Sexual Assault on Campus Remains in the Spotlight

Colleges and universities can expect to see an increased and sustained focus on their handling of sexual assaults on their campuses. Both Congress and the Administration have launched numerous initiatives aimed at highlighting the issue, devising approaches to address it, and strengthening enforcement.

In the near term, institutions can anticipate—

- **Additional requirements related to campus policies and practices dealing with sexual violence.** As one example, the task force led by Vice President Biden would like to require institutions to conduct campus climate surveys. The task force has published explanatory material, including a sample survey.
- **Additional enforcement actions by the Department of Education.** The Department has highlighted the 55 schools currently under investigation by the Office of Civil Rights and has released a new 46-page explanation of Title IX requirements related to sexual violence.
- **Additional legislative and regulatory requirements.** Members of the Senate, in particular, have been surveying institutions, planning roundtable discussions, and developing additional legislative proposals regarding sexual assault on campus. The Department of Education will soon issue proposed regulations implementing the changes made to the Clery Act campus crime requirements by the Violence Against Women Act.
- **Heightened media attention to the issue and campus responses to it.** This coverage is likely to appear in the mainstream and trade media, and include both news and opinion pieces.

More detailed information about recent developments in the Senate, and at the White House and Department of Education appear below. Also below, are links to selected media coverage of these issues.

**Senate Activities**

**Sexual Assault Roundtables:** Senator Claire McCaskill (D-MO)—along with Senator Kirsten Gillibrand (D-NY) and Richard Blumenthal (D-CT)—are sponsoring three sexual assault roundtables in the coming weeks. According to Sen. McCaskill’s office, roundtable topics will include the Clery Act and Campus SaVE (May 19), Title IX (June 2), and Administrative process and the criminal justice system (June 16).

**Survey:** Senator McCaskill sent a survey on campus sexual violence policies and procedures to 450 institutions, representing all sectors of higher education. She has indicated that the primary focus of the survey is determining how sexual assaults are reported and investigated on campus and how students are notified about the services available.

Although many of the survey questions are general in nature, others touch on regulatory requirements. For
example, the Title IX guidance requires institutions to appoint a Title IX compliance coordinator, and this is one of the questions included in the survey. Institutions that have received this survey and wish to fill it out, should assure the responses are reviewed by the individuals on campus who are familiar with the applicable Title IX and Clery Act requirements.

**Recommendations to White House Task Force:** Senators Gillibrand and Blumenthal—joined by 5 other Senators—submitted recommendations to the White House Task Force to Protect Students from Sexual Assault. Their recommendations include: (1) Designate an individual to coordinate Clery Act and Title IX violations involving criminal acts or violence, who will report directly to the Secretary of Education; (2) Require all colleges to administer a standardized, anonymous annual survey on campus sexual assaults and publish the results online; and (3) Create a searchable database on all pending and resolved Title IX and Clery Act complaints, compliance reviews, and investigations. Ultimately, the Senators would like a “Campus Safety Metric” to be developed based on the survey and compliance activities, and to be included on the Department of Education’s College Scorecard.

**Request for Additional Enforcement Funds:** Earlier this year, Senators McCaskill, Gillibrand, and Blumenthal—joined by 9 other Senators—contacted the Senate Appropriations Committee to request additional federal funds for the investigation and enforcement of sexual assault laws on college campuses.

**White House Task Force to Protect Students from Sexual Assault**

**Report Issued:** The White House Task Force to Protect Students from Sexual Assault established earlier this year under the leadership of the Office of the Vice President and the White House Council on Women and Girls issued its recommendations on April 29. The White House event releasing the report, Not Alone, featured remarks by Vice President Biden and several Cabinet members.

**Climate Surveys:** Among the recommendations in the Not Alone report is one that encourages institutions to conduct campus climate surveys next year. A sample survey and explanatory material has been developed to assist colleges. The task force indicates it will explore options to mandate use of the survey in 2016.

