

**WASHINGTON UPDATE**

**DECEMBER 2017**

House Education Committee Approves Bill to Reauthorize the *Higher Education Act*

On December 13, 2017, following a 13-hour markup session of H.R. 4508, the *Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act*, the bill to reauthorize the *Higher Education Act* was approved by a vote of 23 to 17. During the markup, over 60 amendments were introduced with more than half coming from Democrats. In the end, the Republican majority voted down all but two of the Democrats' amendments. The Democrats believe that the bill would make college less affordable for students and would remove provisions that currently hold institutions accountable, but the Republicans believe that the bill will ultimately help students and address the nation's skills gap. The bill had been introduced on December 1, 2017 by Chairman of the House Education and the Workforce Committee Virginia Foxx (R-NC) and Chairman of the House Higher Education and Workforce Development Subcommittee Brett Guthrie (R-KY). The *PROSPER Act* is a 590-page proposal, focusing on helping low-income Americans gain a college education. In releasing H.R. 4508, Congresswoman Foxx issued a statement saying:

*With six million unfilled jobs and over a trillion dollars in student debt, simply reauthorizing the Higher Education Act will help no one. A hard truth that students, families, and institutions must face is that the promise of a postsecondary education is broken. We need a higher education system that is designed to meet the needs of today's students and has the flexibility to innovate for tomorrow's workforce opportunities. The PROSPER Act is higher education's long overdue reform."*

The press release, which includes the updated text of the bill, is found at:

<https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=402157>.

A bill summary released by the House Education Committee describes the goals of the *PROSPER Act* in terms of helping more Americans earn a lifetime of success by:

- Promoting innovation, access, and completion;
- Simplifying and improving student aid;
- Empowering students and families to make informed decisions; and
- Ensuring strong accountability and a limited federal role.

A copy of the bill summary for the *PROSPER Act* is found at:

[https://edworkforce.house.gov/uploadedfiles/the\\_prosper\\_act\\_-\\_short\\_summary\\_-\\_12.5.pdf](https://edworkforce.house.gov/uploadedfiles/the_prosper_act_-_short_summary_-_12.5.pdf).

On December 1, 2017, the White House released a set of principles for the reauthorization of the *Higher Education Act* that mirrors the goals of the *PROSPER Act*. According to the "*Higher Education Act Reauthorization Principles*," Congress should create a framework for reforming America's higher education law that:

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- Helps students and parents make informed financial decisions when making educational choices;
- Encourages colleges and universities to deliver more affordable and accessible education to traditional and non-traditional students;
- Protects taxpayers from the Federal government's substantial exposure for student loans;
- Promotes innovation; and
- Protects academic freedom and promotes the exercise of free speech on college campuses.

A copy of the White House's reauthorization principles is found at:  
[https://secure.aacte.org/apps/rl/res\\_get.php?fid=3714&ref=res](https://secure.aacte.org/apps/rl/res_get.php?fid=3714&ref=res).

An article in *The Wall Street Journal* of November 29, 2017, said that the House bill is aimed at both deregulating and laying the conditions for "shorter, faster pathways to the workforce." The bill also focuses on ensuring that students enroll and graduate with skills that the labor market is seeking. The last reauthorization was in 2008 and was set to expire in 2013, but was extended to allow Congress more time to work on it. It is likely that the reauthorization process, beginning with the House bill, will take more than a year to wind through Congress. While there are many elements that have bipartisan support, there are many elements that are opposed by the higher education community. A review of the bill that passed the House Education Committee provides an understanding of how Republicans view the higher education system.

Following the bill's passage, Chairman Foxx released a statement discussing the importance of the Committee's action. "The *PROSPER Act* delivers the serious reforms needed to empower students and families to achieve an essential part of the American dream: earning a high-quality education, finding a good-paying job, and living a successful life." Ranking Member Bobby Scott (D-VA) released a statement saying: "Under this bill, corporate interests are put first and students are put last."

A copy of Chairman Foxx's statement is found at:  
<https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=402211>.

A copy of Ranking Member Scott's statement is found at: <https://democrats-edworkforce.house.gov/media/press-releases/after-13-hour-markup-republicans-pass-partisan-hea-reauthorization-under-the-cover-of-night>.

Highlights of the *PROSPER Act* are attached as a separate document.

