Report Says Student Unit Data System Is Feasible

On March 21, the National Center for Education Statistics (NCES) submitted to Congress a report entitled “Feasibility of a Student Unit Record System Within the Integrated Postsecondary Education Data System.” The report is based on discussions at three technical review panels convened last October and November. (See WIR 10/12/04 and 12/7/04.)

The study concludes that it would be feasible to move from the current higher educational data-gathering system, which collects aggregate information about students, to one based on individual student data.

Under the proposed new system, every college and university in the nation would be required to report students’ Social Security numbers and other information to a national database. The data collected would include each student’s name, birth date, address, credits earned, expected graduation date, degree plan, race and ethnicity, and grants or loans received—regardless of whether a student receives federal aid.

NAICU President David Warren issued a statement re-emphasizing the grave concerns of NAICU members about the proposed system’s potential threat to student privacy. “We do not believe that the price for enrolling in college should be permanent entry into a centralized federal registry. We fear the existence of such a massive registry will prove irresistible to future demands for access and additions to the data for non-educational uses,” Warren said.

Warren also relayed these concerns in a letter to the members of the House Education and the Workforce and the Senate Health, Education, Labor, and Pensions Committees.

Congress must approve the proposal before the new system can be put in place, but prospects for congressional action are unclear at this point. Since the report was submitted to Congress at the beginning of the two-week congressional Easter recess, few members have yet reviewed it.

The privacy concerns expressed by Warren have received broad visibility in media coverage of the feasibility report. Further attention to these concerns came from an opinion piece (“Alma Mater as Big Brother”) by Katherine Haley Will, president of Gettysburg College, that appeared in the March 29 edition of the Washington Post.

Links to the report, media coverage, and related information are available on the NAICU Web site at http://www.naicu.edu/HEA/UnitRecord.shtml.

For more information, please contact Susan Hattan at NAICU, (202) 785-8866 or susan@naicu.edu.
On April 5, the Senate Finance Committee held a hearing on charities and charitable giving, looking at specific proposals for reform. This hearing continues the committee’s intense focus on nonprofit governance reform, which began last summer with the release of the draft white paper by committee staff containing numerous proposed reforms.

The proposals were based on the Sarbanes-Oxley legislation, passed in 2002 to reform corporate finance and accounting practices, as well as the findings of the independent panel reviewing the governance of the Nature Conservancy, and a variety of other sources.

Senate Finance Chairman Charles Grassley (R-Iowa) began the hearing by reasserting his commitment to nonprofit financial reforms and ridding the system of fraudulent charities. He noted that the operation of charities has not been intensely examined since 1969.

Grassley said an article in that morning’s Washington Post described an IRS report that shows rampant tax abuse by nonprofits. The chairman intends to encourage additional support of the most valued and effective charities, while imposing new measures for increased accountability and tougher standards across the nonprofit sector.

Grassley said he plans to mark up the CARE Act, H.R. 6, introduced by Senator Rick Santorum (R-Pa.) in the “near future.” The CARE Act contains tax incentives to spur charitable giving, including the IRA charitable rollover provision so important to colleges and universities. Grassley also announced that he plans to couple the CARE Act with nonprofit reform initiatives that will raise enough federal revenue to fully offset the cost of the bill. Without being specific, he said the nonprofit reforms will include governance, self-dealing, and executive pay and benefits reforms.

Witnesses included Mark Everson, the commissioner of the Internal Revenue Service; George K. Yin, chief of staff of the Joint Committee on Taxation; Leon Panetta, director of the Panetta Institute for Public Policy (and former head of the Office of Management and Budget); David Kuo, former special assistant to the president and deputy director, White House Office of Faith-Based & Community Initiatives; and several members of the independent panel reviewing the Nature Conservancy.

Also testifying were Brian Gallagher, the president of the United Way, and Diana Aviv, president of Independent Sector. For more information, contact Karin Johns at NAICU, (202) 785-8866 or karin@naicu.edu.

Guide to Congress Available Free to NAICU Members

The Guide to Congress for the first session of the 109th Congress has arrived, and is now available free of charge to NAICU members upon request. The pocket-sized book lists all members of the House and Senate with photo, brief bio information, and contact information for each. It also includes all House and Senate committee assignments, executive and judicial branch listings, and congressional district maps for each state, as well as information on congressional terminology, procedures, and calendars.

