combining four higher education tax credit programs and one college tuition deduction program.

Foxx Holds Reauthorization Hearing

- On 3/17/2015, Chairwoman Virginia Foxx (R-NC) of the House Subcommittee on Higher Education and Workforce Training, held a hearing to learn how Congress can strengthen America's higher education system.
- Chairwoman Foxx concluded: "Our current system is unaffordable, inflexible, and outdated...The upcoming reauthorization of the *Higher Education Act* provides Congress an opportunity to help every individual –

Foxx Holds Reauthorization Hearing, cont.

regardless of age, location, or background – access and complete higher education, if they choose.”

**Senators Murphy and Harkin
Introduce *Students Before Profits Act***

- On 12/10/2014, Senators Tom Harkin (D-IA) and Chris Murphy (D-CT) introduced S. 2993, *Students Before Profits Act*, which was Harkin’s final effort before retiring to hold for-profit schools accountable. Harkin hopes Murphy will carry on his efforts. S. 2993 would:
 - Establish a Risk Sharing Commission to develop recommendations detailing how schools should be held financially responsible for poor student outcomes;
 - Authorize enhanced civil penalties on institutions and their executive officers if it is determined that

**Senators Murphy and Harkin Introduce
*Students Before Profits Act, cont.***

- the institution misrepresented its cost, admission requirements, completion rates, employment prospects, default rates, etc. and ensure at least half of those penalties are deposited into a Student Relief fund to bolster consumer protections for students; and
- Ensure transparency on default rate manipulation by requiring any school with a default rate above 30% to share their plan to lower defaults directly with current students and by requiring any school found to have engaged in default rate manipulation through forbearance abuse or by branching campuses to have its rate recalculated.

Republicans Sweep Elections, Alexander Becomes Chair of HELP Committee, cont.

- On 1/7/2015, Senator Lamar Alexander (R-TN) became Chair of the HELP Committee and immediately introduced, with other Senators, the *Financial Aid Simplification and Transparency Act (FAST Act)*, which would:
 - Eliminate the Free Application for Financial Student Aid (FAFSA): The FAFSA would be reduced to a postcard that would ask two questions: (1) What is your family size; and (2) What was your household income two years ago?

Republicans Sweep Elections, Alexander Becomes Chair of HELP Committee, cont.

- Tell families early in the process of what the federal government will provide them in grants and loans. The bill would create a look-up table to allow students who are juniors in high school to see how much federal aid they are eligible to receive.
- Streamline the federal grant and loan programs: The bill would combine two federal grant programs into one Pell Grant program and reduce the six different federal loan programs into three: one undergraduate loan program, one graduate loan program, and one parent loan program, resulting in more access for more students.

Republicans Sweep Elections, Alexander Becomes Chair of HELP Committee, cont.

- Enable students to use Pell Grants in a manner that works for them: The bill would restore year-round Pell Grant availability and provide flexibility so students can study at their own pace. Both provisions would allow students to complete college sooner.
- Discourage over-borrowing: The bill would limit the amount a student is able to borrow based on enrollment. For instance, a part-time student would be able to borrow less than a full-time student.

Republicans Sweep Elections, Alexander Becomes Chair of HELP Committee, cont.

- Simplify repayment plans: The bill would streamline complicated repayment programs and create two simple plans, an income-based plan and a 10-year repayment plan.
- On the same day, Senators Angus King (I-ME) and Richard Burr (R-NC) introduced the *Repay Act of 2015* that would streamline the federal student loan repayment plans into two repayment plans:
 - A fixed 10-year repayment plan; and
 - A simplified income-driven repayment plan.

Republicans Sweep Elections, Alexander Becomes Chair of HELP Committee, cont.

- On 2/24/2015, Senator Alexander committed to finishing a rewrite of the *HEA* by the end of this year by:
 - Holding hearings in April;
 - Drafting version of bill by summer; and
 - Holding vote on Senate floor after August recess.
- A key priority is reducing federal red tape that "should be an embarrassment to all of us in the federal government." Alexander will use as guide report prepared by the Senate Task Force. (See next slide).

Senate HELP Committee Releases Report on Simplifying Federal Higher Education Regulations

- On 2/12/2015, Republicans and Democrats from the Senate HELP Committee released their report on streamlining and reducing federal regulations impacting colleges titled, "Recalibrating Regulation of Colleges and Universities: Report of the Task Force on Federal Regulation of Higher Education":
 - Section I lays out the burden of federal regulations;
 - Section II concludes that many of the rules are unnecessary, voluminous, often ambiguous, and the costs are unreasonable;

Senate HELP Committee Releases Report on Simplifying Federal Higher Education Regulations, cont.

- Section III details the concerns of overregulation:
 - Inconsistency in reporting requirements for campus crime;
 - Overreach in State authorization of distance education programs;
 - Inefficient verification rules;
 - Return of Title IV is extraordinarily complex;
 - Micromanagement of the accreditation process; and
 - Information that inundates the consumer is of questionable value.

Senate HELP Committee Releases Report on Simplifying Federal Higher Education Regulations, cont.

- Section IV makes recommendations.
- The Report is found at:
http://www.help.senate.gov/imo/media/Regulations_Task_Force_Report_2015_FINAL.pdf.

