
Briefing: An Overview of Current Federal Issues and Initiatives

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May 11, 2:00 p.m. (EDT)

The webinar will begin momentarily

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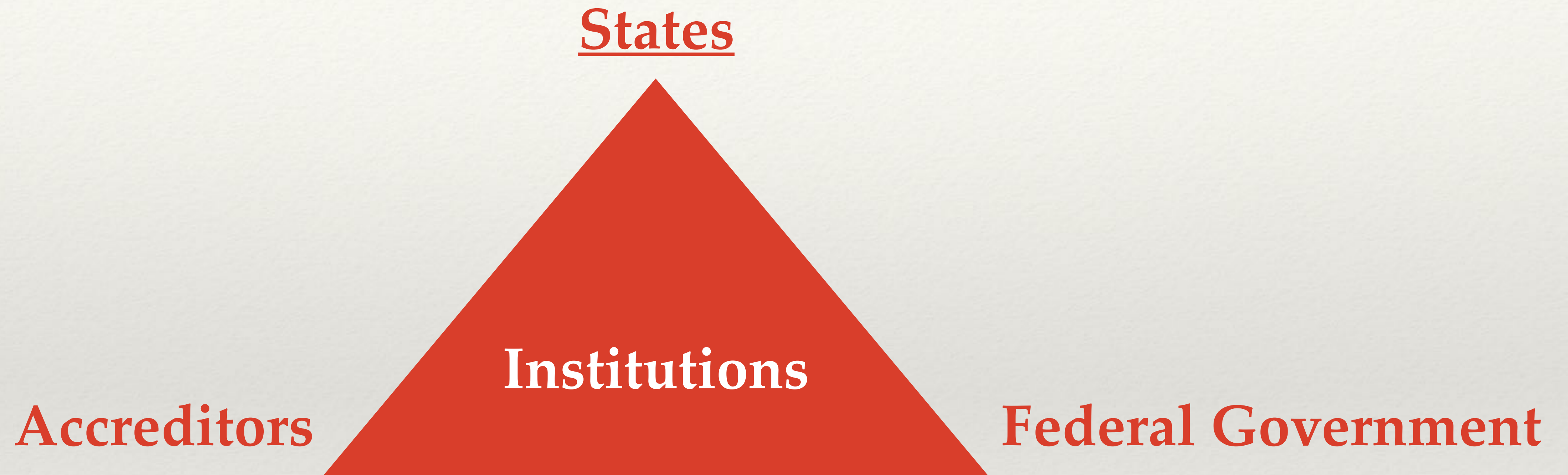
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Higher Education - The Context

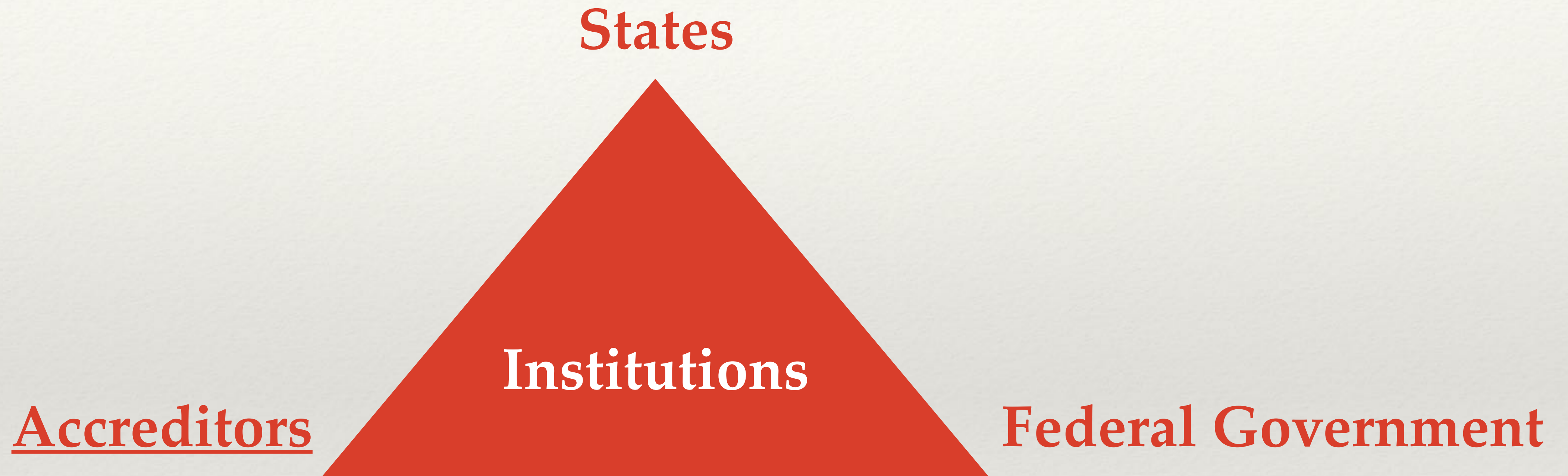
- ❖ **Over 5,600 Postsecondary Institutions**
- ❖ **Local Control**
- ❖ **Institutional Choice**

