Legislative & Regulatory Update

Forum for Excellence in Career and Technical Education

Middle States Association Commission on Elementary and Secondary Schools

March 3, 2020
Speaker Introduction

- Nicholas Kent
  - Senior Vice President of Policy and Research, CECU
- Prior Experience
  - Director of Policy, Planning and Research at Government of District of Columbia Office of the State Superintendent of Education
  - Vice President of Legislative and Regulatory Affairs for system of 53 postsecondary institutions in 17 states, as well as online
  - Professional staff member for accreditation agency recognized by ED
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116th Congress
**Partisan Balance**

### Senate Partisan Balance

<table>
<thead>
<tr>
<th>Party</th>
<th>116th Congress</th>
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<tbody>
<tr>
<td>Democrat</td>
<td>45</td>
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<tr>
<td>Republican</td>
<td>53</td>
</tr>
<tr>
<td>Independent</td>
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<tr>
<td><strong>Total</strong></td>
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### House Partisan Balance

<table>
<thead>
<tr>
<th>Party</th>
<th>116th Congress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democrat</td>
<td>232</td>
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<tr>
<td>Republican</td>
<td>197</td>
</tr>
<tr>
<td>Independent</td>
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<tr>
<td>Vacancies</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>435</strong></td>
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*As of March 3, 2020*
House Hearings in 2019

March 12
“Oversight of For-Profit Colleges: Protecting Students and Taxpayer Dollars from Predatory Practices”
House Appropriations Subcommittee on Labor/HHS/Education

March 13
“The Cost of College: Student Centered Reforms to Bring Higher Education Within Reach”
Full Committee on Education and Labor

April 3
“Strengthening Accountability in Higher Education to Better Serve Students and Taxpayers”
House Education Subcommittee on Higher Education and Workforce Investment

April 10
“Examining the Policies and Priorities of the U.S. Department of Education”
Full Committee on Education and Labor
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Title</th>
<th>Committee/Panel</th>
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</thead>
<tbody>
<tr>
<td>April 24</td>
<td>“Protecting those who Protect Us: Ensuring the Success of our Student Veterans”</td>
<td>Joint Field Hearing of the House Education Subcommittee on Higher Education and the House Committee on Veterans Affairs</td>
</tr>
<tr>
<td>May 9</td>
<td>“The Cost of Non-Completion: Improving Student Outcomes in Higher Education”</td>
<td>House Education Subcommittee on Higher Education and Workforce Investment</td>
</tr>
<tr>
<td>May 22</td>
<td>“Examining For-profit College Oversight and Student Debt”</td>
<td>Committee on Oversight and Reform Subcommittee on Economic and Consumer Policy</td>
</tr>
<tr>
<td>June 19</td>
<td>“Examining Mid-Semester School Closures Impact on Student Veterans Mission Readiness”</td>
<td>House Veterans Affairs Committee</td>
</tr>
<tr>
<td>July 17</td>
<td>“Legislative Hearing on Pending Legislation”</td>
<td>Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity</td>
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### Introduced Legislation in 2019

<table>
<thead>
<tr>
<th>Date</th>
<th>Sponsor</th>
<th>Bill Details</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>(CLASS Act of 2019—Senate Bill S. 608 and House Bill H.R. 1430)</td>
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<tr>
<td></td>
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<td>(JOBS Act of 2019—Senate Bill S. 839 and House Bill H.R. 3497)</td>
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<tr>
<td>March 26</td>
<td>Sen. Margaret Wood Hassan (D-NH)</td>
<td>“Preventing Risky Operations from Threatening the Education and Career Trajectories of Students Act of 2019”</td>
</tr>
<tr>
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<td>(PROTECT Students Act—Senate Bill S. 867 and House Bill H.R. 3512)</td>
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<td>(House Bill H.R. 2833 and Senate Bill S. 720)</td>
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<td>June 5</td>
<td>Rep. Maxine Waters (D-CA)</td>
<td>“The For-Profit Fraud Act”</td>
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<td></td>
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<td>(House Bill H.R. 3112)</td>
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### Introduced Legislation in 2019 Cont’d

