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## Washington Potpourri

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Sharon H. Bob, Ph.D.  
Powers Pyles Sutter & Verville, PC



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Powers Pyles Sutter & Verville, PC 1501 M Street, NW, Seventh Floor Washington, DC 20005  
Telephone: (202) 466-6550 Fax: (202) 785-1756 www.ppsv.com

## Budget and Appropriations Laws Change *HEA*

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### **P.L. 112-74 Limits Pell Grant Eligibility**

- ▶ On 12/23/2011, the President signed into law the *Consolidated Appropriations Act, 2012*:
  - ▶ Eliminated federal aid eligibility, with exceptions, for ATB students who first enroll on or after 7/1/2012.
  - ▶ Limits Pell eligibility to 12 semesters or equivalent.

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### **P.L. 112-141 Limits Subsidized Loan Eligibility**

- ▶ On 7/6/2012, the President signed into law the *Moving Ahead for Progress in the 21<sup>st</sup> Century Act*:
  - ▶ Provided one-year extension of the 3.4% interest rate that applied to Subsidized Loans for Undergraduates on 7/1/2012 to 6/30/2013;
  - ▶ Limited Subsidized Loans to 150% of the published length of the program and borrower becomes ineligible for interest subsidy after reaching 150% for loans disbursed on or after 7/1/2013.
    - ▶ Interim Final Regulations: 5/16/2013
    - ▶ Final Regulations: 1/17/2014

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### **P.L. 113-28 Lowers Student Loan Interest Rates On or After 7/1/2013**

- ▶ On 8/9/2013, the President signed into law the *Bipartisan Student Loan Certainty Act of 2013* (P.L. 113-28), which lowered interest rates for loans made on or after 7/1/2013:
  - ▶ Subsidized and Unsubsidized Loans for Undergraduates: 3.86% and rates capped at 8.25%
  - ▶ Unsubsidized Loans for Graduates: 5.41% and rates capped at 9.5%
  - ▶ PLUS Loans for Parents and Graduate Students: 6.41% and rates capped at 10.5%

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### **P.L. 113-28 Lowers Student Loan Interest Rates On or After 7/1/2013, cont.**

- ▶ The President stated at the signing: “Last point I’ll make, and I suspect the Senators and Congressmen behind me will agree with this, even though we’ve been able to stabilize the interest rates on student loans, our job is not done, because the cost of college remains extraordinarily high.”

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### **P.L. 113-28 Lowers Student Loan Interest Rates On or After 7/1/2013, cont.**

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- ▶ House Speaker John Boehner (R-OH) said: “With the stroke of a pen, we’ve now officially taken the politics out of student loans.”

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### **Consolidated Appropriations Act, 2014 Signed into Law**

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- ▶ On 1/17/2014, the President signed into law the *Consolidated Appropriations Act, 2014*, establishing funding through 9/30/2014.
- ▶ Renewed commitment to investing in students:
  - ▶ Full funding for Pell Grants for 2014-2015 - Annual maximum \$5,730 (Currently, \$5,645);
  - ▶ SEOG - \$733,130,000; and
  - ▶ FWS - \$974,728,000.

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### President Releases FY 2015 Budget Blueprint

- ▶ On 3/4/2014, President Obama released his \$3.901 trillion FY 2015 budget blueprint that emphasizes economic growth, expanding opportunity for all Americans, and ensuring fiscal responsibility.
- ▶ The budget allocates \$68.6 billion in discretionary funding for ED, which is \$1.3 billion over the amount appropriated in FY 2014 and slightly more than the FY 2012 funding.

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### President Releases FY 2015 Budget Blueprint, cont.

- ▶ The FY 2015 budget is largely a political document that highlights the President's priorities to rally the Democrats in an election year.
- ▶ Some of the provisions for higher education would:
  - ▶ Expand eligibility for the Pay As You Earn (PAYE) repayment plan available in the Direct Loan Program to all qualified student borrowers (including existing Direct Loan and FFELP borrowers). PAYE would become the standard repayment plan for new loans beginning 2016;

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**President Releases FY 2015  
Budget Blueprint, cont.**

