



National Association for College Admission Counseling

Guiding the way to higher education

The Higher Education and Opportunity Act

The Higher Education and Opportunity Act (HR 4137) was signed into law on August 14, 2008 (PL 110-315). Along with the *College Cost Reduction and Reconciliation Act* (PL 110-84), and the *Ensuring Continued Access to Student Loans Act* (PL 110-227), this bill reauthorizes all federal higher education programs until 2014.

College Costs. The bill establishes a “maintenance of effort” (MOE) requirement, wherein state appropriations for public colleges and universities must not be less than the average amount appropriated for the previous five years. States that fail to meet MOE will have their College Access Challenge Grant funds withheld until the state has made efforts to meet the requirement. The Secretary has discretion to grant waivers to states facing “exceptional or uncontrollable circumstances.” Additionally, the bill requires the Secretary to publish six annual “Higher Education Price Increase Watch Lists”:

- the top five percent of institutions with the highest tuition and fees;
- the top five percent of institutions with the highest net price;
- the top five percent of institutions with the largest percentage increase over the last three years;
- the largest net increase over the last three years
- the top ten percent of institutions with the lowest tuition and fees; and
- the top ten percent of institutions with the lowest net price.

The watch lists will be published on the Department of Education’s College Navigator website, will be searchable and sortable by state, and will be compiled based on the following categories of institutions of higher education: four-year public; four-year private, non-profit; four-year private, for-profit; two-year public; two-year private, non-profit; two-year private, for-profit; less than two year public; less than two year private, non-profit; less than two year private, for-profit.

Need-based Student Aid. This bill reauthorizes all federal student aid programs, including NACAC priority programs like the Pell Grant and other need-based programs.

Pell Grant: Sets the authorized maximum award at \$6,000 for the 2009-2010 school year, with annual increases up to an \$8,000 maximum for 2014-2015. Sets the minimum award at ten percent of the appropriated maximum, and allows for year-round Pell Grants.

TRIO: Extends grants from four to five years, and sets \$200,000 as a minimum grant amount. Makes community based organizations and secondary schools eligible grantees. Authorizes \$900 million for FY2009 and such sums as required for subsequent fiscal years until FY2014.

GEAR UP: Specifies grants may be for six or seven years. Eliminates scholarship requirement for partnership grants. Specifies required use of funds, including providing comprehensive mentoring services, information about financial aid to participating students, and encouraging student enrollment in rigorous, college-preparatory curriculum. Authorizes \$400 million for FY2009 and such sums as required for subsequent fiscal years until FY2014.

LEAP: Increases the maximum authorized award by \$7,500 to \$12,500. Eliminates requirement for non-federal matching funds to come directly from state appropriations. Authorizes \$200 million for FY2009 and such sums as required for subsequent fiscal years

until FY2014. Specifies that funds appropriated beyond \$30 million shall be applied to Grants for Access and Persistence (GAP, formerly known as SLEAP).

Academic Competitiveness/SMART Grants: Expands eligibility to include students at institutions that do not allow students to declare a major, students in five-year programs, part-time students, and qualified permanent residents,. Specifies that qualifying students will be awarded \$750 in the first year, \$1300 in the second year, and \$4,000 in the third year.

Financial Aid Simplification. This bill expands on the provisions of the College Cost Reduction and Access Act in simplifying the process of applying for federal student financial aid. This bill mandates the creation of a paper and an electronic “EZ” FAFSA for students eligible for auto-zero EFC or simplified needs test. It also requires the Secretary to find ways to simplify the FAFSA for all students, to maintain a paper version of the form while encouraging use of the electronic form, and to develop a way to provide students with an early estimate of their financial aid eligibility.

Award Letter Standardization. The bill also directs the Department of Education to convene a group of stakeholders (including school counselors) to discuss necessary components of a standardized financial aid award letter. Based on recommendations from the group, the Department will develop a model letter and present it and further recommendations to the appropriate Congressional committees.

Study on Incentive Compensation. This bill includes mandates for a number of studies and reports on a variety of issues of interest to NACAC. One will focus on the Department of Education’s oversight of the ban incentive compensation. The study specifically requires an analysis of the impact of the “safe harbor” regulations, which along with a general lack of enforcement has long been a concern of NACAC. The ban on incentive compensation aligns with NACAC’s SPGP and is an important safeguard against fraud and abuse in the federal student aid program.

Other studies of interest mandated by this bill include those on proprietary schools, the possibility of income-contingent loan repayment through the tax system, articulation agreements, regional sensitivity of needs analysis, and bias in standardized tests.

The 90/10 Rule. This rule is one of the important safeguards put in place in the 1992 reauthorization of the Higher Education Act to protect the federal student aid system from fraud and abuse. It states simply that institutions of higher education must garner at least ten percent of their revenue from non-federal sources. This bill dramatically weakens this rule by expanding the sources of funds that can count towards the ten percent, as well as softening punishment for not meeting that low threshold.

Loan Forgiveness for School Counselors. This bill includes provisions that expand on the loan forgiveness available under the College Cost Reduction and Access Act. Up to \$2,000 in loan debt can be forgiven for each year of service in “areas of national need,” which includes school counselors.

Protections for Private Loan Borrowers. This bill extends provisions of the Truth in Lending Act (TILA – 15 USC 1601) to all private education loans, regardless of amount. Private lenders are prohibited from establishing revenue sharing agreements with institutions, and from using an institution’s logo, mascot, or other branding to imply endorsement by that institution. Additionally, employees of colleges and universities are prohibited from accepting any compensation for service on advisory boards of private lenders beyond reasonable reimbursement of expenses.

Private lenders are also required to provide clear, detailed, and accurate information to potential borrowers regarding the terms, interest rates, and fees of possible loans, as well as the availability of cheaper federal loans. Borrowers have up to 30 days to accept the terms of the loan, and have three days after accepting to cancel without penalty.

Lender Disclosures and Reporting. This bill requires FFELP and private lenders to provide clear, detailed, and accurate information to students regarding the terms of potential loans; prohibits the use of an institution's logo, mascot, or other branding to imply endorsement by the institution; requires lenders to annually report on any expenses reimbursed to institution employees; and requires lenders to annually certify compliance with other provisions of this section.

Benefits for Service Members. This bill requires state institutions to maintain eligibility for in-state tuition for members of the Armed Forces and their dependents, even if the location of the members' permanent duty station moves out of state. Additionally, the bill establishes a re-admission process for students who are members of the Armed Forces and who are called to active duty, and must therefore leave school. The process will allow students to re-enroll at the same academic standing as before they were called to active duty.

Textbook Pricing. This bill requires textbook publishers to notify university faculty of significant revisions, price, and copyright information of relevant textbooks, so that faculty can decide whether to require students to purchase the latest edition of said textbooks. Additionally, publishers are required to "unbundle" texts from accompanying materials, so that students are not forced to purchase materials not required by their professors. Colleges are required to publish the name and price of required textbooks along with course information online.