



**PUBLIC POLICY OBJECTIVES FOR THE
116TH CONGRESS**

JANUARY 2019



TABLE OF CONTENTS

Introduction and Overview	3
Student Aid.....	5
Pell Grants	5
Campus-Based and LEAP Programs More Important than Ever	6
Perkins Loans.....	7
The Federal Student Loan Program.....	7
Student Aid Simplification and Equitable Treatment of Students.....	8
Post 9/11 GI Bill.....	9
Addressing Implications of For-Profit School Abuses.....	10
Strengthening the Federal Commitment to Graduate Education.....	11
Revitalizing the Federal Commitment to International Education.....	11
Equitable Treatment of Independent Colleges and their Students.....	12
Accountability	14
The Importance of Independence	14
Freedom of Speech.....	14
Independent Colleges and State Government.....	15
Appropriate Accountability.....	16
Educational Cost and Value.....	17
Information Sharing.....	17
Education Reform.....	18
Teacher Preparation.....	19
Campus Safety.....	20
Tax Policy.....	21
Tax-Exempt Status	21
Endowments	21
Charitable Giving.....	22
Tax Incentives for Education.....	23
Tax-Exempt Bond Financing.....	24
Unrelated Business Income	24
Fringe Benefit Programs	24
Nonprofit Governance.....	25



INTRODUCTION AND OVERVIEW

The 115th Congress (2016-17) convened during one of the most divisive political times since the Vietnam War. Bipartisanship is at an all-time low, and both political parties are becoming more and more polarized as increasingly activist base voters punish politicians who seek legislative compromise. As we enter the 2020 presidential election cycle, bipartisan cooperation is likely to be even more elusive.

As the 116th Congress gets underway, the commitment of college presidents to engage in policy conversations is more important than ever. The Higher Education Act will once again be before Congress. With a new majority in the House, NAICU needs a measured and thoughtful response to proposals on free public college, learning outcomes, accreditation reform, and proposed rules on teacher preparation programs.

Historically, education has enjoyed more bipartisan support than almost any other domestic policy area. Because of this support, past congressional debates in higher education have focused on the appropriate role of government in ensuring educational quality, the level of funding necessary to ensure equal opportunity for low-income students, and enhancements to longstanding and highly appreciated programs.

But higher education is no longer immune to the larger cultural wars. During the past two years, Congress made a serious attempt to rewrite the Higher Education Act. Although the effort was unsuccessful, the House Education and the Workforce Committee approved a comprehensive bill that passed strictly along party lines. Even more concerning was the Committee's attention to issues tangential to past reauthorizations, such as free speech and equating educational quality to the earnings of recent graduates. Although many of these issues were deftly handled in actual bill language, the legislation reflected a growing sentiment that higher education is elitist, biased, and perhaps even unnecessary, and students might be better served by directing aid toward workforce training.

The most problematic higher education provision actually passed into law in the last Congress was a new and unprecedented tax on the endowments of some private universities. The provision, solely targeted at private, nonprofit colleges, was fed by resentment of our nation's most prestigious institutions, and its proponents employed inaccurate arguments in its defense.

But while the prospect of seeing sound higher education policy from Congress seems bleak, our member presidents continue to be strong and effective advocates for higher education. Despite the unfortunate outcome on endowments, the tax itself was reduced in size and scope, affecting fewer than 30 private institutions rather than the estimated 250 private institutions initially subjected to the levy. NAICU will continue to work to repeal this law.

Additionally, nearly every higher education tax provision targeted for elimination in a major tax reform bill remains enshrined in law, a particularly significant accomplishment in a bill that dramatically reduced such long-standing and popular tax benefits as the state and local tax and mortgage deductions. This outcome was realized because of the sustained advocacy of college presidents on behalf of their institutions and the students and families they serve.

Equally important were the historic increases in student aid funding in a Congress that began with tight budget spending caps. Congress rejected the administration's proposed deep cuts to student aid through a two-year bipartisan budget agreement reached in March 2017. The Pell Grant maximum was increased \$275 over the next two years, while assistance for other programs was increased by \$372 million after years of flat funding. Funding increased for Supplemental Educational Opportunity Grants (SEOG) by \$107 million, Federal Work Study by \$140 million, TRIO by \$110 million, and GEAR UP by \$20 million. The historic



funding increase for SEOG is particularly noteworthy because of serious congressional proposals to eliminate the program.

Amidst these volatile times, the ability of presidents to tell an increasingly skeptical public the story of why higher education is important will be critical. Data demonstrate more emphatically than ever that the investment in a college education is worth it both to individual students and society. But affordability and student debt will continue to be front-burner issues with both political parties and the public.

As in the past, NAICU will make rational and measured policy arguments to Congress and the administration. In that sense, NAICU's fundamental challenge remains unchanged: to explain who America's private, nonprofit colleges and universities are and how these remarkably diverse institutions benefit the students they serve, the broader general public, and our country.



STUDENT AID

The federal system of need-based student aid was created to ensure that all qualified and motivated Americans, no matter their family income, are able to pursue higher education at the college of their choice. The programs continue to be extraordinarily successful and have changed the lives and futures of millions of Americans. The federal student aid programs have also contributed positively to the changing landscape of American higher education by making college campuses more economically and ethnically diverse, and thus more democratic. Indeed, the federal student aid system has been one of our nation's greatest policy achievements during the past 50 years.

But this achievement did not come through federal action alone. Accomplishing and maintaining this success requires a partnership of students and parents, state and federal governments, private philanthropy, and colleges and universities. Using a combination of grants, work-study, and loan programs, this system offers all qualified citizens a chance to advance their minds, skills, and economic potential, while also providing for the betterment of society.

To achieve the goal of providing a college education for all who qualify, the federal student aid programs must remain strong. This is essential for students at independent colleges and universities who come from all socioeconomic backgrounds. One-third of students enrolled in independent colleges come from families earning less than \$30,000 a year, and 88 percent of full-time, dependent undergraduates receive some form of grant aid (federal, state or institutional).