<table>
<thead>
<tr>
<th>Date</th>
<th>Sponsor</th>
<th>Bill Title</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 19</td>
<td>Rep. Donna Shalala (D-FL)</td>
<td>“The Defending All Veterans In Education Act”</td>
<td>(DAVIE Act—House Bill H.R. 3369)</td>
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<tr>
<td>June 25</td>
<td>Rep. Mark Takano (D-CA)</td>
<td>“The Protections and Regulation for Our Students Act”</td>
<td>(PRO Students Act—House Bill H.R. 3487)</td>
</tr>
<tr>
<td>Aug. 23</td>
<td>Rep. Mark Takano (D-CA)</td>
<td>“The Student and Taxpayer Protection Act”</td>
<td>(House Bill H.R. 4206)</td>
</tr>
</tbody>
</table>
Introduced Legislation in 2019 Cont’d

“The College Affordability Act”
(House Bill H.R. 4674)

“The Students Not Profits Act of 2019”
(House Bill H.R. 4724)

Nov. 14 - Sponsor: Sen. Thomas Carper (D-DE)
“The Protect Veteran’s Education and Taxpayer Spending Act of 2019”
(Protect VETS Act—Senate Bill S. 2857)

Nov. 21 - Sponsor: Sen. Jeff Merkley (D-OR)
“The Protecting Students from Worthless Degrees Act”
(Senate Bill S. 2925)

Dec. 19 - Sponsor: Sen. Michael Enzi (R-WY)
“90/10 Accountability for All Act”
(Senate Bill S. 3114)
Introduced Legislation in 2020

Feb. 6 - Sponsor: Rep. Lori Trahan (D-MA)  
“Accreditation Reform Act of 2020”  
(House Bill H.R. 5768)
The Higher Education Act is the legal framework of much of America’s higher education system. Purpose is to “strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education.” Reauthorized eight times since its inception in 1965. Last reauthorized in 2008. Only reauthorized twice in the last two decades.
President Trump’s Proposals

• Reorient the accreditation process to focus on student outcomes
• Increase innovation in the education marketplace
• Better align education to the needs of today’s workforce
• Increase institutional accountability
• Accelerate program completion
• Encourage responsible borrowing
• Simplify student aid
• Give prospective students more meaningful and useful information about schools and programs
HEA Reauthorization Stumbling Blocks
Election Year

244 days to 2020 election!
Democrat Proposals
Mini-HEA

- Sen. Alexander (R-TN) introduced the Student Aid Improvement Act of 2019 (S. 2557) on Sept. 26, 2019
- Bill would *narrowly* update the HEA:
  - FAFSA simplification
  - Pell Grants for prisoners
  - Short-term Pell
  - Simplify aid letters (title, terminology, and format)
  - Increases the maximum Pell Grant award
FUTURE Act

• The Fostering Undergraduate Talent by Unlocking Resources for Education Act (H.R. 5363) was signed into law by President Trump on Dec. 19, 2019
• Allows direct data sharing between ED and IRS
  • Helps students and families apply for FSA
  • Helps borrowers using IDR plans
• Simplifies the FAFSA
• Reduces verification burden
• Provides some modest funding to the Pell Grant program
• Provides permanent funding for MSIs
State Actions
Select States Seeking Tighter Rules

- California
- Maine
- Maryland
- New York
- Oregon
- Washington
Proposed State Legislation & Rules

Gainful Employment

90/10 Changes
- Out-of-State Registration
- Incentive Compensation

Nonprofit Conversions
- Student Tuition Recovery Funds
- Instructional Spending
Federal Rules
Gainful Employment Rule
On June 28, 2019, ED released an unofficial NFR for the GE regulations. The official NFR was published in the Federal Register on July 1, 2019. Final regulations are effective on July 1, 2020. Secretary DeVos is allowing early implementation beginning on July 1, 2019 at the discretion of each affected institution. CECU met with Trump administration officials months ago to advocate for this early implementation provision.
GE Rescission

