

Last month, President George W. Bush signed H.R. 4137, the Higher Education Opportunity Act, into law. Now known as P.L. 110-315, the reauthorization of the Higher Education Act significantly increases the reporting requirements for institutions. Below is a brief summary of some of the most important changes for community colleges and their trustees. For more information or to see the whole bill, please visit <http://thomas.loc.gov> and enter H.R. 4137.

Meanwhile, the Department of Education, as part of the process of implementing the Higher Education Act, has scheduled a series of regional meetings to begin the negotiated rulemaking process. Previously, the Department announced four regional meetings, but has recently added two additional meetings (six total). To see the meeting locations or for further information, visit: <http://www.ed.gov/policy/highered/leg/hea08/index.html>.

Higher Education Opportunity Act Summary

Pell Grant Program Changes

The Act increases the authorization level of the Pell Grant maximum to \$6,000 for 2009 and increases the maximum to \$8,000 in 2014. The Act also establishes year-round Pell Grant for students and increases the Pell Grant minimum from \$400 to 10% of the Pell Grant maximum in a given year. Pell Grant eligibility is capped at 18 semesters, but is prorated based upon the student's attendance status. (Section 401)

College Cost Provisions

The Act creates "transparency lists" to put a spotlight on institutions and their costs and, in Congress's view, to help clamp down on college costs. The "transparency lists" include:

1. a list of the top five percent of colleges with the highest tuition and fees;
2. a list of the top five percent of colleges with the highest net price (total cost of attendance);
3. a list of the top five percent of colleges with the largest increase over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change;
4. a list of the top five percent of colleges with the largest increase over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change;
5. a list of the top ten percent of colleges that have the lowest tuition and fees; and
6. a list of the top ten percent of colleges with the lowest net price.

These lists would cover all the sectors of higher education. In the case of community colleges, the lists would be broken down by two-year public institutions. Congress provides an exemption

for schools by establishing a dollar exemption (as long as colleges keep tuition-and-fees and net price increases under \$600 over a three-year period) from being included on lists 3 and 4. Unfortunately, the language still requires that approximately 60 community colleges (5% of the sector) be on lists 3 and 4. Colleges on lists 3 and 4 will have to prepare reports on tuition/cost increase causes and recommend remedies. Colleges on lists 3 and 4 also will be listed on the College Navigator Web site as institutions with the highest tuition/cost increase. (Section 132)

Consumer Information

The Act requires that colleges provide specific information on its enrollment and graduation demographics and statistics. Two specific deliverables, detailed below, are identified as requirements.

First, the Act requires each institution to provide information that the Secretary of Education will post on the College Navigator Web site. Institutions participating in Title IV will need to provide 26 pieces of data. Some of this information will be easy for colleges to provide, such as the institution's mission statement, number of undergraduate students, percentages of male and female students, and the number of first-time, full-time, degree- or certificate-seeking students. But overall, the breadth of the required information will be onerous for many institutions. (Section 132)

Second, the Act requires each institution to report graduation rates in 48 categories, such as by gender, racial, and ethnic group. Furthermore, institutions will need to provide students with information about placement in employment and types of employments of graduates of degree and certificate programs. The Act also requires the Secretary to convene a meeting and make recommendations on the reporting and calculation of information in this section. (Section 485)

Accreditation

The Act forbids the Department from establishing any criterion that specifies, defines or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement. (Section 496)

Maintenance of Effort

The "maintenance of effort" provision requires states to maintain a certain level of funding (1) for public institutions of higher education in such state for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for non-capital and non-direct research and development expenses or costs by such state to such institutions of higher education during the five most recent preceding academic years for which satisfactory data are available; and (2) for private institutions of higher education in such state for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for student financial aid for paying costs associated with postsecondary education by such state to such institutions during the five most recent preceding academic years for which satisfactory data are available. The Department may waive these requirements under very limited circumstances. If the state does not meet the "maintenance of

effort” requirements, the Department will withhold the state’s grant allocation under the College Access Challenge Grant program. (Section 137)

Textbook Information

Colleges, "to the maximum extent practicable" and "in a manner of the institution's choosing," will disclose, if available and when practical, the International Standard Book Number (ISBN) or, if not available, the author, title, publisher, and copyright date and retail price information of required and recommended textbooks and supplemental materials for each course listed in the course schedule. If the information is not available or practical, then an institution may designate that the information is to be determined. (Section 133)

Peer-to-Peer File Sharing

Colleges will provide an annual disclosure to students that unauthorized peer-to-peer file sharing may subject the students to civil and criminal liability; a summary of the penalties for violation of federal copyright laws; and a description of the institution’s policies with respect to unauthorized peer-to-peer file sharing, including disciplinary action. (Section 488 and 493)

Certification Regarding the Use of Certain Federal Funds

Colleges may not use funds under HEA to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to federal contracts, grants, loans or cooperative agreements. No student aid funds in HEA may be used to hire a registered lobbyist or to pay any person or entity for securing an earmark. Colleges will certify each year with the Secretary that they have met the requirements as stated in this section. (Section 119)

Transfer-of-Credit Policy

Colleges will disclose transfer-of-credit policies established by the institution, which shall include a statement of the institution’s current transfer-of-credit policies, including any established criteria the institution uses regarding the transfer of credits earned at another institution and a list of institutions with which the institution has established an articulation agreement. (Section 488)

Code of Conduct

An institution that participates in federal student loan programs will develop a code of conduct with respect to such loans, with which the institution's officers, employees, and agents shall comply, that prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans; publish such code of conduct prominently on the institution's Web site; and administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct. The Act does provide an exemption for an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors or as a trustee of an institution if the institution has a written conflict-of-interest policy which states that the board member or trustee must recuse themselves from any decision regarding education loans at the institution. (Section 493)

New Programs Authorized in HEA

Predominantly Black Institutions

The new grant program will provide grants to institutions that have an enrollment of undergraduate students which is not less than 40% Black American students. Institutions shall use funds to plan, develop, undertake, and implement programs to enhance the institution's capacity to serve more low- and middle-income Black American students. (Section 318)

Asian American and Native American Pacific Islander-serving Institutions

The new grant program will provide grants to Asian American and Native American Pacific Islander-serving Institutions (must enroll no less than 10% Asian American or Native American Pacific Islander) to improve and expand their capacity Asian American and Native American Pacific Islanders and low-income individuals. (Section 320)

College Partnership Grants

This grant program will fund collaborations between a state and its public institutions to develop and implement articulation agreements. (Section 841)