- ▶ Provide nearly 8.9 million undergraduates will receive Pell Grants with a projected maximum annual award of \$5,830;
- ▶ Strengthen academic progress requirements in the Pell Grant Program to encourage students to complete their studies on time;
- ▶ Reinstate the Ability-to-Benefit provision for students enrolled in eligible career pathways programs;
- ▶ Provide \$733 million for FSEOG to aid 1.6 million students (same as FY 2014 enacted amount);

**President Releases FY 2015  
Budget Blueprint, cont.**

- ▶ Provide \$975 million for FWS to aid 690,000 students (same as FY 2014 enacted amount);
- ▶ Modernize and expand the Perkins Loan Program by turning it into a direct loan program under which the federal government, not schools, would originate and service the loans. Loan volume would be allocated among degree-granting institutions according to a formula that would encourage schools to control costs and offer need based aid to prevent excessive indebtedness, though schools would have some discretion over eligibility. *(continued on next slide)*

**President Releases FY 2015  
Budget Blueprint, cont.**

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- ▶ *(cont.)* Loan terms would be the same as under the Unsubsidized Stafford Loan Program. As existing Perkins Loans are paid down, schools would retain their share and remit the remainder to the Department. The budget calls for \$8.5 billion in new Perkins Loans annually beginning on July 1, 2015;

**President Releases FY 2015  
Budget Blueprint, cont.**

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- ▶ Eliminate the College Access Challenge Grant; however, \$7 billion over 10 years would be available to support a new College Opportunity and Graduation Bonus program to reward colleges that successfully enroll and graduate a significant number of low- and moderate-income students (Pell Grant recipients) on time and encourage all institutions to improve their performance; and
- ▶ Direct the Department to develop and publish a new college ratings system that will identify colleges that provide the best value to students and encourage all colleges to improve.

**President Releases FY 2015  
Budget Blueprint, cont.**

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- ▶ With regard to tax code changes that impact college affordability, the following budget proposals would:
  - ▶ Permanently extend the American Opportunity Tax Credit (AOTC), which would benefit 11.5 million families (AOTC is set to expire in 2017);
  - ▶ Simplify taxes for Pell Grant recipients by clarifying AOTC rules, simplifying calculations, and providing some with a reduction in taxes or a boost to their AOTC; and

**President Releases FY 2015  
Budget Blueprint, cont.**

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- ▶ Provide tax relief to student loan borrowers by excluding student loan forgiveness from taxation for borrowers who have made student loan payments under an income-related repayment plan.

### House Budget Chair Paul Ryan Releases FY 2015 Budget Resolution

- ▶ On 4/1/2014, House Budget Chairman Paul Ryan (R-WI) released his FY 2015 Budget Resolution and it was marked up by the House Budget Committee on 4/2/2014.
- ▶ Concerning funding for education:
  - ▶ Repealing Income-Based Repayment Plan (IBR);
  - ▶ Eliminating in-school interest subsidies for undergraduates;
  - ▶ Eliminating student loan repayment for government employees;

### House Budget Chair Paul Ryan Releases FY 2015 Budget Resolution, cont.

- ▶ Making Pell Grant sustainable by:
  - ▶ Rolling back expansions on need analysis;
  - ▶ Eliminating administrative fees paid to schools;
  - ▶ Eliminating eligibility for less-than-half-time; and
  - ▶ Maintaining maximum award at 2013-2014 award year level of \$5,730.
- ▶ The Budget Resolution serves as a guide for appropriations and is not binding. The Senate will not produce a Budget Resolution this year.

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## Reauthorization of the *Higher Education Act (HEA)*

### House Education Committee Issues Call for HEA Reauthorization Proposals

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- ▶ On 4/25/2013, House Education and the Workforce Committee issued a call for HEA proposals, specifically, on ways to:
  - ▶ Empower students as consumers;
  - ▶ Simplify and improve the student aid and loan programs;
  - ▶ Increase college accessibility, affordability, and completion;
  - ▶ Encourage institutions to reduce costs;

### House Education Committee Issues Call for HEA Reauthorization Proposals, cont.

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- ▶ Promote innovation to improve access to and delivery of higher education; and
- ▶ Balance the need for accountability with the burden of federal requirements.
- ▶ Deadline: 8/2/2013.