Higher Education - The Triad



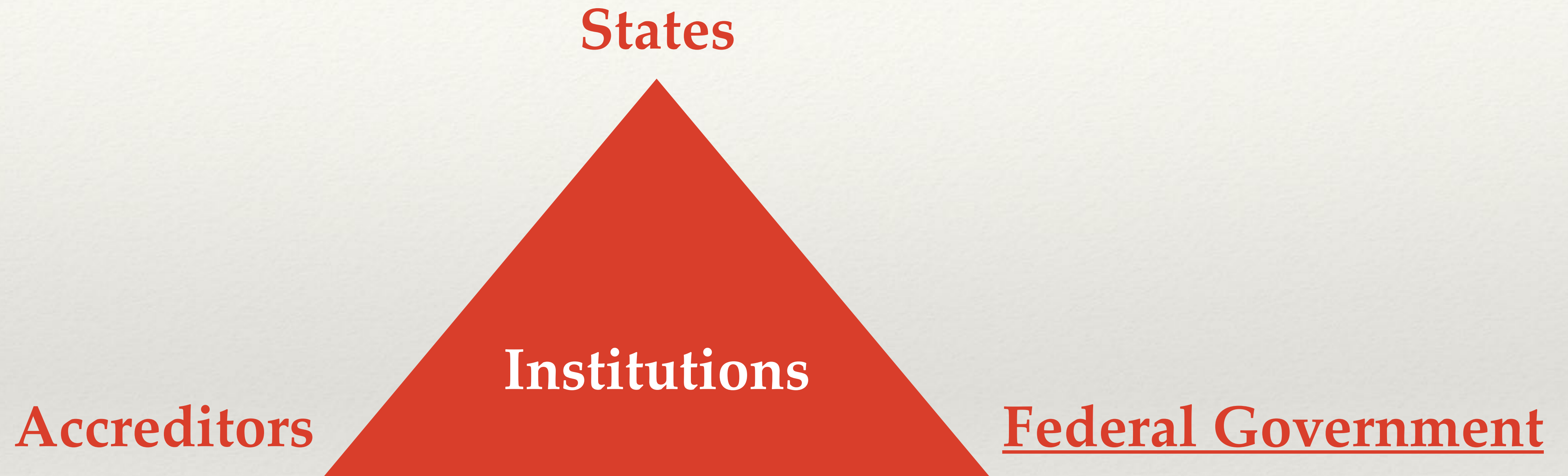
- ❖ **Funding**
- ❖ **Reporting Requirements**

Higher Education - The Triad



- ❖ **Institutional/Specialized or Programmatic**
- ❖ **USDE Recognition (Free-Standing Institutions)**

Higher Education - The Triad



- ❖ **Financial Aid**
- ❖ **10th Amendment and USDE Founding Statutes**

Higher Education - The Federal Role

- ❖ **Federal Funding**
 - ❖ **Loans, Grants, Work-Study**
- ❖ **Legislation - (ex. Higher Education Act)**
- ❖ **Regulation - (ex. USDE Gainful Employment-Higher Education Act)**
 - ❖ **Negotiated Rulemaking Process**
- ❖ **Guidance - (ex. Dear Colleague, Interruptions of Study, Rescinded)**
- ❖ **Staff Conversation (Department of Education/FSA - Reorganization)**

