



**EMERGING ISSUES IN FEDERAL HIGHER EDUCATION LAW:
A BRIEF GUIDE FOR ADMINISTRATORS AND FACULTY**

PULLIAS CENTER FOR HIGHER EDUCATION
UNIVERSITY OF SOUTHERN CALIFORNIA

ABOUT THE PULLIAS CENTER

With a generous bequest from the Pullias Family estate, the Earl and Pauline Pullias Center for Higher Education at the USC Rossier School of Education was established in 2012 (the center was previously known as the Center for Higher Education Policy Analysis). The gift allows one of the world's leading research centers on higher education to continue its tradition of focusing on research, policy, and practice to improve the field.

The mission of the Pullias Center for Higher Education is to bring a multidisciplinary perspective to complex social, political, and economic issues in higher education. Since 1996 the center has engaged in action-oriented research projects regarding successful college outreach programs, financial aid and access for low- to moderate-income students of color, use of technology to supplement college counseling services, effective postsecondary governance, emerging organizational forms such as for-profit institutions, and the retention of doctoral students of color.

AUTHOR NOTE

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Rossier School of Education

UNIVERSITY OF SOUTHERN CALIFORNIA

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INTRODUCTION

The federal government’s role in supporting higher education touches nearly every aspect of the work performed by American colleges and universities. Federal authorities control an immense amount of public resources that are used to strategically exert influence across a complex and differentiated postsecondary system.

This report is intended to introduce faculty and administrators within that system to key domains of federal higher education law. We want to raise awareness about issues that are likely to receive attention under the current presidential administration and the 114th Congress, especially in light of the HEA’s impending reauthorization. In the report, we explain key provisions of the Higher Education Act (HEA) and Title IX and make selected policy recommendations.

The specific issues we address—financial aid, college readiness, for-profit college regulation, and Title IX—were chosen for their relevance to the mission of the Pullias Center for Higher Education, which is established on a commitment to improving college access, affordability, and outcomes for marginalized student populations, including first-generation, low-to-moderate income, and students of color. With these commitments in mind, we believe a few principles must be maintained or strengthened as foundations for federal higher education law:

- **Equal opportunity to learn and equal protection under the law.** Federal law ensures students safe, non-discriminatory environments in which to learn. These are non-negotiable civil rights. Although enforcement of civil rights in education does not directly sit with the U.S. Department of Education (ED), the Department’s stated mission includes “fostering educational excellence and ensuring equal access.”¹
- **Evidence-based policy.** Few topics in postsecondary education research have a stronger base of evidence than college financial aid policy, the high school to college transition, and college access and equity. Reauthorization of the HEA and executive actions, which represent the federal presence in higher education, should never allow political ideology to be their guide. Instead, policymakers should rely on the best available evidence to ensure effective formulation and to deliver satisfactory returns on the public’s investment.
- **Consumer protection.** Although students’ role as learners is perhaps its most defining, they are also consumers—of a service, education, and of loans that help them afford that service. Regulation of higher education institutions and lenders should protect students as consumers, recognizing its connection to equal opportunity in light of historical tendencies for profit-seeking lenders and institutions to prey on society’s most disadvantaged.