### House Education Subcommittee Introduces Bipartisan Bill to Repeal Burdensome Regulations

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- ▶ On 7/10/2013, the House Education and Workforce Training Subcommittee Chairwoman Virginia Foxx (R-NC) and Congressman Alcee Hastings (D-FL) introduced the *Supporting Academic Freedom Through Regulatory Relief Act*, H.R. 2637, a bill that would repeal the gainful employment rule, the state authorization regulation, and the federal credit hour regulation.
  - ▶ Congresswoman Foxx said: “These regulations are stifling pioneering institutions at a time when forward-thinking solutions are desperately needed.”

### ED OIG Report Opposes Republican Bill to Eliminate Existing Regulations

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- ▶ At the request of Congressman George Miller (D-CA), the ED Office of Inspector General (OIG) released a report reflecting the review of Congresswoman Virginia Foxx's (R-NC) bill, H.R. 2637, *Supporting Academic Freedom Through Regulatory Relief Act*:
  - ▶ H.R. 2637 would repeal the regulations pertaining to the definition of credit hour, the state authorization rule, and the gainful employment rule.
  - ▶ Eliminating the rules would reduce the Department's ability to protect students and taxpayers.

### ED OIG Report Opposes Republican Bill to Eliminate Existing Regulations, cont.

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- ▶ The report is available at:  
[http://democrats.edworkforce.house.gov/sites/democrats.edworkforce.house.gov/files/documents/Letter%20to%20George%20Miller%20-%20Sept%209%202013%20\(2\).pdf](http://democrats.edworkforce.house.gov/sites/democrats.edworkforce.house.gov/files/documents/Letter%20to%20George%20Miller%20-%20Sept%209%202013%20(2).pdf) .

### House Education Subcommittee Holds Reauthorization Hearings

The House Education and Workforce Training Subcommittee, chaired by Virginia Foxx (R-NC), held hearings on reauthorization of the HEA. The topics discussed:

- ▶ Need to enhance transparency for students, parents, and taxpayers.
- ▶ Need to simplify aid application process, the loan programs, and the repayment plans.
- ▶ Need to examine role of accreditation agencies and accrediting agencies need to improve their review of competency-based learning, massive open online courses (MOOCs), and other innovations.

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### House Education Subcommittee Holds Reauthorization Hearings, cont.

- ▶ Burdensome regulations stand in the way of innovation.
- ▶ Steps institutions can take to provide support services for veterans and service members.
- ▶ Role of Pell Grants and the increasing tuition costs and lack of data on Pell Grant recipients' completion rates.
- ▶ Students are saddled with enormous debt when they leave college (student debt undermines housing recovery by discouraging first-time buyers from purchasing their first house).

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### Senate HELP Committee Begins Process of HEA Reauthorization

The Senate Health, Education, Labor and Pensions Committee, chaired by Tom Harkin (D-IA) and Ranking Member Lamar Alexander (R-TN), held reauthorization hearings. The topics discussed:

- ▶ Role of the Triad:
  - ▶ States should focus on consumer protection;
  - ▶ Accreditors should focus on ensuring academic quality; and
  - ▶ ED should ensure administrative capability and financial responsibility.

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### Senate HELP Committee Begins Process of HEA Reauthorization, cont.

- ▶ Concern about role of accreditation:
  - ▶ Senator Harkin said that only 4 institutions lost accreditation in 2010-2011.
  - ▶ Senator Warren asked if there could be a few pieces of data that could identify good colleges.
  - ▶ Senator Warren expressed concern about conflicts of interest in the accreditation process with the use of a peer review system.
  - ▶ Senator Alexander voiced concern as to whether accreditors could serve two purposes:
    - ▶ Institutional improvement; and
    - ▶ Quality control.

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**Senate HELP Committee Begins  
Process of HEA Reauthorization, cont.**

- ▶ Innovation is needed to improve school performance, increase retention and graduation rates, and reduce costs and encourage efficiencies.
  - ▶ Innovation should be used to improve access, success, and completion, particularly for low-income students and reduce costs.
  - ▶ Senator Elizabeth Warren (D-MA) said that cost reductions do not seem to be carried over to student.
- ▶ Student aid system should be simplified to reduce barriers to access.

**Senate HELP Committee Begins  
Process of HEA Reauthorization, cont.**

- ▶ Strengthening the Direct Loan to ensure it meets needs of students, including managing the student debt.

