Obama Administration Hears Concerns of NAICU Members on President’s Higher Education Plan

NAICU members expressed their views on President Obama’s plan to make higher education more affordable for the middle class through a number of venues in recent weeks, including public listening sessions and conversations with Administration officials.

The Department of Education held public listening sessions during the past three weeks at four campuses: California State University-Dominguez Hills in Los Angeles; University of Northern Iowa, Cedar Falls; George Mason University, Fairfax, VA; and Louisiana State University, Baton Rouge. NAICU members spoke at three of the sessions.

Several official and unofficial conversations with both Education Department and White House officials were held during NAICU’s Fall Leadership Conference. The conference brings together NAICU Board and Committee members, the independent college state executive network, the NAICU Secretariat, and the Annapolis Group.

Generally, NAICU members welcome the president’s call to improve access, affordability and transparency, and agreed that these were important national issues for higher education to address. However, members were concerned about the proposal to develop a single federal metric to rate colleges and universities. Of particular concern was the plan to strongly equate educational value with earnings, the overall idea that the federal government would be defining value, and the creation of a single metric to measure value despite the many different types of colleges and universities in our nation.

Official Listening Sessions

Several representatives from NAICU member institutions spoke at the public listening sessions. At the George Mason University listening session, Mitchell B. Reiss, president of Washington College, Chestertown, MD, submitted thoughtful responses to the president’s higher education reforms, followed by a list of questions for the administration to consider as it moves forward with this proposal. In prepared remarks, he acknowledged “the President’s attention to some of the challenges that all colleges and universities face these days,” and highlighted the President’s comment: “a higher education is the single best investment you can make in your future.”

In addressing the proposed reforms, Reiss noted the value of education is subjective, and if measured in monetary terms, “it fundamentally mischaracterizes the nature of higher education.” He also endorsed the First in the World initiative, which could provide “venture capital” for private, nonprofit colleges to scale up their effective strategies for providing the support students need to complete college.
Similar concerns were expressed at the California session by Jeanne Ortiz, vice president and dean of students at Whittier Colleges. She said: “It is imperative that the presidential scorecard takes into account that value and affordability are not synonymous terms. The value of a private liberal arts education is exponential because it prepares graduates not only with the knowledge and skills employers want, but with a commitment to civic engagement for the common good.”

In Baton Rouge, Walter Kimbrough, president of Dillard University, made an impassioned presentation about the unintended consequences of a college rating system on a college like Dillard — an HBCU just recovered from Hurricane Katrina with increased costs he can’t control. Kimbrough argued technology upgrades, health care costs, and increased security have been driving up costs, while the institution tries to keep tuition down for students.

Throughout the listening sessions, Administration officials maintained nothing is written in stone, although they continue to talk about a value metric to be linked to the President’s Scorecard, and possibly also affect the distribution of student aid. The student aid linkage would require Congressional approval and is unlikely at this point. Current plans are that the metric would be made public later in the 2014 calendar year.

For more information, contact Stephanie Giesecke, Stephanie@naicu.edu

---

**Tax Reform Bill Would Significantly Change Education Benefits**

On October 30, Reps. Diane Black (R-TN) and Danny Davis (D-IL) introduced H.R. 3393, the Student and Family Tax Simplification Act. Reps. Black and Davis head a tax reform working group among House Ways and Means Committee members that was tasked with examining the various higher education tax benefits and suggesting possible reform measures.

While the Black-Davis bill would make the American Opportunity Tax Credit (AOTC) permanent (it is currently set to expire at the end of 2017), it would unfortunately eliminate the Hope and Lifetime Learning credits and the tuition deduction without allowing a benefit beyond the first four years of college. Additionally, it would reduce the income limits for being eligible for the benefit by almost 50 percent. Under current law, the full benefit is available to single taxpayers making $80,000 or less and married/joint filers making $160,000 or less. H.R. 3393 would reduce those amounts to single taxpayers making $43,000 or less and married/joint filers making $86,000 or less. This would significantly reduce the number of students and families who would be eligible for the benefit.

While any significant movement on tax reform measures appears unlikely this year, NAICU continues to advocate for modifications to the bill that would prevent any current students or families from losing their tax benefits.

