

THE NATIONAL ASSOCIATION OF
GRADUATE-PROFESSIONAL STUDENTS

Legislative Letters

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Updates in Higher Education



Image Credit: Kaylynne Glover, "The Capitol"

China's ministry of education has warned students interested in studying in the U.S. about potential difficulties getting visas as many U.S.-Chinese research collaborations have become the focus of intensified scrutiny. The Department of Education (ED) has released data around student loans, and preliminary analysis shows graduate students have outsized debt. At the same time ED hasn't acted on a single loan-forgiveness application in nearly a year and borrowers are turning to the courts. Meanwhile, the White House is sending mixed messages on research funding for FY20, the National Labor Relations Board is looking to establish standards to determine student/employee status, and HHS is proposing narrowing nondiscrimination requirements. But there is good news: the Director of White House Office of Science and Technology Policy has endorsed Open Access, and the House has passed a legislation providing a fix to DACA, which is great. Want details? Keep reading for more.

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THE EXECUTIVE BRANCH

DEPARTMENT OF EDUCATION

Borrower-Defense

As we mentioned in the last issue, the Department of Education hasn't acted on a single loan-forgiveness application in nearly a year. More than 158,000 claims are currently pending review, according to department officials, following which some borrowers who attended defunct for-profits are now [turning to courts to find a resolution](#).

Student Loans

Just last month, the Department of Education [released information about how much debt students are taking on to earn degrees](#) from various academic programs at American colleges and universities. Preliminary analysis of the data reflects on [graduate school as one sector in particular with outside debt](#). The Secretary of Education Betsy DeVos described the release of this data as part of President Trump's executive order to address the student debt crisis as it will allow students to make informed decisions about choosing colleges. At the same time, [many civil rights groups have written to the Consumer Financial Protection Bureau \(CFPB\)](#) urging the CFPB to prioritize enforcing fair lending and anti-discrimination laws in the student loan servicing market. The groups sent a letter this week to CFPB Director Kathy Kraninger asking her to restart efforts the bureau began during the Obama administration to investigate whether loan servicers are discriminating against borrowers based on race, ethnicity, gender or age.

Campus Free Speech

Months after President Trump signed an [executive order formally requiring colleges to agree to promote free inquiry](#) in order to get billions of dollars in federal research funding, [DeVos told a group of young conservatives](#) at Turning Point USA Women's Leadership Summit that it's enforcement is still unclear. She further told the group that speech "is one of the most important and timely issues on campuses across the country today" and that clashes over speech stem "from the system that so many have come through that has not prepared them to enter a world of ideas, where ideas are meant to be debated and meant to be exchanged and meant to be fought for and fought about — but with constructive conversation."

THE WHITE HOUSE AND OTHER AGENCIES

2020 Research Spending

In March, for the third year in a row, [President Trump asked Congress to make massive cuts to the budget of almost every federal research agency](#). That request was part of his broader attempt to shrink spending on civilian programs while increasing support for the military and homeland security. Republican and Democratic legislators alike have reversed those cuts in the past two fiscal years, and in March they vowed to take similar actions for 2020. However, while last year, OMB raised no

objections when legislators proposed giving agencies an increase, which was adopted with broad bipartisan support, it is raising objections this year in multiple letters ([\[1\]](#), [\[2\]](#), [\[3\]](#)) to Chairwoman Nita Lowey of House Appropriations Committee sending mixed messages on research funding. OMB's statements and letters have raised the question of what role, if any, the president's science adviser, Kelvin Droegemeier, is playing in budget policy.

Graduate Student Unionization

Three years after the National Labor Relations Board (NLRB) [ruled against Columbia University](#), the NLRB will now be [engaging in rulemaking](#) to establish the standard for determining whether students who perform services at a private college or university in connection with their studies are "employees" within the meaning of Section 2(3) of the [National Labor Relations Act](#) (29 U.S.C. 153(3)). After Senate confirmations resulted in a 3-2 Republican majority at the NLRB, several unions withdrew their petitions to avoid giving the NLRB an opportunity to review and overturn Columbia University. The NLRB's announcement that it will tackle this issue through rulemaking could result in a change to graduate student rights to organize even if no case makes its way to the NLRB to review Columbia University.

