

THE NATIONAL ASSOCIATION OF
GRADUATE-PROFESSIONAL STUDENTS

Legislative Letters

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Updates in Higher Education



Image Credit: Kaylyne Glover, "The Capitol"

The Department of Education has announced intentions for major overhauls of higher education regulations, a federal judge has ordered the restoration of DACA, the Executive branch has updated their VISA policies, and we have predictions for Midterms. This and more in our fourth edition of *Legislative Letters*.

If you have questions, suggestions, or are interested in contributing to the newsletter, or would like to be a part of the Legislative Concerns Committee, please contact the Director of Legislative Affairs, Kaylyne Glover, at legislative@nagps.org. For feedback on the newsletter, you can also follow the link at the end of the Letter to fill out a quick survey.

Our Advocacy Summit and Legislative Action Days are approaching! [Be sure to register!](#)

EDUCATION IN THE EXECUTIVE BRANCH

Department of Education

Changes to Higher Education Regulations

The Department of Education proposed on July 25th several new [Institutional Accountability regulations](#) in respect to higher education. Proposed changes include removing the “gainful employment” regulation, the “borrower’s defense” program, and re-evaluating college accreditation (details are below). These regulations are open for comment until August 31st and, beginning in September, will [hold hearings](#) to receive feedback. It appears as though the White House has begun [holding meetings](#) with the Department of Education and other higher education groups to discuss these regulations.

“[Gainful Employment](#)”: Secretary DeVos is [planning](#) to rescind an Obama-era regulation that forces colleges to provide evidence that they provide “gainful employment” upon graduation. Designed to [restrict](#) predator behavior of for-profit colleges, removing this restriction is estimated to cost \$4.7 billion over the next decade in the form of increased federal student loan dollars to these programs.

[Student Loans](#): Secretary DeVos has been critical of the “[Borrower Defense](#)” program, a type of loan forgiveness for students who are misled or otherwise defrauded by their colleges, favoring procedures that would require students to show evidence that the colleges had intent to harm. Additionally, students would have to [default on their loans](#) before they could apply for relief and would only be granted [partial](#) loan forgiveness. California’s Attorney General is currently suing the Department of Education over these policies over the harm that they cause students. The U.S. Magistrate overseeing the case has [previously](#) blocked DeVos’s efforts to collect on these loans.

[College Accreditation Oversight](#): The Education Department is [forming a committee](#) to reevaluate oversight of college accreditations. [Among other things](#), this committee will be [tasked](#) with considering reducing compliance requirements for accreditation, outsourcing programs to non-accredited providers, reducing state oversight of their colleges, easing regulations for online programs that receive federal support, changing the definition of the “credit hour,” evaluating competency-based education, and easing federal aid restrictions on religious institutions.

Interim Title IX Rules

In 2017, President Trump’s administration, led by Education Secretary Betsy DeVos, issued [interim rules](#) regarding Title IX that included directing universities to become more balanced in handling assault and harassment allegations. These guidelines may be [challenged](#) by a [lawsuit](#) against Oregon State University which issued a mutual no-contact order to both a sexual assault victim and her

alleged assailant, forcing the victim to avoid areas of campus and negatively impacting her education or face disciplinary actions.

Changes in Civil Rights Policies

On July 3rd, President Trump's administration [reversed](#) an Obama-era policy that allows schools to use race in college admissions when race-neutral methods were ineffective. Several Senate Democrats have [responded](#) stating that these policy changes will make it more difficult to ensure that universities are in compliance with the law regarding diversity and racial discrimination.

DeVos's Department of Education has made [several other changes](#) in regards to civil rights, including delaying regulations regarding discrimination in special-ed programs and cutting funding for the Office for Civil Rights. The department is also considering removing guidelines directing schools to examine racial bias in disciplinary action taken against students.

Online Textbooks

The Department of Education has [launched](#) a competitive grant program for colleges creating and expanding offerings of free online textbooks, known as open textbooks.

Mobile-Friendly FAFSA

To make [applying for financial aid](#) easier, the Department of Education has updated its website (FAFSA.gov) for mobile use and will soon be releasing a myStudentAid mobile application.

LEGISLATION

Perkins Career and Technical Education Act (H.R. 2353 [115])

President Trump [signed](#) the first overhaul of the Perkins Act since 2006. This version of the act, called the "Strengthening Career and Technical Education for the 21st Century Act," had been passed by the Senate and the House in late July. As we previously [reported](#), the CTE Act governs federal spending on career and technical education programs, allotting approximately \$1 billion each year. It would allow the Education secretary to approve, without negotiation, state goals for their career and technical education programs, which would be built around a set of assessments (e.g. graduation rates, enrollment in post-secondary programs, etc.). States must track student performances on a variety of demographics, and states would have less time to meet their goals to receive federal funding.

