



**HEA**

**101**

**President's  
Quick Guide  
to the  
New Law**

# What Every President Needs to Know About the New Higher Education Act

## About this Guide

NAICU has prepared this booklet for member presidents as a quick guide to what you need to know to ensure your campus is in compliance with the new “Higher Education Opportunity Act.” This is not an exhaustive review of all the provisions of this massive 431-page law, which in combination with legislation passed in 2006 and 2007, comprises the reauthorization of the Higher Education Act of 1965. *Rather, it focuses on 24 key issues (“Quick Takes”) that affect most colleges, emphasizing those where specific action should be taken by presidents.*

Throughout, the guide refers you to the more extensive background information and updates that are available in the special section of our Web site, HEA 101: A President’s Quick Guide to the New Law ([www.HEA101.org](http://www.HEA101.org)). For an overview of the additional materials you will find there, see the last section of this guide.

Each of the 24 “Quick Takes” is structured to: (1) give you a brief summary of the changes made by the new law; (2) tell you when each provision goes into effect; (3) suggest to you which offices on your campus you might need to involve in taking any necessary action; and (4) point you toward additional information available on the HEA 101 Web pages, using the keyword noted (e.g., [www.HEA101.org/accreditation](http://www.HEA101.org/accreditation)).

Finally, toward the back of this guide you will find a list of “What Didn’t Happen – But Just Might in the Future,” along with a list of some of the studies called for in the new law. The “What-Didn’t-Happen” items are proposals that didn’t make it into law – in many instances, thanks to your strong advocacy – but could re-emerge at any time. We have included the forthcoming studies because congressionally-mandated studies are often the early warning sign of more ambitious plans, and are therefore worth noting. As always, we will call on you for help should any proposals arise that threaten our ability to serve our students or fulfill our distinct missions.

## About the Law

There remain a number of unanswered questions about the new law, and this guide should not be considered comprehensive, nor does it constitute legal advice. Some of the unknowns are due to internal conflicts between provisions in the law; some are because aspects of the law

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## What Every President Needs to Know About the New Higher Education Act

will remain vague until final regulations are in place; and some are because congressional intent appears to differ from the actual legislative language. To address these uncertainties and conflicts, NAICU will post updates and clarifications on the HEA 101 Web pages as they become available. There you also will find a “Frequently Asked Questions” section. E-mail us ([hea101@naicu.edu](mailto:hea101@naicu.edu)), and we will post answers to your questions as we receive definitive information from the Department of Education and other sources.

This guide makes a special attempt to help you sort through one of the most complex areas of the entire bill: effective dates. Some provisions have their own unique effective dates. However, most of the act became effective when the President signed the bill on August 14, 2008, and colleges are expected to make a good faith effort to comply immediately.

The regulatory process will not be quick. Many of the changes to IPEDS must go through technical review panels. Most of the Title IV provisions – from student aid to disclosures to accreditation – will go through a nearly year-long negotiated rulemaking process in which the higher education community helps the Department of Education write the regulations.

Some of these regulations are further subject to the Master Calendar requirement that regulations must be published by November 1, if they are to be effective at the start of the academic year beginning the following July 1. While these processes are essential procedural tools to ensure that regulations are well thought out, they can leave colleges in a compliance limbo for nearly two years.

A further complication is that the reauthorization really passed in three legislative steps – a February 2006 bill, a September 2007 bill, and the final Higher Education Opportunity Act approved in 2008 (*see the HEA 101 Web site for details*). Given the complexities across the three bills, it is very possible that Congress will have to pass more legislative fixes to address drafting errors, clarify intent, and resolve conflicts across the provisions.

Beyond this initial printed guide, please check our HEA 101 Web site and e-mail alerts, as the Higher Education Opportunity Act is likely to continue to evolve in the months and years ahead.

**David L. Warren**  
*President*

# What Every President Needs to Do . . . NOW

(See the pages noted for additional information. Still more detailed information is available at [www.HEA101.org](http://www.HEA101.org).)

