

THE NATIONAL ASSOCIATION OF
GRADUATE-PROFESSIONAL STUDENTS

Legislative Letters

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Updates in Higher Education



Image Credit: Kaylynne Glover, "The Capitol"

Midterms are over! Democrats swept the House, and Republicans gained a bit more control over the Senate. So what does this mean for higher education? We've got a whole section of *Relevant Reads* just to answer this one question. In the meantime, there's plenty to watch out for before the new Congress is sworn in. Most pressingly: The Department of Education just released their proposed rules for Title IX, and victim advocacy groups are in an uproar. What do they include, and why are they upset? Check it out - inside.

Want to take a more active role in NAGPS's legislative affairs? [Apply to be Assistant DOLA!](#) Also, please [review the NAGPS Advocacy Board's response to the State Department](#) regarding visa revalidation.

To view previous editions and to subscribe to our newsletter, check out our [Legislative Letters blog!](#) 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.

THE EXECUTIVE BRANCH

DEPARTMENT OF EDUCATION

Title IX

The [Department of Education \(ED\) is has released](#) the long-anticipated [proposed changes to Title IX](#) (though as of today, they are not open for comment). Arguably the most controversial changes in regulatory procedures since Secretary DeVos was appointed, [they generally increase protections for students accused of assault and reduce university liability](#). Accused persons would have access to all of the evidence compiled against them and be able to cross-examine their accuser, though in separate rooms (this policy had been discouraged under President Obama's administration); accused individuals would undergo a risk assessment before being removed from campus (and they could appeal if they are); colleges would not need to investigate complaints unless they were formally filed (requiring a signature) and happened on campus or during official events; harassment would only be defined as being severe enough to impede a person's education; universities could choose the standard of evidence they wanted to use in determining a case; and information resolutions would be an option. They also [allow religious institutions to violate Title IX without requesting an exemption](#).

Unsurprisingly, victim advocacy groups oppose the rule changes, saying that [the rules impose criminal investigation standards to a civil case](#). [Many of the arguments include the following](#) positions. Cross-examination would be potentially intimidating and retraumatizing for victims (though proponents of this argue that [this might make it easier for victims to argue their case](#)). Victims would remain at risk from the accused while a risk-assessment is conducted. Sexual assault by students in student apartments that aren't owned by the university should be investigated, especially as this means that a victim would have to continue to attend school or live next to their assaulter. Many victims of sexual assault are so traumatized by the event that they have difficulty speaking to a stranger to file a report, and often much easier for them to confide in a trusted adult with the authority to move on the complaint. Students who face harassment shouldn't have to prove that their access to education is being impeded in order for the harassment to stop. Allowing for flexibility in standard of proof might allow a university to use a higher standard of proof in cases that could harm a university's image. It would requires increased evidence of an assault, when assaults are often difficult to prove in the first place. Finally, victims might feel pressured to mediate by their college or by mutual friends of the accused when a more just response should be a formal resolution.

Borrower Defense to Repayment

The Department of Education's (ED) continues to be under fire for their treatment of the Borrower Defense to Repayment program, a program that protects student borrowers from predatory lending and institutions. The program has been criticized by Secretary DeVos, calling it a ["free money" giveaway](#) program, and she appointed a former Dean of a for-profit institution to run the program. Additionally, it has come to light that [there are no full-time ED employees devoted to investigating complaints](#). Unsurprisingly, her administration has only approved 16,000 claims (with over 100,000

left undecided) by the middle of 2018, with about 15,000 of them being granted partial forgiveness. In comparison, in the last two weeks of President Obama's tenure, nearly 15,000 claims were granted complete forgiveness.

Freedom of Information Act

The ED has had 28 lawsuits filed against it in the 2018 fiscal year, making it [one of the top 10 government agencies to be sued for violations of FOIA](#).

THE WHITE HOUSE AND OTHER AGENCIES

Staff Changes

[President Trump has dismissed attorney general Jeff Sessions](#) and replaced him, temporarily, with a loyalist, [Matthew Whitaker](#), who is expected to be [unsupportive of special counsel Robert Mueller's probe](#) into the possible interference of Russia in the 2016 Presidential elections. There has been considerable outrage, with some arguing [authority should have been transferred to the deputy attorney general, Rod J. Rosenstein](#). The [Justice Department is currently supporting Whitaker's assignment](#). However, some believe this may be the [first major investigation action](#) that the new Democrat-controlled House takes at the start of their term, especially as [an attempt to protect to the Mueller probe](#) in the [Senate failed](#).