Senate and House Republicans Introduce Bill to Reform the Accreditation Process

- On 3/4/2015, Senator Mike Lee (R-UT) introduced S. 649, the *Higher Education Reform and Opportunity (HERO) Act*, which would amend the HEA to allow states to develop their own system of accrediting institutions of higher education. Senator Lee has four cosponsors.
- The states would also have the authority to accredit apprenticeships, job training, and part-time certification programs, and individual courses of study.

Senate and House Republicans Introduce Bill to Reform the Accreditation Process, cont.

- Similar to current law, an accredited program by one of the 50 states and DC would be eligible to receive federal financial aid.
- A companion bill in the House, H.R. 1287, was introduced on 3/4/2015 by Congressman Ron DeSantis (R-FL), and has 25 cosponsors.
- S. 649 was referred to the Senate Health, Education, Labor, and Pensions Committee, and H.R. 1287 was referred to the House Committee on Education and the Workforce.

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Senate and House Republicans Introduce Bill to Reform the Accreditation Process, cont.

- A copy of the press release is found at: <http://www.lee.senate.gov/public/index.cfm/press-releases?ID=bc8a61f7-fd55-43b6-bbf7-ab93439222f7>.

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Senator Alexander Seeks Input from Stakeholders on Accreditation, Risk Sharing, and Consumer Information

- On 3/23/2015, Chairman of the HELP Committee Lamar Alexander (R-TN) released three staff white papers and asked for feedback on three issues related to reauthorization by 4/24/2015.
 - Accreditation:
 - Accreditation has not always produced and improved educational quality;
 - Accreditation can inhibit innovation and competition;
 - Federal recognition of accreditation can be political and bureaucratic; and

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Senator Alexander Seeks Input from Stakeholders on Accreditation, Risk Sharing, and Consumer Information, cont.

- Accreditation can be costly, burdensome, and inefficient.
- Student Consumer Information:
 - Determine the proper role of the federal government in postsecondary data transparency including assessment of what data is needed and the role of the federal government in protecting student privacy;
 - Develop postsecondary data policy that captures better and more inclusive data; and
 - Identify critical data elements and digestible formats to make information more useful for consumers.

Senator Alexander Seeks Input from Stakeholders on Accreditation, Risk Sharing, and Consumer Information, cont.

- Risk Sharing:
 - Generous cost of attendance policies can allow for significant student debt unrelated to tuition and fees;
 - Some institutions have high cohort default rates;
 - Taxpayers and students bear the burden and consequences of default; and
 - Some institutions have low completion rates.
- A copy of the three papers is found at:
<http://www.help.senate.gov/newsroom/press/release/?id=4dc6f28c-e8ea-4a94-9c82-91db98e10c0d&groups=Chair>.

House Democrats Push to Expand the American Opportunity Tax Credit

- On 3/4/2015, Congressman Lloyd Doggett (D-TX) introduced H.R. 1260, a bill that would extend and expand the *American Opportunity Tax Credit (AOTC)*.
- The current tax credit provides \$2,500 to individuals and families making less than \$180,000 a year to help pay the costs of postsecondary education.
- The bill would increase the cap on qualified higher education expenses from \$2,500 to

House Democrats Push to Expand the American Opportunity Tax Credit, cont.

\$3,000 and raise the income limit from \$180,000 to \$200,000.

- Congressman Doggett has 145 cosponsors and has referred H.R. 1260 to the House Committee on Ways and Means.
- On 3/10/2015, Senator Charles Schumer (D-NY) introduced a similar bill, the *American Opportunity Tax Credit Permanence and Consolidation Act (AOTC)*, (S. 699).

Obama Releases his FY 2016 Budget

- On 2/2/2015, President Obama released his FY 2016 budget recommending increases in higher education. Some of the proposals include:
- Simplifying the FAFSA: Would remove 30 questions related to savings, investments and net worth; and untaxed income and exclusions from income not reported to IRS (Down to 78 items);

Obama Releases his FY 2016 Budget, cont.

- Reforming and Streamlining Income-Driven Repayment: Would expand to all new borrowers on or after 7/1/2016;
- Reforming Campus-Based Aid:
 - Allocations would target schools that enroll and graduate higher numbers of Pell-eligible students;
 - SEOG + FWS would be level funded; and
 - Perkins Loan Program would expand from \$1 billion to \$8.5 billion and would be an unsubsidized loan with school discretion;

Obama Releases his FY 2016 Budget, cont.

- Strengthening Pell Grant Program:
 - Pell Grants would increase to \$5,915;
 - ATB students could receive maximum Pell; and
 - Strengthen Pell Grant academic progress requirements to increase on-time completion;
- Ensure Student Aid Resources are Used Well:
Would require all federal educational programs (VA benefits and TA) to be included in 90/10 calculation;

Obama Releases his FY 2016 Budget, cont.

- Federal Student Aid and Tax Benefits:
 - Consolidation of existing tax credits into AOTC;
 - Loan forgiveness from income-driven repayment plans would no longer be taxed; and
 - Current student loan interest deduction would be repealed.
- Access and Affordability:
 - Implement America's College Promise, which would make two-years of community college free for "responsible" students;

Obama Releases his FY 2016 Budget, cont.