Civil Rights Transparency Act (H.R. 6537 [115])

House Democrats are seeking to force the Department of Education to be more transparent in its dealings of civil rights violations. They introduced a [bill](#) on July 25th that would require the department to disclose accusations of civil rights violations, any agreements or decisions in regard to those accusations, and any changes to regulations governing civil rights investigations.

National Defense Authorization Act (H.R. 5515 [115])

Included in this [bill](#) would be provisions designed to protect university researchers from “undue influence, including through foreign talent programs, and other security threats” and comes in response to attempts by foreign countries to spy on university research.

House Rules Reforms

A bipartisan [initiative](#) within the House, led by the Problem Solvers Caucus, would help bills that have widespread support pass more easily without meeting too much resistance against House rules that are notoriously controlled by the Majority party.

Letters to Congress Regarding Universities Covering Up Sexual Assaults

Several women’s organizations, led by the National Women’s Law Center, has sent a [letter](#) to Congress asking members to hold hearings on the “profounding troubling phenomenon of colleges and universities covering up sexual abuse perpetrated on students by employees.” Citing the current scandal at Ohio State University (Rep. Jim Jordan, R-OH), the Larry Nassar scandal at Michigan State, and the George Tyndall scandal at the University of Southern California, they ask Congress to take action to strengthen Title IX and prevent sexual assault on campuses.

IMMIGRATION

Deferred Action for Childhood Arrivals (DACA)

On August 3rd, a federal judge [ordered](#) that the Trump Administration must fully [restore](#) the DACA program and that any future attempts to end the program must be accompanied by valid rationale, rationale that is lacking in the current proposal. The order to restart DACA will be delayed until August 23rd to provide a window for appeal.

Limiting Citizenship for Legal Immigrants

The Trump administration has released a [plan](#) to the Office of Management and Budget that would make obtaining citizenship more difficult for legal immigrants. Specifically, it would prohibit citizenship for anyone who has used or whose household member has used several public welfare programs (Obamacare, children’s health insurance, food stamps), even if that household member is a citizen. This is estimated to affect 20 million immigrants.

Visas

On May 11, 2018, the U.S. Citizenship and Immigration Services (USCIS) released a policy memorandum proposing a change on how they will start counting the days of “unlawful presence” of international students under F, J, and M visas. Under the proposed policy, USCIS would change the way it "counts" days of unlawful presence for F-1, F-2, M-1, M-2, J-1, and J-2 nonimmigrants. Following is a summary of the changes:

- Under the current policy, the unlawful presence count begins only after a formal finding of a status violation by a DHS officer in the course of a benefits application, or by an immigration judge in the course of removal proceedings. Under the newly proposed policy, the unlawful presence count begins the day after the status violation.
- Under both the current and proposed policies: (a) Remaining in the United States beyond the expiration of a date-specific I-94 or I-20 forms also starts the unlawful presence clock; and (b) There are a number of important exceptions (such as unlawful presence not being counted if USCIS approves a student's application for reinstatement)
- F, M, and J nonimmigrants who are in violated status prior to August 9, 2018, and are still in the United States, the unlawful presence clock that starts ticking on August 9, 2018.
- Students in violated status have 180 days from Thursday, August 9, 2018, for reinstatement.

On August 9, the USCIS released a [final revised policy](#) with a major consideration: nonimmigrants under F or M visas can file an application for reinstatement. This option is not new considering that the previous version of this policy had the option to file a reinstatement application. However, the USCIS will stop the clock once the applicant fills in the reinstatement application if this happens within 5 months of violated status. The unlawful presence clock will start (or restart) when the USCIS denies the application for reinstatement.

Nevertheless, given the serious consequences that an unlawful presence can bring to you and your career in the U.S., the NAGPS suggests you to consult the International Student and Scholar Office in your school or an immigration lawyer to discuss the best options for your situation.

FUNDING

Spending Bills

As appropriations bills [make their way](#) through Congress (with the most recent minibus [passing](#) on August 1st), some still fear a government shutdown on September 30, in particular due to President Trump's [promise](#) to refuse to sign a bill that does not fund his border wall. A shutdown right before midterms does not bode well for either party but might particularly [harm](#) sitting Republicans.

Education Funding

The House education funding bill [passed](#) the House Appropriations Committee on July 11th and contains a small increase for the Department of Education and provisions that allow cancer patients to defer federal student loan payments without interest. The Senate version of the bill, which also contains support for labor and health and human services, has passed in the Appropriations Committee and is [likely](#) to be addressed by the full Senate soon. It contains a \$2.2 billion increase for all three areas, but a slight decrease in Department of Education funding due to Pell grant funding rescissions.