Pell Grants

The Pell Grant program continues to enjoy bipartisan support in Congress. The federal government now invests more than \$30 billion annually in the Pell Grant program, making it the nation's most highly funded education program, and one of the largest programs in the entire federal budget. The program has almost 8 million recipients and a maximum grant of \$6,195 for the 2019-20 academic year.

Congress has renewed its bipartisan commitment to Pell Grants, working together to strengthen and expand the program. The restoration of funding for year-round Pell Grants and increases to the maximum Pell Grant in FY2018 and FY2019 are major successes in an era of fiscal conservatism. Further, the House Republican HEA reauthorization legislation (i.e. PROSPER Act) offered a \$300 Pell Bonus, and the House Democratic HEA reauthorization legislation (i.e. Aim Higher Act) proposed to increase the Pell Grant by \$500 and indexes the maximum grant to inflation.

NAICU is proposing an additional Pell Plus funding model that would allow students to draw down on their total eligibility for Pell as they progress toward a degree. This proposal faces funding constraints even though it meets congressional interest in serving the new ways students attend college and promotes completion.

NAICU Action Items

NAICU will continue to support Pell Grants as the foundational grant program for low-income students' access to higher education.

NAICU will work to ensure that Congress provides the necessary resources to keep the Pell Grant maximum at its projected levels, and to prevent future shortfalls.

NAICU will continue to support new Pell features that respond to the increasingly diverse ways students attend college.



Campus-Based and LEAP Programs More Important than Ever

Congress is conflicted over the future of the campus-based aid programs. For example, in an effort to simplify the federal student aid portfolio to “one grant, one loan,” leading Republican lawmakers have proposed eliminating the Supplemental Educational Opportunity Grants (SEOG) program. Additionally, both parties have proposed to distribute Federal Work Study (FWS) funds differently among colleges. However, Republican-controlled majorities in both houses of Congress also passed into law spending bills that significantly increased funding for both the SEOG and FWS programs. Perkins Loans, however, were permanently terminated, despite significant efforts to save the program.

As Congress considers its path forward between authorizing and appropriating priorities, advocacy for the campus-based programs is more important than ever. In fact, the 112th Congress – for the first time – eliminated funding for a core student aid program. The LEAP program, which provided federal funds for state-matched need-based aid, was cut entirely, at the same time student aid funding was being reduced in many states. Since LEAP was defunded, four states have eliminated their need-based aid programs. With the elimination of LEAP state grant funding in 2011, and the termination of Perkins Loans in 2017, further cuts to the campus-based programs would be devastating for millions of low- and middle-income students and add an additional hurdle to their completion efforts.

Institutionally-matched SEOG, FWS, and Perkins Loans are important tools for addressing the remaining needs of Pell Grant recipients, and in leveraging institutional matching funds to make the federal investment in student aid grow. Currently, nearly \$2 billion per year in campus-based aid is made available to low-income students. Students at independent colleges and universities receive roughly 36 percent of the SEOG funds and 45 percent of FWS funds. Prior to its elimination, students at independent institutions received 51 percent of Perkins Loan funds.

NAICU Action Items

NAICU will redouble its efforts to ensure that the campus-based aid programs remain student-focused aid programs that provide choice for qualified low-income students, and provide incentives for institutions to partner with the federal government to provide higher education.

NAICU will advocate for increased funding for campus-based aid, restoration of the Perkins Loan Program, and new funding for the LEAP program.

NAICU will review any proposed formula change to the campus-based programs, including proposals to incorporate measures – such as Pell completion rates – into the distribution formula, to ensure any such changes do not dilute the focus of need-based student aid.



Perkins Loans

Beginning in 1958 as the National Defense Student Loan program, the Perkins Loan Program was the oldest of the core federal student aid programs. Perkins Loans provided essential financing for American college students for six decades.

Despite bipartisan support, Congress failed to act during the 115th Congress to extend the Perkins Loan program. As a result, colleges and universities that participate in Perkins are being forced to wind-down their programs and begin the unwieldy process of returning the federal capital contributions (FCCs) to the federal government. Institutions have been given the option to either liquidate their Perkins programs immediately or continue servicing the loans until the final loans are repaid.

NAICU is concerned that the federal government has not lived up to its promise to reimburse colleges and universities for Perkins Loans cancellations for certain borrowers. While colleges and universities have willingly cancelled or discharged Perkins Loans in accordance with the law, Congress has not appropriated funds to cover the institutional losses for those cancellations. Institutions should not be left holding the bag when Congress has not lived up to its own legal requirements.

As Congress moves to the reauthorization of the Higher Education Act, lawmakers will have the chance to revisit the Perkins Loan program. It is the hope of many in the higher education community that Congress will revive the Perkins Loan program, taking the opportunity to expand the program to serve more students.

NAICU Action Items

NAICU will continue to work to revive the Perkins loan program, likely as part of the ongoing HEA reauthorization process.

NAICU will work to protect the historical investments made by institutions that have participated in the Perkins program by advocating for institutional reimbursement for Perkins loan cancellations or discharges.

The Federal Student Loan Program

During recent years, news media coverage of student debt has intensified, fueling political interest in college affordability and new income-based repayment options. Lost in much of the public conversation is the fact that most students still have manageable debt and repay their loans. Some members of Congress have proposed reducing loan limits for many borrowers, particularly graduate students, independent undergraduates, and parent borrowers.

While the total annual federal loan volume today is higher than it was ten years ago, the annual volume peaked in 2010, and has decreased annually since then. For some classes of students, such as undergraduate students, average annual borrowing is also down slightly, while it is significantly up for graduate students and slightly up for parents. Over 60 percent of borrowers owe less than \$25,000 in educational debt, although borrowers with the smallest loan balances (below \$5,000) have the highest default rates.