¹ <https://www.ed.gov/>

TABLE 1: Summary of Higher Education Act Public Law 110-315 August 14, 2008

<p>TITLE I General Provisions</p>	<p>Institutional Eligibility Protection of Student Speech and Rights Accreditation Improved Information for the Federal Student Financial Aid Website National Advisory Committee on Institutional Quality & Integrity</p>				
<p>TITLE II Teacher Quality Enhancement</p>	<p>Teacher Quality Partnership Grants (Part A) Enhancing Teacher Education (Part B) General Provisions (Part C)</p>				
<p>TITLE III Institutional Aid</p>	<p>Strengthening Institutions Endowment Challenge Grants Historically Black Colleges and Universities (HBCU) Capital Financing Minority Science and Engineering Improvement Program Strengthening HBCUs and Other Minority-serving Institution Programs General Provisions</p>				
<p>TITLE IV Student Assistance</p>	<table border="0"> <tr> <td data-bbox="513 768 941 1066"> <p>Federal Grants Pell Grant Program TRIO Programs GEAR-UP Program FSEOG Program LEAP/GAP Grants TEACH Grant Program Robert C. Byrd Honors Scholarship ACG/National SMART Grant Programs Academic Achievement Incentive Scholarships Programs for Students of Migrant/ Seasonal Farm-work Families</p> </td> <td data-bbox="948 768 1440 940"> <p>Federal Family & Student Education Loan Programs PLUS loans Direct Loan Program Perkins Loan Program Unsubsidized Stafford Amounts, Eligibility, Disbursements, Forgiveness, Repayment</p> </td> </tr> <tr> <td colspan="2" data-bbox="948 949 1440 987"> <p>Work-Study Programs</p> </td> </tr> </table>	<p>Federal Grants Pell Grant Program TRIO Programs GEAR-UP Program FSEOG Program LEAP/GAP Grants TEACH Grant Program Robert C. Byrd Honors Scholarship ACG/National SMART Grant Programs Academic Achievement Incentive Scholarships Programs for Students of Migrant/ Seasonal Farm-work Families</p>	<p>Federal Family & Student Education Loan Programs PLUS loans Direct Loan Program Perkins Loan Program Unsubsidized Stafford Amounts, Eligibility, Disbursements, Forgiveness, Repayment</p>	<p>Work-Study Programs</p>	
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<p>Work-Study Programs</p>					
<p>TITLE V Developing Institutions</p>	<p>Authorized activities, applications, appropriations</p>				
<p>TITLE VI International Education Programs</p>	<p>Graduate & Undergraduate Language and Area Centers Undergraduate International Education and Foreign Language Studies Business and International Education Programs Institute for International Public Policy</p>				
<p>TITLE VII Graduate and Postsecondary Improvement Programs</p>	<p>Jacob K. Javits Fellowship Program Graduate Assistance in Areas of National Need Thurgood Marshall Legal Educational Opportunity Program Master's Degree Programs at HBCUs and Predominantly Black Institutions Fund for the Improvement of Postsecondary Education (FIPSE) Programs to Provide Students with Disabilities with a Quality Higher Education</p>				
<p>TITLE VIII Additional Programs</p>	<p>Additional programs</p>				
<p>TITLE IX Amendments to Other Laws</p>	<p>Education of the Deaf Act (EDA) United States Institute of Peace Act The Higher Education Amendments of 1998 and 1992 Tribal College & Universities; Navajo Higher Education Omnibus Crime Control and Safe Streets Act of 1968 Institutional Loan Repayment Assistance Programs Minority Serving Institutions Digital & Wireless Program</p>				
<p>TITLE X Private Student Loan Improvement</p>	<p>Regulation and effective dates</p>				
<p>TITLE XI Studies and Reports</p>	<p>Various studies</p>				

<https://ed.gov/policy/highered/leg/hea08/index.html>

CRITICAL ISSUES COVERED BY THE HEA

FINANCIAL AID

The reauthorization of the Higher Education Act has significant implications for students who rely on financial aid for college. In 2011-2012, more than 31.4 million students applied for federal student aid through the Free Application for Federal Student Aid (FAFSA).² While this completion number appears to be quite high, in 2014, an estimated 1.4 million students started, but did not complete, the FAFSA; more than 700,000 of those students would have been eligible for Pell grants, which are summarized below.

To maximize the number of students who apply for federal aid by annual deadlines, and thus improve access to financial aid opportunities, the complicated FAFSA should be simplified. One promising tool utilizes tax data to automatically determine a student's eligibility for federal grants, workstudy, and loans.³

Grants. The Pell grant currently provides free student aid for students who have established need based on the completion of the FAFSA. The Pell grant was established in 1972, in part as a result of student activism, and it led to federal legislation that provides need-based student aid, thereby extending college access to low and middle income students. The Pell grant initially covered most of tuition costs nationally; however, the grant has not kept up with rising rates of college tuition. In 2015-2016, the average Pell Grant was \$5,775 whereas the average cost of attendance at a public 4 year college for an in-state student living on campus was \$24,061.⁴ It is nevertheless considered a cornerstone of college affordability for many. In addition to the Pell Grant, other, smaller grants reward and encourage participation in certain areas of study. For example, in the 2013-14 academic year, the Federal Supplemental Educational Opportunity Grant (FSEOG) was awarded to 1.9 million low-income students with exceptionally high test scores.⁵