- If all 50 states participate, the proposal would benefit 9 million students; and
- Would save students \$3,800 in tuition.
- Initiative would cost \$60 billion over the next 10 years.
- Many believe that with low tuition and financial aid, community colleges are virtually free for most low- and middle- income students.

Obama Releases his FY 2016 Budget, cont.

- Create the College Opportunity Bonus program that would provide \$7 billion over 10 years to schools that enroll and graduate low-income students on-time.
- See press release at: <http://www.ed.gov/news/press-releases/obama-2016-budget-seeks-expand-educational-opportunity-all-students>

White House Announces New Tax Plans

- On 1/17/2015, the White House announced a series of tax proposals:
 - Raise taxes on capital gains;
 - Impose new fees on financial institutions that borrow heavily;
 - Use the billions raised by new taxes to pay for the community college initiative;
 - Consolidate education tax benefits into a single program now called the *American Opportunity Tax Credit (AOTC)* and make the *AOTC* tax credit, which is due to expire in 2017, permanent;

White House Announces New Tax Plans, cont.

- Exempt Pell Grants from taxation; and
- Exempt Pell Grants from the calculations of eligibility for the *AOTC*.
- A copy of the White House Fact Sheet is found at: <http://www.whitehouse.gov/the-press-office/2015/01/17/fact-sheet-simpler-fairer-tax-code-responsibly-invests-middle-class-fami>

Senate Passes FY 2016 Budget Resolution

- On 3/27/2015, the U.S. Senate approved its FY 2016 Budget Resolution, by a vote of 52-46, the first passed by the Senate in six years.
 - Calls for \$5.1 trillion in federal entitlement and discretionary spending cuts to balance budget over 10 years;
 - Includes amendment from Senator Susan Collins (R-ME) to allow Pell Grant recipients additional grant payments during an award year;
 - Includes amendment from Senator Richard Burr (R-NC) to establish two loan repayment plans; and

Senate Passes FY 2016 Budget Resolution, cont.

- Includes amendment from Senator Ron Wyden (D-OR) to simplify and change the tax incentives for higher education.

House Passes FY 2016 Budget Resolution

- On 3/25/2015, the U.S. House of Representatives passed its FY 2016 budget resolution by a vote of 228-199.
 - Budget proposal would reduce spending by \$5.5 trillion without raising taxes, which would balance the budget over the next 10 years.
- Both the Senate and House proposals would repeal the *Affordable Care Act*.

**Senate and House to Meet in Conference
on FY 2016 Budget Resolution**

- Budget resolution is not binding but a blue print for tax and spending priorities over the next year.
- Senate and House will meet in conference committee after two week recess to work out differences by 4/15/2015.

Obama Releases Student Aid Bill of Rights

- On 3/10/2015, President Obama signed a Presidential Memorandum directing ED and other federal agencies to work to help borrowers afford their monthly loan payments including:
 - A state-of-the-art complaint system to ensure quality service and accountability for ED, its contractors, and colleges;
 - A series of steps to help students responsibly repay their loans, including affordable monthly payments; and

Obama Releases Student Aid Bill of Rights, cont.

- New steps to analyze student debt trends and recommend legislative and regulatory changes.
- In addition, the White House is releasing state-by-state data that shows the outstanding federal student loan balance and total number of borrowers who can benefit from these actions.

A copy of the press release is found at:
<https://www.whitehouse.gov/the-press-office/2015/03/10/fact-sheet-student-aid-bill-rights-taking-action-ensure-strong-consumer->

Obama Releases Student Aid Bill of Rights, cont.

- On 3/23/2015, Senator Richard Durbin (D-IL) introduced S. 840, *Student Loan Borrower Bill of Rights*, which was referred to the HELP Committee.
- On 3/16/2015, Speaker John Boehner (R-OH) responded:
 - “If the president is serious about making college more affordable, he has a funny – not to mention, expensive – way of showing it. In January, he proposed taxing the 529 plans millions of families use to save for college. So instead of withdrawing

Obama Releases Student Aid Bill of Rights, cont.

those hard-earned savings tax-free, parents would first have to hand over some of that money to the feds.”

- “And last week, the president proposed a ‘student aid bill of rights’ that may actually make the borrowing system more complicated.”

**Emerging Emphasis on
College Ratings and Scoring**

Consumer Disclosures for Students and Parents to Make Informed Choices

- Obama Administration is committed to improving college search and transparency tools in order to improve access and affordability and help students and families make better informed decisions.

Consumer disclosures for Students and Parents to Make Informed Choices, cont.

- College Affordability and Transparency Center includes:
 - College Affordability and Transparency List
 - Net Price Calculator
 - College Scoreboard
 - College Navigator
 - 90/10 Information
 - State Spending Charts
 - See: <http://collegecost.ed.gov>

Annual Rankings on the Comparative Costs of College Released

- On 6/30/2014, the Department of Education released its fourth annual list of comparative costs and ranks the highest cost institutions by sector (less-than-two, two-year, and four-year; public and private, non- and for-profit).
 - Posted on the Department's College Affordability and Transparency Center;
 - List highlights the highest and lowest tuition and fees, highest and lowest net prices, and highest percentage increases in tuition and fees over 3 years, and average net costs.

Annual Rankings on the Comparative Costs of College Released, cont.

