

October 28, 2019

Representative Bobby Scott
Chairman
Committee on Education and Labor
United States House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

Representative Virginia Foxx
Ranking Member
Committee on Education and Labor
United States House of Representatives
2101 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Scott and Ranking Member Foxx,

On behalf of the organizations listed below, I write to offer our views on H.R. 4674, the College Affordability Act (CAA) introduced by Chairman Scott that will be marked up by the Committee tomorrow. Any comprehensive Higher Education Act (HEA) reauthorization proposal represents a substantial commitment on the part of the Committee, and we are appreciative of the effort reflected in this bill.

While we understand that the Manager's Amendment may address a number of concerns covered in this letter, we have not been given sufficient time to review that language. As a result, our comments reflect the version of the bill as it was introduced.

Similarly, due to the short window between introduction and consideration by the Committee, we have not been able to discuss the bill with our members at the level of detail that legislation of this importance warrants. Therefore, this letter addresses the areas of the bill with the most significance to our members. It is not intended to represent an exhaustive analysis of the bill, and we continue to appreciate the willingness of staff to address our concerns with the legislation.

In any piece of legislation this ambitious and expansive, it is inevitable that there will be proposals we strongly support, others that we have concerns with, and still more that are unclear or need additional refinement.

The bill incorporates a number of proposals that institutions of higher education have historically supported and believe would be beneficial. In particular, the bill provides significant increases in student aid and institutional support, especially for institutions that have been historically under resourced.

However, the bill also includes a number of provisions that would be highly problematic if enacted, as well as several major proposals where the likely outcomes are unknown due to a lack of reliable data for analysis or due to a lack of specificity in the legislative text.

We are particularly concerned that areas of the bill rely in part on intrusive, complicated, or burdensome processes that will undercut the bill's primary goal to make higher education more affordable and undermine many of the other worthy goals of the legislation. We want to work with you to address these issues as the bill moves forward.

Our comments are organized in broad categories reflecting where the community is supportive of proposals within the bill; where the community opposes proposals within the bill; where proposals within the bill require improvement or additional clarification; and where specific proposals have produced clear divides within the higher education community as to their merits.

Areas of Community Support

There are numerous elements of the bill that represent clear and unequivocal improvements over current law. Our members strongly support the steps the Committee has taken in this bill to increase the financial support available to students, simplify the processes for applying for student aid and repaying student loans, and enhance institutions' efforts to reduce costs and improve quality.

Pell Grants – This bill would strengthen federal support for the Pell Grant program, which remains the cornerstone of all federal financial aid. By immediately increasing the maximum award by \$500 and restoring an annual increase tied to the Consumer Price Index (CPI), the CAA would enhance the purchasing power of the grant, and simultaneously ensure that, at a minimum, the award keeps pace with inflation going forward. Beyond the increases to the maximum award, we support expanding the period for which students are eligible for Pell to fourteen semesters, as well as exempting remedial and noncredit courses from counting against this period. Institutions have been working to reduce the number of purely remedial or noncredit courses students need to take, but it is good policy not to allow Pell eligibility to be applied to coursework that does not count towards degree requirements when such courses are necessary. Finally, we are greatly appreciative that the CAA restores Pell eligibility for incarcerated individuals, though we will continue to work with staff to improve the language regarding the provision of education and quality assurance measures in the bill. This is a long overdue step that will facilitate educational opportunities for the incarcerated, which has been proven to reduce recidivism, improve outcomes, and lower costs.

Campus-Based Aid – The CAA recognizes the critical role the federal campus-based aid programs play in improving access to higher education by making significant increases to the authorizations for the Federal Work-Study (FWS) and Supplemental Educational Opportunity Grant (SEOG) programs. These programs pair institutional funds with federal funds to maximize the federal investment, while also providing flexibility at the campus level to address individual student needs. For that reason, it is natural to align the emergency grant aid program created in this legislation with institutions participating in SEOG. This program builds upon successful models employed at a number of institutions to address unexpected financial crises that can play a disproportionate role in low-income students stopping or

dropping out of college. Finally, the bill would restore a modified version of the Perkins Loan program that would let institutions play a more direct role in their students' borrowing, while also offering students generous terms and conditions.