Several Pell reforms were considered in the last Congress and may be reintroduced or discussed in relation to the HEA's reauthorization. These include indexing the Pell Grant to the inflation rate, summer Pell eligibility, a Pell program for prisoners seeking postsecondary education, aligning Pell with the cost of tuition, and shifting Pell appropriations fully to mandatory spending in the budget. Grant aid programs like the Pell Grant and SEOG grant should continue to be supported with an eye towards expansion. While it is not reasonable to expect that the Pell Grant would cover all of tuition costs again, program expansion could enable these grants to reach more students. For example, reinstating Pell eligibility for prisoners could help reduce recidivism by facilitating reentry into the workforce. Summer Pell grants would enable students to obtain funds for summer coursework, reducing time to degree. Finally, to ensure the Pell Grant's sustainability as a priority in education policy, funding should be made a fully mandatory budget line, rather than its current reliance on discretionary funds.

Workstudy. Federal workstudy program allocations are not as large as grants or loans, but they are funded at nearly one billion dollars and have had an important impact on college going and college completion for 694,000 students.⁶ The workstudy program allows students to take on part time jobs at their college or a non-profit to help support the cost of college. The student is supported by receiving a paycheck for one's

2 <https://www.nasfaa.org/>

3 Dynarski & Wiederspan, 2016. http://www.edpolicy.umich.edu/files/01-2012_student-aid-simplification.pdf

4 http://www.pellinstitute.org/downloads/publications-Indicators_of_Higher_Education_Equity_in_the_US_2016_Historical_Trend_Report.pdf

5 https://www.nasfaa.org/uploads/documents/2015_national_profile_2.pdf

6 <http://www.nber.org/papers/w20329>; <https://www2.ed.gov/about/overview/budget/budget17/justifications/o-sfa.pdf>

work, and the employer benefits because the government provides funding to supplement 75% of the student's pay. The employer is only required to pay 25% of the cost from their budgets.

Funding to support the workstudy program has decreased in recent years, but its value is still evident, especially for students with no prior work experience. Workstudy positions are also highly favorable because they are more likely to be relevant to develop job skills and tend to be generous around work scheduling during course finals, or other times of heavy academic coursework. The federal work study program signals a shared responsibility between the federal government, the employer, and the student. The program should be expanded to develop better access to relevant work experience for college students.

Student loans. In 2013-2014, more than 8 million students utilized loans for postsecondary education, including undergraduate and doctoral students. Options for student borrowing are complex, but interest rates, borrowing caps, and other loan basics are defined within the text of the HEA. In 2013, President Obama signed a law that updated student interest rates, and Democrats have introduced plans that would lower interest rates on loans and allow for refinancing college debt.

The HEA also specifies loan repayment options. Since an estimated 44.2 million Americans have had loans representing over 1.3 trillion dollars in debt,⁷ HEA has implications not only for enrolled students but those who have entered repayment as well. There are six different options for repayment, ranging from full repayment to income based payment and choices for consolidation.

To protect students and their families, student loans should continue to be provided solely by the federal government under the Direct Loan program established by President Obama through the Health Care and Education Reconciliation Act of 2010. Institutions should expand their efforts providing financial literacy training related to student aid, both during and after college.

TABLE 2, on the next page, describes the loans established through HEA, according to the federal student aid webpage.⁸

⁷ <https://studentloanhero.com/student-loan-debt-statistics/>

⁸ Information in table drawn from <https://studentaid.ed.gov/sa/sites/default/files/federal-loan-programs.pdf>

TABLE 2: Federal Loan Programs

Federal Loan Program	Direct Subsidized Loan	Direct Unsubsidized Loan	Direct PLUS Loan	Federal Perkins Loan
Who is eligible?	Undergraduate students	All students ^A	Parents paying for dependent undergraduate student's education Graduate and professional degree students	All students ^A
Is financial need required?	✓	✗	✗	✓ ^B
How much is the interest?	3.76% ^C You're not usually charged interest on the loan during certain periods.	Undergraduates: 3.76% ^C Graduate and professional degree students: 5.31% ^C	6.31% ^C	5%
Who is the lender?	The U.S. Department of Education	The U.S. Department of Education	The U.S. Department of Education	Your school
Maximum Annual Award (subject to change)	\$5,500 depending on grade level and dependency status ^D	\$20,500 (less any subsidized amounts received for same period) depending on grade level and dependency status ^D	Maximum amount is cost of attendance minus any other financial aid student receives	Undergraduates: \$5,500 Graduate and professional degree students: \$8,000 Total lifetime limit may not exceed \$27,500 for undergraduates and \$60,000 for graduate students (including amounts borrowed as an undergraduate)

A All students include undergraduate, graduate, and professional degree students.