Federal Activity - Congress

- ❖ **Congress**

- ❖ **Reauthorization of Higher Education Act (HEA)**

- ❖ **Series of hearings and legislative proposals**

- ❖ **Reauthorization of Elementary and Secondary Education Act (ESEA)**

Federal Activity - ESEA

- ❖ **Elementary and Secondary Education Act (ESEA)**
 - ❖ **Reauthorized on December 10, 2015 (Every Student Succeeds Act - ESSA)**
 - ❖ **Includes study of the arts as part of a “well-rounded education”**
 - ❖ **Effective 2017 - replaced No Child Left Behind Act**
 - ❖ **All state plans approved by Secretary**

Federal Activity - Senate

- ❖ **Committee on Health, Education, Labor & Pensions (HELP)**
 - ❖ **Chair: Patty Murray (D-WA); Ranking Member: Richard Burr (R-NC)**
 - ❖ **Subcommittee on Employment and Workplace Safety**
- ❖ **Introduced Bills**
 - ❖ **(D) Student Loan Tax Relief Act, S. 3266 (passed through American Rescue Plan Act, H.R. 1319)**
 - ❖ **(D) College for All Act, S. 1277 [H.R. 2730]**
 - ❖ **(D) Debt-Free College Act, S. 672 [H.R. 1571]**
 - ❖ **(D) America's College Promise Act, S. 2250 [H.R. 3933]**

Federal Activity - House

- ❖ **Committee on Education and Labor**
 - ❖ **Chair: Robert “Bobby” Scott (D-VA); Ranking Member: Virginia Foxx (R-NC)**
 - ❖ **Subcommittee on Higher Education and Workforce Investment**
 - ❖ **Subcommittee on Early Childhood, Elementary, and Secondary Education**
- ❖ **Introduced Bills (D): AIM Higher Act (H.R. 6543); College Affordability Act (H.R. 4674) - Advanced; FUTURE Act (H.R. 5363) - Became Public Law**
- ❖ **“Building Back Better” Hearings**

Federal Activity - Personnel Changes

- ❖ **Office of the President and Cabinet**
 - ❖ **Changes in regulatory activity**
 - ❖ **Congressional Review Act (CRA)**
 - ❖ **Executive and Presidential considerations**

Federal Activity - Executive Actions

❖ Executive Orders

- ❖ 1/20/21 - Revoke Federal Regulations
- ❖ 1/20/21 - Repeal Training Ban
- ❖ 1/21/21 - School Reopening Guidance
- ❖ 3/8/21 - Title IX/Gender Identity

❖ Presidential Memoranda/Requests

- ❖ 1/20/21 - Student-Loan Pause
- ❖ 1/20/21 - Preserve DACA
- ❖ 1/20/21 - Regulatory Review
- ❖ 1/20/21 - Freeze Pending Regulations

Federal Activity - Personnel Changes

- ❖ **116th Congress (ended January 3, 2021)**
 - ❖ **Senate (53 R, 45 D, 2 I) and House (232 D, 197 R, 1 I, 1 L, 5 vacant)**
- ❖ **117th Congress (January 3, 2021 - January 3, 2023)**
 - ❖ **Senate (48 D, 50 R, 2 I) and House (219 D, 212 R, 4 vacant)**

Federal Activity - Higher Education Act

- ❖ Program Integrity Regulations
- ❖ Regulatory Reform Taskforce
- ❖ Gainful Employment Regulations
- ❖ Borrower Defense to Repayment Regulations
- ❖ Accreditation and Innovation Regulations
- ❖ Title IX
- ❖ Distance Education And Innovation

2010 USDE Release:

Misrepresentation, State Authorization, Federal Definition of the Credit Hour, etc.

