

THE NATIONAL ASSOCIATION OF  
GRADUATE-PROFESSIONAL STUDENTS

# Legislative Letters

September 10, 2018

## Updates in Higher Education



Image Credit: Kaylynne Glover, "The Capitol"

Hispanic American citizens are being detained on the border, incumbents are facing unexpected challenges, and Kavanaugh's hearing occurred amid a flurry of document-related debates. All while time is ticking on the proposed changes to Department of Education's regulations that protect students from predatory lending and education institutions . Get your updates in our latest edition!

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](mailto: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.

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# Don't forget to register for LAD!

## Will you join us in person? ...Or Online?

That's right! NAGPS is offering several ways to participate in our Fall LAD. Meeting with your Congress Members on the Hill is one of the most effective ways to advocate for graduate and professional education, but we recognize that not everyone can make the trip to DC.

So, we decided to not only encourage students to engage in local advocacy but to offer a way to help these students get the training in advocacy that they need to be truly effective. Therefore, in addition to our standard registration options, we are offering two new packages that allow you to access our training sessions from home: **ON THE HILL Online**, which allows you live-stream (and you can watch these later!) select sessions and access all of our Summit resources ( \$25 per person [Member] and \$50 per person [non-Member]) and **ON THE HILL Limited**, which allows you access to individual sessions (\$10 per session per person). To find out more about these packages and to register, check out our [Eventbrite](#).

Our [LAD agenda](#) is continually updated as we finalize speakers and topics. Be sure to check our most recent updates. We'll have sessions on funding, higher education, immigration, open access, unionization, and a panel of graduate students who now work in policy - all of this on top of providing training sessions on effective advocacy and communication as well as ways to take what you learn back to your home institutions. You'll get to meet Tobin Smith, a specialist on Science Policy from AAU (@SciPolGuy); Sean Gallagher, AAAS Senior Government Relations Officer; Sean Marshall, an attorney for the National Labor Relations Board; and Jon Fansmith and Steven Bloom from the American Council on Education, specialists on funding and immigration, respectively; just to name a few.

We look forward to seeing you **ON THE HILL** - even if it is **Online**.

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## EDUCATION IN THE EXECUTIVE BRANCH

### Department of Education

#### Changes to Higher Education Regulations

On July 25th, the Department of Education (ED) proposed several new changes to its rules governing higher education. Within the proposal includes examining the definition of a “credit hour,” modifying assessment program guidelines, changes to the Borrower Defense Regulations, removing “[gainful employment](#)” restrictions, and easing restrictions for religious institutions.

Several proposed changes continue to be challenged. One of the newest challenges comes from the National Student Legal Defense Network. They [claim](#) that the ED has misrepresented data in its proposal to remove the “gainful employment” regulation and, under the [Information Quality Act](#), is petitioning the ED, which has 60 days to respond.

So far, the only rule change registered in the federal register is the [Institutional Accountability Regulations](#), which would make significant changes to the Borrower Defense Regulations. Twenty-one education associations, including the American Council for Education and the Council of Graduate Colleges, have [released their comments](#), concluding that the removal of this regulation “would make asserting a successful claim functionally impossible,” leaving students vulnerable to predatory institutions. [Hearings](#) are scheduled for the Institutional Accountability Regulations throughout the first half of September, at which point the [comment period](#) closes.

[The New York Times reports](#) that the ED will soon be releasing proposed changes to Title IX regulations that reflect the contentious [Interim rules](#) that were proposed in 2017. Among the proposed changes would be a redefinition of sexual harassment to only apply when it “it denies a person access to the school’s education program or activity” and allowing institutions to choose which legal standard they use in determinations: “preponderance of evidence” or “clear and convincing evidence.” The proposed rules have been sent to the [Office of Management and the Budget](#) for analysis.

#### Staff Nominations and Confirmations

President Trump has announced that he will nominate Robert L. King as the Department of Education’s Assistant Secretary for Postsecondary Education. Currently President of the Kentucky Council on Postsecondary Education, he is also a former Chancellor, President and CEO, District Attorney, State Legislator and Budget Director.