### Senators Introduce Bills that Focus on Higher Education Priorities

- ▶ Senators Dick Durbin (D-IL), Jack Reed (D-RI), Elizabeth Warren (D-MA), and Barbara Boxer (D-CA) introduced 5 bills that address higher education priorities that will be their focus in 2014:
  - ▶ *Protect Student Borrowers Act*, S. 1873, would make higher education institutions accountable for student indebtedness by requiring institutions to assume some of risk of a student loan default:
    - ▶ Would ensure institutions have “skin in the game” by requiring a penalty if CDR 15% or higher;

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### Senators Introduce Bills that Focus on Higher Education Priorities, cont.

- ▶ Penalty would be 5% of defaulted debt if CDR exceeds 15% up to a maximum fine of 20% of defaulted debt if CDR exceeds 30%.
- ▶ *Partnerships for Affordability and Student Success (PASS) Act*, S. 1894, would seek to revitalize the federal-state partnership through a formula grant to states with a focus on need-based aid, grants to institutions to improve student outcomes and reduce costs, and public accountability.

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### Senators Introduce Bills that Focus on Higher Education Priorities, cont.

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- ▶ *Know Before You Owe Act of 2013, S. 113*, would require schools to counsel students before they agree to a private student loan and inform them of any untapped federal student aid eligibility.
- ▶ *Student Loan Borrower Bill of Rights Act, S. 1803*, would ensure that struggling student loan borrowers are treated fairly and understand the full range of repayment options and resources available to them.

### Senators Introduce Bills that Focus on Higher Education Priorities, cont.

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- ▶ *Fairness for Struggling Students Act of 2013, S. 114*, would treat privately issued student loans in bankruptcy the same as other types of private debt.

### Senators Introduce Bill to Increase Oversight of Institutions

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- ▶ On 2/28/2013, the late Senator Frank Lautenberg (D-NJ) and Senator Tom Harkin (D-IA) introduced *Students First Act*, S. 406, which would strengthen the Department's oversight of institutions of higher education:
  - ▶ Create triggers that would require ED program reviews for institutions engaging in "risky" behavior including engaging in serial forbearance and default rate manipulation, spending more than 20% of revenue on recruiting and marketing, and deriving more than 85% of revenue from federal student aid sources;

### Senators Introduce Bill to Increase Oversight of Institutions, cont.

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- ▶ Direct the Department to prioritize additional program reviews based on criteria such as default rates, proportion of federal student aid revenue, increases in enrollment, student complaints, graduation rates, financial health, and profit margins; and
- ▶ Require institutions to disclose to prospective students when and why they have been subject to a mandatory review and when they have knowingly and willfully, or with gross negligence violated federal student aid requirements.

### Senator Introduces Bill to Prohibit Institutions from Using Revenues for Marketing or Recruiting

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- ▶ On 3/12/2013, Senator Kay Hagan (D-NC) re-introduced *Protecting Financial Aid for Students and Taxpayers Act, S. 528*, to prohibit institutions of higher education from using revenues derived from federal educational assistance funds for advertising, marketing, or recruiting.

### Senators Introduce Bill to Establish a Universal Financial Aid Award Letter

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- ▶ On 6/13/2013, Senator Al Franken (D-MN) and other Senators introduced *Understand True Cost of College, S. 1156*, which would require the creation of a universal financial aid award letter so that students and families can easily compare financial aid packages.

### Senators and Congressmen Introduce Bill Aimed at For-Profit Colleges

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- ▶ On 11/6/2013, Senators Dick Durbin (D-IL) and Tom Harkin (D-IA) introduced *The Protecting Students and Taxpayers Act of 2013 (POST)*, S. 1659, which targets for-profit institutions. H.R. 3493, the companion bill in the House, was introduced on 11/14/2013. The bill would:
  - ▶ Prevent schools from receiving more than 85% of the revenue from the federal government, including revenue from the GI bill and the Department of Defense's Tuition Assistance Program;

### Senators and Congressmen Introduce Bill Aimed at For-Profit Colleges, cont.

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- ▶ Require that for-profit institutions lose eligibility to participate in Title IV programs after one year of noncompliance; and
- ▶ Eliminate provisions that inflate funding sources and would count only actual payments made by students as revenue.