IMMIGRATION AND INTERNATIONAL STUDENT CONCERNS

Policy Change Impact

The number of [international graduate students coming to the U.S. has dropped for the second year in a row](#) after nearly a decade of continual growth. While the authors of the report claim that the [cause of the decline is due to the U.S. being outcompeted in a global education market](#), as opposed to the administration's immigration policies, U.S. competitors are using U.S. policies in their advertising to deter students from studying in the U.S.

THE LEGISLATIVE BRANCH

LEGISLATION

Appropriations

Now that midterms are over, Congress is expected to move on the remaining appropriations bills. The Trump Administration met with the Senate Republicans to discuss [the border wall and the funding bills](#) and has encouraged the House Republicans to [tie border security funding to natural disaster emergency spending](#) in order to pass the legislation.

Higher Education Act Reauthorization (Aim Higher Act, H.R. 6543)

Now that Democrats have taken the House, the new chairman of the House education committee, [Rep. Bobby Scott \(D-VA\) has said a bipartisan reauthorization of HEA is a top priority](#). While he suggests starting with Aim Higher, proposed by House Democrats this past summer, he expressed the desire to turn it into a bipartisan bill through extensive hearings and input from interested parties. Reauthorization attempts in the Senate have largely been stalled due to Chairman Alexander's (R-TN) insistence on a bipartisan approach, though the pressure to reauthorize HEA continues to mount, especially as [his term as chairman will be up in two years](#).

FEDERAL BUDGET

Economists are expecting the [financial boost that hit the market due to last year's tax cuts to fade out](#). To keep the economy going, the federal reserve continues to increase interest rates until Congress can pass legislation to address the deficit.

MIDTERM ELECTIONS - The Aftermath

Midterms are over, and as predicted, [the House went blue, and the Senate slightly more red](#), though the degree to which conservatives will have control over the senate hangs on a couple more seats. That means Congress is split, and while [some major progress in education legislation has come when the chambers are divided](#), we also might see [higher deficits and even more contentious budget negotiations](#). But many are more interested in the historic levels of diversity elected to Congress, with [more women than ever - 112](#), many of which are also represent [ethnic, racial, sexual orientation, or religious](#) minorities.

Now that the Democrats have control of the House, we can expect to see [increased calls for oversight hearings, subpoenaed documents, and agency reports](#), especially in regards to [ED and Secretary DeVos](#). In fact, the American Federation of Government Employees [has already requested an investigation](#). However, Rep. Elijah Cummings (D-Md.) the upcoming chairman of the House Oversight Committee, stated that he's [not going to be flippantly issuing subpoenas](#). As for legislation, there's talk that Democrats will tackle both [gun legislation](#) and [campaign finance reform](#). Interestingly, even though the chair-elect Rep. Bobby Scott (D-VA) has indicated a desire to move on an HEA reauthorization, there remains [doubt that the Senate will draft their own](#). So that may mean that the [main education-related issues for this next Congress will center on ED oversight](#).

With a change in House control comes other changes. Nearly two-thirds of House Republicans have only served while in the majority, and [some are expecting a lot of retirements as a result](#) - which is unsurprising as there may not be a lot of compromise within the House during the next session as the [GOP conference will be more far-right than it had been in the past](#). But the conference does seem committed to [ousting a member who is indicted for a felony](#), a guideline included in their new proposed rules. Democrats are trying to figure out their leadership, and there's a significant degree of pushback against Leader Nancy Pelosi (D-MD), with [at least 17 Democrats refusing to support her](#). However, many of the women who do support her are [rallying behind her](#), but as of yet, [she lacks the](#)

[votes to become Speaker](#) ([the Senate has already held their leadership elections](#)). Several members are refusing to sign off on any speaker without an accompanying [change in rules that would result in less partisan gridlock](#). Aside from leadership issues, there's also talk of [recreating the House Climate Committee](#) that would possibly push back against the Administration's behaviors in regards to climate science.