[Senate Democrats Ask Senate Appropriations Committee to Strike Language on Accrediting Agency Provision](#)

It was recently reported in *Politico* that on December 4, 2017, Senate Democrats, led by Senator Elizabeth Warren (D-MA), sent a letter to the Senate Appropriations Committee asking them to strike a provision granting an 18-month extension for colleges previously accredited by the

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Accrediting Council for Independent Colleges and Schools (ACICS) from the *Departments of Labor, Health and Human Services, and Education Appropriations Act*. The letter states that by extending the deadline “for colleges whose track record or performance makes them struggle or unable to secure a new accreditor, this provision provides a free pass to receive more federal taxpayer funds and to sign up more students for federal student loan debt that they may never be able to repay.”

### Senate HELP Committee Holds Hearing on Simplifying the FAFSA

On November 28, 2017, the Senate Health, Education, Labor and Pensions (HELP) Committee held a hearing on proposals to simplify the Free Application for Federal Student Aid (FAFSA) in conjunction with plans to begin reauthorization of the *Higher Education Act (HEA)*. The HELP Committee members and witnesses discussed the necessity of the many questions on the FAFSA and examined how the FAFSA in its current form is a barrier to student access to federal aid for higher education, particularly in the case of homeless, minority, or otherwise underrepresented groups. The hearing discussed potential solutions to these issues, including how to make students aware of their Pell eligibility and Expected Family Contribution (EFC) earlier so that they can use the information when exploring higher education options.

Senate HELP Chairman Lamar Alexander (R-TN) said that marking up the HEA is the “first order of business after the first of the year.” The Chairman said that he wanted to rewrite the law to “make is simpler and easier for students to apply for federal aid, and to pay their loans back” and to “cut through the jungle of red tape” that federal regulations create for colleges. Ranking Member of the HELP Committee Patty Murray (D-WA) noted that FAFSA simplification was important but reauthorization needs to address additional issues such as the rising cost of college, the rising student loan debt, accountability for schools and programs, barriers to access for working families, students of color, and first generation students, and creating a safe environment on campus.

Secretary of Education Betsy DeVos issued the following statement: “Washington has been talking about simplifying the FAFSA for years, but now is the time for action. Students and schools have demanded and truly deserve a better, simpler process.

A copy of the Secretary’s statement is found at: <https://www.ed.gov/news/press-releases/secretary-devos-praises-senate-action-fafsa-simplification>.

### Democratic Senators Urge VA and Department of Defense to Protect Ashford Students

On November 21, 2017, nine Democratic Senators sent letters to the Departments of Veterans Affairs and Defense urging them to protect veterans and service members currently enrolled at Ashford University because it may lose VA eligibility within 60 days if it fails to obtain approval from the California State Approving Agency. The letter noted that Ashford University advised the

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Security and Exchange Commission in a public filing on November 15, 2017 that it will be voluntarily suspending new GI Bill enrollments.

A copy of the letter to Secretary of Veterans Affairs is found at:  
<https://www.durbin.senate.gov/imo/media/doc/Ashford%20VA%2011.21.17.pdf>.

### House Democrats Introduce Bill to Simplify the FAFSA

On November 16, 2017, Representatives Lisa Blunt Rochester (D-DE), Bobby Scott (D-VA), Susan Davis (D-CA), Gregorio Kilili Camacho Sablan (D-NMI) and Ami Bera (D-CA) introduced H.R. 4416, the *Simple Free Application for Federal Student Aid (FAFSA) Act of 2017*, a bill that would remove barriers for students seeking federal financial aid by reducing the complexity and length of the FAFSA and increasing support for vulnerable populations. The bill would:

- Create three pathways based on the complexity of a student's finances;
- Allow very low-income students and families to qualify for a full Pell Grant;
- Increase support for working students;
- Require the FAFSA to be filed only one time;
- Permit use of income data from the previous year;
- Allow DREAMers to afford college;
- Reinstate Pell Grant eligibility for students with drug-related offenses; and
- Create a standardized financial aid award letter.

### House Bill Would Require Non-Completers to Repay Pell Grants

On November 15, 2017, H.R. 4414, the *Pell for Performance Act*, was introduced by Representatives Francis Rooney (R-FL) and Ralph Norman (R-SC), and would require low-income students who do not finish their programs in a certain amount of time to repay their Pell Grants. Higher education representatives are condemning this bill that had been introduced last Congress, but did not move out of the House Subcommittee on Higher Education. Representative Rooney issued a statement indicating that the bill is intended to motivate students to graduate within six years. "This act will focus efforts of both colleges and students to complete their degrees in a timely manner as well as bring forth more bang for the taxpayer's buck."