### Three Congressional Democrats Propose New Federal Oversight for For-Profit Institutions

- ▶ On 4/3/2014, Senators Dick Durbin (D-IL) and Tom Harkin (D-IL) introduced *Proprietary Education Oversight Coordination Improvement Act*. A companion bill was introduced by Congressman Elijah E. Cummings (D-MD). The bill would:
  - ▶ Require the creation of an oversight committee made up of representatives from DoD, ED, Justice, VA, FTC, Labor, CFPB, and SEC.

### Three Congressional Democrats Propose New Federal Oversight for For-Profit Institutions, cont.

- ▶ Panel would coordinate oversight of the for-profit sector, publish a report compiling information about student outcomes and other matters, and publish a warning list for parents and students of institutions that have shown evidence of engaging in fraudulent practices.

### Senators Convene Task Force on Regulatory Burdens

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- ▶ On 11/18/2013, Senators Lamar Alexander (R-TN), Richard Burr (R-NC), Barbara Mikulski (D-MD), and Michael Bennet (D-CO) announced the formation of a bi-partisan task force to examine the impact of federal regulations on colleges and universities.
  - ▶ Senator Alexander said: “Let’s face it: the federal government has become one of the biggest obstacles to innovation in higher education.”
  - ▶ Senator Mikulski said: “We need to regulate, not strangulate.”

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### Senators Convene Task Force on Regulatory Burdens, cont.

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- ▶ Senator Burr said: “The tidal wave of regulations and reporting requirements faced by colleges and universities today is stifling innovation and, worse, raising college tuition price tags as schools pass on these compliance costs to students.”
- ▶ Senator Bennet said: “We must create an environment where our colleges and universities are focused on doing what they do best, and that’s educating students to success in the 21<sup>st</sup> century economy.”

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### **Senators Convene Task Force on Regulatory Burdens, cont.**

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- ▶ On 2/12/2014, a group of college presidents from a range of sectors and higher education associations met to begin producing recommendations on how to deregulate the industry.

### **Kline and Foxx Question President's Higher Education Executive Actions**

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- ▶ On 2/12/2014, House Education and the Workforce Committee Chairman, John Kline (R-MN), and the Subcommittee on Higher Education and Workforce Training Chairwoman, Virginia Foxx (R-NC), sent a letter to the President seeking a briefing on his plans to use executive authority to advance the Administration's preferred higher education policies; and
- ▶ The President needs to work with Congress yet the President threatened in his State of the Union address to circumvent Congress.

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## Consumer Disclosures and Informed Decisions

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## 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:
  - ▶ Annual Rankings on the Comparative Costs of College;
  - ▶ Net Price Calculator;
  - ▶ College Scoreboard;
  - ▶ Financial Aid Shopping Sheet;
  - ▶ Financial Aid Toolkit; and
  - ▶ College Ratings System.

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### Annual Rankings on the Comparative Costs of College Released

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- ▶ On 6/27/2013, the Department of Education released its third 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 and average net costs.

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

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- ▶ 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

- ▶ On 1/27/2014, the Department released it's later version of the Net Price Calculator at:  
[http://nces.ed.gov/ipeds/resource/net\\_price\\_calculator.asp](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 would equal 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.

### College Scoreboard

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- ▶ 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."

### College Scoreboard, cont.

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- ▶ 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.
- ▶ A new version is expected to be rolled out soon.

### College Scoreboard, cont.

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

### Financial Aid Shopping Sheet

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- ▶ On 12/13/2013, ED released 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 prospective Veterans and students eligible for the Department of Defense Tuition Assistance funds;
- ▶ Nearly 2,000 institutions have voluntarily adopted Shopping Sheet;

### Financial Aid Shopping Sheet, cont.

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- ▶ 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).
- ▶ The updated Financial Aid Shopping Sheet is available at: [www.ed.gov/financial-aid-shopping-sheet](http://www.ed.gov/financial-aid-shopping-sheet).

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### Financial Aid Toolkit

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- ▶ On 12/4/2013, Secretary of Education Arne Duncan introduced the Financial Aid Toolkit, a one-stop shop aimed at counselors and advisors who assist students in selecting and financing a higher education to improve college access and affordability;
- ▶ Consolidates resources from applying for financial aid to repaying student loans; and

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### Financial Aid Toolkit, cont.