Federal Student Loans – The CAA includes a number of common sense provisions that our members have long sought in any reauthorization of the HEA. First among these is the elimination of origination fees on federal student loans. In addition, while we would have liked to have seen graduate student eligibility for subsidized Stafford loans restored, we are pleased that the CAA maintains the current subsidized loan eligibility for undergraduate students. The bill would also make meaningful improvements to the Public Service Loan Forgiveness program, expanding eligibility to additional specified occupations and improving the process by which qualified borrowers may apply for, and be certified to receive, loan forgiveness. The streamlining of the multiple existing repayment plans to just two (a fixed-payment plan and an income-contingent plan) has long been sought by the community, and we appreciate its inclusion in the CAA.

Financial Aid Eligibility and Administration – The bill makes a number of changes in the important areas of determining which students are eligible for aid, how that aid is determined, and how these processes are managed. We are particularly encouraged by the inclusion of a number of provisions that will make it easier for current and prospective students to complete the Free Application for Federal Student Aid (FAFSA) as well as expanding eligibility for Title IV aid to Deferred Action for Childhood Arrivals (DACA) recipients and Dreamer students. With respect to the federal TRIO programs, the legislation eases administrative burdens by aligning TRIO eligibility with other programs that aid students in need, such as the Pell Grant and National School Lunch Program, as well as eliminating challenges to the grant application process. The CAA also includes language providing for clarity and comparability in institutional aid award letters, while allowing institutions sufficient flexibility to ensure that the letters reflect the unique circumstances of the student and the school.

Institutional Support – The bill includes a number of measures designed to support institutions, particularly those institutions that are historically under resourced or that serve traditionally underrepresented populations. The CAA includes a permanent extension of the Title III, Part F funding that expired on September 30, 2019, as well as significant increases in the authorizations for the institutional support programs included in Titles III and V. The CAA would establish a new grant program that provides \$250 million annually for institutions to develop or support dual-enrollment programs, as well as \$500 million in annual funding provided to institutions to improve the completion rates for Pell Grant recipients pursuing four-year degrees, based upon those institutions' demonstrated success in serving those students.

Areas of Community Concern

Despite the many positive provisions within the bill, the version as introduced includes some troubling provisions changing the federal interaction with colleges and universities that are problematic and will only undercut the goals of the bill.

A number of provisions in the legislation would vastly expand the authority of the Secretary to impose federal control over aspects of higher education policy traditionally left to institutions, states, and accreditors. These often follow a format that applies a uniform approach to exceptionally diverse institutions, even as the bill recognizes the value of flexible approaches in provisions such as the handling of aid award letters; or the merits of reducing burden reflected in the language in Sec. 1023 to reduce duplicative reporting.

The harm that the increase in burden causes is neither an abstract concept, nor one that institutions would bear alone. Rather, by adding complexity and mandating federal models by micromanaging the specific offices and positions schools must create, the bill takes away the flexibility of institutions to determine how best to direct resources toward learning and student success. As a result, this legislation would significantly increase costs on campus, which would in turn be passed on to students, diminishing the benefits of increased financial aid.

Likewise, the complexity and reporting requirements attached to many of the proposals in the bill would likely make it difficult for institutions and programs to be eligible, and would restrict their ability and willingness to participate if eligible. This, again, limits the potential benefits the legislation seeks to achieve on behalf of students, and undermines the goals of the legislation.

Federalization of Accreditation – The fundamental purpose of accreditation is to ensure that institutions are of sufficient academic quality. The ideal way to achieve this is through a system in which all institutions, working with their institutional accreditors, provide meaningful evidence of student success. Elements of student success would necessarily comprise factors such as completion and workforce preparation, but these are not the sole or defining criteria accreditors should take into account. Rather, an appropriate process would reflect the highly individualized and nuanced peer review process that is focused on the quality of the educational programming in the context of highly diverse and individualized missions.