A copy of Congressman Rooney's press release is found at:  
<https://francisrooney.house.gov/news/documentsingle.aspx?DocumentID=273>.

### Bipartisan Bill Would Expand PSLF Eligibility to Borrowers

On November 15, 2017, a bipartisan bill was introduced in the House by Representatives Brendan Boyle (D-PA), Ryan Costello (R-PA), John Sarbanes (D-MD), and Brian Fitzgerald (R-PA), and seeks to ensure that borrowers who chose a repayment plan that would not otherwise qualify them

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for Public Service Loan Forgiveness (PSLF) would still be eligible for loan forgiveness. H.R. 4399, *To expand the monthly payments that may be eligible for public service loan forgiveness*, would extend PSLF eligibility to borrowers who have already made loan payments up to 10 years toward making the 120 on-time payments, but may have been unaware that the payment plan in which they enrolled was not sanctioned for public service loan forgiveness. The companion bill, S. 2136, was introduced by Senators Sheldon Whitehouse (D-RI) and Tim Kaine (D-VA).

If the borrower's payments under a non-qualifying plan do not meet the comparable payment criteria, he/she could request an extended review of his/her repayment history to determine whether any monthly payment made under a non-qualifying plan is no less than the amount that would have been required, based on the borrower's income in that year, under an income-based repayment plan or an income-contingent repayment plan. The Department would have to perform this analysis for every payment made under the non-qualifying plan and count all payments that successfully meet the comparison towards the 120 total payments.

### Senate Democrats Release Report Detailing How Students were Defrauded by Predatory Colleges

On November 14, 2017, Senators Elizabeth Warren (D-MA), Dick Durbin (D-IL), and 14 other Senate Democrats released a report titled, "Insult to Injury: How the DeVos Department of Education is Failing Defrauded Students." The Senators sent the report to Secretary of Education Betsy DeVos and urged her to read the stories of defrauded borrowers and to respond to the recommendations. The report's findings include the fact that since the collapse of Corinthian Colleges through July 7, 2017, 96,944 borrowers have submitted borrower defense to repayment claims to the Department of Education and since the Trump Administration took office, zero borrower defense applications have been approved.

The report offers nine recommendations including to immediately provide full discharges to the remaining students with borrower defense claim approved prior to January 20, 2017 who have yet to receive relief and immediately begin processing borrower defense claims in order to reduce the current backlog of claims. The Department should also commit to providing full relief for future claims and to halt collection activity on defaulted borrowers with pending borrower defense claims and all defaulted Corinthian borrowers.

A copy of the report is found at:

[https://www.warren.senate.gov/files/documents/2017\\_11\\_Warren\\_Durbin\\_Borrower\\_Defense\\_Report.pdf](https://www.warren.senate.gov/files/documents/2017_11_Warren_Durbin_Borrower_Defense_Report.pdf).

### FSA COO Announces Vision to Transform Student Aid and Improve Customer Service

On November 29, 2017, Dr. A. Wayne Johnson, Chief Operating Officer for Federal Student Aid, announced the blueprint for FSA's Next Generation (Next Gen) Financial Services Environment at the recent U.S. Department of Education's Federal Student Aid (FSA) Conference. The new

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approach will modernize the technology and operations that support the federal student aid programs from application to repayment. Here are the highlights of the planned improvements:

- Spring 2018 – FSA will launch its mobile platform to allow students and parents to complete and submit the FAFSA on a mobile device.
- Fall 2018 – FAFSA.gov will be integrated into StudentAid.gov, making it easier for students to apply for financial aid directly from FSA’s leading web site. FAFSA applicants will be able to switch seamlessly between mobile and web while filling out the FAFSA, allowing students and parents to apply for financial aid from anywhere and on any device.
- TBD – FSA will consolidate all its customer-facing web sites into a single, user-friendly hub to complement the new mobile platform and provide a seamless experience from beginning to end.
- To address future loan servicing needs, FSA is researching how world-class financial services organizations design and operationalize their customer service engagement practices so that FSA can refine its strategy to implement the Next Generation Financial Services Environment. On December 11, 2017, the Department of Education posted a request for advanced market research information in regard to its Next Generation Financial Services Environment.