- ❑ Establish a procedure for immediate **notification of the campus community** of a significant campus emergency or dangerous situation. (page 6)
- ❑ Become familiar with the “**sunshine**” provisions, and note that colleges can be held liable for the actions of certain “institution affiliated organizations” (e.g., alumni associations and athletic booster clubs). (page 26)
- ❑ Become familiar with provisions for the publication of **college cost watch lists and price calculators**, and take note of the use of a new, standard net price calculation. (page 3)
- ❑ Assure that your institution has a **transfer-of-credit policy**, and that it is published on your institution’s Web site. (page 19)
- ❑ Establish procedures and policies to:
  - ❑ comply with new **fire safety requirements**. (page 13)
  - ❑ demonstrate that **no HEA funds have been used in lobbying**. (page 14)
  - ❑ address **missing person** procedures. (page 15)
  - ❑ comply with new **readmission requirements for veterans**. (page 25)
  - ❑ bring **campus disciplinary proceedings** into compliance. (page 9)
- ❑ Develop a plan to combat **illegal file sharing** and determine alternatives practicable for your institution. (page 16)
- ❑ Begin preparations to assure that, by July 1, 2010, **required information about textbooks** will be posted on your Web site and provided to your college book store. (page 4)
- ❑ Assure that campus officials responsible for required disclosures to students are aware of new requirements (page 10), including:
  - ❑ the **employment and graduate school/ professional education** of your graduates (page 17)
  - ❑ **disaggregated graduation data** (page 8)
  - ❑ a listing of institutions with which you have **articulation agreements** (page 19)
  - ❑ a written notice advising students of the **penalties for drug violations** (page 12)

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## What Every President Needs to Do . . . NOW

- ❑ Evaluate the possible impact on, and demand for your institutional aid as a result of the many changes made in student aid (page 22), such as:
  - ❑ changes made to **need analysis** (page 22)
  - ❑ replacement of Special LEAP by **Grants for Access and Persistence (GAP)**; which may change your relationship with the state grant program (page 21)
- ❑ Assure that campus officials responsible for preparing required reports are aware of:
  - ❑ additional data to be added to the next **biennial drug and alcohol review** (page 11)
  - ❑ **new IPEDS collection items** for 2008-09 (page 7)
  - ❑ additional **hate crimes** to be included in campus crime reports (page 5)

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»To give us feedback on this guide, or to ask us about specific issues, please e-mail us at [hea101@naicu.edu](mailto:hea101@naicu.edu).«

## Accreditation

(HEA Title IV, Section 496)

**Quick Take:** The efforts of the Department of Education to dictate the establishment and measurement of student achievement standards were stopped decisively by the new law, which prohibits the Secretary from regulating student achievement or any other accreditation standards. This was a hard-fought battle and is a significant victory.

Other provisions in the law related to accreditation include:

- » A requirement that accreditation standards respect the stated mission of the institution of higher education, including religious missions
- » Several revisions to due-process requirements for accreditation agencies
- » Provisions dealing with distance education, growth monitoring, teach-outs, disclosure of agency actions, and transfer of credit

In related provisions, the new law also makes substantial changes to the National Advisory Committee on Institutional Quality and Integrity (NACIQI).

**When Will This Take Effect?** The provisions regarding accreditation went into effect when the bill was signed into law on August 14, 2008. The Secretary of Education is prohibited from regulating any of the accreditation standards listed in Section 496(a)(5). All of the other accreditation provisions are subject to negotiated rulemaking.

**Who On Campus May Need to Be Involved?** Offices involved with accreditation and distance education offerings; campus legal counsel

**HEA101 Web Keyword for More Information:** Accreditation

## College Costs

(HEA Title I, Section 132)

**Quick Take:** Through the active involvement of the NAICU membership, the new law does not include price controls on institutions. However, the law does include several provisions related to college prices – most notably a series of “College Affordability and Transparency Lists,” beginning in July 2011, aimed at highlighting those institutions with the highest prices and highest rates of price increases. Institutions with the highest rates of price increases over the three-year period preceding that date will be required to submit reports to the Secretary of Education.

Other cost-related provisions include the development of a “Higher Education Pricing Summary Page” for each institution, which will break out net price information by income categories. Colleges also must post a net price calculator on their Web sites within three years. Additionally, the Secretary will post a multi-year tuition calculator on the College Navigator Web site within one year.