**Other Recommendations:** The task force also urges colleges to identify individuals on campus to whom sexual assault victims can speak with confidentiality; to develop more partnerships with community organizations serving victims of sexual assault; to encourage bystander intervention; and to improve institutional training, policies, and procedures related to sexual misconduct.

**Department of Education**

**Enforcement Activities:** On May 1, the Office of Civil Rights (OCR) publicly identified 55 institutions under investigation for Title IX violations related to sexual assault. OCR has also released a new document, “Questions and Answers on Title IX and Sexual Violence.”

**Proposed Regulations:** The Department has completed a negotiated rulemaking process dealing with the changes to campus security requirements that were mandated by the Violence Against Women Act and will soon be issuing proposed regulations.

**Select Media Coverage**

The Debate: How Should College Campuses Handle Sexual Assault, *TIME Magazine*, May 15, 2014

The Sexual Assault Crises on American Campuses, *TIME Magazine*, May 15, 2014

College administrators learning to be sexual misconduct detectives, *Los Angeles Times*, May 14, 2014


Blumenthal Calls For 'Bill of Rights' For College Sexual Assault Survivors, *Hartford Courant*, May 13, 2014

OCR Stays Busy on Sexual Assaults, *Inside Higher Ed*, May 12, 2014

To Curb Sexual Assault on Campuses, Surveys Become a Priority, *Chronicle of Higher Education*, May 12, 2014
Institutions Must Sign New Department of Defense MOU for Tuition Assistance Programs

Institutions whose students receive assistance from the Department of Defense’s Tuition Assistance (TA) program will need to sign a new Memorandum of Understanding (MOU) after July 14 in order to continue participating in the program. The revised MOU was published in the May 15 Federal Register.

The primary purpose of the new rule is to incorporate into the MOU the “Principles of Excellence” outlined in Executive Order 13607. Most of the principles are already incorporated in the version of the MOU that was finalized in 2012. [See December 10, 2012 Washington Update] The revised MOU adds provisions related to the return of TA funds after a student withdraws, misrepresentation, incentive compensation, state authorization, readmission, and the provision of consumer information.

Are Scholarship Athletes Employees? NLRB Ruling Prompts House Hearing

Earlier this year, the National Labor Relations Board (NLRB) ruled in the Northwestern University case finding that grant-in-aid scholarship football players at private colleges are employees under the National Labor Relation Act (NLRA), thus earning the right to bargain collectively.

That case started when the College Athletes Players Association filed a petition on behalf of football players at Northwestern seeking the right to unionize in the hopes of addressing a number of specific issues. In April, Northwestern football players voted on whether or not to unionize; the vote tally has been impounded pending a review by the full NLRB.

As a result of the NLRB ruling, House Education and the Workforce Committee held a hearing titled, “Big Labor on College Campuses: Examining the Consequences of Unionizing Student Athletes.” There are many sides to this complex issue, and the diversity of positions was reflected in the testimony from the witnesses, several of whom are NAICU members.

- Baylor University President and Chancellor Ken Starr, outlined several unintended consequences of declaring students as employees, including: 1) the ruling means that whether or not they form a union, student athletes will be considered employees; 2) antitrust implications related to paying wages versus maintaining competitive intercollegiate sports; and 3) student wages being subject to federal income tax withholding. Additionally, Judge Starr laid out several Title IX implications, including the possibility of colleges limiting intercollegiate opportunities for men and women. Baylor’s primary goal with student athletes, Judge Starr testified, is to provide them with an empowering educational experience through curricular and co-curricular activities that prepares them for their lives after a collegiate playing career.
Bradford Livingston, a labor and employment attorney, cautioned that, while he supports the right of employees to freely choose whether or not to form or assist a labor union and to bargain collectively, and realizes that equities in college athletics and its economic structures will remain, the NLRA, however, is not an appropriate vehicle to address these issues. Treating athletes as employees redefines them from being student athletes to professional athletes who are also students.

Andy Schwarz, an economist who specializes in antitrust economics provided the Committee with a set of interesting facts supporting the players’ right to unionize. Scholarship football players at Northwestern devote 40-60 hours of football-related activities per week during a five month season. They devote 15 to 25 hours a week the rest of the year. He asserted that the current collegiate system places a cap on compensation, thus denying the 95% of student athletes who will not play their sport professionally, access to the only potential earning years of their sports careers.