We support overarching goals of improving transparency in the accreditation process and a focus on student outcomes as an important consideration for accreditors, but we believe the approach taken in this bill would instead represent an unprecedented federal intrusion into the accreditation process that will compromise its integrity and quality. Attempts to standardize measures across accrediting bodies in a way that does not reflect their unique natures and missions is counterproductive and contrary to Congress's intent when it created the current Department of Education.

In particular, three key elements of the approach taken in this bill are deeply problematic:

- Focusing accreditors' oversight of institutions solely on completion and workforce placement measures is a troubling and reductionist approach. While completion and preparation are critical elements of focus for our institutions, the approach taken in this bill would fundamentally redefine the value of a college education.
- Providing the Secretary with the authority to require accreditors to review and revise their standards for evaluating institutions provides the Secretary with enormous authority to interfere in the relationships between accreditors and the institutions they oversee and impose federal standards of evaluation.
- The CAA would provide for the Secretary to appoint a Technical Review Panel, the membership of which would be subject only to the discretion of the Secretary, and which would be empowered to determine federally-standardized terms and measures for accreditors to use in assessing institutions.

Requirements on Institutions – The bill adds significant new requirements on institutions across a broad range of programs. These include substantial new reporting requirements, the impact of which is exacerbated by their repetition across multiple programs, and the types and amounts of data being collected. Excessively complex and detailed reporting requirements lead schools to spend significant time on compliance activities to mitigate the risk of sanctions. Rather than serving students, schools will instead spend time and resources determining if a particular incident fits a particular definition.

While well intentioned, these provisions would add significant compliance confusion to institutions along with significant penalties for inadvertent errors. We are deeply concerned that study abroad provisions would significantly increase the expense of institutions to offer such opportunities to students. There are alternative ways of enhancing study abroad safety, such as those proposed in the Senator Paul Simon Study Abroad Act, without creating burdensome challenges for institutions.

Beyond this, the bill would mandate institutions perform specific actions down to the level of what personnel institutions hire and how they communicate with our students. Examples of these mandates include requiring that institutions hire a coordinator to oversee their existing obligations under Title VI of the Civil Rights Act; a provision mandating that all institutions (even exclusively online institutions) conduct a program on hazing for their students; and mandating that institutions have an office of accessibility, rather than allowing institutions to meet their existing legal obligations in the manner that best fits their students and organizations.

Other requirements on institutions, which are intended to better inform students are designed in ways that will instead cause greater confusion. As one example, requiring institutions to use a federally-created, one-size-fits-all campus climate survey will limit the ability of campuses to design a survey to best serve the needs of their campus populations. The CAA also proposes to use the survey as a comparison tool, which will result in highly misleading information. Climate surveys should be used as tools for campus improvement, not for making institution-versus-institution comparisons.

The bill creates broad new federal definitions of harassment, sexual harassment, and hazing. These definitions are so expansive in their scope, and ambiguous in their meaning, that institutions will struggle to determine which incidents should be reported and how they should be categorized. Combined with the requirement to report harassment and hazing incidents under Clery crime reporting (despite the lack of corresponding Uniform Crime Reporting definitions) and a significant increase in the penalty for violations of the Clery Act, this will lead schools to focus on complex and confusing reporting requirements rather than focusing on efforts to improve student safety.

Educator Preparation Provisions of the Bill – While we appreciate the improvements the proposed legislation would make to the PSLF program, TEACH Grants, and Title II, we are concerned that it does not adequately deal with the dual challenges of diversification of the educator profession and educator shortages. We believe that a more affirmative federal role—particularly in making the training of education professionals more affordable—is needed to facilitate the entry of qualified new educators into the professions. We are concerned that the bill's excessive focus on data reporting and its punitive approach to reform would further hinder, rather than facilitate, our institutions' efforts to recruit and graduate future educators.

Areas for Improvement or Clarification

Considering the scale and complexity of the CAA, it is hardly surprising that several significant proposals combine elements on which the community does not have a clear and explicit position. Other proposals are dependent on measures not established in the bill or require data that are not available to model the likely impact. We believe the following proposals have merit, but need additional improvement or clarification before we could fully support.

