

THE NATIONAL ASSOCIATION OF
GRADUATE-PROFESSIONAL STUDENTS

Legislative Letters

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Updates in Higher Education



Image Credit: Kaylynne Glover, "The Capitol"

The new Title IX regulations were released at the beginning of May, and opponents of it immediately began outlining their issues with it while supporters championed it as an improvement over the Obama era rules. The Education Department also is asking higher education institutes to detail how they are spending their money from the CARES Act. CARES Act emergency grants have also been denied to DACA students, though Democrats do not believe there is a legal basis. A new task force was created by the House Republican Caucus to investigate China's influence around the globe, and the House Democrats passed a new stimulus package that many do not expect to pass the Senate. Federal lawmakers are asking the Department of Agriculture to release promised money due to HBCUs.

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THE EXECUTIVE BRANCH

DEPARTMENT OF EDUCATION

Title IX Regulations Released

On May 6th, the Department of Education released its [final draft of the new Title IX regulations](#), and schools must be compliant with the rules by August 14th, 2020. The Republicans in the House Committee on Education & Labor quickly released a [statement](#) in support of the changes made, including assuring that the accused also have due process. The new guidelines require that schools hold live hearings, allowing the students' advisers to cross-examine and witnesses or parties involved, and assume the innocence of the accused before the investigation has begun. [Advocates for survivors of sexual assault](#) are most hesitant of the cross-examining guidelines because live questioning could cause retraumatization victims, preventing them from making statements. This could be more problematic, since statements of parties or witnesses not cross-examined may not be considered in the decision making. Of course, within [Congress the response to the new regulations seems to be split down party lines](#), with Republicans believing that the new regulations bring fairness and rights for both the victim and accused, while the Democrats believe that the new rules will silence victims. Higher education groups worry about trying to implement the new rules while their institutions try to recover from the effects of the coronavirus pandemic.

[Other changes include](#): universities are only obligated to investigate reports of sexual assault if it occurs on property officially used by student or institutional organizations; the same standards as a burden of proof for all complaints; includes stalking, domestic and dating violence as sexual harassment, but also more narrowly defines sexual harassment as “any unwelcomed conduct that a reasonable person would find so severe, pervasive and objectively offensive that it denies a person equal educational access;” colleges and universities do not have to handle sexual complaints outside of the US; obligates a Title IX coordinator to take action if multiple informal complaints are made against a single individual, however [this does maintain that coach and other employees must report allegations](#); all individuals involved in the Title IX process in colleges must be trained and the training material available online. Colleges also must be willing to conduct investigations virtually, and keep recordings of the event for at least 7 years; in addition, all evidence related to a party is required to be sent to the advisors 10 days before a response is required and parties are not prohibited from speaking about the event. Colleges must be prompt in responding to allegations, as well.

However, the American Civil Liberties Union and the law firm Stroock & Stroock & Lavan LLP have filed a [lawsuit](#) in the U.S. District Court in Maryland against the Department of Education on May 14th on behalf of 4 sexual survivor advocate organizations. These organization (Know Your IX, Girls for Gender Equity, and Stop Sexual Assault in Schools) believe that the new regulations require a higher standard of proof than other civil right complaints and does not maintain the objectives of Title IX.

Reporting CARES Act Money

The Education Department is also requiring the colleges and universities to [publicly detail how they will spend their CARES Act money](#). They must report the total amount of money received, how many students receive emergency financial grants, how the amount received by students was determined, and the “instructions, directions, or guidance” the college officials provide on their website within 30 days of receiving the money, and update it every 45 days.

IMMIGRATION AND INTERNATIONAL STUDENT CONCERNS

Within the CARES Act stimulus package, a new question has come up of whether the [DACA students are able to receive stimulus package emergency aid](#). Secretary Betsy DeVos believes that DACA students are not allowed to receive funding, since Congress stated only students able to receive federal aid are eligible. However, the Democrats deny that there is anything in the CARES Act preventing the aid from going to the students. There is no mention of the DACA students within the CARES Act at all. Senator Patty Murray [D-WA], the ranking member on the Senate Health, Education, Labor & Pension Committee, and Representative Rosa DeLauro [D-CT-3], the House Education Appropriation Committee’s Chairwoman wrote DeVos and stating that there were no limitations on which students could get emergency aid. Unfortunately, there does not seem to be a correct answer, because Democratic and Republican emails on the subject have disagreed. Without DACA students being implicitly described, neither can truly state that their side is legally correct.

However, this issue may be entering the courts soon, since [community colleges in California are suing DeVos](#). Though originally claiming schools could decide which students receive the money, DeVos then specified that students had to be eligible for the Title IV, which not only eliminated helping DACA students but also students who are enrolled in high school and college, struggling academically, in default on student loans, and/or not enrolled for credit. This would eliminate more than 800,000 of the 1.5 million community college students in California. Therefore, Eloy Ortiz Oakley (the chancellor of California community colleges), the Board of Governors of the California Community Colleges, and five community college districts are asking the court to remove the Title IV restriction.

THE LEGISLATIVE BRANCH

LEGISLATION

China Task Force

Republicans from 7 different House committees wrote to the Department of Education on May 4th, asking for information about universities [underreporting funding from foreign sources](#). They specifically targeted funding from China, and believe it is a national security threat. The Department of Education has so far investigated 9 universities. Congress is also leading a bipartisan investigation, and Senator Tom Carper [D-DE] had been preparing legislation in March. However, since then Representatives Jim Banks [R-IN-] and Mike Gallagher [R-WI-] sent a letter to Francis Collins, the Director of the National Institute of Health (NIH), and implied that the NIH was not doing enough to

prevent foreign influence on research funds. This occurred shortly after the NIH revoked funds from the Wuhan Institution of Virology. The House Republican Caucus has announced the creation of [China Task Force](#) that will investigate “influence operations targeting the U.S., the economic threat to our government and allies, efforts to gain the technological advantage, and China’s role in the origin and spread of COVID-19. Currently, this committee only contains Republicans, but they would like for it to ultimately become bipartisan.

HEROES Act

On May 12th, House Democrats proposed [another stimulus package](#) for the nation ([H.R. 6800](#)), including more money for higher education institutions, specifying emergency aid could be given to undocumented students, and expanded student loan borrower relief. It proposes \$10.5 billion for colleges and universities to help with cost relating to the pandemic, and \$1.7 billion for historically black colleges and universities and minority serving institutions. It would make clear the emergency grants are not subject to income taxes, and that student loans would be interest free until September 30th, 2021. The new bill would also cancel \$10,000 from each borrower’s student debt and all the debt from students defrauded by colleges. While the bill passed on May 15th, there is doubt that this stimulus package would pass the Senate.

HBCU Funding from Department Agriculture

Federal lawmakers from both sides of the aisle are asking the Department of Agriculture to [release delayed federal funding to historically black colleges and universities](#). In December of 2019, \$225 million was approved to 19 members of the 1890 Land-Grant Universities, but the first quarter money has still not been sent to the institutions. This money would be helpful to the universities who are struggling to handle the economic impacts of the coronavirus.

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