Open Access

In an [interview with Physics Today](#), President's Science Advisor and Director of White House OSTP Kelvin Droegemeier endorsed the idea of Open Access while maintaining reservations around intellectual property falling in the hands of bad actors. He said, "Think about what open access means: I'm giving open access to something I'm producing. If we're saying we have to be vigilant and protect our assets—and by the way, everything is open—inherently there's a conflict there. But there doesn't have to be conflict. We're having conversations and making plans about this—how we balance this important openness of our enterprise, including open access, which is vital to the conduct of research, with the vigilance that's needed to make sure that our hard work is not taken. We do all the hard work, and bad actors reap the benefits. We don't want that."

Research Restrictions

The U.S. Department of Health and Human Services (HHS) has imposed new restrictions on the federal use of fetal tissue obtained from abortions, barring government scientists at NIH from doing such research, and canceling an existing HIV research contract with the University of California, San Francisco. The HHS is also planning new ethics reviews on government-funded research at universities seeking to use fetal tissue. [\[Politico\]](#)

Affordable Care Act

HHS has also released [proposed regulations](#) that, if finalized, will significantly narrow the scope of the nondiscrimination requirements under Section 1557 of the Affordable Care Act (ACA) which prohibits certain health programs from discriminating against individuals on the basis of race, color, national origin, sex, age, or disability, referencing the grounds and enforcement mechanisms in other civil rights statutes. These regulations were initially issued by HHS in 2016 and applied broadly to health care providers and health insurers, and more narrowly to employer-based health plans. If these

entities receive financial assistance from HHS, they need to meet specific standards to prohibit discrimination and set up internal mechanisms to ensure compliance. [\[National Law Review\]](#)

IMMIGRATION AND INTERNATIONAL STUDENT CONCERNS

China's Ministry of Education on Monday [warned students interested in studying in the U.S.](#) about potential difficulties getting visas from the U.S. government citing issues such as the extension of the visa review period, shortening of the validity period and increase in refusal rates. The U.S. last year shortened the duration of visas for Chinese graduate students in certain science, technology, engineering and mathematics (STEM) fields from five years to one year, and reports suggest that many U.S.-Chinese research collaborations have become the focus of intensified scrutiny from the [White House](#), [national security agencies](#), [NATO allies](#), [members of Congress](#), and [scientific funding agencies](#), all of which have raised concerns about the "risk of espionage and intellectual property theft." The State Department did not comment on the statement.

HIGHER EDUCATION AND PRESIDENTIAL CANDIDATES

Democratic presidential candidate Elizabeth Warren is arguing that the proposed income-share arrangements could violate federal law. [Warren, along with Reps. Ayanna Pressley \(D-MA\) and Katie Porter \(D-CA\), said in a letter released Tuesday](#) that they're concerned the terms of income-share agreements "can be predatory and dangerous for students." The lawmakers said the agreements could violate federal consumer protection and anti-discrimination laws because they offer more or less favorable terms based on a student's major, among other factors. Since majors are often tied to gender or race, they said, the agreements could open the door to illegal discrimination. The letter also expressed concerns about the Trump administration's plans to create a pilot program to boost income-share agreements. They asked the department to turn over any legal analyses about its authority to conduct the pilot program and whether income-share agreements comply with Title IX.

THE LEGISLATIVE BRANCH

LEGISLATION

The Budget and Appropriations

As mentioned in the last edition, [Congress has yet to reach a deal on the automatic spending cuts](#) that go into effect this year. June 12 is when the full House will start debating spending bills, holding votes late into the evening. It's unclear when they will take up a roughly \$200 billion bill, [H.R. 2740 \(116\)](#), for the Departments of Health and Human Services, Labor, and Education, which includes about \$76 billion for the Department of Education. The Senate Appropriations Committee has not yet scheduled any markups on any of its bills, but we're still hearing that could happen as early as next week, and could include the Labor-HHS-Education funding bill.