The July 1, 2019 NFR rescinds the 2014 GE regulations and adopts no new ones
Early Implementation

An institution that early implements the rescission of the 2014 GE regulations will **not be required to**:

- Include the disclosure template, or a link thereto, in GE program promotional materials, and directly distribute the disclosure template to prospective students (required starting July 1, 2019)
- Post the GE Disclosure Template (update must be posted by July 1, 2019)
- Report GE Data for the 2018-19 award year to NSLDS (due Oct. 1, 2019)
- Comply with the certification requirements for GE programs
Electronic Announcement #122

• An institution that early implements the rescission of the 2014 GE regulations must document its early implementation internally
  • Not required to publish its documented decision or send documentation to ED unless requested
• Institutions that do not early implement the final rule are expected to comply with the 2014 GE regulations until the rescission becomes effective on July 1, 2020
Early Implementation Template

• On June 30, 2019, CECU published a **GE rescission template** institutions may use to document their early implementation internally.
College Scorecard

• In the NFR, ED also explains best way to improve transparency and inform students is through a market-based accountability system using College Scorecard
  • Preliminary plans for expanding the College Scorecard include adding program-level outcomes data for GE and non-GE programs at all credential levels so students can make more informed decisions
  • Beginning with annual updates but more frequent updates a possibility
Institutional Accountability Rule
(Borrower Defense to Repayment)
Final Institutional Accountability Rule

• ED published the official NFR on Institutional Accountability (Borrower Defense) on September 23, 2019

• Except for certain designated provisions related to financial responsibility, the new BDR-3 regulations are effective on July 1, 2020

• The Secretary is allowing early implementation, at the discretion of each institution, of Section 668.172(d) and Appendix A and Appendix B to Subpart L of Part 668
BDR Three Ways

BDR-1
• Applies to loans first disbursed prior to July 1, 2017

BDR-2
• Applies to loans first disbursed on or after July 1, 2017 and before July 1, 2020

BDR-3
• Applies to loans disbursed on or after July 1, 2020
Scope of BDR-3

The Borrower Defense Framework

- Arbitration Agreements & Class Action Waivers
- Financial Responsibility Triggers
- Composite Score Calculations
- Closed School Discharge
- False Certification Discharge
BDR-3 Resolution of Disapproval

• Congressional Review Act gives Congress the authority to overturn rules promulgated by federal agencies
• Must be passed by both the House and Senate and signed by the President
• House version (H.J.Res.76) passed on Jan. 16, 2020
• Senate version (S.J. Res.56) pending final vote
• White House Statement of Administration Policy indicates the President would likely veto
Accreditation and Innovation
Rulemaking
Rulemaking Objectives

• Protect students and taxpayers
• Reduce and simplify regulations without creating intolerable risk
• Help stop credential inflation and ensure career mobility
• Better engage employers as pivotal players in workforce preparation
• Develop mechanisms to adjust for risk (e.g., expedited approvals)
• Honor institutional mission
## Timeline

