

THE NATIONAL ASSOCIATION OF
GRADUATE-PROFESSIONAL STUDENTS

Legislative Letters

October 8, 2018

Updates in Higher Education



Image Credit: Kaylynne Glover, "The Capitol"

Kavanaugh was confirmed, and the government avoided a shutdown - at least, until December 7th, when the rest of the appropriations bills are due. In the meantime, academic and research agencies are examining their sexual misconduct policies, and the Department of Education their Title IX rules - though, interestingly, in ways that do not necessarily align. All while midterm predictions keep pouring in, suggesting a blue wave this November. This and more in our 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, Kaylynne Glover, at legislative@nagps.org. To provide feedback on the newsletter, you can also follow the link at the end of the Letter to fill out a quick survey. To find out more about the ratified NAGPS [Legislative](#) and [Advocacy](#) Platforms, be sure to follow these links.

THE EXECUTIVE BRANCH

DEPARTMENT OF EDUCATION

Rule Change: Title IX

A leaked version of the Department of Education's (ED) proposed changes to Title IX is under scrutiny. One analysis suggests it would [reduce the number of investigations](#) into sexual assault and harassment, and another that it would [increase costs](#). Advocacy groups claim that this is evidence that the ED is primarily interested in ["reducing liability for schools"](#) instead of protecting students from discrimination.

The newest criticism centers on its attempts to [provide more support for accused persons](#) by forcing schools to provide them with evidence they are using in their investigation. Critics argue that the policy change would force schools to hand over any information they have, even if irrelevant to the case, giving the accused sensitive information about their accuser and opening the door for retaliation.

The proposed rules seem to align closely with the interim rules proposed in 2017, to which several sexual assault advocacy groups, led by SurvJustice, [have responded with litigation](#) earlier this summer. A [judge has dismissed the lawsuit](#) on grounds that the organizations failed to show they, as organizations and not women in general, were directly impacted by the rules.

Student Loans

The Department of Education has been facing lawsuits regarding their relationships with student loan companies, including Navient and FedLoan Servicing. [President Trump and Secretary DeVos have both made moves](#) to prevent action taken against student loan companies, including denying access to information necessary in these lawsuits.

The ED has been facing extensive criticism, and most notably, lawsuits, over its relationship with student loan service providers for some time. The administration is now looking to overhaul the student loan servicing program entirely, and has [picked its finalists](#) for building and operating the new system. Navient, [one of the providers included in lawsuits with the ED](#), remains a potential subcontractor for the system.

Public Service Loan Forgiveness

The Government Accountability Office (GAO), one of the three non-partisan congressional organizations, just completed an audit of the ED's management of the Public Service Loan Forgiveness Program and [released a statement](#) stating that the ED failed to "provide key information to the PSLF servicer and borrowers" and did not abide by "federal internal control standards." [In](#)

[response, the ED stated](#) that they planned to follow some of the recommendations included in the statement, though without a timeline to do so.

Rule Change: Borrower Defense to Repayment

The ED released a proposed rule change regarding the Borrower Defense to Repayment policy that closed for comment August 31st. The original rewrite of the rule was expected to be released by November 1, but due to the volume of comments received, [the ED has stated in a court filing that it will be unable to meet that deadline](#). This means that any new rule would not go into effect until July 2020 at the earliest. A similar delay is expected for the [Gainful Employment regulations](#).

In the meantime, the ED continues to delay implementation of the Obama-era regulations regarding Borrower Defense, for which a U.S. District Court [judge has given until October 12th](#) to provide an adequate justification for the delay.

IMMIGRATION AND INTERNATIONAL STUDENT CONCERNS

Rule Change: Green Card Requirements

The [administration released new proposed rules](#) which will change green card eligibility for legal immigrants and nonimmigrants. This proposed rule will make anyone on food and housing assistance ineligible for permanent residency out of concern they might become “public charges.” The likelihood of needing financial assistance has always been a consideration for green cards, though using food stamps and assisted living has not been explicitly used as a factor before. The rule should be released to the register soon and will be open for comment for 60 days.

Impact of Immigration Policy Changes

The Council of Graduate Schools announced that, for the second year in a row, [international student application to and enrollment in U.S. graduate programs fell](#), in contrast to a steady period of growth [since 2003](#). Primarily impacting low-profile research institutions, this suggests [international graduate students may be looking at programs elsewhere](#), due to recent policy changes regarding immigration and student visas.

THE LEGISLATIVE BRANCH

LEGISLATION

Appropriations

Five of the twelve appropriations bills have now passed Congress and have been signed by the President and [represent approximately 75% of the expected funding for FY19](#). The last of minibus ([H.R. 6157 \[115\]](#)), which included education funding, contained a continuing resolution that would keep the

government operating until December 7th. When both Chambers of Congress reconvene after midterms, [they are expected to pass the remaining seven appropriations bills](#).

In addition to a [substantial increase in education funding](#), it funds a program that [allows denied students to re-apply for the PSLF program](#) and [puts restrictions on the ED's upcoming overhaul of its student loan system](#).