### *When Will This Take Effect?*

- » The “College Affordability and Transparency Lists” will be published on July 1, 2011. The base year for calculating changes in tuition and fees will be the 2008-09 academic year. Based on current Department of Education information-collection procedures, the base year for net price change calculations will be 2007-08.
- » Institutions must post on their Web sites a net price calculator no later than two years after the Secretary of Education develops a model net price calculator. The model calculator is to be developed by August 14, 2009.
- » The breakout of net price information by income categories must be available by July 1, 2010, for inclusion on a new “Institution Pricing Summary Page.”

These provisions are not subject to negotiated rulemaking, although the Secretary of Education may issue regulations under normal procedures. In addition, the Commissioner of Education Statistics will convene “technical review panels” to develop guidelines for calculating “net price,” and to develop a net price calculator.

**Who On Campus May Need to Be Involved?** President; business office; student financial aid; admissions; institutional research; campus Web master; public information office

**HEA101 Web Keyword for More Information:** CollegeCosts



## Textbooks

(HEA Title I, Section 133)

**Quick Take:** Colleges will be required, “to the maximum extent practicable,” to disclose information on required textbooks on all Internet-based course schedules. Required information includes ISBN and retail price for both textbooks and supplemental material. The provision does not apply to printed course schedules. The institution also must provide (as soon as practicable) information on courses – including schedule, required books and supplemental material, and class size – upon the request of a college book store. Many other textbook provisions are directed at publishers, but they indirectly affect institutions.

*When Will This Take Effect?* July 1, 2010.

The law prohibits the Secretary from issuing regulations on the textbook provisions. (Report language indicates that the conferees recognize that the Secretary may need to provide non-regulatory guidance on these provisions.)

*Who On Campus May Need to Be Involved?* Academic affairs; faculty; book store; Web master; registrar

*HEA101 Web Keyword for More Information:* Textbooks

# Campus Crime Reporting

(HEA Title IV, Section 485(f))

**Quick Take:** The new law makes several changes to the campus crime provisions (commonly referred to as the “Clery Act”) of the Higher Education Act:

- » **Safety Report Policies:** Current requirements regarding campus law enforcement policies would be expanded to include plans for coordination with state and local law enforcement agencies for the investigation of alleged criminal offenses. (*Sec. 485(f)(1)(C)*)
- » **New Hate Crime Reporting:** The list of hate crimes to be reported is expanded to include four new crimes: larceny-theft; simple assault; intimidation; and destruction, damage, or vandalism of property. (*Sec. 485(f)(1)(F)*)
- » **Emergency Procedures/Notification:** Institutions must prepare a statement of campus policies regarding immediate emergency response and evacuation procedures. (*See Campus Emergency Procedures Quick Take, page 6*)
- » **Miscellaneous:** The Secretary will report annually to the authorizing committees regarding compliance with the Clery Act, and may consult with the Attorney General regarding best practices. Retaliation against any individual for the purpose of interfering with implementation of its provisions is prohibited. (*Sec. 485(f)(15), (16), & (17)*)

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

**Who On Campus May Need to Be Involved?** Security/campus police; legal counsel; institutional research, if involved in collection of crime statistics; those involved in emergency planning

**HEA101 Web Keyword for More Information:**  
CampusCrime

## Campus Emergency Procedures

(HEA Title IV, Section 485(f))

**Quick Take:** Institutions must prepare a statement of campus policies regarding immediate emergency response and evacuation procedures. This must include procedures for notifying the campus community “immediately” of a “significant emergency or dangerous situation” involving an “immediate threat” occurring at any of the locations specified in the Clery Act (i.e., on campus, non-campus buildings or property, and public property). The procedures must be publicized and tested annually.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

**Who On Campus May Need to Be Involved?** President; security/campus police; public information; those offices involved in emergency planning

**HEA101 Web Keyword for More Information:**  
CampusEmergency

**Quick Take:** In the college cost section of the new law is a lengthy list of information about each institution of higher education that is to be posted on the Department of Education's College Navigator Web site. The Department already collects most of the pieces of information listed in this portion of the bill. However, institutions will have to provide additional information in approximately a dozen areas. This new information will be collected through additional questions on current IPEDS surveys.

**When Will This Take Effect?** The Secretary must post this information on College Navigator by August 14, 2009. Institutions must provide the information in their 2008-09 IPEDS collections so that the Secretary can meet this deadline.

The National Center for Education Statistics will convene a "technical review panel" to develop guidance for the collection of "net price" information – which will not be included on the College Navigator site until 2010.