Concerns about student debt have led to a plethora of new student repayment options that allow borrowers to repay loans based on their income. While income-based repayment provides a much needed option for



some borrowers, the multitude of options can be confusing for even the most sophisticated borrowers and should be simplified.

Less widely discussed is the fact that the student loan program returns a significant profit to the federal government. According to the Congressional Budget Office, the chief financial scorekeeper for Congress, the federal government has a positive return of 34 percent on Parent Loans for Undergraduate Students (PLUS) Loans, 7.4 percent on Grad PLUS student loans, and 6.6 percent on unsubsidized graduate loans. The government incurs costs of 1.7 percent on unsubsidized undergraduate loans and 12.1 percent on subsidized student loans for low-income students.

Overall, with a new annual student loan volume of approximately \$99 billion estimated for 2019, the program return is estimated to be approximately \$4 billion to the federal government in 2019. Some of this revenue has been used to fund the Pell Grant program. Still, the profit-making aspect of the student loan program raises equity issues – with borrowers effectively subsidizing low-income students and families.

Also, the practice of funding Pell Grants through loan profits makes student loan benefits vulnerable when Pell funding falls short. This phenomenon was evident in 2011, when the grace period was eliminated for all low-income students, and the in-school interest subsidy was eliminated for low-income graduate students. Now some HEA reauthorization proposals are calling for eliminating the in-school interest subsidy for low-income undergraduate students.

NAICU Action Items

NAICU will work to ensure that the federal student loan program continues to operate as efficiently and effectively as possible for both students and institutions.

NAICU will work to ensure that the debt students incur is at a manageable level, and that the cost of borrowing remains as low as possible.

NAICU will support the continuation of the in-school interest subsidy for low-income students.

NAICU will oppose the reduction of current borrowing limits.

NAICU will support the simplification of the current array of income-based repayment options so that the available options will be easier for all borrowers to understand and utilize.

Student Aid Simplification and Equitable Treatment of Students

Student aid simplification continues to be a major policy goal of both the Administration and Congress, as well as many higher education policy groups. As such, it remains a key issue in the ongoing reauthorization of the Higher Education Act.

Simplification can mean any of a number of things, however: eliminating questions on the Free Application for Federal Student Aid (FAFSA); eliminating elements in need analysis, and even eliminating need analysis, itself; and eliminating whole programs, in favor of one grant, one work, one loan.

Simplifying the FAFSA may make the student-aid application less intimidating, especially for the families of low-income, first-generation college students. The web-based FAFSA, and direct downloading of family tax information from the IRS, has made the aid-award process easier for many students, colleges, and states. The



Department of Education has also recently made the FAFSA available via mobile devices, hoping to further eliminate barriers to completing the application. Proposals to reform student aid forms, as well as eligibility systems and programs, can be highly technical. However, changes can result in critical alterations in distribution formulas affecting the financial aid that countless students receive.

Care must be taken to avoid *over*-simplification so that the system can still distinguish between students with few resources and those with hidden resources. Current reauthorization proposals could make the federal aid determination process so simple that it will no longer be considered a reliable indicator by states or colleges for distribution of their own aid, leading to multiple forms and systems. Such an outcome would make the system more confusing for students, not easier.

Additionally, simplification has led the Administration to promote common federal disclosure forms for all colleges in such diverse areas as pricing and student aid award letters. Most of these efforts have yet to result in consumer tools offering more accurate, comparable, or simpler information than that which individual colleges currently provide.

NAICU Action Items

NAICU will support legitimate efforts to simplify student aid application forms and systems, while ensuring that simplification does not promote the proliferation of supplemental, fee-driven forms, or a confusing array of new disclosures.

NAICU will continue to monitor need analysis changes, both to ensure the equitable treatment of all students, and to ensure that the real costs students face remain a factor in determining eligibility for student aid.

NAICU will support consumer information tools that are focused on what students and families need and want to know and provide information that is both accurate and useful.

Post-9/11 GI Bill

NAICU continues to support the “Post-9/11 Veterans Education Assistance Act” and to closely follow its implementation. We believe that providing expanded educational benefits for veterans and their dependents is an appropriate way for our nation to honor those who have served in our military.

NAICU has had a particular interest in the “Yellow Ribbon” program. This program expands institutional choice for veterans, and offers an excellent example of the ways in which public/private partnerships can help assure a good institutional “fit” for students. Federal incentives for private colleges to further increase the scholarships veterans receive have made it possible for independent colleges to serve thousands more veterans than otherwise would have been possible.

A continuing issue related to the Post-9/11 GI Bill – as well as to the Tuition Assistance (TA) programs administered by the Department of Defense (DoD) – is the growing list of proposed requirements for schools educating recipients of veteran or military education benefits.

Among the recent issues is a requirement for institutions to provide graduation rates for those receiving military-related education benefits. Unfortunately, these rates have been so narrowly defined as to prove misleading, leading the Veterans Administration to recently announce they were suspending their publication.



NAICU Action Items

NAICU continues its strong support for the Post-9/11 GI Bill, which has made higher education opportunities available to hundreds of thousands of veterans and their families.

NAICU strongly supports the “Yellow Ribbon” program as a model partnership effort that expands educational choice for veterans.

NAICU will continue to work with other higher education associations, Congress, and the Administration to assure that a commitment to serving veteran- and military-related students does not result in inappropriate interference with academic decision-making or undue or misleading data collection requirements.

Addressing Implications of For-Profit School Abuses

NAICU has long advocated for appropriate accountability for taxpayer investments in higher education. This has involved balancing the belief that self-governance promotes opportunity and excellence; the recognition that government has a legitimate oversight role in ensuring that publicly-funded student aid is appropriately expended; and the principle that students – not intermediaries – must be the ultimate beneficiaries of that funding.