Education Legislation

Leading members of the House Science and Armed Services Committees Rep. Eddie Bernice Johnson (D-TX), Rep. Mikie Sherrill (D-NJ), Rep. James Langevin (D-RI), Rep. Elise M. Stefanik (R-NY), Rep. Frank Lucas (R-OK), and Rep. Anthony Gonzalez (R-OH) introduced legislation to address increased concern over espionage and other forms of foreign interference at U.S. universities. Called the [Securing American Science and Technology Act](#), the bill would create an interagency working group administered by the White House Office of Science and Technology Policy that would develop common definitions and best practices for research protection. It would also direct OSTP to partner with the National Academies to establish a standing forum for stakeholder discussion. Several university associations and scientific societies have endorsed the bill and urged the House to pass it “as soon as possible.” It is reported [supporters of the bill are interested in attaching it to this year’s National Defense Authorization Act](#), a comprehensive defense policy bill that Congress passes annually. The bill immediately got endorsements from [Association of American Universities \(AAU\)](#) and [Association of Public and land Grant Universities \(APLU\)](#).

DACA

The House of Representatives voted 237 to 187 to pass the [American Dream and Promise Act of 2019](#), which provides a pathway to citizenship for certain undocumented immigrants known as Dreamers who were brought to the U.S. as children, as well as to individuals who currently hold temporary protected status or who are subject to deferred enforced departure due to dangerous conditions in their home countries. It is unlikely that the bill will be brought up for discussion in the Senate.

Campus Free Speech

Senate Republicans are pushing a resolution, [S. Res. 233 \(116\)](#), bashing campus free speech zones and "restrictive" speech codes they say contradict the First Amendment. The resolution also calls on Secretary of Education, Betsy DeVos to promote policies that support intellectual curiosity, viewpoint diversity and debate and encourage the attorney general to "defend and protect the First Amendment." The resolution is sponsored by Sen. Marsha Blackburn (R-TN.) and is co-sponsored by Sen. Thom Tillis(R-NC), Sen. James Lankford (R-OK), Sen. John Cornyn (R-TX), Sen. Tom Cotton (R-AR), Sen. Mike Braun (R-IN), Sen. Chuck Grassley (R-IA), Sen. Joni Ernst (R-IA), Sen. Marco Rubio (R-FL), Sen. Josh Hawley (R-MO), Sen. Tim Scott (R-SC, and Sen. Ted Cruz (R-TX). Sen. Marsha Blackburn (R-TN.), the author of the resolution, called it a first step in restoring sanity to free speech for American college students.

HEARINGS

Foreign Threats To Taxpayer Funded Research

The Senate Finance Committee held a full-committee hearing on [“Foreign Threats to Taxpayer – Funded Research: Oversight Opportunities and Policy Solutions”](#), specifically focusing on foreign threats to research funded by the National Institutes of Health, its granting process, and downstream grantees. At the hearing, the Principal Deputy Director of the NIH [articulated support for international collaborations while identifying three areas of concern](#) including failure by some researchers at

NIH-funded institutions to disclose substantial contributions of resources from other organizations, including foreign governments, diversion of proprietary information included in grant applications or produced by NIH- supported biomedical research to other entities, including other countries, and failure by some peer reviewers to keep information in grant applications confidential; including, disclosure to foreign entities or other attempts to influence funding decisions.