**Who on Campus May Need to Be Involved?** Business office, institutional research; financial aid; office of disability services; Web master

**HEA101 Web Keyword for More Information:**  
CollegeNavigator

## Disaggregation of Graduation Data

(HEA Title IV, Section 485(a)(7))

**Quick Take:** Graduation data under the “Student Right to Know” provisions of the law would have to be disaggregated by gender, by major racial and ethnic subgroup, by recipients of Pell Grants, by recipients of a subsidized federal loan who did not receive a Pell Grant, and by recipients of neither a Pell Grant nor a subsidized loan.

**When Will This Take Effect?** For most institutions, this provision went into effect when the bill was signed into law on August 14, 2008. However, the provisions will not apply to two-year degree-granting institutions until the 2011-12 academic year.

The provisions are included in Title IV, so they are subject to negotiated rulemaking. The National Center for Education Statistics is also likely have a role in determining how this provision is implemented.

**Who On Campus May Need to Be Involved?** Registrar, institutional research; financial aid

**HEA101 Web Keyword for More Information:**  
Disaggregation

## Disciplinary Proceeding Disclosures

(HEA Title IV, Sec. 487(a)(26))

**Quick Take:** Institutions will now be required, upon written request, to disclose to the alleged victim of a crime of violence or a nonforcible sex offense, or to the alleged victim's next of kin (if the victim dies as a result of the crime or offense), the final results of any institutional disciplinary proceeding dealing with that crime or offense. Currently, such disclosures are optional under the Family Educational Rights and Privacy Act (FERPA).

**When Will This Take Effect?** The provision will take effect on August 14, 2009. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future.

**Who On Campus May Need to Be Involved?** Legal counsel; those involved with institutional disciplinary proceedings

**HEA101 Web Keyword for More Information:** Disciplinary

**Quick Take:** Prior to the new law, the HEA already included a list of information that institutions must disclose upon request to students and prospective students. In addition, institutions have been required to provide to enrolled students each year the list of all disclosures under Section 485(a), as well as how to obtain the information.

The new law adds several disclosures to the list in Section 485(a), including plans for academic improvement, terms and conditions of loans, peer-to-peer file sharing policies, student characteristics, post-graduation information, retention rates, vaccine policies, and disaggregation of graduation data.

It also adds to or revises the more detailed disclosure requirements included in other subsections of Section 485, including exit counseling, campus crime reports, campus emergency response, transfer of credit, fire safety, missing person procedures, notice of drug violation penalties, entrance counseling, and disclosures of service on lender advisory boards.

***When Will This Take Effect?*** These provisions went into effect when the bill was signed into law on August 14, 2008. They are subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

***Who On Campus May Need to Be Involved?*** Institutional research; financial aid; security/campus police; public information; student health services

***HEA101 Web Keyword for More Information:***  
StudentDisclosures

# Drug and Alcohol Abuse Prevention

(HEA Title I, Section 120)

**Quick Take:** Institutions will have additional responsibilities under the existing drug and alcohol requirements, including determining:

- » The number of drug and alcohol-related incidents and fatalities occurring on campus, or as part of an institution's activities, that are reported to campus officials
- » The number and type of sanctions imposed as a result of such incidents and fatalities

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. The new information should be incorporated into the biennial review (already required under existing drug and alcohol requirements) the institution submits after this date. It is not subject to negotiated rulemaking. However, the Department could choose to issue clarifying regulations on this new provision.

**Who On Campus May Need to Be Involved?** Student life; security/campus police; student health services; any other campus officials who report or enforce institutional drug and alcohol policies

**HEA101 Web Keyword for More Information:** DrugPrevention



## Drug Violation Penalty Notice

(HEA Title IV, Section 485(k))

**Quick Take:** Institutions must provide each student, upon enrollment, a separate written notice advising the student of the penalties for drug violations. For any student who loses federal student aid eligibility due to drug violations, the institution must provide a written notice describing the ways in which the student can regain eligibility.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

**Who On Campus May Need to Be Involved?**

Registrar; admissions; financial aid; publications office; any other campus officials who enforce institutional drug policies

**HEA101 Web Keyword for More Information:** DrugNotice

## Fire Safety

(HEA Title IV, Part G, Section 485(i))

**Quick Take:** The new law requires any institution maintaining on-campus student housing to issue an annual fire safety report. The report must include statistics regarding the number/causes of fires, number of fire injuries and deaths, and value of property damage. It also must include information on each on-campus student housing fire safety system, the number of regular mandatory fire drills, fire safety policies and education programs, and plans for any needed fire safety improvements. The statistics also must be submitted to the Secretary of Education.