Institutional Accountability – The bill contains a number of key accountability provisions that we have long requested and/or strongly support. These include restoring the current 90/10 provision back to the previous 85/15 ratio and appropriately counting all federal educational funds (including active duty, military, and veterans' educational benefits) as part of the calculation of the federal share. The community has long supported moving from the current cohort default rates to repayment rates that are determined at the institutional level. Related to this, the inclusion of an institution's

percentage of students borrowing as part of the calculation of the adjusted cohort default rates is a sensible measure that gives a clearer sense of borrowing at an institution, though we encourage a thorough examination of the currently proposed thresholds to ensure that institutions serving vulnerable student populations are not disproportionately impacted.

However, other accountability provisions in the bill do not have set standards in the legislation, or rely on data that are currently not collected by the federal government. For these reasons, we are concerned about implementing critical policy measures without knowing what the likely impact will be. We are concerned that the legislation delegates to the Secretary the authority to set the repayment thresholds. We similarly worry about the impact of tying institutional eligibility to instructional expenses relative to tuition revenue given the current lack of data and biases in the construction of the formula. This makes it impossible to understand any possible impact, and leaves the core accountability provision in the bill subject to change based on the policy priorities of future administrations. In addition, elements of the accountability system depend on data that will be revised or defined for the first time in this bill, meaning that there is no existing data that would enable us to understand the changes or offer informed comment as to their implications for colleges and universities.

Campus-Based Aid Allocation – Similarly, we have long advocated for improvements to the campus-based aid allocation formulas that would better target aid to students with need, combined with sufficient funding to allow a wider number of institutions to participate in the campus-based programs, which this bill proposes. Unfortunately, as the allocation formula in the bill relies on data that we are not able to model, uncertainty about the impact of the change in formula makes it difficult for us to assess the approach.

Competency-Based Education – Our members are employing models such as competency-based education across a range of campuses and programs, and appreciate the recognition of the merits of this approach. However, we do not support the competency-based education (CBE) demonstration program as drafted in the CAA, as this form of educating students is well past the point of needing a demonstration. Rather, some limited changes to the HEA are needed in this area to foster innovation and ensure appropriate cost containment.

Support for Institutional Efforts to Improve Completion – We strongly support the intent behind the creation of a new, \$1 billion grant program to reinforce institutional efforts to increase completion, particularly for low-income students. However, we believe that the structure and eligibility limitations of the program, and the burden imposed on participants will limit the number of institutions, and therefore students, that could and would benefit.

Issues on Which the Community is Divided

The CAA contains other significant proposals, including the America's College Promise program; the inclusion of the College Transparency Act language on student-level data; and the proposal to expand Pell Grant eligibility to short-term programs. There is no clear consensus across the higher education community as to whether these provisions should be included in the Higher Education Act. For that reason, this letter does not discuss those sections of the bill, though we are aware that individual associations will address these proposals in their own letters, and direct your attention to their comments.

Conclusion

Reauthorization of the Higher Education Act represents a valuable opportunity to build on existing strengths, address challenges, and improve the complicated and increasingly intertwined relationship of American higher education and the federal government. Striking the appropriate balance on issues as complicated as increasing support while improving oversight, or maintaining institutional autonomy while strengthening accountability, necessitates making choices that shift the scale in one direction.

While this bill makes substantive improvements in major areas, the concerns we have in the areas of accreditation and institutional burden, as well as the unknown impacts of the bill, are sufficiently significant to prevent our support of the bill as introduced. We hope to work with Congress to amend and improve the College Affordability Act into a version we would be able to support before any consideration by the full House.

Sincerely,



Ted Mitchell
President

On behalf of:

ACPA-College Student Educators International
American Association of Colleges for Teacher Education
American Association of Colleges of Nursing
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities

American Association of University Professors
American Council on Education
APPA, Leadership in Educational Facilities
Association of American Universities
Association of Catholic Colleges and Universities
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
Coalition of Urban and Metropolitan Universities
College and University Professional Association for Human Resources
Common App
Council for Advancement and Support of Education
Council for Christian Colleges and Universities
Council for Higher Education Accreditation
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
EDUCAUSE
Hispanic Association of Colleges and Universities
NAFSA: Association of International Educators
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Colleges and Employers
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators
UNCF
UPCEA