Bernard Muir, athletic director at Stanford University pointed out that student athletes are not a separate cohort of students, having a separate experience from the rest of the student body. They take the same classes, participate in the same laboratories, live the same housing, and have the same exam schedules. Stanford has a Student Athlete Advisory Committee and is already addressing issues that were raised by the Northwestern players, such as medical costs of injuries, protecting scholarship support for students who are medically disqualified from playing, and promoting player safety.

Patrick Eilers, a standout on the 1988 University of Notre Dame championship football team, who later played for three teams in the National Football League, expressed concern about the unintended consequences of student athletes being deemed employees and what unionization could bring to athletics. On the other hand, he said the pursuit of unionization is a practical means to an end. The conversation over unionization is a vehicle to implement improvements to the collegiate athletic system. He favors mandated four-year scholarships, health and insurance benefits, as well as stipends. He acknowledged that some athletic programs already operate in the red; however there is plenty of money being generated by big-time athletics via television and video game contracts, merchandise sales, etc. that budgetary impediments are an unacceptable excuse for inaction.

Representative George Miller (D-CA), ranking member of the Committee spoke of student athletes going to bed hungry due to NCAA rules limiting their ability to earn money, the mega profits being made by the NCAA, and the 40-hour weeks committed to athletics by players during the season. While Rep. Miller acknowledged that the schools represented at the hearing were doing more than most to support student athletes, he faults the NCAA and college presidents for only reacting to concerns once there is a crisis, citing concussions in sports as an example.

Representative John Kline (R-MN), chair of the committee, said only a few student athletes will make it to the professional level and for the majority participating in college athletics is a ticket to an education they could not otherwise access without a college scholarship. He said schools owe a duty to all student athletes to take care of medical expenses that arise from a sports-related injury. Schools should also provide medical and academic support. Having said this, he believes that applying NLRA rules to colleges and universities is not the proper solution to address these issues.

It is clear that student athletes have raised a number of important concerns that need to be addressed. What is less clear is whether there is much support for the NLRB as the best arbiter of a resolution or whether policymakers would rather see the matter addressed by college presidents and the NCAA.

In an expected next step, the NLRB has invited interested parties to submit briefs to address issues raised in the case. Briefs must be submitted by on or before June 26, 2014.

For more information, contact Bo Newsome, Bo@naicu.edu

Student Loan Interest Rates to Rise in 2014

Next year, interest rates for new federal student loans for undergraduates will rise .80% to 4.66%. Based on the change, a borrower will pay an estimated $50 more per year on a $10,000 loan. Rates on loans taken out by graduate students and PLUS loans will also increase. (See summary chart below.)
The annual interest rate for all federal student loans is determined by adding a fixed percentage (2.05% in the case of undergraduate loans) to the current Treasury bill rate. This is a result of a Congressional compromise reached in the summer of 2013 to prevent the interest rates for subsidized loans for undergraduates from doubling.

Two changes determined the increase in the interest rate:

1. Beginning July 1, 2014, the student loan interest rates for AY 2014-2015 will be pegged to the 10-year Treasury bill rate of 2.61%. Last year, the T-bill rate used was very low (1.81%), thus so were the interest rates for federal student loans. While the annual rate changes, it can’t exceed 8.25% for subsidized and unsubsidized undergraduate loans no matter what the T-bill rate is. In addition, the rate on a disbursed loan is maintained for its life. Consequently, because borrowers get new loans each year, they are likely to have multiple loans with different interest rates.

In addition to new federal undergraduate student loans, the rates for Stafford loans for graduate students and PLUS loans will also be increasing. The rates for graduate student Stafford loans will be 6.21%, up from 5.41%, while the rate for PLUS loans, both Parent PLUS and Grad PLUS, will increase from 6.41% to 7.21%.