To request a copy, e-mail Roland King at roland@naicu.edu.
Education Department Clarifies Test of Title IX Compliance

In a notice dated March 17, which was quietly added to the Department of Education’s Web site, the department’s Office for Civil Rights (OCR) has “clarified” the requirements for one part of the three-part test used to determine whether or not an institution meets Title IX requirements in providing athletic opportunities for all students.

For more than a quarter-century, the department has determined an institution to be in compliance with Title IX if it meets any part of a three-part test.

(1) Is the percentage of male and female athletes substantially proportionate to the percentage of male and female students enrolled?

(2) Does the institution have a history and continuing practice of expanding opportunities for the underrepresented sex?

(3) Does the institution fully and effectively accommodate the interests and abilities of the underrepresented sex?

The clarification changes the requirements for meeting the third part of the test. Student interest will be determined by a survey of the institution’s current students. A new User’s Guide provides a model of a web-based survey for this purpose. Previous guidance had also considered evidence about the interest of high school students in the institution’s recruiting region, and participation in amateur athletic and community sports leagues.

An institution will be presumed to be in compliance unless its survey shows sufficient interest to sustain a varsity team in a sport, sufficient ability to sustain such a team, and reasonable expectation of intercollegiate competition in the sport in the school’s normal competitive region.

The department’s clarification has been sharply criticized by women’s groups and by the NCAA. Department officials, supported by a former senior OCR official from the Clinton Administration, suggest that the change is a relatively minor clarification and not a major policy shift.

For more information, contact Jon Fuller at NAICU, (202) 785-8866, or jon@naicu.edu.

Supreme Court Expands Scope of Title IX

In a ruling issued March 29, the U.S. Supreme Court declared that Title IX protects whistleblowers who complain about discrimination based on sex, as well as individuals who are directly subject to such discrimination.

The case, Jackson v. Birmingham Board of Education, involved the coach of a high school girls’ basketball team who was removed from his coaching duties after he complained that facilities and equipment for his team were not equal to that for the boy’s basketball team.

The justices split 5-4 in this case. Justice O’Connor, writing for the majority, declared that “reporting incidents of discrimination is integral to Title IX enforcement and... if retaliation were not prohibited, Title IX’s enforcement scheme would unravel.”

Justice Thomas, writing for the four dissenting justices, asserted that “the majority substitutes its policy judgments for the bargains struck by Congress.... Because Jackson’s claim for retaliation is not a claim that his sex played a role in his adverse treatment, the statute’s plain terms do not encompass it.”

It is not clear how this new interpretation will be applied in higher education. The majority opinion emphasized that elementary and secondary students could not be expected to protest discrimination, and that coaches and teachers were in a better position to do so.

Courts may expect adult students in colleges and universities to speak for themselves in such matters. However, institutions will want to take special care in dealing with any whistleblower complaints if they wish to avoid litigation under this expanded interpretation of Title IX.

For more information, contact Jon Fuller at NAICU, (202) 785-8866, or jon@naicu.edu.
Grass Roots at Work during Recess

NAICU members responded in force to an action alert asking them to contact members of Congress before the Easter recess. More than 300 calls and 1300 e-mails went out, thanking senators for supporting the Kennedy amendment to increase funding for student aid, and asking them to keep it in the final budget resolution.

Integral to this effort was the Student Aid Alliance, a coalition of 60 higher education associations, who joined NAICU in getting the message to their members.

NAICU has heard that some campuses and student groups organized their own “call-in days,” e-mail messaging, and letter-writing campaigns during the same period. This makes the impact of our grass roots effort even greater! Thank you to all who took part in this campaign to save student aid.

The next few weeks are critical in our effort to keep the proposed increases in the budget. House and Senate Budget Committee members continue to meet to work out the differences between their two versions of the budget. Leaders hope to have a conference agreement before the Senate takes a recess the first week of May.

To stay updated on the efforts of the Student Aid Alliance, visit http://www.naicu.edu and click on the Student Aid Alliance banner.

For more information, contact Robert “Bo” Newsome at NAICU, (202) 785-8866, or bo@naicu.edu.