### The White House

The White House official responsible for ensuring students are protected from predatory lending practices [has resigned](#), claiming that the Consumer Financial Protection Bureau has “abandoned the

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very consumers it is tasked by Congress with protecting” in favor of “the most powerful financial companies in America.”

## IMMIGRATION

### Deferred Action for Childhood Arrivals (DACA)

President Trump’s administration ordered an end to the Deferred Action for Childhood Arrivals (DACA) program last year, though several judges have [ruled](#) that it must continue to operate. Most recently, a Texas judge [denied](#) the state’s attempt to end the program, ruling that the suit was filed too late, but expressed their opinion that DACA will eventually be overturned.

### Passport Issuance

American citizens along the U.S.-Mexico border are being denied passports and, in some cases, having them revoked. Claiming that midwives and physicians were issuing fraudulent birth certificates from the 50’s to the 90’s, the State department is, in some cases, detaining citizens in immigration detention centers after trying to re-enter the country.

### Limiting Citizenship for Legal Immigrants

In August, the Trump administration [announced](#) its intentions to 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. As a result, [legal immigrants are dropping](#) from federal aid programs out of fear their families will be denied citizenship. Reports indicate that WIC enrollment in 18 states has dropped nearly 20% since its announcement

## LEGISLATION

### Empowering Students Through Enhanced Financial Counseling Act (H.R. 1635[115])

A [bill](#) out of the House Education and the Workforce Committee passed on the House floor 406 to 4 on September 5th. Previously included as part of [PROSPER \(H.R. 4508 \[115\]\)](#), it would require universities to provide annual financial counseling for students who receive federal aid, as well as exit counseling regarding their loans and repayment options. This expands on the current requirement which mandates only one counseling session when they first take out loans. Oversight of the effectiveness of the counseling would be given to the Institute of Education Sciences, the research branch of the Department of Education. The bill has been given to the Senate HELP Committee to begin their edits.

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## FUNDING

### Federal Budget

In the midst of appropriations, the House has [announced plans](#) to vote on a round of tax cuts that would make the temporary cuts passed in December permanent. However, some members of the GOP - particularly those who are vulnerable in upcoming midterms - are concerned about making some of the December bill permanent, most significantly the [cap on the SALT deduction](#). The House Ways and Means Committee is expected to hold a committee markup session on the text this week.

### Spending Bills

The deadline for appropriations is looming, and while some are still anticipating the need for a continuing resolution (CR) to avoid a government shutdown, this year's set of bills are moving faster than they have in [nearly a decade](#). According to the Committee for a Responsible Federal Budget, this faster-than-usual passage is likely due to allowing themselves a larger pot to distribute instead of bipartisan agreement. The [Defense spending bill](#) seems one of the most likely to pass next, though passing it requires navigating a few logistical problems, as it passed in the Senate as part of the Labor, Education, and Health and Human Services minibus. Even if the chambers do pass their bills on time, [the government may still shut down](#) if President Trump refuses to sign, a threat he's made if he doesn't receive the border wall funding he wants. For up-to-date information on the progress of appropriations bills, see [here](#).

## SOCIAL JUSTICE AND MENTAL HEALTH WATCH

### Mental Health Crisis

Universities continue to face a mental health crisis, with an estimated [25% of college students](#) being diagnosed with a mental illness. In fact, the demand is so high that many college and university counseling centers [are unable to keep up](#). Graduate students [are even more likely](#) to suffer from mental health issues, at a rate nearly six times that of the general population: 39% suffer from moderate-to-severe depression, and 41% suffer from moderate-to-severe anxiety. The numbers are slightly lower for cisgender males, and progressively higher for cis females and transgender and gender-nonconforming students. Factors contributing to the crisis include job market prospects, poor relationships with or lack of support from their mentor/advisor/PI, social isolation, feelings of inadequacy, and a good work-life balance.