As federal investment in the student aid programs has grown to more than \$120 billion per year, the pressures for ensuring integrity have mounted. At the same time, recent evidence indicates that the expanded federal funding has led to increased misuse of taxpayer funds – especially at for-profit colleges. Much of this trend appears to result from inadequate enforcement, along with a weakening of statutory and regulatory rules that, in the past, had effectively stemmed abuse in the student aid programs. NAICU had unsuccessfully opposed the relaxation of these rules.

All sectors of higher education have an interest in ensuring that federal student aid programs serve their intended purpose. When the public loses confidence in federal student aid because of fraud and abuse, future funding and political support are put at risk, affecting the ability of low-income students in all sectors to finance a college education. More importantly, when a student enters postsecondary education in the hope of a better life, then instead leaves with no education and debilitating debt, the effects on that student and family can be a lifelong loss of hope and financial devastation.

The Department of Education under the Obama Administration attempted to address for-profit college abuses, but too often the regulations promulgated at the time caused unintended consequences and unnecessary and burdensome administrative red tape for independent colleges and universities. NAICU supports revisiting elements of several “program integrity” regulations in order to make them effective.

In contrast, the Trump Administration has pursued a regulatory agenda that eliminates some of the basic student protections implemented against bad actor for-profit colleges. Related to this, the Department of Education under the Trump Administration convened two negotiated rulemaking panels (Gainful Employment and Borrower Defenses to Repayment) and intends to convene more to discuss several other regulations. NAICU participated in these rulemaking sessions and will closely monitor any additional panels.



NAICU Action Items

NAICU will work to ensure that the federal government continues to have the tools and authority necessary to protect against the risk of fraud and abuse in the student aid programs.

NAICU supports inclusion of military-related educational benefits in the federal 90-10 rule.

Simultaneously, NAICU will work to protect independent colleges and universities from inappropriate governmental intrusion.

Strengthening the Federal Commitment to Graduate Education

While the vast majority of federal student aid dollars appropriately goes to low-income undergraduates, graduate education remains a vital national interest that has not received sufficient federal support. Graduate PLUS Loans provide graduate students with access to funds for their studies, but the interest rate for these supplemental loans is higher than for Stafford Loans. In addition, congressional action has increased the cost of borrowing for graduate students by eliminating their eligibility for subsidized loans. Additionally, regulatory action provides graduate students less favorable repayment terms under some income-based programs. There are also significant HEA reauthorization proposals to reduce borrowing limits for graduate students.

Graduate education raises our nation's intellectual, cultural, scientific, and entrepreneurial capacity, benefitting our citizenship and maintaining our leadership in world affairs. Overall federal assistance for graduate education – much of which comes from agencies other than the Department of Education – is woefully inadequate, and must be strengthened if we are to increase our nation's economic and intellectual potential.

NAICU Action Item

NAICU supports new and innovative programs to increase access to graduate education – including new and adequately funded fellowship programs, sufficient loan limits, Grad PLUS loans, reinstatement of the in-school interest subsidy for graduate loans, and targeted loan forgiveness provisions.

Revitalizing the Federal Commitment to International Education

Federal understanding of, and commitment to, international education is a growing concern. Foreign language expertise, regional expertise, and educational exchanges are essential to promoting international understanding, and to the peaceful resolution of world conflicts.

American students must gain a greater appreciation of the world and its regional differences. In an increasingly global community, our economic future and national security will depend on a citizenry with a deeper understanding of diverse cultures and a broader, more inclusive world view. The federal government has an appropriate role to play in promoting study abroad for U.S. citizens, U.S. study for foreign nationals, foreign language acquisition, and increased interchanges with other cultures and peoples.



While it is important to broaden all students' appreciation of the widening and diverse communities in which they live, it also is important to maintain federal support for programs that develop deep levels of political, social, economic, linguistic, and cultural expertise in critical world areas.

NAICU Action Items

NAICU believes that the ability of colleges to admit and educate students from throughout the world is a vital national interest, and supports measures to keep our borders open, with reasonable safeguards against the inappropriate use of student visas.

NAICU believes that the federal government should continue to support institutional efforts in international education, area studies, and foreign languages, and will also support new efforts to promote study abroad and other international education programs.

Equitable Treatment of Independent Colleges and their Students

Since the original Higher Education Act of 1965, the federal government has continued its long tradition of treating private nonprofit and public college students equally. It is this principle which both allows students to take their federal student aid dollars to the institutions of their choice, and requires states to include private nonprofit college students in their federally-matched LEAP state grants.

It is appropriate that federal and state governments treat independent colleges and their public counterparts in an equitable manner. However, events over the last decade have challenged this equity at the federal level, and NAICU has sought to address the various legislative issues that have arisen. Allowing federal legislation to favor state colleges over student aid programs is a dangerous precedent, and one that NAICU will consistently oppose.

The association advocated for equitable education maintenance-of-effort language in economic recovery legislation, to ensure that states would not eliminate aid to private college students in order to meet the stimulus bill's requirement to maintain their commitment to fund state institutions. Unfortunately, our efforts were not successful, and research indicates that low-income students in both the public and private sectors lost overall grant aid and faced overall all cost increases because need-based student aid was not protected by states.

In the 2016 presidential campaign, free public college became a key platform item for the Democratic Party, despite cost estimates of a half trillion dollars or more. Since that time, the idea of free public college has gained support in both political parties, and many states have implemented similar "free college" initiatives. A national free public college program would reverse the long-standing federal commitment to invest first and most directly in low-income students. While the proposal was initially designed to address the serious issue of state divestment of public colleges, the solution could be filled with unintended consequences, including the undermining of choice for low-income students and the diversion of federal funds from the have-nots to the haves, both at the student and institutional level.

State treatment of independent colleges and their students varies greatly across the nation. Some states recognize the vital role independent colleges play in the economic and educational lives of their residents. Others, however, have created programs that do not provide equitable resources to independent college students, and in some cases even undermine the vitality of private colleges. State policy makers should recognize the important resource their independent colleges and universities represent, and implement policies that assure equitable treatment for students attending these institutions.