Every institution must maintain a log that records all fires in on-campus housing facilities, and make an annual report to the campus community on these fires.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

**Who On Campus May Need to Be Involved?** Student housing; physical plant office; public information office; campus internal communications; those who will maintain the fire log and submit fire statistics to the Department of Education

**HEA101 Web Keyword for More Information:** FireSafety

## Lobbying Certification

(Section 119 of Public Law 110-315)

**Quick Take:** Each institution must annually “demonstrate and certify” to the Secretary of Education that it has not used any funds under the Higher Education Act to attempt to influence a member of Congress in connection with any federal grant, contract, loan, or cooperative agreement. No student aid funding under HEA may be used to hire a registered lobbyist or to pay for securing an earmark.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. The Secretary is to ensure the implementation and enforcement of the provision, and can be expected to set a deadline for the filing of the required certification.

**Who On Campus May Need to Be Involved?** President, government relations; business office; academic affairs; sponsored research office; any other offices with a role in securing federal grants, loans, contracts, or other assistance

**HEA101 Web Keyword for More Information:** Lobbying

## Missing Person Procedures

(HEA Title IV, Section 485(j))

**Quick Take:** Institutions providing on-campus student housing must establish a missing student notification policy and procedures for those who reside on campus. Among other things, the student must be given the option to provide confidential contact information for a person to be notified in the event the student is officially reported as missing

If campus security officials determine that a student for whom a missing person report has been filed has been missing for more than 24 hours, then within the next 24 hours they must:

- » Notify the individual identified by the student to be contacted in this circumstance;
- » If the student is under 18 years old, notify a parent or guardian; and
- » [In cases where the student is over 18 and has not identified a person to be contacted,] notify appropriate law enforcement officials.\*

\* *Note:* The statutory language is inconsistent, at one point indicating that law enforcement officials will always be notified within 24 hours when a student is officially determined to be missing, and at another point indicating that law enforcement officials will be notified only if the student has not identified a contact or is over 18 years old.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

**Who On Campus May Need to Be Involved?** President; student affairs; student housing; registrar; security/campus police; legal counsel

**HEA101 Web Keyword for More Information:**  
MissingPerson

## Peer-to-Peer File Sharing

(HEA Title IV, Section 485(a)(1)(P) & Section 487(a)(29))

**Quick Take:** The new law requires institutions to make disclosures to students about institutional policies and sanctions related to copyright infringement. In addition, an institution must certify it has developed plans to combat the unauthorized distribution of copyrighted material (including the use of technology-based deterrents) and will, to the extent practicable, offer alternatives to illegal downloading.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

**Who On Campus May Need to Be Involved?** President; chief information officer; legal counsel

**HEA101 Web Keyword for More Information:** PeertoPeer

## Post-Graduate Information

(HEA Title IV, Section 485(a)(1) (R) & (S))

**Quick Take:** Each institution must disclose information about the employment of, and participation in graduate and professional education by its graduates. The information is to be gathered from sources such as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, state data systems, or other relevant sources.

An institution does not have to collect complete and precise information from its graduates in order to comply with this disclosure requirement, but it must provide some information on the jobs and further education pursued by its graduates.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

**Who On Campus May Need to Be Involved?** Alumni office; career services; institutional research; any other offices involved with graduate surveys or outcome measures

**HEA101 Web Keyword for More Information:** PostGrad

## Teacher Preparation Report Cards

(HEA Title II, Section 205)

**Quick Take:** Institutions with teacher preparation programs and that receive federal student assistance will have increased reporting requirements on the Institutional Report Cards. Most importantly, institutions will need to set annual goals regarding teacher development in shortage areas identified by their state, and provide assurances that they are working toward those goals.

However, there is an explicit prohibition against using this process to mandate any aspect of teacher education curriculum.

***When will this take effect?*** This provision went into effect when the bill was signed into law on August 14, 2008, meaning that the next institutional report card on teacher preparation programs must include this information.