See:

<https://www.fbo.gov/index?s=opportunity&mode=form&id=ac904b86af5aa5025d10aeda0964be74&tab=core&cvview=1>.

In terms of enforcement, Dr. Johnson promised that FSA would be going after more debt relief companies that charge students fees to obtain free government benefits. He said that the Department is coordinating with other federal agencies on this issue.

A copy of the press release following Dr. Johnson’s presentation is found at:

<https://www.ed.gov/news/press-releases/us-department-education-announces-vision-transform-federal-student-aid-improve-customer-service>.

### Secretary DeVos Announced that ED will Overhaul How it will Manage the Financial Aid Programs

On November 28, 2017, Secretary of Education Betsy DeVos announced at the U.S. Department of Education’s Federal Student Aid (FSA) Conference that the Department must rethink higher education since “students should be able to pursue their education where, when and how it works for them and their schedules.” She said that is why it restored year-round Pell funding. Secretary DeVos also said that she is a member of the White House Task Force on Apprenticeship Expansion, and the Task Force is rethinking what effective apprenticeships look like. She noted that on another front, the Department is looking carefully at some of the “previous administration’s well-intentioned, but poorly designed, regulations including the Borrower Defense to Repayment and Gainful Employment rules.” With negotiated rulemaking underway, the Department is looking to develop rules that “protect both students and taxpayers.” Secretary



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DeVos said the effort to look at these two specific rules was part of a broader regulatory review process.

To better serve students, Secretary DeVos said that the Department must modernize the infrastructure and revamp the way it connects with them. The Secretary described the student borrowers' experience with the Department: A student may apply through at least three different portals, and he/she will select from over 10 different repayment plans from up to nine different servicers, all with unique websites and forms. If a student decides to consolidate his/her loans, there may be another servicer to deal with that has a different website and forms. The Secretary received applause when she said that students should be able to complete their FAFSAs on their phones and in one sitting, and her goal is that the customer experience with the Department should "rival Amazon or Apple's Genius Bar."

A copy of the Secretary's prepared remark is found at:

<https://www.ed.gov/news/speeches/prepared-remarks-us-secretary-education-betsy-devos-federal-student-aids-training-conference-financial-aid-professionals>.

Highlights of the planned improvements are found at:

<https://financialaidtoolkit.ed.gov/tk/announcement-detail.jsp?id=next-gen>.

### Department Restores Pell Grants to Students Whose Schools have Closed

On November 17, 2017, it was reported in *The Chronicle of Higher Education* that almost 300,000 students who used Pell Grants to attend now closed colleges have had their eligibility for Pell Grants restored by the Department of Education. It was reported that the Department recently advised Senator Patty Murray (D-WA) that it had restored Pell Grant eligibility for 288,969 students who had attended 841 institutions that closed from 2001 to 2016. In a letter of October 6, 2016, Senator Murray had urged the Secretary to use the Department's authority to restore Pell Grant eligibility for those who attended closed colleges, such as Corinthian Colleges and ITT Technical Institutes.

The letter from Senator Murray is found at:

<https://www.help.senate.gov/ranking/newsroom/press/higher-ed-sen-murray-urges-dept-of-education-to-use-authority-to-restore-pell-grant-eligibility-to-students-impacted-by-closures-of-itt-tech-and-corinthian-colleges>.

### "Semiannual Report to Congress, No. 75" Disapproves of ED's Decision to Delay Implementation of the Borrower Defense to Repayment and Gainful Employment Rules

The Office of Inspector General (OIG) released its "Semiannual Report to Congress, No. 75," which stated that it disapproved of the delay in the implementation of the borrower defense to repayment and gainful employment rules. Inspector General Kathleen Tighe said: "On borrower defense, we did not agree with the Department's delay of financial responsibility provisions that

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provided tools to improve the Department’s oversight options for schools at risk of closure...On gainful employment, we did not agree with the Department’s decision to delay a provision requiring schools to provide consumer protection disclosures directly to students before they enroll and Federal student aid funds are committed or disbursed.” IG Tighe said that OIG plans to work closely with ED on both regulations as negotiated rulemaking continues. “As with past negotiated rulemaking efforts, we expect to be fully engaged with the Department as it proceeds. We will not hesitate to voice our concerns regarding program integrity matters.”