- ▶ Includes Financial Aid Night materials, brochures, presentations, videos, and sample Facebook posts and tweets.
- ▶ The Electronic Announcement is found at:  
<http://www.ifap.ed.gov/eannouncements/120413FSALaunchesFinancialAidToolkit.html>.
- ▶ On 3/7/2014, President Obama announced the “FAFSA Completion Initiative” to help states identify students who have not completed the FAFSA so states can encourage students to complete the FAFSA.

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### 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:
  - ▶ Proposed system would include a number of outcomes and would be linked to financial aid;
  - ▶ Although not determined, ratings would be made on such measures as percentage of students receiving Pell Grants, average cost of attendance, student loan debt, graduation, and transfer rates; and
  - ▶ Ratings would compare colleges with similar missions.

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### College Ratings System

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- ▶ ED has been holding public forums seeking input and many expressed concern that such a system could punish institutions serving low-income students 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

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### College Ratings System, cont.

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- ▶ 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.
- ▶ Secretary Arne Duncan continues to assure higher education community that the concerns will be taken into account.

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### College Ratings System, cont.

- ▶ On 12/17/2013, NCES published Request for Information in *Federal Register* from stakeholders to provide information on data elements, metrics, methods of data collection and analysis, methods of weighting or scoring, and presentation formats for a Postsecondary Institution Ratings System (PIRS) to advance accountability, enhance transparency, and improve consumer decision-making.
- ▶ Submissions due: 1/13/2014.

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### Obama Administration Focuses on College Access and Affordability

- ▶ On 1/16/2014, President and Mrs. Obama hosted over 100 college leaders with commitment to expand postsecondary opportunities to low-income students.
- ▶ On 1/15/2014, Secretary Duncan held a Twitter chat on college affordability and a college rating system with student group.
- ▶ On 2/6/2014, the Obama Administration released hundreds of pages of formal comments:
  - ▶ Many question whether rating colleges is an appropriate role for the federal government;

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### Obama Administration Focuses on College Access and Affordability, cont.

- ▶ Differences in students' academic preparation are not taken into account;
- ▶ A rating system that would evaluate institutions on a few quantifiable indicators will be treating all institutions as if they had the same institutional mission and educating identical student populations; and
- ▶ The rating system would be using federal data on student outcomes (i.e., graduation rates, net price, post graduate earnings, etc.) which is flawed; and
- ▶ ED has less than four months to roll out the college ratings system.

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### Obama Administration Focuses on College Access and Affordability, cont.

- ▶ Student Unit Record System Needed
  - ▶ Better window into institutions performance; and
  - ▶ It would produce more robust student outcomes, such as graduation rates and salary information.
- ▶ Critics argue that a single unit federal database would threaten student privacy and is too risky:
  - ▶ Among the most vocal opponent is NAICU (nonprofit colleges) and it bears responsibility for *HEOA* 2008 ban on single unit federal database;

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### **Obama Administration Focuses on College Access and Affordability, cont.**

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- ▶ Outsized influence; but many believe that NAICU's concern is it will expose the poor outcomes of some of its members.
- ▶ Duncan called out higher education associations, like ACE, for "propping up the status quo."

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

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## Clery Act

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- ▶ 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, cont.

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- ▶ 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.
- ▶ 2013 was a record year for Clery Act enforcement activity: ED issued more fines in 2013, in number and total amount, than in any other year. More expected in 2014 with enactment of the Violence Against Women’s Act (VAWA) on 3/7/2013.

### Clery Act, cont.

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- ▶ In first 22 years of enforcement, ED issued no more than 3 fines in a single year;
- ▶ In 2013, ED imposed a record high of 8 fines, ranging from \$82,500 to \$280,000 and totaling \$1,455,000;
- ▶ Fines per violation increased from \$27,500 to \$35,000 in 2012; and

### Clery Act, cont.

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- ▶ ED is tasked with enforcing Clery Act:
  - ▶ Program reviews are initiated when a complaint is received, a media event raises concerns, findings result from independent audits, and through a review selection process.

### ED Holds Neg Reg Sessions to Propose Rules to Modify *Clery Act* Made By VAWA

- ▶ During the week of 2/24/2014, ED held its second round of neg reg to propose regulatory changes to the *Clery Act* made by the *Violence Against Women Act (VAWA)*, enacted on 3/7/2013.
  - ▶ Statutory changes require compiling statistics on sexual assaults, domestic violence, and stalking;
  - ▶ Institutions will be required to include policies, procedures, and programs pertaining to these crimes; and

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### ED Holds Neg Reg Sessions to Propose Rules to Modify *Clery Act* Made By VAWA, cont.