- It is located at: <http://collegecost.ed.gov/catc/>
- “Wall of Shame” meant to pressure institutions to rein in their tuition while enabling consumers to compare college based on costs; but
- Unclear whether causes decreases and unclear whether consumers ever use the list.

Net Price Calculator

- Under the *HEA*, each postsecondary institution that participates in Title IV programs is required to post a net price calculator on its website that uses institutional data to provide estimated net price information to current and prospective students and their families.
- The net price calculator should allow students to calculate an estimated net price of attendance at the institution (cost of attendance minus grant and scholarship) based on what similar students paid in a previous year.

Net Price Calculator, cont.

- On 1/27/2014, the Department released its latest version of the Net Price Calculator at: http://nces.ed.gov/ipeds/resource/net_price_calculator.asp
- Net Price:
 - The average yearly price actually charged to a first-time, full time undergraduate student receiving student aid at the institution; and

Net Price Calculator, cont.

- Average net price equals COA tuition and fees, books and supplies, and room and board minus the average amount of need-based and merit-based grant
- Net price seen as solution to “sticker price;” but average net price is like an airplane ticket, students pay different amounts. No student pays the “average.”
- 1/2015 study found Net Price Calculator may help families estimate expenses but variation in grant aid by as much as several thousand dollars due to institutional aid.

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College Scoreboard

- In 2/2013, the College Scoreboard was rolled out by the Department’s College Affordability and Transparency Center after the 1/2013 State of the Union address, when President Obama announced the availability of the College Scoreboard that would be a source for prospective students to “compare schools based on a simple criteria where you can get the most bang for your educational buck.”

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College Scoreboard, cont.

- Tool designed to make the search for college easier by providing information on affordability and value:
 - Net price;
 - Graduation rates;
 - Loan default rates;
 - Student loan debt; and
 - Earnings potential.
- ED has yet to release a more current version.

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College Scoreboard, cont.

- The College Scoreboard is located at <http://collegecost.ed.gov/scorecard/index.aspx>.

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Financial Aid Shopping Sheet

- On 2/24/2015, ED released the updated version of the Financial Aid Shopping Sheet, a model award letter;
- Developed jointly by ED and Consumer Financial Protection Bureau (CFPB) and introduced in Summer 2012;
- Required to be used for Veterans and service members eligible for the Department of Defense Tuition Assistance funds;
- Nearly 2,000 institutions have voluntarily adopted Shopping Sheet as of 2/2015;

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Financial Aid Shopping Sheet, cont.

- Gives students a standardized template that describes how much grant and loan money the student could receive so that students could easily compare financial aid packages;
- Revised template includes glossary to explain financial aid terms; and
- Includes college outcomes (i.e., graduation rate, default rate, and median borrowing).

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Financial Aid Shopping Sheet, cont.

- The updated 2015-2016 Financial Aid Shopping Sheet is available at:
<http://www.ifap.ed.gov/eannouncements/attachments/ShoppingSheetTemplate20152016.pdf>
- Expect to see a reauthorization proposal that would establish a standardized award notice in HEA. Senator Al Franklin (D-MN) has introduced such a bill twice.

College Ratings System

- In 8/2013, President Obama announced the Administration's plans for combating rising college costs and making college affordable by developing a college ratings system that would include a number of outcomes and would be linked to the allocation of financial aid;
- ED held public forums seeking input and many expressed concern that such a system could punish institutions serving low-income students

College Ratings System, cont.

- and those that prepare students for high need, low-paying professions;
- Participants warned that such a system needed to account for differences in institutional missions and student characteristics; and
- Many commented that a ratings system would create incentives for institutions to stop enrolling disadvantaged students who may hurt graduation rates or post-graduation earnings.

College Ratings System, cont.

- On 12/17/2013, a Request for Information was published by ED in the *Federal Register*, seeking assistance in:
 - Developing the “Postsecondary Institutions Ratings System;”
 - Measuring affordability and value of postsecondary education;
 - Providing examples of ratings system that measure value to students and taxpayers; and
 - Comparing performance while accounting for diversity of institutional mission.

College Ratings System, cont.

- On 2/6/2014, the Obama Administration released hundreds of pages of comments:
 - Differences in students’ academic preparation are not taken into account;
 - A ratings system that would evaluate institutions on a few quantifiable indicators will be treating all institutions as if they have the same mission and educating identical student populations; and
 - The ratings system would be using existing federal data on student outcomes which is flawed.

ED Issues College Ratings System Framework

- On 12/19/2014, ED released a draft framework for a college ratings systems with a request for comments due on 2/17/2015.
- Framework found at: <http://www.ed.gov/news/press-releases/public-feedback-college-ratings-framework>
- Principles:
 - Focus on access, value, affordability, and completion;
 - Broad ratings, not specific rankings;
 - Compare institutions with similar missions;

**ED Issues College Ratings System
Framework, cont.**

- Plan to link federal aid to institutions that do the most to help students from disadvantaged backgrounds (2018); and
- Identify institutions that improve performance.

**ED Issues College Ratings System
Framework, cont.**

- When will the college ratings system be released? Prior to the 2015-2016 school year.
- What does the college ratings system include in the first version?
 - Predominantly 4-year institutions primarily awarding bachelor's degrees and above; and
 - Predominantly 2-year institutions primarily awarding associate degrees and/or certificates.