A copy of the “Semiannual Report to Congress, No. 75” is found at:  
<https://www2.ed.gov/about/offices/list/oig/semiann/sar75.pdf>.

### OIG Issues Management Information Report Following Review of Borrower Defense to Repayment Loan Discharge Process

On December 8, 2017, the Office of Inspector General (OIG) issued the “Management Information Report, Review of Federal Student Aid’s Borrower Defense to Repayment Loan Discharge Process,” Control Number ED-OIG/I04R0003. The OIG found that while policies and procedures were established in 2015 and modified in April 2016, the OIG identified weaknesses in the policies and procedures. In addition, the report stated that FSA did not have an adequate system to manage borrower defense data. Despite the weaknesses found during the review, the OIG recommended that the review of applications for borrower defense claims resume since there has not been a single ruling under the Trump Administration. The OIG also recommended that the Department of Education establish a time frame for reviewing claims and either issue a denial or discharge the loans.

A copy of the Management Information Report is found at:  
<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/i04r0003.pdf>.

### GAO Reports on How FSA and Schools Manage Federal Student Aid Records

On December 4, 2017, the Government Accountability Office (GAO) released a report titled “Better Program Management and Oversight of Postsecondary Schools Needed to Protect Student Information. (GAO-18-121) GAO was asked by the House Oversight and Government Committee to examine how Federal Student Aid (FSA) and institutions of higher education manage federal student aid records. The GAO concluded that FSA is not doing enough to protect student data collected as part of the federal student aid programs, and FSA should hold colleges and universities accountable for their information security practices as a condition for participating in federal student aid programs. “GAO’s review of selected schools’ policies found that schools did not always include required information security elements, such as assessing risks or designing and implementing safeguards. Moreover, Education’s implementing regulations do not require schools to demonstrate their ability to protect student information as a condition for participating in federal aid programs. This raises concerns about FSA’s oversight and how effectively schools are protecting student aid information.”



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GAO recommended that FSA establish a document outlining a standard procedure for disposing of electronic records, require that staff receive regular training on managing online information, and set up a review of FSA's records management program every three years. It also suggested that security procedures be reviewed annually.

To improve FSA's oversight of schools, GAO recommended that it include a review of schools' security procedures for managing data in its regular audits, and that the Secretary of Education should require that the ability to protect personal information be included in the assessment of a school's administrative capability. At the recent FSA Conference, it was announced at the session covering the audit guide that in 2018 or 2019, ED would begin requiring the review of schools' security procedures as part of the audit.

A copy of the GAO report is found at: <https://www.gao.gov/assets/690/688604.pdf>.

#### Director of CFPB Steps Down

On November 15, 2017, Director of the Consumer Financial Protection Bureau (CFPB) Richard Cordray announced that he is resigning from the Bureau at the end of November. Mr. Cordray was appointed the first Director of the CFPB when it was created by the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. Many speculate that Mr. Cordray plans to run for Governor of Ohio where he previously served as Attorney General from 2009-2011. Mr. Cordray has been under attack by the Republicans because of his aggressive approach to regulating the mortgage, credit card, debt collection, and other industries, such as for-profit colleges and an accrediting agency, under the CFPB's largely undefined jurisdiction.

On November 13, 2017, Acting Undersecretary of Education James Manning responded to Senator Patty Murray's (D-WA) concerns regarding the Department's decision to discontinue two Memoranda of Understanding (MOUs) with the CFPB. Mr. Manning said in his letter that the Department's mission of serving students and borrowers has been undermined by CFPB's failure to direct complaints regarding Federal student loans to the Department. The CFPB's actions have "made it more difficult for the Department to address borrower-specific issues through servicing of their loans." Mr. Manning wrote the failure of the CFPB to provide the complaints to the Department "has led to unnecessary confusion for borrowers when they hear conflicting guidance regarding their loans, the rules governing the programs, and their rights and responsibilities."

A copy of the letter from Senator Murray is found at:  
<https://www.brown.senate.gov/newsroom/press/release/brown-murray-lead-senate-house-members-calling-on-secretary-devos-to-reverse-rollback-of-student-loan-borrower-protections>.

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A copy of Mr. Manning's letter is found at:

<https://www.help.senate.gov/imo/media/doc/ED%20to%20PM%2011-13-17%20re%20CFPB%20MOUs.pdf>.

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