***Who on campus May Need to Be Involved?*** School or department of education teacher preparation office; institutional research

***HEA101 Web Keyword for More Information:*** TeacherPrep

## Transfer of Credit

(HEA Title IV, Part G, Section 485(h) and Part H, Section 496(c)(9))

**Quick Take:** The new law requires an institution to disclose its transfer of credit policies, including any criteria it uses to make credit transfer decisions and a list of institutions with which it has articulation agreements.

These policies must be published on the institution's Web site. As part of its regular review for accreditation or re-accreditation, the institution's accreditor will be required to examine whether the institution has disclosed its policies and the criteria underlying them.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a "good faith" effort to comply with the law. As part of the law's consumer information requirements (*see page 7*), these policies must be "easily accessible" on the institution's Web site by August 14, 2009.

**Who On Campus May Need to Be Involved?** Academic affairs; registrar; Web master; institutional research

**HEA101 Web Keyword for More Information:** Transfer



## Voter Registration

(HEA Title IV, Section 487 (a) (1) (A))

**Quick Take:** Since the 1998 reauthorization of the HEA, colleges and universities have been required to distribute hard copies of in-state voter registration forms to students prior to their state's voter registration deadline. Although the 1998 statute anticipated changes in distributing voter registration forms in the future, it did not specifically state that electronic transmission of the forms was legal. The new law clarifies that e-mail messages with links to the state forms are acceptable, as long as the messages are devoted exclusively to voter registration.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. Despite its inclusion in Title IV, this provision is not subject to negotiated rulemaking, as the Secretary of Education is not allowed to regulate in this area, and colleges are only required to make a good faith effort at compliance.

**Who On Campus May Need to Be Involved?** President; registrar; student affairs; any other office involved in distributing the e-mail message or forms

**HEA101 Web Keyword for More Information:** VoterReg

## Leveraging Educational Assistance Partnership (LEAP)

(HEA Title IV, Section 407)

**Quick Take:** Special LEAP (a grant program to states to promote innovative college access programs) was replaced with a new partnership program called Grants for Access and Persistence (GAP). The new program is intended to expand college access and provide need-based grants to low-income students by enhancing partnerships with states and institutions, outreach and early preparation programs, private corporations, philanthropies, and community-based organizations.

States will apply for the grants with institutions as partners. For those participating in the existing Special LEAP program, the law allows for two years of carry-over for activities already underway.

**When will this take effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so grant application schedules will not be published until the program goes through that process.

**Who on Campus May Need to Be Involved?** Financial aid; admissions; government relations; community relations; other offices serving as liaison with state higher education officials

**HEA101 Web Keyword for More Information:** LEAP

## Student Aid Improvements

(HEA Title IV, Parts A-F)

**Quick Take:** The 2008 HEA reauthorization bill – along with related budget and HEA extension legislation in 2006 and 2007 – created, modified, and funded federal student aid programs. Changes include an increase in the Pell Grant maximum and federal student loan borrowing limits; a decrease in the interest rate on subsidized loans; expanded loan forgiveness; expanded eligibility for the PLUS program, including eligibility for graduate students; and creation and funding of the Academic Competitiveness Grant, SMART Grant and TEACH Grant programs.

### *When will this take effect?*

- » Many of the changes that were part of the budget reconciliation acts passed in 2006 and 2007 have already gone into effect, including an annual supplement to the Pell Grant maximum that rises from \$490 in FY 2008 to \$1,090 in FY 2012.
- » Additional need analysis changes go into effect July 1, 2010, except for the professional judgment provision, which went into effect when the bill was signed into law on August 14, 2008.
- » Additional authorized increases in the Pell Grant maximum (reaching \$8,000 for FY 2014) are unlikely to be fully realized because Congress must fund the increases through the annual appropriations process.

### *Who on Campus May Need to Be Involved?*

Financial aid; admissions

### *HEA101 Web Keyword for More Information:*

StuAidImprovement

## Student Aid Simplification

(HEA Title IV, Part G)

**Quick Take:** “Student aid simplification” is the current buzzword for a number of policy initiatives that continue to emerge. Simplification initiatives in the new law primarily focus on changes to the Free Application for Federal Student Aid (FAFSA) to ensure it is not a barrier to college access.

The new law includes a requirement for the Secretary to evaluate the current financial aid award letters used by colleges with an eye toward creating a single, national disclosure form. Not included in the law, however, are any of the earlier proposals to eliminate several core student aid programs (including Perkins Loans, SEOG, and LEAP) in the name of “simplification.”