HEARINGS

House: Campus Free Speech

The House Committee on Education and the Workforce [held a hearing on September 26th](#) on First Amendment rights on college and university campuses. [A 2018 Gallup poll revealed that a majority of students feel that their speech is infringed on campus](#), with conservative views being most often stifled, and many of those presenting at the hearing echoed the sentiments.

THE FEDERAL BUDGET

In FY18, [Congress added \\$445 billion to the national deficit for next year](#), which is estimated to be \$2.4 trillion by 2027. Most of this debt was added through two pieces of legislation, the [Tax Cuts and Jobs Act of 2017](#) (TCJA), providing corporations with large tax cuts and adding \$230 billion to the deficit, and the [Bipartisan Budget Act of 2018](#) (BBA18), which increased caps on discretionary spending, adding \$190 billion.

While the U.S. [economic growth is at its fastest pace in nearly four years](#), and the [unemployment rate is at its lowest level since 1969](#), polling suggests that voters [are unhappy with the TCJA](#).

MIDTERM ELECTIONS - 28 DAYS

Democrats are still expected to gain many congressional seats this midterm. The generic ballot puts the democrat lead between 5 points ([Economist/YouGov](#)), 9 points ([The Hill](#)), 10 points ([Pew Research](#)), and 12 points ([Reuters/Ipsos](#)). However, recent polls also suggest that the [blue-led enthusiasm for midterms is now nearly matched by red](#).

Polls continue to indicate a democratic takeover in the House. Overall, they are [projected to win 224 seats](#); the non-partisan [Cook Political Report has moved five seats closer to blue](#). In the Senate, though, the race outcome is nearer a toss-up, according to [RealClearPolitics](#). [There are five key Senate races to watch](#), as these states went to Trump in 2016 but are now leaning blue.

All 435 Congressional Districts for the House and 35 of the 100 Senate seats are open. Senate Republicans currently have a one-seat majority, 218 seats are needed for control of the House, which will require the Democrats to [flip 23 seats](#) if they hope to become the majority. For more information, see these [interactive maps of the House](#) and the [Senate](#). Find out more about [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](#).

THE JUDICIAL BRANCH

THE SUPREME COURT

Supreme Court Justice Update

Judge Brett Kavanaugh was confirmed as the newest Supreme Court Justice following a contentious Senate battle and a wake of scandals. Accusations began with [Dr. Christine Blasey Ford accusing him of attempted rape in high school](#), and eventually expanded to include [Deborah Ramirez who accused him of forcing her to touch his penis while a freshman at Yale](#) and [Julie Swetnick who claims she was present when Kavanaugh would drug and rape girls at parties](#).

Judge Kavanaugh's confirmation was initially delayed until a hearing could be held. Republicans on the Senate Judiciary Committee [blocked attempts by Senate Democrats to subpoena Mark Judge for the hearing](#), whom Dr. Ford says was present at her attempted rape. Judge Kavanaugh faced [backlash for his demeanor and temperament in the hearing](#), which some say was unbecoming a Supreme Court Justice. When the hearing was over and a vote called to schedule a confirmation, [four Democrats walked out in protest](#).

[Both sides of the political aisle](#) called for an FBI investigation before the confirmation, [which was ordered the day after the Senate hearing](#). Originally, the investigation was [technically considered a background check](#) and was required to be "[limited in scope and completed in less than one week](#)," investigating only the accusations made by Ford and Ramirez. However, the probe expanded to [include a list of more than 20 people](#) the Senate Judiciary Democrats demanded be interviewed before they would consider the report credible. Apparently, that investigation did not include either [either Judge Kavanaugh or Dr. Ford, as the White House did not give the FBI authority to question them](#), claiming that their appearance in the Senate Judiciary Committee hearing was sufficient.

The FBI report was given to the Senate Judiciary Committee on Thursday, October 4th, and a [vote to proceed with the confirmation occurred the next day](#). Justice Kavanaugh was confirmed on Saturday, October 6th.

However, House Democrats have promised that [they will begin investigating Justice Kavanaugh for sexual misconduct and perjury](#) if they gain control of the House after midterms. Calls for impeachment against Kavanaugh began before the sexual misconduct allegations and [focused initially on stolen memos from the Bush administration](#). Impeachment would require a two-thirds supermajority in the House, and Indictment a two-thirds supermajority in the Senate. Both would be required a Justice - or a President - from office, which is unlikely without clear and convincing evidence.

For Reference: [Timeline of Kavanaugh's confirmation](#) [Ford and Kavanaugh Hearing](#)

LITIGATION

Students for Fair Admissions, Inc. v. President and Fellows of Harvard College

U.S. District Court Judge Allison Burroughs ruled that [students will be able to testify against Harvard](#) in their [lawsuit](#) against the University. They claim that the University's admissions process disadvantaged Asian-American applicants. This case may end up [appearing before the Supreme Court](#), which has a newly-confirmed Justice who has expressed opinions antithetical to affirmative action in the past.

For Reference: [Summaries of Recent Department of Education-related Lawsuits](#)

THE DEPARTMENT OF JUSTICE

Investigation: Yale-University Asian-American Bias

The U.S. Justice and Education departments [have now begun investigating Yale University for Asian-American biases](#) similar to those being accused of Harvard University.