NAICU Action Items

NAICU will continue to support funding students over institutions.

NAICU will work to ensure that private nonprofit and state colleges, and the students they serve, continue to be treated equitably in all areas of federal law.

Through our partnership with the National Association of Independent College and University State Executives, NAICU will support policies that bring equitable state resources and treatment to our institutions and our students.



ACCOUNTABILITY

NAICU recognizes that many individuals and entities have a stake in how well our institutions perform. Independent colleges and universities are accountable to their individual governing boards for policy decisions on mission, educational philosophy, and priorities for the allocation of resources; to local, state, and federal governments to insure the proper expenditure of public funds; and to peer review bodies for judgments about whether learning resources and practices and policies are appropriate to meet the stated mission of the institution.

The freedom of students to choose among the vast array of colleges and universities that comprise American higher education is the key to keeping higher education strong. In the end, informed student choice, in a free higher education market, plays a strong role in assuring institutional accountability.

The Importance of Independence

The diversity of the nation's independent colleges and universities makes possible an extraordinary range of contributions to society: educating citizens, preparing the work force, increasing scientific and technical knowledge, instilling leadership, and enhancing economic productivity. This strength in diversity also advances the scholarly understanding of cultural heritage, permits insights into social problems, increases civic engagement, and creates a setting in which to raise religious, moral, and ethical questions.

Educational excellence thrives amid this diversity, through each institution defining its own distinctive mission, and taking responsibility for fulfilling it. Private nonprofit higher education, being free of central control and monolithic purpose, has the flexibility to offer responsive, distinctive, and innovative answers to the diverse and evolving needs of our nation.

NAICU Action Items

NAICU will endeavor to protect independent colleges and universities from inappropriate governmental intrusion – in particular, opposing efforts to mandate federal uniformity in such areas as tuition, admissions, student assessment and related outcome measures, academic content, credit hour definition, and transfer or award of credit.

NAICU encourages federal and state governments to respect institutional diversity through legislation and regulations that appropriately recognize the distinctive aspects of the various sectors that comprise American higher education.

NAICU believes that policies addressing student life issues should avoid intruding into policies and practices that are appropriately the province of each institution, based on its own mission and purpose.



Freedom of Speech

Preserving and promoting freedom of speech is a central tenet of higher education. By facilitating the free and open exchange of ideas, colleges and universities encourage students to share diverse perspectives and challenge each other's beliefs. Such pursuits are essential for prompting the critical thinking skills and rigorous debates that are hallmarks of the American tradition of higher education.

Private, nonprofit colleges and universities are deeply committed to fostering an environment in which free expression can flourish. Given the complexity of the issue, there is no one-size-fits-all approach to campus speech that works for all institutions. Instead, each institution of higher education must have the flexibility to develop speech policies within the context of its educational mission and cultural values, to determine the best method for fulfilling its responsibility to maintain a safe and secure campus, and to establish policies regarding respect, tolerance, and inclusion for its entire student body.

NAICU Action Items

NAICU will continue to inform members about legislative or regulatory efforts to regulate free speech on their campuses.

NAICU will advocate for flexible free speech policies that allow institutions to balance free speech protections with other essential values, such as student safety, inclusion, respect, and institutional mission.

Independent Colleges and State Government

The relationship between independent institutions and state government is particularly sensitive, as we learned over 20 years ago with the ill-conceived State Postsecondary Review Entities (SPREs).

State government authority does not reach into the affairs of independent colleges and universities in the same way that it does with the states' public colleges and universities. Each state has developed its own distinctive pattern for the relationship with its public institutions and independent institutions. Most states provide some assistance for students at independent institutions, and a few provide substantial aid. But in each case, the states have respected the essential differences between public and independent institutions.

This balance is currently being challenged – particularly in attempts over the past decade to apply to higher education reform proposals modeled on those for elementary and secondary education and in several aspects of the Free Public College proposals put forward by Members of Congress. These proposals have increasingly called on state governments to organize and direct activities in areas most appropriately and effectively designed and directed by the institutions themselves.

In addition, regulations issued by the Department of Education on state authorization have re-opened questions regarding how states relate to their independent institutions. Deadlines for implementation of home state authorization and complaint resolution requirements went into effect in July 2015. Regulations addressing state authorization of distance education programs were intended to go into effect on July 1, 2018, but the Department delayed implementation for two years. According to the Department, the delay is intended to allow sufficient time to conduct negotiated rulemaking to revise the regulations.



NAICU Action Items

NAICU opposes any federal attempts to use the states as its agents for ensuring accountability in higher education, such as through authority for states to become accreditors or compelling independent institutions to participate in statewide initiatives affecting institutional programs or activities.

NAICU will continue to be proactive in protecting independent institutions against legislative and regulatory actions that would lead to inappropriate state control.

Appropriate Accountability

Independent institutions and, ultimately, their students continue to pay a steep regulatory price for participating in federal student aid programs. While the federal government must set a high standard of appropriate accountability and reasonable oversight, much of the current intrusive regulatory system is unrelated to effective management of Title IV aid. Several aspects of this system have instead become a serious drain on the vitality, creativity, and flexibility of American higher education.

Government and higher education must work together to develop a system of appropriate accountability that responds to legitimate governmental needs for oversight and to public needs for information without undermining institutional diversity and creativity. Moreover, the historical framework for assessing quality in higher education – a careful balance among accreditation, institutional autonomy, and governmental accountability measures – should remain fundamentally the same, no matter how the education is delivered.

NAICU Action Items

NAICU believes that regulations should be developed in concert with the higher education community, both through formal negotiated rulemaking and less formal consultation.

NAICU supports efforts to improve the negotiated rulemaking process to meet its intended goal of ensuring the active input of affected parties in developing regulations.

NAICU supports the historical role of accreditation as a means for assuring institutional quality and will continue to resist initiatives that would change accreditation from a successful self- and peer-review system into a federal performance or enforcement system.