**When Will This Take Effect?** The Secretary’s recommendations for a model national financial aid disclosure form are to be provided to Congress by August 2009.

### **Who on Campus May Need to Be Involved?**

Financial aid; business/finance office

### **HEA101 Web Keyword for More Information:**

StuAidSimplification

## Student Loan Sunshine

(HEA Title I, Part E; throughout Title IV, including Section 487 (a) and (e); Title X)

**Quick Take:** The law imposes new restrictions on colleges and student loan lenders (both federal and private), in order to prevent conflicts of interest between colleges' lender relationships and their responsibilities to students. Issues addressed include "prohibited inducements" by lenders, new disclosures to borrowers, and requirements for institutional codes of conduct. The law also defines the requirements for preferred lender lists.

Under the new law, colleges can be held liable for the actions of certain "institution-affiliated organizations," such as alumni associations and athletic booster clubs.

**When Will This Take Effect?** These provisions went into effect when the bill was signed into law on August 14, 2008. Regulations issued on November 1, 2007 (34CFR 682), also continue to apply unless they were superseded by the new law. Provisions regarding the code of conduct for federal student loans are subject to negotiated rulemaking. The Secretary is required to develop guidelines for disclosures and may issue regulations on other aspects of the new requirements.

**Who On Campus May Need to Be Involved?** Financial aid; legal counsel; business/finance office; development office

**HEA101 Web Keyword for More Information:**  
LoanSunshine

## Veterans' Readmission

(HEA Title IV, Section 484C)

**Quick Take:** The law includes a new section requiring institutions to readmit veterans who left in order to perform military service. The veteran is to be readmitted with the same academic status he or she had when last in attendance at the institution. In most cases, the length of the absence from the institution cannot exceed five years.

The law includes exceptions for veterans receiving a dishonorable or bad conduct discharge, or who are sentenced in a court-martial.

**When Will This Take Effect?** This provision went into effect when the bill was signed into law on August 14, 2008. It is subject to negotiated rulemaking, so specific regulatory guidance may be provided in the future. In the meantime, institutions must make a “good faith” effort to comply with the law.

### **Who On Campus May Need to Be Involved?**

Admissions; registrar; veterans affairs/services office

### **HEA101 Web Keyword for More Information:**

VeteransReadmission

## What Didn't Happen – But Just Might in the Future

### **Institutional Autonomy**

The new law does not include any provisions that would control admissions (*except veterans' readmission, see page 25*), prices, student outcome measures, academic content, or transfer of credit. It does include non-binding “sense-of-Congress” language regarding student speech and association.

### **Accreditation**

Efforts to dictate rigid measures of student achievement were defeated and, in fact, the power of the Department of Education to interfere in this area was curtailed.

There are no public disclosures of internal reviews required by the new law.

### **College Cost**

There are no price controls in the new law. Since 2003, we have pushed back proposals to:

- » Cut off all Title IV funding other than loans and Pell Grants to institutions that increased tuition by more than twice the rate of inflation.
- » Force institutions that exceeded the federally prescribed “college affordability index” to submit management action plans to the Department of Education, to be reported to their accreditors, and to be subject to audit by the Inspector General.
- » Require the establishment of “quality-efficiency task forces” of outside “experts” to review the operations of the 5 percent of institutions with the highest cost increases.
- » Require institutions to include net price information by income quartile in their admissions materials.

### **Transfer of Credit**

There is no government control of institutional policies on transfer of credit in the new law. (*There are, however, new disclosure requirements; see page 19.*)

### **Articulation Agreements**

NAICU was successful in assuring that private institutions will not be forced into participation in statewide articulation agreements developed by the Secretary of Education and state education officials.

### **Teacher Preparation**

The new law does not include any federal curriculum mandates for teacher education (and, in fact, prohibits the creation of any federal standards), and institutions are not required to create new programs to meet national goals.

### **Student Unit Record Data**

The new law prohibits the establishment of a federal student unit record data system. However, the law encourages states to establish such systems.

### **Student Loan Sunshine**

The new law protects charitable giving by banks to colleges, and preserves the ability of financial experts to serve on college boards and college presidents to serve on bank boards.