IN RELATED NEWS...

SOCIAL JUSTICE AND MENTAL HEALTH WATCH

Responses to Sexual Misconduct In Academia

Several academic and research organizations, including NIH, NSF, and AAAS, have begun taking measures to address sexual misconduct following a [report from the National Academies of Science, Engineering, and Medicine this past summer that showed women entering STEM fields face sexual harassment](#).

The [NSF is cracking down on sexual misconduct for those who receive awards](#) and has released a [new term and condition declaring its non-tolerance of sexual misconduct](#) for award recipients. The new term and condition goes into effect October 21, 2018 and received [more than 200 comments during its open comment period](#). This rule would require institutions to report to NSF any PI or co-PI found to engage in any harassment.

The American Association for the Advancement of Science (AAAS) has announced it will begin to [revoke the status of elected fellows](#) who have been shown to engage in unethical behaviors that includes sexual misconduct and harassment, and the National Academies has stated that they [have begun discussions to take similar actions](#). The [NIH has released a statement](#) and has launched a new [anti-sexual harassment website](#), though it is [under criticism for not taking more steps](#) to address this issue.

The Committee on Women in Science and Engineering for the National Academies of Sciences, Engineering, and Medicine will hold a [convocation on November 9th to prevent sexual harassment in academia](#).

Representatives from several [scientific societies convened in Washington, D.C., on October 1st to address sexual harassment in STEM fields](#). Representatives included the American Institute of Physics, the American Astronomical Society, the American Geophysical Union, EducationCOounsel, and the American Association for the Advancement of Science and hope to develop [“systems, policies, and practices to combat sexual harassment.”](#)

RELEVANT READS - NEW

[Diversity Fatigue Is Real](#)

[SPH addresses impostor syndrome, phenomenon affects higher education](#)

[The dissertation's form and content need to evolve](#)

[States' decision to reduce support for higher education comes at a cost](#)

[Is Your State Serving Black Students?](#)

[Are We Setting the Career-Advice Bar Too High for Graduate Advisers?](#)

[Innovating Higher Ed](#)

[2019-20 Legislature Update: Debunking the Top Myths Regarding Higher Education](#)

[These Are the World's Top Universities According to Times Higher Education Rankings](#)

[How Higher Ed Must Support Arab Women](#)

[Moats: As higher education shifts to worker training, is there room for the humanities?](#)

[Is Higher Ed Responsible for Brett Kavanaugh?](#)

[Using productive disruption in higher education](#)

[The Hole In A Key Higher Education Accountability Rule](#)

[Fixing higher education and student debt](#)

[Study Reveals Notable Graduate School Enrollment Trends](#)

[Women earned majority of doctoral degrees in 2017 for 9th straight year and outnumber men in grad school 137 to 100](#)

[Five Tips for Fighting Anxiety In Graduate School](#)

[The shifting paradigm of higher education](#)

[Ed School Symposium Aims to Combat Sexual Violence in Schools](#)

REPORTS AND PRESENTATIONS

[Sexual Harassment of Women, Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine, National Academies](#): In recent years the diversity of those participating in [STEM] fields, particularly the participation of women, has improved and there are significantly more women entering careers and studying science, engineering, and medicine than ever before. However, as women increasingly enter these fields they face biases and barriers and it is not surprising that sexual harassment is one of these barriers.

[Unkept Promises: State Cuts to Higher Education Threaten Access and Equity, Center on Budget and Policy Priorities](#): Overall state funding for public two- and four-year colleges in the school year ending in 2018 was more than \$7 billion below its 2008 level, after adjusting for inflation....In the most difficult years after the recession, colleges responded to significant funding cuts by increasing tuition, reducing faculty, limiting course offerings, and in some cases closing campuses.

[Reducing Primary Deficits Beginning in 2022, CBO](#): CBO provides additional information to Congressman Jodey Arrington regarding the effects of two illustrative scenarios in which the primary deficit is reduced in relation to CBO's extended baseline beginning in 2022.

[National Student Loan Cohort Default Rate Falls, Department of Education](#): The U.S. Department of Education...announced that the Fiscal Year (FY) 2015 national federal student loan cohort default rate ... decreased by 6.1 percent compared to the FY 2014 national rate, from 11.5 percent to 10.8 percent. The FY 2015 CDR represents the lowest national cohort default rate since the three-year rate was first released in 2012.

[An Overview of The 2018 Budget and Economic Outlook, CBO](#): Presentation by John McClelland, CBO's Assistant Director for Tax Analysis, at the International Tax Policy Forum.

[Monthly Budget Review for September 2018, CBO](#): The federal budget deficit was \$782 billion in fiscal year 2018, CBO estimates, \$116 billion more than the shortfall recorded in fiscal year 2017.

[A Fiscal Year Defined by \\$2.4 Trillion In New Debt, CRFB](#): The report from the Committee for a Responsible Federal Budget on projected national debt.

FEEDBACK FOR LEGISLATIVE LETTERS

Our *Letter* is still new, 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.