B Eligibility depends on your financial need and availability of funds at your school; contact your school's financial aid office about eligibility.

C For loans first disbursed on or after July 1, 2016, and before July 1, 2017.

D For total lifetime limit, go to StudentAid.gov/sub-unsub

COLLEGE OPPORTUNITY AND READINESS

The HEA has provided the basis for a variety of policies and programs to encourage postsecondary opportunity and readiness. The 1965 HEA brought together Upward Bound and the newly created Talent Search under Title IV. Along with Student Support Services, which was adopted through subsequent amendments to the HEA, these three initiatives came to be known as TRIO programs. TRIO programs aim to prepare low-income and underrepresented students for access to and success in higher education by providing academic and other support services.

Over the years, the number of TRIO programs has grown to include Educational Opportunity Centers, Ronald E. McNair Postbaccalaureate Achievement, Upward Bound Math-Science and Veterans Upward Bound.⁹ Though not part of TRIO, the 1998 HEA reauthorization created the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), which works with low-income students no later than the 7th grade to provide academic supports and follow the progress of entire cohorts through high school.

Each of these programs operates through competitive grants to secondary schools, colleges and universities, and non-profit organizations, seeking to address a fundamental barrier to college access and success: inadequate access to rigorous academic preparation.¹⁰ Although there is a wealth of research on the college transition generally, more research is needed to understand how high school experiences and specific TRIO program elements prepare students to successfully make that transition. TRIO program outreach begins in high school or later, but interventions starting in the 8th grade or earlier are often needed to define college aspirations in time for them to enroll in the high school curriculum required to make that transition. To this end, GEAR UP is a critical component of the HEA's efforts to improve college readiness for all students.¹¹

As the importance of post-baccalaureate education to labor market opportunities grows, programs that support historically underrepresented students' transition into graduate work, such as McNair, also merit continued support. Recent reauthorizations of the HEA have also included provisions to fund additional post-baccalaureate programs, including master's degrees in Historically Black Colleges and Universities and Predominantly Black Institutions.

Campaign promises to deliver tax cuts and enhance infrastructure call into question the future of a \$60 million increase in TRIO program funds that was approved in 2016. In the spending bill that determines TRIO appropriations (expected April 2017), we hope to see Congress uphold its promise of these funds.

9 An eighth program, Training Program for Federal TRIO Programs Staff, focused on staff capacity and professional development, rounds out the TRIO suite.

10 Perna & Jones, 2013

11 Perna & Swail, 2002

TRIO PROGRAMS

Upward Bound

Upward Bound programs collectively serve low-income participants who are likely to be the first in their family to earn a bachelor's degree, targeting 9th graders, 10th graders and veterans with academic preparation for college enrollment. Upward Bound and the Upward Bound Math and Science participants receive academic support in English, math, science and foreign language, while Veterans Upward Bound participants typically access academic advising, college survival skills, and career and financial counseling. The goal of the programs is to increase the rate at which participants enroll in and graduate from postsecondary institutions, specifically with the focus in math and science for UBMS participants.

Educational Opportunity Centers

The Educational Opportunity Centers program targets adults at least 19 years old who are low-income and would be the first in their family to earn a bachelor's degree, providing assistance with college and financial aid applications. The program offers financial aid counseling and assistance in the application process. The goal of the program is to increase the rate at which adult participants enroll in postsecondary institutions.

Ronald E. McNair Postbaccalaureate Achievement

McNair funds 4-year colleges through grant competition to create programs that support low-income students who would be the first in their family to earn a bachelor's degree and/or are underrepresented in doctoral education to complete a bachelor's degree and continue on to earn a doctoral degree. Activities include academic support, mentoring, assistance with graduate school and financial aid applications, test preparation, graduate school visits, access to research activities and workshops. The goal of the program is to increase the rate at which students from underrepresented backgrounds attain Ph.D. degrees.