**NAICU Submits Recommendations to Simplify and Strengthen the Legislation**

Prior to the legislation being introduced, NAICU formally submitted its own recommendations for simplifying and strengthening the higher education credits and the deduction. In the recommendations, and in conversations with members and staff, NAICU stressed the importance of maintaining a three-tiered system of education tax benefits - benefits that help students and families save for college, pay tuition, and repay student loans and help with continuing education.

NAICU supports simplifying the various tuition credits and deduction that have been added to the tax code during the past two decades, additions that cause confusion among taxpayers who end up claiming less generous benefits or no benefits at all. Specifically, making the AOTC permanent, allowing at least a partial benefit beyond the first four years of college, and maintaining the current income eligibility limits would result in one clear and simple tuition tax credit. A permanent, extended AOTC would also negate the need for separate, less generous, Hope and Lifetime Learning credits and the tuition deduction.
Earlier this year, Ways and Means Chairman Dave Camp (R-MI) set up eleven different working groups on tax reform to examine a variety of current benefits. NAICU joined others in the higher education community in meeting with Reps. Black and Davis and their working group staff, to discuss the options for simplifying the higher education benefits.

For more information, contact Karin Johns, Karin@naicu.edu

---

**Federal Budget Update**

A Congressional conference committee on the FY 2014 federal budget has made little movement forward on setting the top line spending amount, replacing the sequester, or deciding what role entitlement changes will play in a final agreement, despite conducting two public meetings since its creation in the October 17 deal to reopen the government.

The committee met to offer opening statements October 30, setting the tone of a bipartisan work group. They accepted a joint letter from House Appropriations Committee Chairman Hal Rogers (R-KY) and Senate Appropriations Committee Chairman Barbara Mikulski (D-MD) asking the conference committee to agree on a total appropriations amount for FY 2014 by the Thanksgiving break so that their committees can finalize spending by the end of the calendar year.

In the second meeting on November 13, Doug Elmendorf, director of the Congressional Budget Office, gave committee members an overview (Presentation to the Budget Conference Committee) of the current budget outlook, including unemployment, spending, deficit and debt trends. The same day, CBO released Options for Reducing the Deficit: 2014 to 2023, which includes a few student aid proposals, such as eliminating subsidized loans, eliminating the mandatory add-on to Pell Grants, and limiting Pell Grants to the neediest students. While these proposals are not new, NAICU will monitor the committee’s deliberations for any movement on student aid funding.

The Student Aid Alliance also sent a letter to the conference committee asking that student aid be protected in their deliberations. The Alliance makes the point that student aid programs have already been dramatically cut since FY 2011 and students can no longer shoulder the burden of deficit reduction.

The conference committee is also responsible for acting on the debt ceiling. A new CBO analysis of the debt outlook: Federal Debt and the Statutory Limit, November 2013, concludes: “If the current suspension is not extended or if a higher debt limit is not specified in law before February 8, 2014, beginning on that date the Treasury will have no room to borrow under standard operating procedures. Therefore, to avoid a breach of the ceiling, the Treasury would begin employing its well-established toolbox of so-called extraordinary measures to allow continued borrowing for a limited time. CBO projects that those measures would probably be exhausted in March. However, the timing and magnitude of tax refunds and receipts in February, March, and April could shift that date of exhaustion into May or June.”

NAICU continues to monitor the conference committee’s work, and will provide additional updates as necessary.

For more information, contact Paul Hassen, Paul@naicu.edu

---

**Complicated and Contentious, Gainful Employment Negotiated Rulemaking Panel Seeks Continuance**

Consensus eluded the Department of Education’s panel drafting regulations on gainful employment this week necessitating a proposal to schedule another one-day session in December.

The panel was convened to consider new proposals from the Education Department regarding regulations to determine the eligibility of college-based career-training programs to participate in the federal student aid programs. A gainful employment regulation was adopted in 2011 but overturned by a federal judge in a 2012 suit brought by APSCU: Association of Private Sector Colleges and Universities.
The Department has developed a new set of draft regulations reflecting the limitations imposed by the court decision. Neither reporting on non-Title IV students nor use of a student loan repayment rate as a measure of program success were included. Instead, the Department has proposed four metrics to determine Title IV eligibility of gainful employment programs. Student borrower debt to earnings and discretionary income would remain as indicators of acceptable programs, with the addition of program cohort default rates (pCDRs) and program loan portfolio performance. The Department would calculate pCDRs according to the rules and standards established for institutional cohort default rates (CDRs). A loan repayment portfolio for a cohort of students that did not decrease from the beginning to the most recently completed award year would be viewed as in negative amortization and unacceptable.