- ▶ Institutions must make good faith effort to implement VAWA by 10/1/2004.
- ▶ Committee reached consensus on the regulatory package.
- ▶ Final rule will be published by 11/1/2014, making regulatory change effective 7/1/2015.

The website on VAWA is found at:

<http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/vawa.html>

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### **ED Holds Neg Reg Sessions on Program Integrity and Improvement Issues**

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- ▶ ED has held 2 out of 3 sessions on program integrity and improvement provisions:
  - ▶ Since the publication of the 10/29/2010 program integrity rules, ED received comments on clock to credit hour conversion and tentative agreement reached on eliminating requirement for programs to be offered in clock hours if required by state;

### **ED Holds Neg Reg Sessions on Program Integrity and Improvement Issues, cont.**

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- ▶ ED is revisiting the State authorization provisions for distance and correspondence education in response to the 6/30/2012 D.C. Circuit Court for the D.C. ruling that remanded the prior rules back to ED on procedural grounds and proposed that a state is legally authorized if:
  - ▶ The state has a process to review and act on complaints about the institution;
  - ▶ The institution meets state requirements that it be approved or licensed by name state-by-state or by state-by-state agreement; and

### ED Holds Neg Reg Sessions on Program Integrity and Improvement Issues, cont.

- ▶ The institution could not be considered legally authorized through exemption by accreditation;
- ▶ ED is seeking to address state authorization provisions for domestic institutions with foreign locations including a process for student complaints in the State in which the main campus of the institution is located;
- ▶ Concerns have been raised about the practice of disbursing federal financial aid via debit and prepaid cards and whether such practices are in the students' best interests;
- ▶ Tentative agreement was reached to allow courses to be repeated at undergraduate and graduate levels; and

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### ED Holds Neg Reg Sessions on Program Integrity and Improvement Issues, cont.

- ▶ ED is looking at the definition of adverse credit used to determine PLUS Loan eligibility, which ED modified in 11/11 to be consistent with the Direct Loan practices. ED had not been counting debt in collections or debt that had been charged off as constituting adverse credit. Rates of PLUS denials increased since 2011-2012 by 13-15 percentage points.

The website for program integrity and improvement issues is found at:

<http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/programintegrity.html>.

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### Gainful Employment NPRM

- ▶ On 3/25/2014, ED published NPRM in *Federal Register* on gainful employment, which includes:
  - ▶ Disclosures – expanded version of current rules;
  - ▶ Reporting requirements – by Title IV student;
  - ▶ Two Eligibility Metrics:
    - ▶ Debt-to-Earnings (D/E) rates:
      - Annual D/E rate:
        - Passing: Less than 8%;
        - Zone: 8% to 12%;
        - Failing: Above 12%.

### Gainful Employment NPRM

- Discretionary D/E rate:
  - Passing: Less than 20%;
  - Zone: 20% to 30%;
  - Failing: Above 30%.
- ▶ Program cohort default rate (pCDR):
  - Just like institutional CDRs but for GE programs:
    - Fail if 30% or higher.

### Gainful Employment NPRM, cont.

- ▶ Program loses Title IV eligibility:
  - ❑ Fails both D/E measures in two out of three years;
  - ❑ Fails or in zone for four consecutive years; and
  - ❑ Fails pCDR for three consecutive years.

The website for gainful employment is found at:

<http://www2.ed.gov/policy/highered/reg/hearu/lemaking/2012/gainfulemployment.html>

### New Emphasis on Drug and Alcohol Prevention Program

- ▶ Since 1989, institutions are required to provide annual Drug and Alcohol Prevention Programs that include:
  - ▶ Standards of Conduct prohibiting possession, use, or distribution of illegal drugs and alcohol;
  - ▶ Statement of health risks associated with drugs and alcohol;
  - ▶ Federal, State and local sanctions;
  - ▶ Description of counseling, treatment, or rehabilitative services; and

### **New Emphasis on Drug and Alcohol Prevention Program, cont.**

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- ▶ Statement of institution's sanctions for violation of policy by students or employees.
- ▶ Institutions must conduct a biennial evaluation of the success of the program.
  - ▶ Determine effectiveness and implement changes where needed; and
  - ▶ Ensure that the disciplinary sanctions are consistently enforced.