Student Support Services

Student Support Services fund college and university programs that support students who are low-income, first generation or have disabilities through a grant competition. The program provides services such as tutoring, academic advising, transfer, financial aid, graduate school and career counseling to aid persistence, good academic standing and graduation. The goal is to increase the participants' college retention and graduation rates.

Talent Search

Talent Search programs identify and assist participants from disadvantaged backgrounds who have potential to succeed in college by providing academic, financial and career counseling. The goal of the program is to increase the rate at which participants complete high school and enroll in and graduate from postsecondary institutions.

The following table breaks down the current scope of TRIO programs, including their populations served, the main activities for improving college readiness and success, and program outcome measures.^E

TABLE 3: U.S. Department of Education TRIO Programs

TRIO Program	Grants Awarded in 2016	Participants Served in 2016	Program Outcomes (most recent year data were available)
Upward Bound	810	61,747 ^F	85% college enrollment among 2012 high school graduates
Upward Bound Math-Science	162	10,176	87.4% college enrollment among 2012 high school graduates
Veterans Upward Bound	49	6,587	51% of high school graduates (& equivalent) enrolled in college as of 2001
Educational Opportunity Centers	165	225,678	57.6% of college ready participants were enrolled in college in 2014
Ronald E. McNair Postbaccalaureate Achievement	151	4,338	69% graduate school enrollment within 3 years of 2012 college graduation 83% of 2013 first time graduate students were still enrolled by 2014
Student Support Services	1,071	203,290	87.9% persistence for full time freshman in 2014 50.7% BA completion within 6 years in 2014 39.2% associate's degree completion and/or transfer within 3 years in 2014
Talent Search	481	318,723	79.7% of college ready participants enrolled in college in 2014 84.5 % of high school seniors filed financial aid applications in 2014

^E Information in Table 3 drawn from <https://www2.ed.gov/about/offices/list/ope/trio/index.html?exp=4>

^F Pending verification

FOR-PROFIT COLLEGE REGULATION

An emerging domain of accountability for colleges and universities pertains specifically to for-profit colleges, which have been around for nearly 200 years and have taken many different forms.¹² The sector experienced significant growth after gaining access to financial aid programs administered under Title IV of the HEA, such as the Pell grant and federal student loan programs. Some of the largest institutions in the country are now for-profit colleges (e.g., University of Phoenix).

After the 1980s, which were marked with numerous scandals about fraudulent and exploitative behavior in the for-profit sector, the 1992 reauthorization of the HEA included specific regulations on proprietary colleges.¹³ These regulations are intended to keep profiteering institutions, like those revealed in the 1980s, out of the market by requiring for-profit colleges to meet specific educational and financial standards, thus guiding these institutions towards better serving their students. The gainful employment and 90/10 rules will likely be the primary focus of upcoming debates surrounding the reauthorization.

90/10 Rule

The 90/10 rule requires that no more than 90 percent of a proprietary school's revenue can come from financial aid programs administered under Title IV of the HEA. This level was 85 percent when the rule was initially passed in 1992, but changed to 90 percent during the 1998 reauthorization. Its logic is that if an institution's degree is worth the investment, students will be willing to pay at least a portion of tuition.

However, an important loophole that is often debated surrounds the source of funding for the remaining 10 percent. The rule only regulates Title IV funds, so a for-profit college is able to receive the other 10 percent of its funding from other governmental sources including financial aid programs administered under the GI Bill. This ability to use funding from Veterans Affairs student aid programs is known as the "VA loophole." Closing this loophole would help ensure the sentiment of the rule is intact. It would also provide safeguards that block for-profit colleges from using our nation's veterans to remain in compliance.

Gainful Employment Rule

The gainful employment rule requires that for-profit colleges provide an education to students that results in gainful employment, as defined by students' debt-to-earnings ratios. If graduates of a program have annual loan payments greater than 30 percent of discretionary income and 12 percent of total income, the program fails. If graduates have annual loan payments between 20 and 30 percent of discretionary income or between 8 and 12 percent of total income, the program is in the warning zone. If a program fails in two of three consecutive years, or is in the warning zone for four consecutive years, it becomes ineligible for Title IV funds.