### Accreditation and Innovation Rulemaking Chronology

<table>
<thead>
<tr>
<th>Date(s)</th>
<th>Description</th>
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<tbody>
<tr>
<td>5/9/2018</td>
<td>ED publishes Spring 2018 Agency Rule List</td>
</tr>
<tr>
<td>07/31/2018</td>
<td>ED announces intent to establish negotiated rulemaking committee and schedules three public hearings</td>
</tr>
<tr>
<td>09/13/2018</td>
<td>CECU provides public <a href="#">comments</a> to ED in Sturtevant, WI advocating for regulatory changes</td>
</tr>
<tr>
<td>10/15/2018</td>
<td>ED announces committee topics and requests nominations for individual negotiators</td>
</tr>
<tr>
<td>12/19/2018</td>
<td>Secretary DeVos outlines <em>Rethinking Higher Education</em> principles at American Council on Education</td>
</tr>
<tr>
<td>12/26/2018</td>
<td>ED announces location of negotiations and subcommittee meetings</td>
</tr>
<tr>
<td>1/14-16/2019</td>
<td>Accreditation and Innovation Committee meets for Session 1 (1/14 cancelled due to inclement weather)</td>
</tr>
<tr>
<td>1/17-18/2019</td>
<td>Distance Learning &amp; Educational Innovation, TEACH Grants, and Faith-Based Entities Subcommittees meet for Session 1</td>
</tr>
<tr>
<td>2/12-13/2019</td>
<td>Distance Learning &amp; Educational Innovation, TEACH Grants, and Faith-Based Entities Subcommittees meet for Session 2</td>
</tr>
<tr>
<td>2/19-22/2019</td>
<td>Accreditation and Innovation Committee meets for Session 2 (2/20 cancelled due to inclement weather)</td>
</tr>
<tr>
<td>3/11-12/2019</td>
<td>Distance Learning &amp; Educational Innovation, TEACH Grants, and Faith-Based Entities Subcommittees meet for Session 3</td>
</tr>
<tr>
<td>3/25-28/2019</td>
<td>Accreditation and Innovation Committee meets for Session 3</td>
</tr>
<tr>
<td>4/1-3/2019</td>
<td>Accreditation and Innovation Committee meets for Session 4 (added at the request of committee members)</td>
</tr>
<tr>
<td>5/4/2019</td>
<td>ED sends White House Office of Management and Budget draft proposed rule on accreditation and related matters</td>
</tr>
<tr>
<td>11/1/2019</td>
<td>ED publishes <a href="#">final rule</a> on accreditation and state authorization of distance and correspondence education</td>
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</table>
Public Hearing Comments

Regulatory Triad

“Under this checks-and-balances system, each of three important actors should play a distinct role in protecting students and taxpayers… Unfortunately, in recent years, the lines of responsibility between these three actors have become increasingly blurred beyond the notion of shared responsibility… We advocate for a framework where there are discrete roles and responsibilities for each actor of the triad.”

Accreditation

“We cannot sustain the delivery of high-quality, and often highly-capitalized, programs providing the current occupational skills demanded of our career-focused students until we break down the bureaucracy that currently prevents quick review and approval of new cutting-edge programs… We must find ways for accreditors and the Department to provide low-risk institutions approvals more expeditiously.”

State Authorization

“The concept that institutions offering online programs be required for FSA eligibility purposes to obtain authorization from each State in which the institution enrolls students is unnecessarily confusing and a waste of institutional resources better directed toward student learning… We believe reciprocity agreements are just one appropriate mechanism for states to address a simplified and uniform commitment to balancing quality and consumer protection.”

CECU Seeks Regulatory Reform
Bucket List

**Bucket 1 – Final rule published on November 1, 2019**
- Accreditation
- State Authorization of Distance Education and Correspondence Education
- Byrd Scholarship

**Bucket 2 – ED reviewing public comments on proposed rule**
- TEACH Grants
- Eligibility of Faith-Based Entities (Religious Freedom)

**Bucket 3 – Draft proposed rule currently at OMB**
- Distance Education
- Competency-based Education
Parts Affected

- 34 Part 600 – Institutional eligibility under the Higher Education Act of 1965, as amended
- 34 Part 602 – The Secretary’s recognition of accrediting agencies
- 34 Part 603 – Secretary’s recognition procedures for State agencies
- 34 Part 654 – Robert C. Byrd honors scholarship program (Removed)
- 34 Part 668 – Student assistance general provisions
- 34 Part 674 – Federal Perkins loan program
Final Accreditation & State Auth. Rule

Provides accreditors greater autonomy and flexibility to facilitate responsiveness and promote innovation

Revises accreditor recognition criteria to focus on education quality and promote competition