THE JUDICIAL BRANCH

LITIGATION

Transgender School Bathroom Policy

The Supreme Court declined on Tuesday to hear a case challenging a Pennsylvania school district's bathroom policy allowing transgender students to use bathrooms of their choice which leaves standing the U.S. 3rd Circuit Court of Appeals unanimous ruling last year that the Pennsylvania school district can continue allowing transgender students to use bathrooms that align with their gender identity. The court later revised its ruling, toning down language that said federal law protects that right. [\[Politico\]](#)

Anonymity in Sexual Assault Lawsuits

In two recent lawsuits — [S.B.'s case against Florida A&M University](#) and [a class-action suit by nine women against Dartmouth College](#) — the schools have demanded that students publicly reveal their identities, which goes against long standing legal practice intended to protect plaintiffs in sensitive disputes. In case of S.B. vs Florida A&M, the university said that allowing S.B. to use her initials makes her appear to be a victim who needs protection, even though that has not been proved in court. In case of the Dartmouth class action, the university has objected to allowing some of the women who are suing it to be identified as Jane Does as some of the six named plaintiffs had sought publicity, granting interviews with news outlets, “[and] it did not make sense for the three other plaintiffs to be identified only as Jane Does.” [\[The New York Times\]](#)

Campus Free Speech

The advocacy group Speech First [filed a lawsuit](#) on Thursday in federal court challenging the University of Illinois at Urbana-Champaign's free speech policies. The university and its officials have "created a series of rules and regulations — along with an elaborate investigative and enforcement regime — designed to restrain, deter, suppress and punish speech concerning political and social issues of public concern," according to the complaint filed in U.S. District Court for the Central District of Illinois. It's the group's third such lawsuit as it targets universities it believes suppress student speech. The group previously sued the [University of Texas at Austin](#) and the [University of Michigan](#), the later of which drew the [backing of the Justice Department](#).

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[Rethinking Campus Mental Health](#)

[Tuition or Dinner? Nearly Half of College Students Surveyed in a New Report Are Going Hungry](#)

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Diversity, Inclusion, and Social Justice

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In Government

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[Democratic presidential candidates are introducing ambitious plans to get more Americans into college without adding to the \\$1 trillion mountain of student debt](#)

[New Jersey Gov Phil Murphy signed A4702 "Hunger-Free Campus Act" into law](#)

News From You

[Anti-union firm paid \\$240K by Pitt during faculty and grad student unionization efforts](#)

REPORTS AND PRESENTATIONS

[The Hidden Cost of College: Addressing Food and Housing Insecurity Among College Students](#) Senator Chris Murphy (D-CT) released a report on collegiate food and housing insecurity. “Food and housing insecurity are major barriers to college completion. This report is an opening for what I hope is going to be a robust conversation in Connecticut and around the country about how we can address both food and housing insecurity” said Murphy. “There are a number of steps we can take to put a little extra money in the pockets of these students so they have enough money to go to class and enough money to buy food. As a member of both the Appropriations and HELP Committees, I’m going to work hard to push for the proposals outlined in this report as we debate a new Higher Education Act.” [\[More\]](#). Previously, [a GAO report released in January on collegiate food insecurity](#) had found that

almost 2 million at-risk students who were potentially eligible for SNAP did not report receiving benefits in 2016.

[The Shape of Global Higher Education: The Americas](#). The report released at the NAFSA: Association of International Educators annual conference this past Wednesday looks at national policies supporting the internationalization of higher education in the Americas. Focusing on national policies in the U.S. and Canada as well as four Latin American countries: Brazil, Chile, Colombia and Mexico, it was released by NAFSA in conjunction with the British Council and builds on a similar report the council released this month focused primarily on national higher education policies in Europe. The researchers scored countries on 37 indicators variously related to their internationalization strategies, their policies on student and academic mobility and research, their policies on transnational higher education, their policies relating to quality assurance and credential evaluation, and funding support for student and faculty mobility. Out of 20 countries compared in the report, the Netherlands has the highest overall score, followed by Germany, Ireland, Australia and Poland. Canada ranks 10th out of 20, and the U.S. 13th.

Want to let us know how we can improve? [Give us feedback!](#)