The regulation applies to all programs at for-profit colleges and less than two-year certificate programs at nonprofit colleges. Additionally, like all postsecondary institutions, for-profit colleges must maintain accreditation in order to preserve access to Title IV funds. In the spirit of consumer protection, the gainful

¹² Angulo, 2016

¹³ Beaver, 2012

employment rule should remain part of the suite of regulations that guide for-profit institutions towards providing a valuable education over increasing profit margins at students' expenses. Ensuring students who attend for-profit colleges are prepared for employment without being saddled with alarming levels of debt protects both the students and taxpayers who fund Title IV student aid programs.

CIVIL RIGHTS UNDER TITLE IX

Title IX of the Education Amendments, passed in 1972, prohibits sex discrimination in all federally funded educational institutions, from preschools through graduate schools. It is a civil rights statute enforced through the Office of Civil Rights¹⁴, and institutions found in violation of any area covered under Title IX risk loss of their federal funding. In this section, we summarize current policy surrounding Title IX with respect to the domains where it has most frequently been mobilized in higher education—athletics and sexual harassment, including sexual violence. We also address Title IX's relevance for transgender students, whose rights on the basis of gender identity are covered.

ATHLETICS

Title IX has proven to be one of the country's strongest policy tools for gender equity in athletics, and covers participation in and scholarships for athletics, as well as eleven other benefits associated with college student athletic participation (including, but not limited to, coaching and tutoring, equipment and facilities, and publicity). Compliance on the participation provision includes creation of equal opportunities to play, which can be demonstrated in at least one of three ways: (a) opportunities proportional to the enrollment rates of women and men, (b) evidence of institutional effort to expand opportunities for the group that is underrepresented, and/or (c) accommodations of the underrepresented group's interest in athletic participation. Scholarship provision compliance is straightforward: student-athletes of all genders must be awarded scholarship amounts that are proportional to their participation in the sport. Student-athletes must also receive equal treatment with respect to the additional benefits that come with athletic participation.

Under the Javits Amendment to Title IX, institutions are not necessarily required to spend the same amount of money on these benefits for men and women. Another relevant policy development was the 1994 Equity in Athletics Act, which Congress passed to assess institutional compliance with Title IX. It requires postsecondary institutions to give a report of their athletic participation rates, budgets, and expenditures (including for scholarships), disaggregated by gender.

SEXUAL HARASSMENT AND VIOLENCE

In the last twenty-five years, the focus of Title IX complaints has shifted from athletics to sexual harassment, including sexual violence. This is perhaps not surprising considering that about 20% of women and 6% of men become victims of sexual assault during their college years.¹⁵ In 1990, Congress passed the Clery Act, which requires campuses receiving federal financial aid to disclose matters of campus safety and to handle incidents of sexual harassment and violence in specific ways.

14 The Office of Civil Rights also enforces several other civil rights statutes with bearing on colleges and universities (e.g., Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act)

15 Krebs et al., 2007

More recently, to provide guidance to educational institutions about the details of compliance with Title IX, the U.S. Department of Education issued in 2011 what's become known as the "Dear Colleague Letter" (DCL). This letter made clear that colleges and universities must themselves work to prevent and combat sexual assault, in addition to responding to incidents when they occur and are reported.

Compliance with Title IX requires that institutions have documented procedures for handling complaints of sexual violence, sexual harassment, and hostile environments when they arise, as well as a Title IX Coordinator to manage those complaints. Colleges and universities must promptly conduct their own investigations into complaints, not waiting for the conclusion of criminal investigations or proceedings, and they should provide the decision in writing within one semester's time to both the victim and accused. Either person may appeal this initial decision.

Institutions are also obligated to create environments in which victims and survivors can safely continue their education, and to change some activities, classes, or make other accommodations to prevent a hostile learning environment. Victims should not be charged for any such accommodations. Finally, it bears mentioning that the Office of Civil Rights explicitly prohibits retaliation against individuals who bring Title IX complaints—regardless of whether the complaint is ultimately ruled a civil rights violation.