But we have until January 3rd until the new Congress gets sworn in, and in the meantime, we'll be working with a lame duck Congress. There are [some big issues to tackle](#), most significant being the remaining appropriations bills, which have just a few weeks to pass before a government shutdown (Dec 7) and that are facing an uphill battle with President Trump threatening to refuse to sign off on them unless he has funding for his border wall. Since conservatives lost power in the House, they may try to push through some of their more controversial items that won't pass in the new Congress. However, [immigration isn't likely to be one of them](#).

THE JUDICIAL BRANCH

LITIGATION

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

The federal judge overseeing the Harvard discrimination case [has approved a schedule moving forward](#), requiring both groups to submit a 75-page-maximum final argument in December, with a written responses due in January and oral arguments in February.

Housing and Economic Rights Advocates v. Elizabeth D. DeVos

Secretary DeVos has a [new lawsuit](#) on her hands, as the [Housing and Economic Rights Advocates \(HERA\) is suing her](#) for failure to comply with a [judge's orders regarding Borrower Defense regulations](#) that came down last month. The ruling required the ED to immediately [cancel loans for eligible student loan borrowers](#) who were earning degrees at for-profit colleges that were shut down due to fraudulent behavior.

IN RELATED NEWS...

RELEVANT READS

Special Midterm Reads:

[Council of Graduate Schools: Midterm Summary](#) and [Congressional Update](#)

[Yesterday's Election and Higher Education](#)

[Gubernatorial Winners and Higher Education](#)

[A Divided Congress Is Unlikely to Compromise on Higher Ed. But What if It Did?](#)

[What the Midterm Elections Mean for Higher Ed](#)

[2018 Midterm Election Results: Outlook for Science Policy](#)

Other Reads:

[Lawsuit Charges USCIS Move Against Foreign Students Is Illegal](#)

[Trump Appoints New National Science Board Members](#)

[CRFB Statement on Joint Select Committee Markup](#)

[Feds want to write transgender students out of Title IX, but colleges should tread carefully](#)

[Redistricting Reform: How Tuesday's Election Changed the Map](#)

[New governors have big plans for higher ed, but funding woes remain](#)

[Higher education is inherently unequal](#)

[Responding to Misconceptions of Being a Graduate Student](#)

[Changing the Culture: University, Faculty and Graduate Student Responsibility to Prioritize Student Mental Health](#)

[America Is No Longer Attracting The Top Minds In Physics](#)

[Panelists: More Work to be Done in Diversifying Graduate Education](#)

[The Real Cause of the Humanities' Woes](#)

[Equity Considerations for Policymakers & Researchers](#)

[Graduate School Should Be Challenging, Not Traumatic](#)

[Buckle Up, Betsy DeVos: House Democrats Take the Helm](#)

[Democratic state gains could spark more scrutiny of student loan industry](#)

REPORTS AND PRESENTATIONS

[Monthly Budget Review: Summary for Fiscal Year 2018, CBO](#): In fiscal year 2018, the budget deficit totaled \$779 billion—\$113 billion more than the shortfall recorded in 2017. Measured as a share of GDP, the deficit increased to 3.8 percent in 2018, up from 3.5 percent in 2017 and 3.2 percent in 2016.

[Transparency at CBO](#): Presentation by Jeffrey Kling, an Associate Director for Economic Analysis at CBO, for the Commonwealth of Pennsylvania’s Independent Fiscal Office. (Canceled due to inclement weather.)

[STEM without fruit: How noncognitive skills improve workforce outcomes, American Enterprise Institute](#): Labor market data and employer feedback suggest that the emphasis on STEM in workforce development is obscuring deeper, widespread challenges to employability relating to noncognitive skills associated with persistence and character, particularly for middle-skill occupations.

[The Benefits of Borrowing, EducationNext](#): Our study provides the first rigorous evidence of the effect of loan offers on both borrowing and academic performance. We find that students whose aid letters offered nonzero loans were more likely to borrow, and those who borrowed did better in school. Students who received nonzero loan offers were 7 percentage points more likely to take out a loan (a 30 percent increase) and borrowed \$280 more than students whose letters offered \$0 in loans.

[Increased Rates of Mental Health Service Utilization by U.S. College Students: 10-Year Population-Level Trends \(2007–2017\), Psychiatry Online](#): This study provides the most comprehensive evidence to date regarding upward trends in mental health service utilization on U.S. campuses over the past 10 years. Increasing prevalence of mental health problems and decreasing stigma help to explain this trend.

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.