Prior to the change linking the interest rate to the ten-year T-bill, the rates were 3.4% for subsidized undergraduate loans, 6.8% for undergraduate and graduate unsubsidized loans, and 7.9% for PLUS Loans.

2. In addition to interest, all federal student loans carry origination fees. Because of sequestration, the origination fees will increase by a small amount on October 1, 2014. Fees for Direct Subsidized and Unsubsidized Loans will be 1.073% and 4.292% for PLUS loans.

Sen. Elizabeth Warren (D-MA) is expected to introduce a bill that would enable borrowers to refinance older federal and private loans carrying higher interest rates at current, AY 2013-2014, interest rates.

<table>
<thead>
<tr>
<th>Student Loan Interest Rates (AY 2012-2015)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Undergraduate</strong></td>
</tr>
<tr>
<td>Direct / Subsidized</td>
</tr>
<tr>
<td>AY 2014-2015</td>
</tr>
<tr>
<td>AY 2013-2014</td>
</tr>
<tr>
<td>AY 2012-2013</td>
</tr>
<tr>
<td>Origination Fees</td>
</tr>
<tr>
<td>October 1, 2014</td>
</tr>
<tr>
<td>CAP</td>
</tr>
</tbody>
</table>

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

---

**Hearing Highlights Educational Hurdles Faced by Low-Income and Minority Students**

Members of the Senate Health, Education, Labor and Pensions Committee heard from a diverse range of witnesses about the serious hurdles facing low-income and minority students as they work to get to and
through a college or university, as well as, innovative efforts that are helping students overcome these challenges.

Witnesses at the hearing, chaired by Sen. Kay Hagan (D-NC), agreed that low-income and minority students face unique and significant cultural, financial, and academic hurdles on the way to a higher education. Witnesses also described a number of innovative approaches and programs that have been effective in getting students to apply to and complete college.

Former NAICU Board chair, President John Bassett of Heritage University, a small, rural college dedicated to serving local Native-American and Hispanic students, 90% of whom are eligible for Pell Grants, was one of the witnesses. He described both the growth and success, as well as, the challenges that Heritage faces in providing programs and resources to these diverse student populations. Underscoring the financial difficulties, Bassett also noted that some juniors and seniors who transfer to Heritage have already exhausted their eligibility for Title IV aid prior to arriving on campus.

In addition to the financial difficulties, low aspirations and poor academic preparation drastically inhibit student enrollment and completion. Thus, Heritage has invested in early outreach to elementary and secondary students, and is providing “professional student support, advising and tutoring.” In addition, Heritage’s high expectations of the students, opportunities for cultural awareness, and including them in cohorts, are important components of student success and community support.

Also testifying was Michael Lomax, President of the United Negro College Fund (UNCF), who highlighted the financial and academic preparation challenges facing students at private Historically Black Colleges and Universities (HBCUs). Lomax recommended improving the pre-K through college pipeline for communities of color and made a number of recommendations for changing student aid financing. Among his recommendations were increasing private financial support, such as the Citibank college savings accounts program with KIPP charter schools, restoring “summer Pell,” repealing various eligibility restrictions on Pell, easing credit-testing for Parent PLUS loans, delaying cohort default rate sanctions, going to automatic income-based student loan repayment, providing venture capital to HBCUS, and not basing student aid on college ratings. (Tightening of PLUS credit standards several years ago led to decreases in enrollment at HBCUs and is currently under consideration in the Department of Education’s rule-making process.)

Marybeth Gasman, Director of the Penn Center for Minority Serving Institutions at the University of Pennsylvania provided an overview of minority-serving institutions (MSIs) and noted they produced 11% of the nation’s teachers. Like other witnesses, she urged additional aid for MSIs that would help them become more self-sustaining. She also recommended intervention and mentoring of minority students, and mandating the collection of outcome data on students, including post-college employment.

Other efforts recommended during the hearing included funding for Titles III and V, expanding Pell eligibility, simplifying the FAFSA, improving college readiness, improving data sharing between K-12 and colleges, offering initiatives focused on helping African American males, and providing access to STEM programs.