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## Department of Justice Campus Sexual Violence Grants

[Fifty-seven higher education institutions](#) have been awarded a total of \$18 million in grant money to aid them in responding to sexual violence crime. Included in the award will be specialized training for university law enforcement, health care providers, and other personnel as well as collaborative engagement with off-campus law enforcement and victim services and with campus athletic and Greek organizations.

## LITIGATION

### Supreme Court Justice Update

Judge Brett Kavanaugh's confirmation hearing began last week [despite Democrats demanding more time](#) to review documents. Not only have relatively few been released, [42,000 were released hours](#) before the hearing began. [Some](#) of these confidential documents [were released](#) to the public, first by Senator Cory Booker (D-N.J.) and then by other Senators, and they reveal that Kavanaugh has, in the past, expressed a lack of support for affirmative action.

Several [education-related issues](#) are likely to appear before the Supreme Court. For example, the use of race in college-admissions has only narrowly been upheld, and this could change if Kavanaugh is confirmed and becomes the [new swing vote on a Court with a five-member conservative majority](#). While he states that he would uphold the precedents regarding affirmative action, [some believe](#) that he would not be able to set aside his own ideology, which has, in the past, supported race-neutral policies. This concern was magnified when [emails were released](#) indicating that he did not believe that Roe v. Wade was, in fact, "settled law" and that the Supreme Court "can always overrule its precedent."

Kavanaugh [can be confirmed](#) without Democrat votes, though it would require all Republicans to support him. Therefore, [some believe](#) that approach by Democrats were primarily an attempt to cause some of the Republicans at risk in midterms to waver in their support of him, especially as [many Democrats](#) have been [unwilling to commit themselves](#) against Kavanaugh for the same reason. However, it [seems likely](#) that Kavanaugh will be confirmed without too much difficulty. For comprehensive coverage of the hearings, see [here](#).

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

The Justice Department [has sided](#) with students [in the lawsuit](#) they have filed against Harvard University, supporting their claim that the University's admissions process disadvantaged Asian-American applicants. This case may end up [appearing before the Supreme Court](#), one with a newly-confirmed Justice who has expressed opinions antithetical to affirmative action in the past.



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## MIDTERM ELECTIONS - 56 DAYS

Democrats continue to lead the polls for the upcoming congressional election. [The Economist](#) gives them a 6-point lead, a [WAPO/ABC poll](#) a 12-point lead, and a [USA Today-Suffolk University poll](#) a 11-point lead. GOP leaders have estimated there are [45 Republican-held seats](#) at risk. Even seats previously thought safe are in question - Sen. Ted Cruz [seems at risk](#) of losing his seat to Democrat Rep. Beto O'Rourke. However, Republican seats aren't the only ones at risk: Sen. Bob Menendez (D-N.J.) [might lose his seat](#) to Republican Bob Hugin.

What would happen if Democrats do take the house? Several predictions have been made: there may be [investigations into President Trump](#), including possible [impeachment proceedings](#); a historic number of women taking [significant leadership positions](#); and - significantly - a revision of the House Rules. The House is notorious for being heavily influenced by the majority party. House Democrats are [reportedly considering changes](#) that would make the House more bipartisan, giving more power to individual lawmakers and, consequently, the minority party. As to who would lead the majority party - that's still unknown, as Nancy Pelosi continues to [face low support](#) in her bid for House party leader.

*All 435 Congressional Districts for the House and 35 of the 100 Senate seats will be 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 [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](#).*

## REPORTS AND PRESENTATIONS

[The State of Free College: Tennessee Promise and New York's Excelsior Scholarship, Institute on Higher Education Policy](#). A report on the free college programs in New York and Tennessee. Findings suggest a lack of appropriate allocation to high-need students and a need for increased equity in distribution.

[Education's Role in Earnings, Employment, and Economic Mobility, Federal Reserve Bank of New York](#). A report exploring the long-term earnings of education.

## 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.