**ED Issues College Ratings System
Framework, cont.**

- Graduate degree only and non-degree-granting institutions will not be included in the initial version.
- Ratings system will use broad categories to highlight success and weakness, not a numerical ranking of institutions.
- There will be separate groupings for 2-year and 4-year institutions.
- ED is exploring how to give credit to institutions that show improvement.

**ED Issues College Ratings System
Framework, cont.**

- What metrics are under consideration?
 - Percentage of students receiving Pell. [Access]
 - Expected family contribution (EFC) gap. [Access]
 - Family income quintiles. [Access]
 - First-generation college status. [Access]
 - Average net price (after accounting for federal, state, and institutional grant money). [Affordability]
 - Net price by quintile. [Affordability]
 - Completion rate. [Outcomes]
 - Transfer rates. [Outcomes]

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**ED Issues College Ratings System
Framework, cont.**

- Labor market success (earnings). [Outcomes]
- Graduate school attendance. [Outcomes]
- Loan performance outcomes. [Outcomes]
- Congressman Bob Goodlatte (R-VA) and Senator Lamar Alexander (R-TN) are leading efforts to cut off funding.
- On 3/19/2015, Deputy Undersecretary of Education Jamienne Studley said the first full version will be out by 8/2015.

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**Department Focuses on
Clery Act and Drug and
Alcohol Prevention Program**

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Clery Act - VAWA

- Clery Act requires institutions participating in Title IV to maintain and disclose campus crime statistics and security information.
- In 2013, President Obama called attention to the issue of sexual violence on college campuses, by stating that “more needs to be done to ensure safe, secure environments for students” and “we must strengthen and address compliance issues.”

Clery Act - VAWA, cont.

- On 1/22/2014, President Obama established White House Task Force to Protect Students from Sexual Assault to work with DOJ and ED to develop a Federal response to campus rape and sexual assault.
- Enforcement:
 - In first 22 years of enforcement, ED issued no more than 3 fines in a single year;
 - Past 4 years, fines against 15 institutions with record of 8 fines in 2013;
 - Of the 21 Clery Act fines imposed since 2000, 17 have been lower than originally proposed.

Clery Act - VAWA, cont.

- Fines per violation increased from \$27,500 to \$35,000 in 2012; and
- Violations include:
 - Inaccurately reporting crimes;
 - Not having sufficient procedures in place to handle sexual assaults; and
 - Not providing timely warning to the campus community of an inquiry threat to public safety.

Clery Act-VAWA, cont.

- *Violence Against Women Reauthorization Act of 2013 (VAWA)*
 - Enacted March 7, 2013.
 - Final Rule issued on October 20, 2014.
 - <http://ifap.ed.gov/eannouncements/102014ViolenceAgainstWomenAct.html>
 - Requires expanded reporting for incidents of sexual assault (rape and forcible fondling), dating violence, domestic violence, and stalking (including cyber-stalking)
 - Requires that the ASR include additional information about policies, procedures, and training programs aimed at sexual assault prevention and response

Clery Act-VAWA, cont.

- New Programmatic and Training Requirements include:
 - Awareness Campaigns – Ongoing Requirement;
 - Primary Prevention;
 - Risk Reduction and Bystander Intervention; and
 - Specialized Training for Adjudication Officials.
- Statutory changes affect school's Annual Security Reports (ASR) that must be issued by October 1, 2014.

Clery Act-VAWA, cont.

- Per Master Calendar, final regulations will be effective July 1, 2015. Until then, institutions must make a good faith effort to comply with the statute - Compliance with Clery will NEVER cause an institution to violate FERPA and/or Title IX. See DCL GEN-14-13 at <http://ifap.ed.gov/dpclatters/GEN1413.html>

Drug-Free Schools & Communities Act

- Implemented by 34 CFR Part 86 (Part 86).
- Requires institutions to certify that they have developed and implemented a drug and alcohol abuse education and prevention program (DAAPP) – completed through the PPA:
 - The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities;

Drug-Free Schools & Communities Act, cont.

- As part of the program, institutions must distribute certain information to students and employees annually ; and
- Institutions must do a biennial review of the program.
- Annual disclosure:
 - Must share information with current students and employees.
 - 34 CFR § 86.100 outlines the information that must be included:
 - Standards of conduct prohibiting the possession, use, and distribution of drugs and alcohol;

Drug-Free Schools & Communities Act, cont.

- Possible sanctions for violations of Federal, state, and local drug and alcohol laws as well as sanctions for violation of institutional policies;
- Health risks associated with the use of drugs and alcohol
- Information on counseling, rehabilitation, and treatment programs; and
- A clear statement that the school will impose sanctions on students and employees who violate drug and alcohol laws, ordinances, and/or institutional policies.

Drug-Free Schools & Communities Act, cont.

- Biennial Review:
 - To determine the effectiveness of your drug and alcohol abuse prevention program; and
 - To ensure consistent enforcement of applicable laws, ordinances, and institutional policies against violators.
- The biennial review report and supporting documents must be maintained by the school and made available to the Department upon request.

Recent Regulatory Efforts

Recent Regulatory Efforts

- Gainful Employment Rules: October 31, 2014, effective July 1, 2015.
- *Violence Against Women Act (VAWA)* Implementation: Amended *Clery Act*: October 20, 2014, effective July 1, 2015, except institutions must make good faith effort to implement with Annual Security Report (ASR) of October 1, 2014.