NAICU will work to ensure that the federal government continues to have the tools and authority necessary for its responsibility to protect against fraud and abuse in the student aid programs.

NAICU opposes the “back door” expansion of Department of Education authority through the application of rules during institutional and accrediting review processes, or through the definition of previously undefined terms.

NAICU supports a community-wide, top-to-bottom review of all Department of Education regulations as a means for correcting problems in existing regulations, and will seek implementation of the recommendations of the Task Force on Federal Regulation of Higher Education.



Educational Cost and Value

College prices have been on the minds of policymakers for decades. Past federal policy proposals on college affordability have included failed attempts to impose price controls, along with some more successful efforts to increase transparency. Against the backdrop of rising student debt levels, low graduation rates, and high rates of unemployment, the focus has now shifted to questions of educational value and productivity.

Policymakers continue to support programs that help students pay for college. At the same time, however, they are considering how to up the ante on expectations for the institutions serving those students. Two themes have emerged: 1) that colleges must become more “efficient” by fundamentally rethinking how they deliver education; and 2) that they must offer “proof” of their success in terms of such metrics as student graduation, job placement, and earnings.

NAICU Action Items

NAICU values the diversity of the personal objectives of students at independent colleges and the range of outcomes they achieve.

NAICU opposes the use of a single indicator – such as net price, graduates’ earnings, or institutional completion rates – or the excessive reliance on irrelevant numerical outcomes to assess institutional value and effectiveness.

NAICU will continue to support transparency initiatives that give prospective students valid information on best-fit colleges and possible career earnings, while opposing efforts to assess quality or rate institutions on the basis of narrow metrics.

NAICU will continue to share the compelling stories its member institutions tell of their success in retaining and graduating students and the contributions those graduates ultimately make to society in their personal and professional lives.

NAICU will continue to press policymakers on the importance of learning as an end in itself.

Information Sharing

New requirements continue to be heaped on colleges, without any corresponding reduction of existing requirements. Complying with these burgeoning requirements and preparing the requisite reports entail real costs at a time when institutions are being challenged to reduce costs, and are dealing with heightened economic pressures. These reporting requirements often are imposed with no consideration of their value to federal oversight, to taxpayers, and to higher education consumers.

Beyond existing reporting requirements, the federal government has moved toward required use of standardized consumer information “scorecards” and related documents outlining the information it believes students and families will find important.

All this is occurring at a time when student privacy protections at the federal level have been weakened due to FERPA regulations that went into effect in January 2012.



NAICU Action Items

NAICU believes that disclosure requirements should: 1) focus on information that is truly useful to students and families; 2) be realistic in scope and schedule; and 3) accommodate the diversity of higher education institutions. These are the principles underlying the University and College Accountability Network (U-CAN), and we remain committed to them.

NAICU believes that it is essential to protect the privacy of students and their educational records. The systematic collection of data on individual students nationally would pose a serious and substantial risk to student privacy. NAICU will continue to advocate for less invasive means to acquire the information that can better public policy.

Education Reform

During the past two decades a consensus developed among federal policymakers of both parties that dramatic national intervention was needed to address educational quality in public K-12 education. Proposed reforms have been driven by interventions that first were targeted at large urban school districts. However, the subsequent emphasis on student achievement as measured by state-based outcome assessments has affected all of public K-12 education. The vision for this model of reform has become increasingly expansive, moving from K-12 to encompass P-16 and beyond.

A key component of this strategy is data-driven decision making, which has led to a substantial push for a comprehensive student unit record system. In addition to tracking students' progress from preschool through their work life, the system would also be used to assess institutional and teacher quality based on these student outcomes. The strategy also relies heavily on state-based activities – not only in data collection, but also in statewide planning and standards-setting.

American higher education has always been perceived to be the highest quality in the world. This is, in part, because continuous self-improvement and innovation have been an integral part of American higher education from its earliest days. We are no strangers to reform. However, in evaluating the effectiveness and applicability of specific proposals put forward in the name of reform, other key elements of American higher education must be taken into account.

First and foremost is the diversity of our independent nonprofit institutions, as reflected in our missions, our educational offerings, and the subset of college students each institution chooses to serve. More broadly, American higher education is a unique blend of public, independent, and for-profit institutions – each with its own governance structures. This diversity is one of the greatest strengths of American higher education. Conversely, it also makes meaningful quality comparisons across all institutions difficult, if not impossible.

NAICU Action Items

NAICU will work to ensure that education reform efforts respect and strengthen the diversity of American higher education, and do not weaken our independence.

NAICU will place particular emphasis on issues of self-governance and mission – two hallmarks of independent higher education that contribute to our quality and success, particularly with at-risk students.



Teacher Preparation

Independent colleges and universities have a long history of preparing highly-qualified teachers for America's classrooms. Their education programs range from relatively small institutions' modest teacher education departments to large research institutions, with distinct colleges of education encompassing doctoral programs, and traditions of multi-disciplinary research in teaching, learning, and human development. High quality and rigor are essential for effective professional teacher preparation programs.

Many accountability initiatives – the education reform movement, data-driven decision-making, state standards-setting, and outcomes-based assessments – come to a confluence in current policy conversations on teacher preparation.

The education reform movement has targeted teacher preparation programs as a key piece of the puzzle of fixing our nation's K-12 public schools. It also fueled the Obama Administration's approach to policy and regulation. In 2016, the U. S. Department of Education issued a final rule on Title II accountability measures and TEACH Grant eligibility (in Title IV) that sought to impose these reform efforts on all teacher preparation programs. The final regulations did not reflect state of the art practices nor valid and reliable indicators of quality, and resulted in a federal effort to determine what the quality standards should be for a profession.