Federal Activity - Higher Education Act

❖ Program Integrity Regulations

Resultant from EO 13777 - “Enforcing the Regulatory Reform Agenda” published February 24, 2017

❖ Regulatory Reform Taskforce

Over 150 regulations identified for repeal governed by the Department of Education

❖ Gainful Employment Regulations

❖ Borrower Defense to Repayment Regulations

Now rescinded

❖ Accreditation and Innovation Regulations

❖ Title IX

❖ Distance Education And Innovation

Federal Activity - Higher Education Act

- ❖ **Program Integrity Regulations** **Effective July 1, 2020: rescinded in entirety**
- ❖ **Regulatory Reform Taskforce** **Replaced with expanded program level data and the possibility of risk-sharing**
- ❖ **Gainful Employment Regulations**
- ❖ **Borrower Defense to Repayment Regulations**
- ❖ **Accreditation and Innovation Regulations**
- ❖ **Title IX**
- ❖ **Distance Education And Innovation**

Federal Activity - Higher Education Act

- ❖ **Program Integrity Regulations** **Effective July 1, 2020**
 - ❖ **Regulatory Reform Taskforce**
 - ❖ **Gainful Employment Regulations**
 - ❖ **Borrower Defense to Repayment Regulations** **Misrepresentation as “a statement, act, or omission by the school to the borrower that is 1) false, misleading, or deceptive, 2) made with knowledge of its false, misleading, or deceptive nature or with a reckless disregard for the truth, and 3) directly and clearly related to the making of a Direct Loan for enrollment at the school of the provision of educational service for which the loan was made.”**
 - ❖ **Accreditation and Innovation Regulations**
 - ❖ **Title IX**
 - ❖ **Distance Education And Innovation** **Each student must apply individually, limitations period of three years, specific evidence required**
- Congress overturned rule using a Congressional Review Act resolution which was vetoed**

Federal Activity - Higher Education Act

- ❖ **Program Integrity Regulations** **Effective July 1, 2020**
- ❖ **Regulatory Reform Taskforce** **Negotiated Rulemaking Consensus**
- ❖ **Gainful Employment Regulations** **Removal of “geographic area” from USDE recognition scope**
- ❖ **Borrower Defense to Repayment Regulations** **Changes to federal definitions of substantive change**
- ❖ **Accreditation and Innovation Regulations** **State Authorization - states may voluntarily participate in reciprocity agreements but must waive own rules; publication of determinations regarding professional licensure applicability**
- ❖ **Title IX**
- ❖ **Distance Education And Innovation**

Federal Activity - Higher Education Act

- ❖ **Program Integrity Regulations**
 - ❖ **Regulatory Reform Taskforce**
 - ❖ **Gainful Employment Regulations**
 - ❖ **Borrower Defense to Repayment Regulations**
 - ❖ **Accreditation and Innovation Regulations**
 - ❖ **Title IX**
 - ❖ **Distance Education And Innovation**
- Effective August 14, 2020**
- Over 124,00 comments received**
- Amends definition of sexual harassment for Title IX; role of Title IX coordinator; mandatory response and reporting obligations; grievance processes and procedures**
- Requires confirmation of standard of evidence in place**
- Extensive and complex**

Federal Activity - Higher Education Act

- ❖ **Program Integrity Regulations** **Effective July 1, 2021 (voluntary early implementation)**
- ❖ **Regulatory Reform Taskforce** **Defines “regular and substantive interaction”**
- ❖ **Gainful Employment Regulations** **Amends clock hour definition**
- ❖ **Borrower Defense to Repayment Regulations** **Differentiates between distance education and correspondence education**
- ❖ **Accreditation and Innovation Regulations** **Increases flexibility for direct assessment programs**
- ❖ **Title IX**
- ❖ **Distance Education And Innovation**

Federal Activity - Continuing Issues

- ❖ **Overtime Rule - Department of Labor (FLSA)** **Effective January 1, 2020**
- ❖ **National Labor Relations Board Activities** **Raises standard salary level for overtime eligibility from \$455 to \$684 a week/\$23,660 to \$35,568 annually**
- ❖ **Admissions and Recruitment - NACAC/DOJ** **Faculty exempt from salary requirements but may apply to staff and administrators**
- ❖ **Deferred Action for Childhood Arrivals (DACA)**
- ❖ **Revamped College Scorecard/Field of Study** **Entitles ca. 1.3 million workers to be newly eligible for overtime**
- ❖ **Consumer Financial Protection Bureau**