### **Consumer Financial Protection Bureau (CFPB)**

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### 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.

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### CFPB Oversees Student Loan Programs, cont.

- ▶ On 10/16/2013, the CFPB released its second annual report and found that more than 3,800 complaints are received by the CFPB from “borrowers of private student loans, with common problems related to payment processing and requests for loan modifications.” Of the complaints, 87% involved 8 companies.
  - ▶ A copy of the report is available at:  
[http://files.consumerfinance.gov/f/201310\\_cfpb\\_student-loan-ombudsman-annual-report.pdf](http://files.consumerfinance.gov/f/201310_cfpb_student-loan-ombudsman-annual-report.pdf).

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### CFPB Oversees Student Loan Programs, cont.

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- ▶ 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)

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### FTC Warns Veterans about For-Profit Institutions

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- ▶ 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.

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- ▶ 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.

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

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### FTC Issues Revised “Vocational School Guides”

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- ▶ 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.

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**FTC Issues Revised**  
**“Vocational School Guides”, cont.**

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- ▶ Sole dissenter was APSCU, which recommended that the Guides be retained for unaccredited and unlicensed vocational schools only.
- ▶ Changes and comments are found in the *Federal Register* at:  
<http://www.ftc.gov/os/fedreg/2013/11/131107vocationalschoolfrn.pdf>.

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**Department of Defense  
(DoD) and Department  
of Veterans Affairs**

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

- ▶ On 8/14/2013, the Department of Defense (DoD) issued a proposed rule in the *Federal Register* seeking comments on its revised Memorandum of Understanding (MOU), which colleges and universities must sign to participate in the DoD's 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.

- ▶ Proposed 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.**

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- ▶ Implement the DoD Postsecondary Education Complaint System for its service members.
- ▶ A copy of the proposed rule is found at:  
<https://www.federalregister.gov/articles/2013/08/14/2013-19747/voluntary-education-programs>.

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

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- ▶ 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.
- ▶ A copy of the CFPB notice and the link to the complaint system is found at:  
<https://www.consumerfinance.gov/blog/new-feedback-system-for-gi-bill-and-tuition-assistance-recipients/>.

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SEVENTH FLOOR  
1501 M STREET, NW  
WASHINGTON, DC 20005  
PHONE: (202) 466-6550 FAX: (202) 785-1756  
www.ppsv.com  
Sharon.Bob@ppsv.com



Sharon H. Bob, Ph.D.

**Practice Areas:**

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- Public Policy & Government Relations
- State Licensing
- Education Policy

**Member:**

- NASFAA
- CCA

**Education:**

- Ph.D., University of Maryland, 1976
- BA, State University of Buffalo, 1971, summa cum laude

Sharon H. Bob, Ph.D., Higher Education Specialist on Policy and Regulation, is a member of the Education Group at the Washington, D.C. law firm of Powers Pyles Sutter & Verville, P.C. Dr. Bob advises all sectors of higher education regarding strategic issues pertaining to their participation in the federal student financial assistance programs, accreditation, licensure, education tax benefits, and related regulatory matters.

Dr. Bob advises public and private colleges and universities, as well as private and publicly-traded companies. In this role, she provides clients with detailed technical guidance related to compliance with applicable statute and regulations. She regularly assists postsecondary educational institutions on issues relating to institutional eligibility, program eligibility, student eligibility, financial responsibility and administrative capability standards, changes of ownership, adding locations and programs, program reviews and compliance audits, and institutional responsibilities for the education tax benefits. Through training seminars and on-site reviews, she assists clients in complying with the federal requirements for administering federal student financial assistance. Dr. Bob has authored numerous articles on federal financial aid issues for *The Greentree Gazette*, *NASFAA's Journal of Student Financial Aid*, *NASFAA's Student Aid Transcript*, the *Career College Link*, and other higher education publications and frequently speaks at meetings of college officials and student aid administrators.

Dr. Bob received her undergraduate degree *summa cum laude* from the State University of New York at Buffalo and was elected to *Phi Beta Kappa*. She received her doctorate from the University of Maryland.

Powers Pyles Sutter & Verville is a Washington, D.C.-based law firm that focuses on health care, education, and the law of tax-exempt organizations.