In 2017, after the transition to the Trump Administration, Congress repealed the Obama teacher preparation regulations before they could be implemented. While this was an important victory, teacher preparation programs – whether federally funded or not – remain under continued scrutiny to ensure that graduates are high quality and their students can perform well on outcomes-based assessments. Despite the repeal of the regulations, current proposals from some Democrats in Congress to reform teacher preparation programs continue to reflect the flawed construct in the repealed regulation. Thus the need to advocate for an appropriate federal role in teacher preparation will continue in the 116th Congress.

NAICU Action Items

NAICU will advocate that teacher preparation programs be fairly evaluated, through multiple measures that are scientifically valid and reliable, and that providers should have access to the data on which they are being judged.

NAICU will seek to ensure a proper distinction between the interests of the federal government in quality teacher preparation and the role of accreditation and the profession to set quality standards.

NAICU will advocate for appropriate and equitable accountability in teacher preparation programs, whether such programs are offered by institutions of higher education or through alternative providers.



Campus Safety

Students attending independent colleges and universities should expect to find a safe and supportive campus environment. Campus safety issues, particularly as they relate to incidents of sexual assault, are very much in the forefront today. Campus leaders, faculty, and students are engaged in multi-pronged efforts to address issues of campus culture, procedural fairness, and supportive services.

Assuring campus safety is a complex task, given the range of behaviors that can put students in harm's way. In addition, institutions must be mindful of multiple federal, state, and local legal requirements and be prepared to assure that a range of supportive services and accommodations are available.

Private nonprofit colleges are actively engaged in developing prompt and coordinated responses that are appropriate to their size, location, access to outside services and resources, and student population. The specific pathways may vary, but the goal of maintaining a safe campus environment is consistent across institutions.

NAICU Action Items

NAICU will continue to make independent colleges aware of public expectations regarding campus safety issues and of the resources available to assist them in devising policy approaches that are appropriate for their campuses.

NAICU will advocate for clarity and consistency in federal requirements related to sexual assault and other campus safety issues.

NAICU will encourage initiatives to enhance campus safety that are fair and that can be adapted to the particular circumstances of each institution.



TAX POLICY

Tax-Exempt Status

Tax-exempt status is the crucial tax policy underlying independent higher education. Tax exemption predates most of the nation's private colleges and universities, and even our nation's own tax code. It is a unique American tradition that has resulted in a diverse and responsive system of higher education. NAICU is concerned that the failure to understand the tradition of tax exemption, and the escalating search for new revenues at all levels of government, could seriously harm independent higher education.

Maintaining tax-exempt status is of the utmost importance, because higher education institutions operate for one of the most important and fundamental of all tax-exempt purposes: providing educational instruction to our students. NAICU recognizes the accountability we owe to the taxpaying public for this special status, and will continue to work with the federal government to ensure that appropriate accountability measures are in place.

In addition, while NAICU recognizes the need for increased revenue at the state and local levels, particularly during an economic downturn, we will continue to support our institutions and state associations as they respond to challenges from state and local governments attempting to impose taxes, fees, or other payments in lieu of taxes (PILOTs) on our institutions.

NAICU Action Item

NAICU will give highest priority to maintaining the tax-exempt status of independent colleges and universities.

Endowments

Endowments are essential to the ability of colleges and universities to sustain themselves for future generations through uncertain economic times. Public colleges often are backed by the full faith and credit of the state. Private colleges, however, have no such safety net, nor can they depend on a reliable and regular outside source of funding. For many institutions, endowments serve that vital purpose.

Endowments are extremely complex, and consist of many different funds subject to donor-imposed restrictions that institutions are legally required to uphold. In addition, the amount that colleges and universities already pay out of their endowments helps keep tuition below the level that would be necessary if tuition alone had to cover the full cost of educating a student.

Lawmakers have looked at college and university endowments as they have examined college costs. Several years ago, the Senate Finance Committee focused intensely on whether colleges and universities with large endowments should be required to pay out five percent of their endowments annually to offset rising tuition costs. Following a series of hearings in the House and Senate on college costs, tuition, endowments, and free speech, major tax reform legislation was introduced in both chambers in 2017 that included a new excise tax on private college and university endowment earnings.

The final tax reform bill, the Tax Cuts and Jobs Act of 2017, included this new 1.4% endowment tax for private colleges with endowments valued at \$500,000 or more per full-time equivalent student. The provision was amended by the House and Senate at least six times during consideration of the bills from an original tax



and formula that would have included approximately 250 NAICU institutions, to a final formula that will affect approximately 28 NAICU institutions.

NAICU remains steadfastly opposed to this new endowment tax, no matter how many of its institutions are affected. NAICU will continue to work with the tax committees to help members and staff gain a better understanding of private, nonprofit college endowments, donor intent, and the harmful effects this new tax will have on charitable giving. In addition, NAICU will continue to advocate for the repeal of this tax, which is purely punitive, levied unfairly on one sector of higher education, and ultimately harmful to the students and families served by NAICU institutions.

NAICU Action Items

NAICU will continue to work with our institutional members, members of Congress, and the public to ensure a better understanding of the important function and specific purposes of endowments.

NAICU will continue to work with its membership and Congress to repeal the new excise tax on private college endowments. NAICU will also work to lessen the impact of the new tax through IRS and Treasury guidance if repeal is not a legislative option.

NAICU will continue to oppose any attempt to establish a federally prescribed pay-out formula for endowments, particularly proposals that would undermine donor intent.

Charitable Giving

Also central to the tax priorities of independent colleges and universities is the continued ability of donors to deduct the full value of their charitable contributions. Congress weakened this principle when it decided to include the charitable deduction in the floor that it set for upper-income taxpayers' deductions in the Omnibus Budget Reconciliation Act of 1990.

Charitable giving is a voluntary transfer of private resources for public purposes. It fosters individual choice and public responsibility for our institutions, and makes possible the diversity of educational institutions unique to this nation. Charitable giving also plays a direct and critical role in holding down the cost of higher education for students by mitigating tuition charges and by encouraging donor-supported financial aid and scholarships. The gifts encouraged through this tax policy are crucial to our students, and to our colleges and universities.

