

Issue: Deregulation

Work on a comprehensive, community-wide approach to deregulation that yields specific proposals to Congress on both process and reduction of individual reporting requirements.

Overview

The regulatory burden on colleges continues to increase. Inevitably, legislation reauthorizing the Higher Education Act (HEA) includes numerous new requirements. Some level of regulation is appropriate, and NAICU has not taken issue with regulations that are directly related to the administration of HEA programs or that provide appropriate accountability of recipients of HEA assistance.

Concerns about regulatory burden arise most frequently with respect to those applied by virtue of the fact that federal student aid assistance is provided. It is not a question of the good intentions behind these requirements, but that they continue to accumulate with no paring back or review of what is already on the books.

Amending the Higher Education Act is by no means the only avenue for the establishment of such requirements.

- Regulatory requirements, such as the disclosure requirements under the gainful employment regulations, have increased the reporting burden for many institutions.
- Unrelated legislation often carries new requirements for colleges—the new campus crime requirements included in the Violence Against Women Act are an example.
- Interest in seeing that veterans make wise choices in using their GI Bill benefits has led to numerous proposals for new data collections and disclosures.

A positive recent development is the establishment of a Task Force on Government Regulation of Higher Education. The Task Force was created by a bipartisan group of Senators, led by Senators Lamar Alexander (R-TN) and Barbara Mikulski (D-MD) in collaboration with Senators Richard Burr (R-NC) and Michael Bennet (D-CO). Its work is being coordinated by the American Council on Education.

The group is charged with making specific recommendations regarding ways in which requirements administered by the Department of Education might be streamlined or eliminated, including quantifying the effect of all federal regulatory requirements impacting colleges, and recommending ways in which the costs and benefits of future regulatory activity can be accurately assessed. The Task Forces anticipates completing their work late this year.

NAICU Position

NAICU has long advocated for reduction of the regulatory burden placed on colleges. Prior to the last HEA reauthorization, we made several recommendations designed to improve the regulatory process. One of these recommendations, requiring the Department of Education to develop a compliance

calendar, was enacted by Congress—but it has never been implemented. We have also called for the repeal of specific requirements.

“Carol’s Boxes,” compiled by former NAICU staffer Carol Fuller, were used by Senator Lamar Alexander (R-TN) to provide visual evidence of the significant regulatory demands on colleges by the Department of Education alone. Unfortunately, general concern about institutional burden has not been sufficient to counter the specific individual concerns of those who advocated for particular requirements.

NAICU Action to Date

- NAICU has provided recommendations to the House Committee on Education and the Workforce related to regulatory relief, including:
 - A proposal to establish a master calendar for reporting requirements. An integral part of such a calendar would be a minimum of 270 days’ notice to institutions from the time final regulations or guidance on new disclosure or reporting requirements are published before institutions are required to start collecting the data related to the new requirements.
 - The repeal of regulations related to state authorization and the establishment of a federal credit hour definition.
 - Several reforms designed to correct flaws in the structure and implementation of the federal Financial Responsibility Standards.
- NAICU has proposed a grant program to give mini-grants to institutions to review their own compliance activities and to report back on those that are unduly burdensome, duplicative, or unnecessary.

Membership Engagement

- Several NAICU presidents have testified at congressional and other hearings about the need for regulatory reform.
- Six of the 16 members of the Task Force on Government Regulation of Higher Education are NAICU members, including Nicholas Zeppos, chancellor of Vanderbilt University; Bill Armstrong, president of Colorado Christian University; Tom Chema, president of Hiram College; Margaret Drugovich, president of Hartwick College; Neil Kerwin, president of American University; and Claude Pressnell, president of the Tennessee Independent College and University Association.

Next Steps

- The Task Force will hold its next meeting on June 6. Working with the NAICU members serving on the task force, we will make specific recommendations for consideration at that meeting –with a particular focus on correcting the current deficiencies in the application of the federal Financial Responsibility Standards.