Recent Regulatory Efforts, cont.

- Program Integrity and Improvement Rules, including PLUS Adverse Credit: October 23, 2014, effective March 29, 2015, early implementation.
- Pay As You Earn: Currently holding negotiated rulemaking sessions to develop NPRM to allow more students the opportunity to cap their monthly student loan payments at 10%.

Gainful Employment Law and Regulations

- **Which Programs are GE Programs?**
 - At public institutions and not-for-profit institutions, all programs are GE programs except for:
 - Programs that lead to a degree;
 - Programs of at least two years in length that are designed to be fully transferrable to a bachelor's degree program; and
 - Preparatory coursework necessary for enrollment in an eligible program.

Gainful Employment Law and Regulations, cont.

- At proprietary institutions, all programs are GE program except for:
 - Preparatory coursework necessary for enrollment in an eligible program; and
 - Bachelor's degree programs in liberal arts offered since January 2009 that are offered by a proprietary institution that has been regionally accredited since October 2007.

Gainful Employment Law and Regulations, cont.

- **Gainful Employment Metrics:**
- **Debt-to-Earnings (D/E) rates**
 - Annual Earnings D/E Rate
 - Discretionary Income D/E Rate
 - Passing: Annual D/E <= 8% or Discretionary D/E <= 20%
 - Failing: Annual D/E > 12% or Discretionary > 30%
 - Zone: Annual D/E > 8% and <= 12%
Discretionary D/E > 20% and <= 30%

Gainful Employment Law and Regulations, cont.

NOTE: Discretionary Income = Annual Earnings – (\$11,670 (2014 Poverty Level) X 1.5)
Poverty Guideline for 2015 will be used.

- **Program Loses Title IV Eligibility if:**
 - D/E Measures - Fails in two out of three years; OR
 - D/E Measures - Fails or in the zone for four consecutive years.

Gainful Employment Law and Regulations, cont.

- **Gainful Employment Implementation:**

Disclosures	Reporting	Program Certifications	Draft D/E Rates	Disclosures
1/31/2015	7/31/2015	12/31/2015	Summer 2016	1/1/2017
(Current Rules)	(2008/2009 to 2013/2014)			New Rules
	10/1/2015 (2014/2015)			

Gainful Employment Law and Regulations, cont.

Debt-to-Earnings Rate Calculation Process:

Reporting	Schools Receive Completer Lists	Schools May Challenge Completer List Data	Schools Receive Draft Debt-to-Earnings rates	Schools May Challenge D/E Rate Details	Schools receive Final Debt-to-Earnings Rates *
7/31/2015 10/1/2015					
Schools report GE data to NSLDS					

Gainful Employment Law and Regulations, cont.

*Schools may notify FSA of Intent to file an Alternative Earnings Appeals within 14 days after issuance of Notice of Determination including final D/E rates and must submit Appeal documents within 60 days of the Notice of Determination. It is not too early to begin gathering earnings data using survey of graduates accompanied by an auditor's attestation or from a State-sponsored data system.

Program Integrity and Improvement Rules

- Issues Negotiated:
 - Cash Management;
 - State authorization of distance education programs;
 - State authorization of foreign locations of domestic locations;
 - Repeat coursework;
 - Clock-to-credit hour conversion; and
 - Definition of PLUS Loan adverse credit history.
- Four negotiation sessions from February through May, 2014.

Program Integrity and Improvement Rules, cont.

- Final regulations on PLUS adverse credit published on 10/23/2014, effective 3/29/2015.
- Continuing to work on remaining issues.

GAO Releases Report Criticizing Accrediting Agencies

- On 12/22/2014, the Government Accountability Office (GAO) released its report, “Education Should Strengthen Oversight of Schools and Accreditors.”
 - Between 10/2009 – 3/2014, schools with weaker student outcomes were no more likely to have been sanctioned by accreditors than schools with strong student outcomes; and
 - Accreditors were more likely to have sanctioned schools with weaker financial characteristics than those with stronger ones.

GAO Releases Report Criticizing Accrediting Agencies, cont.

- Accreditors that were interviewed said that measuring academic quality was difficult.
- ED does not consistently use accreditor sanction information for oversight or when it re-recognizes accreditors.
- A copy of the GAO Report is found at: <http://www.nacua.org/documents/GAOReprtEduStrength667690.pdf>

Department Releases Guidance on Competency-Based Programs

- **ED Releases DCLs on Competency-Based Education Programs and Selects Institutions for Experimental Sites:**
 - On 12/19/2014, the Department of Education released a Dear Colleague letter (GEN-14-23) that provides Questions and Answers regarding the eligibility of competency-based education programs, which include direct assessment programs. Since the Department issued a Dear Colleague letter (GEN-13-10) on 3/19/2013 titled “Applying for Title IV Eligibility for Direct Assessment (Competency-Based) Programs,” the

Department Releases Guidance on Competency-Based Programs, cont.

- Department received numerous questions regarding the requirements.
- The DCLs are found at:
<http://ifap.ed.gov/dpccletters/GEN1310.html> and
<http://ifap.ed.gov/dpccletters/GEN1423.html>.
 - On 2/4/2015, the Department of Education published a list of experimental sites where it will test competency-based education. Under an experimental site, the Department may waive some of the federal regulations for those institutions.