### **Student Aid**

The new law does not eliminate Pell Grants for third and fourth year students through “front loading.”

It supports the continuation of Perkins Loans, LEAP, and SEOG – all of which had been targeted for elimination.

### **Last Dollar**

The new law contains no new federal controls over institutional aid through federal oversight of student aid packaging.

### **Reporting/Disclosure**

Over time, provisions relating to peer-to-peer file sharing, fire safety, vaccines, and consumer information reporting under IPEDS were made less onerous. Required reports on endowments and distance education were dropped from the final measure.



## What's Being Studied — The Next Big Ideas

The items that Congress chooses to study often foreshadow the development of more extensive policy proposals (e.g., the 1998 amendments included a study of transfer of credit). Title XI of the recently-passed Higher Education Act provides for 24 new studies (*Go to the HEA101 Web site, keyword Studies, for a link to the full list.*)

Among them are:

### Studies Related to Data Collection

#### **Employment of Postsecondary Education Graduates**

To be conducted by the General Accountability Office (GAO), this is the possible prelude to extensive collection of post-graduate information.

#### **Study on IPEDS**

GAO study of IPEDS burden that also examines the feasibility of collecting additional information breaking down graduation rates by several categories, including income.

#### **Developing Additional Measures of Degree Completion**

Secretary and Commissioner for Education Statistics are to make recommendations about alternative ways to measure and report completion rates.

### Endowment Study

#### **Endowment Report**

GAO analysis of the amounts, uses, and public purposes of the endowments of institutions of higher education.

### Studies Related to Student Aid

#### **Study of Aid to Less-Than-Half-Time Students**

#### **Study of Regional Sensitivity in the Need Analysis Formula**

#### **Study of the Impact of Student Loan Debt on Public Service**

## **Report on Income Contingent Repayment Through the Income Tax Withholding System**

### **Study and Report on Nonindividual Information**

GAO study of the impact of lenders not offering private label loans to students at colleges with low graduation rates, high default rates, or certain types of institutional accreditation.

### **Feasibility Study for Student Loan Clearinghouse**

GAO study on development of a student loan clearinghouse on the Department of Education Web site.

### **Study of the Financial and Compliance Audits of the Federal Student Loan Program**

### **Study of Model Financial Aid Offer Form**

The Secretary to evaluate the current financial aid offer forms used by colleges, toward creating a single, national disclosure. Recommendations for such a model are due to Congress in August 2009.

## **Other Studies of Interest**

### **Report and Study on Articulation Agreements**

#### **Report on Proprietary Institutions**

Report deals with the 90/10 rule (mandating that for-profit schools derive at least 10 percent of their revenue from sources other than federal student-aid funds).

#### **Department of Education Oversight of Incentive Compensation Ban**

GAO study of Department of Education enforcement of the ban on incentive compensation.

#### **Summit on Sustainability**

To be convened by the Secretary of Education in consultation with the administrator of the Environmental Protection Agency by September 30, 2010.

There is even more information posted on our [www.HEA101.org](http://www.HEA101.org) Web pages, which will be expanded and updated as new information becomes available. Please point your campus offices involved in Higher Education Act implementation toward this on-line resource. There they can “drill down” for details on specific areas of interest or responsibility. The kinds of material we provide on the site include:

**More Information on the “Quick Take” Topics** in this guide, such as legislative language, congressional report language, and NAICU positions and cautions.

**Additional Issues**, such as school-as-lender, default rate changes; Title VI grants; and graduate education.

**Frequently Asked Questions.** Member institutions can submit HEA-related questions to the NAICU staff by e-mailing us at [hea101@naicu.edu](mailto:hea101@naicu.edu). We will do our best to answer your question, and will post items of general interest on the FAQ page as guidance to others.

**General Information.** The site includes links to the entire text of all three bills (the budget reconciliation acts passed in 2006 and 2007, and the 2008 Higher Education Opportunity Act), as well as committee reports, summaries, and information from other associations that you may find useful.

**New Grant Programs.** The new law creates scores of new grants programs. If past is prologue, most of these will never be funded. However, our site attempts to list them in case any of our members wish to advocate for funding one of particular interest.

## **HEA 101 Project**

On-line Resources: [www.HEA101.org](http://www.HEA101.org)  
Questions/Comments: [hea101@naicu.edu](mailto:hea101@naicu.edu)

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