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

---

**Veterans Realizing Success in Higher Education**

Representatives on the Subcommittee on Economic Opportunity of the House Committee on Veterans’ Affairs explored the effectiveness of initiatives focused on promoting educational attainment among veterans. During the May 8 hearing, “Defining and Improving Success for Student Veterans,” witnesses offered a positive assessment of the effectiveness of the post-9/11 GI Bill and highlighted existing efforts to provide educational supports and resources for veterans.

Several witnesses mentioned the findings of the "Million Records Project," initiated by the Student Veterans of America in cooperation with the Department of Veterans Affairs and the National Student Clearinghouse Research Center. That report found that nearly 80 percent of student veterans attend public institutions, with the remaining 20 percent split just about evenly between private, non-profit and proprietary schools. According to the report, a majority of post-9/11 veterans using the GI Bill complete their higher education. Veterans who began their education at private, non-profit institutions posted the highest graduation rate of nearly 64 percent. (This figure includes students who transferred and later graduated from a public or for-profit institution.)
The Veteran Affairs Department Deputy Under Secretary for Economic Opportunity Curtis L. Coy described the Department’s activities in implementing the “Improving Transparency of Education Opportunities for Veterans Act of 2012” (Public Law 112-249) and the “Principles of Excellence” Executive Order issued in April 2012. Mr. Coy reported that approximately 106,000 users have accessed the GI Comparison Tool. Students have filed 1,400 complaints, with complaints being evenly divided between payment and educational issues. The VA has initiated 25 risk-based reviews stemming from receipt of these complaints.

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

---

**Once Again, No Reimbursement for Federal Perkins Loan Service Cancellations**

On May 13, the Department of Education formally announced that it would not be reimbursing colleges that provided loan forgiveness for Perkins Loan borrowers who completed public service jobs. Nevertheless, campuses must still provide the forgiveness for borrowers. As has been the practice for a number of years, the Department will calculate the 2012-2013 reimbursement payment for which a school would have been eligible to receive, and maintain a record of that amount.

In related news, the Department on April 18, 2014 published “the Orange Book,” i.e., Federal Perkins Loans Cohort Default Rates (CDR) as of June 30, 2013. Rates are listed by institution. Most NAICU member institutions have low rates, but a few have rates at or above 25%. According to the law, institutions at or above 25% are not entitled to receive a federal capital contribution to provide Perkins Loans. This is a meaningless penalty because, for the last decade, there have been no additional federal funds appropriated. However, an institution that has a CDR of 50% or more for three years can no longer participate in the program.

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

---

**First in the World Grant Competition Opens**

The U.S. Department of Education announced on May 16, that $75 million will be available for the developmental stage of “First in the World” (FITW) grants for a wide range of innovations at colleges and universities that result in more students graduating from college by 2020, especially low-income, traditionally under-represented, and minority students. Up to $20 million will be available for minority-serving institutions.

There is a quick turnaround on this process, with applications due June 30, and intergovernmental review expected by August 29, 2104. Department technical assistance and webinars are already scheduled to help campuses apply for this new grant opportunity.

**FY 2014 FITW Pre-Application Webinars (click link to register):**

- **May 28, 2014** – 1:30 - 3:30 p.m. EDT
- **June 4, 2014** – 1:30 - 3:30 p.m. EDT

According to the notice, the department is looking for the most innovative and creative thinking from colleges. The department will look to fund projects that are novel, and can be significant nationally, not just “implementing existing practices in additional locations.”

There are five priority areas the department will consider when reviewing applications, all of which should be targeted to underrepresented, underprepared or low-income students:

1. Increasing access and completion;
2. Increasing community college transfer rates;
3. Increasing enrollment and completion in STEM;
4. Reducing time to completion; and
5. Improving college affordability.

These priorities reflect the kind of ideas many private colleges are experimenting with as evidenced in NAICU’s Building Blocks to 2020 initiative.

Applications must cite research, acceptable to the What Works Clearinghouse Evidence Standards, which supports the proposal.

There is no institutional match for the grant.

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