Department Releases Guidance on Competency-Based Programs, cont.

The list of institutions can be found at:
<https://experimentalsites.ed.gov/exp/approved.html>.

**OIG Issues Audit Report on
Direct Assessment Programs**

- On 9/30/2014, OIG issued audit report, “Direct Assessment Programs: Procedures for Identifying Risks and Evaluating Applications for Title IV Eligibility Need Strengthening to Better Mitigate Risks Posed to the Title IV Programs,” and found that:
 - ED did not adequately address the risks that schools offering direct assessment programs pose to the Title IV programs; and
 - Did not establish sufficient procedures to ensure that only programs meeting Federal regulatory requirements are approved as Title IV eligible programs.

**OIG Issues Audit Report on
Direct Assessment Programs, cont.**

- Some of the OIG recommendations are:
 - Reassess the risks that direct assessment programs pose to the Title IV programs;
 - Require employees to obtain adequate evidence to support their conclusions;
 - Require employees to gain an understanding of each accrediting agency's processes used to evaluate a school's direct assessment programs; and
 - Require employees to refer to OPE's Accreditation Group any accrediting agency that violates ED's requirements for recognition.

**OIG Issues Audit Report on
Direct Assessment Programs, cont.**

- A copy of the OIG report is found at:
<http://www2.ed.gov/about/offices/list/oig/auditreports/fy2014/a05n0004.pdf>

OIG Issues Audit Report on FSA's Oversight of Schools Compliance with the Incentive Compensation Ban

- On 3/24/2015, OIG issued final audit report, "Federal Student Aid's Oversight of Schools' Compliance with the Incentive Compensation Ban:"
 - Concluded that the FSA has done too little to carry out regulatory changes made on 10/29/2010;
 - FSA's procedures did not clearly explain how reviewers should determine appropriate enforcement action for violations; and
 - Fines were the only enforcement action used to punish violators of the incentive compensation prohibition.

OIG Issues Audit Report on FSA's Oversight of Schools Compliance with the Incentive Compensation Ban, cont.

- Copy of OIG report found at:
<http://www2.ed.gov/about/offices/list/oig/auditreports/fy2015/a05n0012.pdf>.

ED Issues DCL on Third-Party Servicers

- On 1/9/2015, ED issued DCL GEN-15-01 providing guidance for schools that contract with third-party servicers:
 - Institutions have failed to report, update, and/or have reported incorrect third-party servicers;
 - ED provides activities that determine if third-party entity is a third-party servicer, which include:
 - Processing of financial aid applications;
 - Collecting, reviewing or maintaining supporting documentation;
 - Awarding, certifying, originating, and/or disbursing Title IV funds;

ED Issues DCL on Third-Party Servicers, cont.

- Delivering credit balances to student and parents;
 - Providing financial aid counseling;
 - Performing default prevention/management functions;
 - Providing entrance/exit loan counseling;
 - Financial aid consulting;
 - Preparing or submitting required reports; and
 - Preparing/disseminating required consumer information disclosures.
- A copy of the DCL is found at:
<http://ifap.ed.gov/dpclatters/GEN1501.html>.

ED Provides School Data

- ED provides links to school eligibility and participation reports and school compliance tools, including:
 - Closed Schools Monthly Reports;
 - School Code List;
 - Weekly Institutional Reports;
 - Clery Act Reports;
 - Default Rates;
 - Final Program Review Determination;

ED Provides School Data, cont.

- Financial Responsibility Composite Scores;
 - Foreign Gifts Report;
 - Gainful Employment Information Rates Downloadable Spreadsheet;
 - Proprietary School 90/10 Revenue Percentages.
- The link is found at:
<https://studentaid.ed.gov/about/data-center/school>.

ED Provides School Data, cont.

- On 4/1/2015, ED posted a blog on Increasing Transparency and Accountability for Students and announced its plans to release a list of colleges and universities that are on Heightened Cash Monitoring. The blog is found at: <http://www.ed.gov/blog/2015/03/increasing-transparency-and-accountability-for-students/>.

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Increased Number of Enforcers

- ED program reviewers;
- Title IV Compliance auditors;
- ED recertification process and other electronic applications;
- Certification of GE programs – transition by end of 12/31/2015;
- Office of Inspector General;
- Accrediting bodies;
- State licensing agencies;

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Increased Number of Enforcers

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Increased Number of Enforcers, cont.

- Media;
- Current and former students and employees;
- CFPB (semi-annual reports);
- GAO (12/22/2014 GAO report critical of accrediting agencies);
- State AG investigations;
- FTC;
- DoD and Veterans agencies; and
- Interagency oversight.

**Consumer Financial
Protection Bureau (CFPB)**

CFPB Oversees Student Loan Programs

- The Consumer Financial Protection Bureau (CFPB) oversees private education loans and marketing of financial products to students:
 - On 12/6/2013, the CFPB published a final rule in the *Federal Register* that extends oversight to certain nonbank student loan servicers to ensure compliance with federal consumer financial laws. The rule would cover the servicing of private student loans and federal student loans.

CFPB Oversees Student Loan Programs, cont.