Schools would receive “grades” in each metric category, such as pass, fail, in the zone (in the case of debt to income measures), or ineligible. The Education Secretary would inform schools of the determination in each metric and any resulting consequences, such as providing student warnings, limiting enrollment, or providing financial payments for borrower relief. Loss of Title IV eligibility for the program would result from failure in any one metric over a time period unique to each metric. Schools may appeal their grades according to procedures specified by the Department.

It is unclear whether consensus can be reached by the panel. Even if it is, and the Department publishes the agreed upon regulations in a NPRM, there are certain to be many public comments, due to the complexity of the issues involved and the contending interests at stake. Consumer advocates on the panel urged increasing stringency and specificity to control fraud and abuse. For-profit institution representatives sought exceptions for unique circumstances, such as reducing the threshold requirements for programs with high percentages of Pell-eligible students, and extending the length of time used in assessing loan repayment performance.

A coalition, led by the nonprofit sector, asked the Department to free schools that are “exceptional performers” from the burden of the gainful employment reporting and disclosure requirements for their programs. The Department has agreed to review the proposal to exempt programs at schools with cohort default rates of 10 percent or less, and to provide feedback along with a rewrite of the draft regulations and data on the impact of some of the proposals prior to the next meeting.

The Department also accepted a proposal from consumer advocates to add Perkins Loan debt to the loan portfolio repayment calculation and a proposal by a for-profit sector representative to temporarily allow failing institutions to be deemed passing if they lower the potential debt burden for current students through cost reductions or grants.

For more information, contact Maureen Budetti, Maureen@naicu.edu

Education Department Sets Broad-Ranging Negotiated Rulemaking Session for Early 2014

An array of student aid related topics is the focus of an Education Department Program Improvement and Integrity negotiated rulemaking committee planned for February 2014, according to a notice in the Federal Register on November 20.

The announcement listed a tentative group of topics, including:

- State authorization of distance education programs;
- State authorization for foreign locations of U.S. institutions;
- Cash management of Title IV fund, including the use of debit cards;
- Definition of “adverse credit” for PLUS Loan borrowers;
- Application of repeat coursework provisions;
- Clock to credit hour conversion.

In hearings held earlier this year regarding these proposed rulemaking topics, NAICU presented testimony urging the Department not to pursue new regulations relating to state authorization as a means to either address distance education issues or regulate the foreign locations of U.S. institutions via the states. Previous efforts to regulate state authorization activities created massive confusion, and new federal regulations are unlikely to be any more successful. In addition, regulatory action seems premature, given the substantial work
now underway to develop a state authorization reciprocity agreement (SARA). (Additional background information regarding the state authorization issue may be found in a NAICU background paper.)

The notice indicates that topics may be added or removed prior to the start of the negotiation process. Nominations will be accepted until December 30, and the first of three negotiation sessions will begin on February 19.

As reported in the October 7 edition of Washington Update, the Department also has established a negotiated rulemaking committee to deal with the changes made by the Violence Against Women Reauthorization Act (VAWA) to the campus safety and security reporting requirements of the Higher Education Act. In addition to considering the changes made by VAWA, negotiators may consider “additional changes to update the existing campus safety and security reporting requirements.” NAICU’s nominee to the panel, Dickinson College (PA) General Counsel Dana Scaduto, has been selected to serve as a negotiator. The first session will begin on January 13.

For more information, contact Susan Hattan, Susan@naicu.edu

---

NAICU Washington Update (formerly Week in Review) is published by the National Association of Independent Colleges and Universities.

Eileen Wilson-Oyelaran, President, Kalamazoo College; Chair, NAICU Board of Directors
David L. Warren, President
Sarah Flanagan, Vice President for Government Relations and Policy Development
Roland H. King, Vice President for Public Affairs and Acting Editor

Washington Update is available to NAICU member presidents and their staff via e-mail, and is archived on the NAICU Web site, both as individual stories and as a complete-issue PDF file, formatted for printing.

To subscribe, or for member log-in user name and password, e-mail galen@naicu.edu.

© 2013 by the National Association of Independent Colleges and Universities