TRANSGENDER STUDENTS

Following a series of lawsuits filed by transgender students against schools and colleges, the U.S. Department of Education issued guidelines in 2016 to clarify that Title IX's prohibition on sex discrimination also protects the rights of students on the basis of gender identity. President Obama instructed school administrators that anti-transgender policies would violate Title IX, including those that limit transgender students' option to use the bathroom of their gender identity. His guidelines received support from U.S. Secretary of Education John B. King Jr., Attorney General Loretta E. Lynch and head of the Justice Department's Civil Rights Division, Vanita Gupta. This letter explains:

"A school's Title IX obligation to ensure nondiscrimination on the basis of sex requires schools to provide transgender students equal access to educational programs and activities even in circumstances in which other students, parents, or community members raise objections or concerns. As is consistently recognized in civil rights cases, the desire to accommodate others' discomfort cannot justify a policy that singles out and disadvantages a particular class of students."¹⁶

Education Secretary Betsy DeVos and Attorney General Jeff Sessions indicated on February 22, 2017 that they would "rescind this guidance" to administrators. Although the Department of Education is not responsible for Title IX enforcement, that decision represents an abrogation of ED's stated mission of fostering educational excellence and equal access—not to mention their obligation to equal opportunity. The Department of Education should demonstrate their commitments to (a) the dignity and rights of all students and to (b) the eradication of sexual violence on college campuses by upholding recommendations to institutions regarding both transgender students' rights and sexual harassment and violence.

16 <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>

GOING FORWARD

REAUTHORIZATION OF THE HEA

Since its first iteration, the laws and programs that make up the HEA have undergone adjustment and re-approval nine times. Congressional reauthorization is supposed to occur every five years, but the process can be sluggish because key programs are extended by default and temporary measures can be used to offset the immediate consequences that a delay might otherwise incur. The most recent authorization of the law expired in 2015 and is unlikely to be taken up comprehensively by Congress until at least Summer 2017, which means considerable time will have elapsed since the last round of adjustments. This bill's reauthorization is an important legislative event, because although states retain significant power over education, the HEA has profound implications for low and middle-income students' access to financial aid and college preparation, as well as expected returns on their educational investment.

CONCLUSION

As a gateway to advancement in society, access to higher education must be open to all persons regardless of socioeconomic status, gender identity, race, and ethnicity. Equitable access means ensuring every high school student has access to a curriculum that will prepare them for success in college—and eventually graduate school and the labor market. It means we must keep college affordable, provide means of acquiring the funds that a college investment requires, and monitor the ethics of loan repayment. Under Title IX, access to higher education also demands access to learning environments in which all students can thrive—free from discrimination, harassment, and threat of violence. These are matters of civil rights in American schools and colleges, and must not become partisan issues.

We believe that even in a politically polarized era, that there would be ample support—among Republicans and Democrats alike—for the measures described in this report. Ongoing bipartisan support for TRIO and recent student loan reform are meaningful examples of collaborative improvements to past HEA reauthorizations that we hope will inspire legislative efforts going forward.

ADDITIONAL RESOURCES

Financial Aid

Information about Pell grants and other forms of grant aid:

<https://studentaid.ed.gov/sa/types/grants-scholarships/pell>

Information about workstudy can be found here:

<https://studentaid.ed.gov/sa/types/work-study>

Information about loans can be found here:

<https://studentaid.ed.gov/sa/types/loans>

More information about student borrowing and repayment can be found here:

<https://studentaid.ed.gov/sa/sites/default/files/responsible-borrower.pdf>

More information about options for loan repayment are noted here:

<https://studentaid.ed.gov/sa/sites/default/files/income-driven-repayment.pdf>

FAFSA simplification:

<http://www.edpolicy.umich.edu/files/brief-1-revisiting-fafsa.pdf>

College Opportunity & Readiness

A map depicting the location of all TRIO programs is located here:

<https://ope.ed.gov/programs/maped/storymaps/trio/>

Council for Opportunity in Education:

<http://www.coenet.org>

Title IX

The role of Title IX in college athletics:

<http://www.ncaa.org/about/resources/inclusion/women-gender-equity-and-title-ix>

U.S. Department of Education Dear Colleague Letter on Sexual Harassment/Violence:

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

U.S. Department of Education Guidelines on Transgender Students:

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>

Know your IX:

<http://knowyourix.org>

Access & Equity

Institute for Higher Education Policy:

<http://www.ihep.org/>

The Young Invincibles:

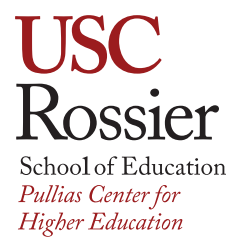
<http://younginvincibles.org>

National College Access Network:

<http://www.collegeaccess.org>

The Institute for College Access and Success:

<http://ticas.org/>



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