In NAICU's view, the federal tax code should: (1) allow full deductibility of charitable gifts against the taxpayer's highest marginal tax bracket; (2) be free of floors that must be exceeded before a deduction is permitted; (3) retain deductibility at full fair-market value for all gifts of appreciated property; (4) be fully integrated into any minimum income tax, as well as individual and corporate income taxes; (5) be available to all taxpayers, whether or not they itemize deductions; (6) maintain the charitable deduction in estate tax law, permitting such gifts to be free of any gift tax; and (7) allow charitable gifts to be free of any income tax on unrealized gain at death.

During the 109th Congress, NAICU was able to secure the first-ever IRA charitable rollover legislation. And in the 114th Congress, the provision was made a permanent part of the tax code. During consideration of major tax reform legislation in 2017, the IRA rollover was spared from elimination. NAICU continues to support protecting and expanding the IRA rollover by making it: (1) available for indirect giving, such as



charitable remainder trust gifts; (2) applicable to gifts over \$100,000; and, (3) available to more individuals by lowering the age limit.

NAICU Action Items

NAICU believes that the federal tax code must recognize independent higher education's fundamental reliance on charitable giving, and should continue to support policies that reflect the public character of such gifts. Charitable gift contributions must remain an integral part of any tax restrictions, including any movement toward fundamental tax reform.

NAICU believes Congress should strengthen the IRA charitable rollover law that encourages individuals to make contributions to charitable organizations from their IRAs without tax penalties.

Tax Incentives for Education

The tax code should recognize education as an investment in human capital that has important societal benefits, and should encourage participation through appropriate incentives. Current tax benefits help students throughout their education by providing incentives to save for college, pay for college, and pay back student loans.

Specifically, higher education tax benefits allow for: (1) tax-free contributions to college savings accounts; (2) employer-provided education assistance; (3) tax-free use of scholarship and fellowship grants; (4) a student loan interest deduction, (5) tax-free tuition remission benefits; and (6) tuition tax credits.

In addition, the historical practice of providing tax-free tuition scholarships to college employees and their families should be preserved in a way that allows campuses some flexibility in administering the benefit. Nondiscrimination rules should be based on eligibility to participate in these programs, not only on actual participation in the programs. Additionally graduate student tuition remission benefits should be preserved.

While the House attempted to eliminate almost all of the student and family benefits, they were ultimately retained in the final Tax Cuts and Jobs Act of 2017. Any additional reform efforts must ensure that no student or family currently receiving benefits loses those benefits.

NAICU Action Items

NAICU will continue to support Sec. 529 college savings plans and Coverdell Education Savings Accounts.

NAICU supports increasing the eligible tuition amount in Sec. 127, employer provided education assistance, for both graduate and undergraduate course work. Additionally, NAICU will advocate for expanding the benefit to allow employees to use the funds for either tuition or loan repayment expenses.

NAICU supports allowing the full amount of scholarships and grants to be tax-free whether used for tuition or room and board.

NAICU will continue to advocate a full above-the-line deduction for all interest on student loans.



NAICU will support proposals that call for the expansion and fair consideration of current tax benefits to families for the payment of tuition and other educational expenses.

Tax-Exempt Bond Financing

The tax code must continue to support the efforts of independent colleges and universities to meet the increasing public demand for the highest quality education and research through tax-exempt bond financing. The House attempted to eliminate Private Activity Bonds during consideration of the Tax Cuts and Jobs Act of 2017, but the final bill retained these bonds. Unfortunately, the same bill eliminated the ability to take advantage of bond advance refunding, a cost-saving option for bond refinancing.

NAICU Action Items

NAICU will continue to advocate for the preservation of Private Activity Bonds.

NAICU will continue to advocate for the reinstatement of bond advance refunding.

NAICU will urge Congress to reclassify the bonds used to rebuild our infrastructure as “tax-exempt bonds serving public purposes” instead of “private activity bonds,” in light of the essential public purposes served by independent colleges and universities.

Unrelated Business Income

Colleges and universities should pay taxes on business activities that are not substantially related to their exempt purpose. Reporting guidelines should be clear, uncomplicated, and straight forward with reasonable methods for determining taxable activity. The Tax Cuts and Jobs Act of 2017 included new complications for unrelated business income tax (UBIT) reporting, including separately reporting amounts for each trade or business (aka “basketing”) and new taxes on fringe benefits for employees.

NAICU Action Items

NAICU will continue to work with Congress and the IRS to ensure that changes in the UBIT distinguishes between these taxable unrelated business activities and activities that, in another context would be unrelated, are clearly connected to the teaching, research, and service functions of colleges and universities.

NAICU also will support record-keeping and reporting procedures and accounting guidelines that are fair, do not impose an undue administrative burden, and are consistent with the mission and goals of colleges and universities.

NAICU will advocate for repeal of the new UBIT tax on certain fringe-benefits at nonprofit colleges and universities, including parking and mass transit benefits.



Fringe Benefit Programs

Colleges and universities are major employers that provide benefits such as health insurance, retirement plans, and tuition and transit benefits. College campuses are labor intensive and have a variety of skilled employees at many levels.

NAICU Action Item

NAICU believes that any congressional or regulatory review of fringe benefit programs – such as pensions, early retirement plans, and health insurance – should recognize the labor-intensive nature of our campuses. Any changes in the laws governing fringe benefits must be made with sufficient notice and guidance, to allow adequate preparation and implementation.

Nonprofit Governance

NAICU believes the charitable sector must be accountable to the American taxpayer and the Internal Revenue Service for its continued nonprofit status. We support appropriate efforts to ensure that the sector is held to the highest standards of integrity without undue administrative burden or excessive regulation.

NAICU Action Item

If Congress considers legislation on non-profit reform, NAICU will continue to work with both elected officials and the nonprofit community to ensure that any new measures are sensitive to the needs of both private colleges and the public we serve.