Revises process for ED to recognize and review accreditors

Clarifies core oversight responsibilities by each entity in the regulatory triad

Establishes roles and responsibilities of institutions and accreditors in the teach-out process

Revises State authorization requirements for institutions offering distance education and correspondence courses

Recognizes an institution’s legal authorization when exempt from State authorization based on its religious mission

Removes regulations for the Robert C. Byrd honors scholarship program
Effective Date

• Except for certain designated provisions, the new regulations are effective July 1, 2020.
• The Secretary is allowing early implementation, at the discretion of each institution, or each agency, as appropriate:
  • 600.2 – Definitions
  • 600.9 – State authorization
  • 668.43 – Institutional Information
  • 668.50 – Institutional Disclosures for Distance or Correspondence Programs (Removed)
Title IX Rule
Title IX

• Part of the Education Amendments of 1972
• Secretary DeVos rescinded Obama-era guidance documents and engaged stakeholders
• ED published its proposed rule on Nov. 29, 2019
  • Clarifies and modifies Title IX regulatory requirements
  • Received over 124,000 public comments
• Sen. Murray (D-WA) is a vocal opponent
• Final rule currently at OMB for clearance
CECU Advocacy Efforts
Our Response

The Campaign to Protect Veterans Access
Membership Goal

2,500 members of VCE by November 2020
Over 42 rallies already held!
“The Post 9/11 GI Bill Benefit”
Release of “A Guide for Policy Makers”
Gallup Research

Toward a Better Future: Exploring Outcomes of Attending Career Colleges and Universities
Value of CECU Education in Alumni’s Jobs

On average, CECU alumni are earning about **60% more in personal income** than before they attended a CECU institution. Alumni are also more likely to have a job related to their certificate or degree program than their peers.

### Personal Income Before and After Obtaining CECU Education
(Among Employed Alumni; n=2,243)

<table>
<thead>
<tr>
<th>Annual Personal Income - Before CECU</th>
<th>Median Income</th>
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<tbody>
<tr>
<td></td>
<td>$27,596</td>
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<tr>
<td>22%</td>
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<td>40%</td>
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<td>18%</td>
<td></td>
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<tr>
<td>6%</td>
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<tr>
<td>13%</td>
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</table>

<table>
<thead>
<tr>
<th>Annual Personal Income - After CECU</th>
<th>Median Income</th>
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<tbody>
<tr>
<td></td>
<td>$44,622</td>
</tr>
<tr>
<td>10%</td>
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<tr>
<td>30%</td>
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<tr>
<td>29%</td>
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<tr>
<td>18%</td>
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<td>11%</td>
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</table>

+62% Increase
73% of CECU alumni visited the career services or placement office at least once.

2.7x

CECU alumni who found their career services or placement office very helpful are 2.7x more satisfied with their CECU education than those who did not find the office very helpful.
“I had at least one instructor who made me excited about learning.”

“CECU alumni who had a good instructor were 3.9 times more convinced their education was worth the cost.”
Military Service Members and Veterans

Seven in 10 Military Members and Veterans:

- 71% Satisfied† with their education at CECU
- 76% Say their degree/certificate is related to their work
- 63% Would recommend† their institution to a friend, family member or colleague

†7-10 on 0-10 scale
A three-threshold adjustment for schools with large low-income enrollments:

• 16% repayment rate with most low-income recipients (1/4 of schools)
• 25% repayment rate with 2nd most low-income recipients (1/4 of schools)
• 35% repayment rate for those serving fewest low-income recipients (1/2 of schools)
Impact of three-threshold adjustment on our sector:

- 31 of 523 4-year for-profits would fail
- 30 of 703 2-year for-profits would fail
- 47 of 1,067 less-than-2-year for-profits would fail
- 108 of 2,293 for-profit schools would fail
Impact across all of higher education:

- 5.6% of all public institutions would fail
- 4.7% of all private non-profit institutions would fail
- 4.7% of all private for-profit institutions would fail
Resources

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News
Questions & Answers
Contact Information

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