Historically black colleges and universities should expect to receive an [increase in funding](#) via preservation funds through a grant program within the National Park Service, which [passed](#) the Senate in early August and is expected to pass the House with matched allocations.

The Charles Koch Foundation [announced](#) that it will make all future multi-year agreements with public universities public in response to concerns that Koch donations would inappropriately influence the university's research, hiring decisions, or curriculum. However, some are still concerned about past agreements that remain undisclosed; in an open letter, the Foundation [announced](#) that it has supports around 1,000 university faculty members.

Student Loans

The Treasury Department released a [report](#) condemning the Department of Education's oversight of student loans, saying that it "currently lacks effective minimum serving standards" for student loan companies. It called on Congress to hold low-performing colleges accountable and the Education Department to be more transparent about its student loan portfolio as well as create minimum standards for student loan companies.

Student debt continues to be an important issue among voters. A recent [poll](#) shows bipartisan concern with the \$1.5 trillion in outstanding student debt as well as support for measures to protect student loan borrowers.

LITIGATION

Supreme Court Justice Update

The Senate hearing for Judge Kavanaugh's confirmation has been [scheduled](#) to begin on September 4th, which does not leave the Senate Judiciary Committee much time to review the more than 125,000 pages of documents on Kavanaugh that have just been released after lengthy debate. What has been released consists of almost all available documents available on Kavanaugh, the exception to which includes the time during which Kavanaugh worked as Bush's staff secretary, which Republicans believe to be irrelevant to a Supreme Court Justice position. The documents released by the National Archives can be found [here](#); documents released by the Senate Judiciary Committee can be found [here](#).

In addition to Judge Kavanaugh, President Trump has now appointed 24 of the 167 circuit court positions, more than anyone since the regional circuit court system was created in 1891.

MIDTERM ELECTIONS

Midterm elections are this November - at the date of this publication, it is 83 days away. All 435 Congressional Districts for the House and 35 of the 100 Senate seats will be open. This midterm is history with potentially the largest turnout of [LGBTQ](#) candidates and [female](#) candidates. Senate Republicans currently have a one-seat majority, 218 seats are needed for control of the House - which will require [flipping 23 seats](#). For more information, see these interactive maps of the [House](#) and the [Senate](#). Find out more [who is running](#) and about current Congress members' [history](#), [voting records](#), [committee assignments](#), and [legislation](#). For more information on the issues the public cares about, go [here](#).

In addition to [out-raising](#) Republicans, there are [other signs](#) that Democrats may take the House. Many seats previously held by Republicans will not have an incumbent, making them harder for Republicans to hold. Additionally, there's a lot of enthusiasm on the left, and the historical trend shows that the party in power often loses at midterms. Plus, several polls and centers indicate a lead for the Democrats ([University of Virginia's Center for Politics](#), [The Cook Political Report](#), [RealClearPolitics](#)), not helped by President Trump's threats to shutdown the government if he doesn't receive funding for his border wall.

If Democrats do take the House, they'll have the [power of the subpoena](#), and there's a good chance they will use it to investigate both President Trump's private businesses and his public administration. It also would position several women to take [significant leadership positions](#) on committees and subcommittees. However, there doesn't seem to be widespread support for Nancy Pelosi to [transition](#) from minority leader to House Speaker, though an alternative choice is unapparent.

REPORTS AND PRESENTATIONS

[2018 Trends in State Legislatures, Quorum Report](#): Comparison of legislative activity (bills passed) and legislator social media presence across all 50 states and against previous years.

[Study: Higher ed seen as headed in wrong direction; partisan disagreement on why, Pew Research](#): Majority of Americans think higher education is headed in the wrong direction, though there is partisan disagreement as to why.

[CBO: Monthly Budget Review for July 2018 \(August 7, 2018\)](#): The federal budget deficit was \$682 billion for the first 10 months of fiscal year 2018, CBO estimates, \$116 billion more than the shortfall recorded during the same period last year.

[CBO: The Long-Term Budget Outlook Under Alternative Scenarios for Fiscal Policy \(August 8, 2018\)](#): Expanding on its earlier long-term baseline projections, CBO shows how the federal budget and the economy would evolve under three scenarios in which laws would be changed to continue certain policies now in place, leading to higher debt. [Press Release on the CBO's Alternative Long-Term Budget Scenarios](#)

FEEDBACK FOR LEGISLATIVE LETTERS

Our Letter is new off-the-ground, and we would really appreciate your thoughts on it - after all, it's for you! So please follow [this link](#) to fill out a quick survey so that we can best meet your needs.