- On 12/5/2014, the CFPB released its second semi-annual report and found that approximately 6,200 student loan complaints are received by the CFPB. The more common complaint relates to dealing with a lender or servicer and includes issues such as making payments, getting information about a loan, and managing an account. Of the complaints, 87% involved 8 companies.
- A copy of the report is available at:
http://files.consumerfinance.gov/f/201501_cfpb_semi-annual-report-fall-2014.pdf

CFPB Oversees Student Loan Programs, cont.

- On 12/17/2013, the CFPB issued a press release requesting financial institutions to publicly disclose financial agreements with colleges and universities to market debt, prepaid, and other products to students.
- A press release is found at:
<http://www.consumerfinance.gov/newsroom/cfpb-calls-on-financial-institutions-to-publicly-disclose-campus-financial-agreements/>.

**Federal Trade Commission
(FTC)**

FTC Warns Veterans about For-Profit Institutions

- On 11/1/2013, the Federal Trade Commission (FTC) issued warning to veterans to be cautious in choosing to spend their post-9/11 GI Bill benefits to attend for-profit institutions. The FTC posted “8 Questions to Ask” when selecting a college:
 - What is the total cost and how will I pay for the tuition or expenses not covered by VA benefits?

**FTC Warns Veterans
about For-Profit Institutions, cont.**

- Of the recent graduates who borrowed money, what percentage of them is delinquent on their loans?
- Will a degree from the school get me where I want to go?
- Is there pressure to enroll?
- Can I get credit for military training?
- Can I transfer credit I earn at this school to other schools?
- Is the school accredited?
- Is the school committed to helping veterans?

**FTC Warns Veterans
About For-Profit Institutions, cont.**

- The FTC warning is found at:
<http://www.consumer.ftc.gov/articles/0395-choosing-college>.

**FTC Issues Revised
"Vocational School Guides"**

- On 11/18/2013, the Federal Trade Commission (FTC) issued revisions in the *Federal Register* to its "Vocational School Guides," which advise for-profit institutions how to avoid deceptive marketing and recruiting practices.
 - In 5/1972, Guides issued, effective date 8/14/1972;
 - Guides were amended effective 10/9/1998;
 - On 7/30/2009, FTC sought comments on Guide and received 8 comments.

**FTC Issues Revised
"Vocational School Guides", cont.**

- Sole dissenter was APSCU, which recommended that the Guides be retained for unaccredited and unlicensed vocational schools only.
- Used by FTC to review general prohibition of deceptive and unfair conduct; such as:
 - Extent or nature of accreditation;
 - Transfer of credit;
 - Facilities, services, qualifications of staff;
 - Availability of placement;
 - Placement rates;

**FTC Issues Revised
"Vocational School Guides", cont.**

- Expected salary ranges;
- Repayment terms of private loans; and
- Time to complete programs.
- Changes and comments are found in the *Federal Register* at:
<http://www.ftc.gov/os/fedreg/2013/11/131107vocationalschoolfrn.pdf>.

State Attorneys General

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State AG Investigators

- Single state and multi-state AG investigations.
- Multi-million dollar settlements:
 - Employment statistics;
 - Lack of programmatic accreditation;
 - Representations regarding prospects for achieving accreditation;
 - Transfer of credit;
 - Employment prospects;
 - Graduate licensure;

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State AG Investigators, cont.

- Recruiting practices;
- Institutional loans; and
- Misrepresentations.

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Department of Defense (DoD) and Department of Veterans Affairs

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DoD Issues Proposed Rule for its Memorandum of Understanding (MOU)

- Effective 9/6/2014, to serve service members, all educational institutions must adhere to requirements in the DoD's Memorandum of Understanding (MOU) and be authorized to participate in the military tuition assistance (TA) program.
- The revised MOU incorporates changes based on the President's Executive Order 13607, Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members, which the President signed on 4/27/2012.

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DoD Issues Proposed Rule for its Memorandum of Understanding (MOU), cont.

- New requirements would:
 - Require all institutions to:
 - Provide meaningful information to students about cost;
 - Not use unfair, deceptive, and abusive recruiting practices; and
 - Provide academic and student support services.
 - Implement rules to strengthen procedures for access to military installations;
 - Require DoD to conduct annual reviews;
 - Require the military departments to provide their service members a joint services transcript; and

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DoD Issues Proposed Rule for its Memorandum of Understanding (MOU), cont.

- Implement the DoD Postsecondary Education Complaint System for its service members.
- More information is available at: <http://www.dodmou.com>

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Departments of Veterans Affairs, Defense, Education, Justice, CFPB, and FTC Implement Complaint System

- On 1/30/2014, VA, DOD, ED, Justice, CFPB, and FTC announced launch of a new online complaint system designed to collect feedback from veterans, service members, and their families who are experiencing problems with educational institutions.
- More information is available at: <https://www.dodmou.com>
- On 3/3/2015, according to officials at the Departments of Defense and Veterans Affairs, thousands of veterans and active-duty members of the armed services have filed complaints against colleges (VA has received 2,711 complaints as of 2/22/2015 and the

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Departments of Veterans Affairs, Defense, Education, Justice, CFPB, and FTC Implement Complaint System, cont.

Pentagon has received 223 complaints as of 9/30/2014). Majority of complaints are based on financial problems (tuition and fee charges and refunds) and the quality of education received.

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