Federal Activity - Continuing Issues

- ❖ **Overtime Rule - Department of Labor (FLSA)**
- ❖ **National Labor Relations Board Activities**
- ❖ **Admissions and Recruitment - NACAC/DOJ**
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- ❖ **Consumer Financial Protection Bureau**

**Notice of Proposed Rulemaking - September 23, 2019
(13,000 comments) Withdrawn March 15, 2021**

**Ruling regarding jurisdiction over faculty at religious
colleges and institutions**

Federal Activity - Continuing Issues

❖ **Overtime Rule - Department of Labor (FLSA)**

September 28, 2019 - NACAC voted to remove three provisions

❖ **National Labor Relations Board Activities**

❖ **Admissions and Recruitment - NACAC/DOJ**

April 17, 2020 - United States of America v. National Association for College Admission Counseling

❖ **Deferred Action for Childhood Arrivals (DACA)**

❖ **Revamped College Scorecard/Field of Study**

❖ **Consumer Financial Protection Bureau**

Federal Activity - Continuing Issues

- ❖ **Overtime Rule - Department of Labor (FLSA)** **September 5, 2017 - formal announcement to rescind the program effective March 5, 2018**
- ❖ **National Labor Relations Board Activities** **July 6, 2020 - Supreme Court decision to block the administration's actions**
- ❖ **Admissions and Recruitment - NACAC/DOJ**
- ❖ **Deferred Action for Childhood Arrivals (DACA)** **July 28, 2020 - Administration memo rejecting all new initial applications and shortening renewal periods from two years to one year**
- ❖ **Revamped College Scorecard/Field of Study**
- ❖ **Consumer Financial Protection Bureau** **January 20, 2021 - Executive Memorandum**

Federal Activity - Continuing Issues

- ❖ **Overtime Rule - Department of Labor (FLSA)** **Originally released September 2015**
- ❖ **National Labor Relations Board Activities** **Presents data down to the program level**
- ❖ **Admissions and Recruitment - NACAC/DOJ**
- ❖ **Deferred Action for Childhood Arrivals (DACA)**
- ❖ **Revamped College Scorecard/Field of Study**
- ❖ **Consumer Financial Protection Bureau**

Federal Activity - Continuing Issues

❖ **Overtime Rule - Department of Labor (FLSA)**

❖ **National Labor Relations Board Activities**

❖ **Admissions and Recruitment - NACAC/DOJ**

❖ **Deferred Action for Childhood Arrivals (DACA)**

❖ **Revamped College Scorecard/Field of Study**

❖ **Consumer Financial Protection Bureau**

Newly Appointed Permanent Director

Increasing Staffing

Priority - Mortgage Services

Economy - Trends

- ❖ **Monies**
 - ❖ **Federal Debt: \$28.23 trillion (2011 Federal Debt - \$14.8 trillion)**
 - ❖ **Gross Domestic Product (GDP) 2020 est: \$20.93 trillion (decrease of 2.3% from prior year)**
 - ❖ **US Federal Budget Deficit: 2019 - \$984 billion; 2020 - \$3.1 trillion (highest debt to GDP since 1945); 2021 (est) - \$2.3 trillion**
 - ❖ **Federal Annual Tax Revenue Per Citizen (est.): \$10.5k; Federal Debt Per Citizen (est.): \$84k**
- ❖ **Population**
 - ❖ **Total U.S. Population: 330.2 million (est)**
 - ❖ **Unemployment (April 2021): 6.2%; (April 2020): 14.7%**
 - ❖ **From 2008-2019 - 6.6 million fewer children than if fertility rates held at 2007 levels**
- ❖ **Markets**
 - ❖ **Market Gain (DOW): 2017: +25.6%; 2018: -5.6%; 2019: +22.3%; 2020: +7.3%; 2021 YTD: 10.7%**
 - ❖ **Consumer Price Index (CPI): March 2021 +0.6%; +2.6% in past 12 months**
 - ❖ **Higher Education Price Index (2020): +1.9%**

Economy - Federal Funds in Higher Education

- ❖ **Annual Expenditure on student aid by Federal Government**
 - ❖ **ca. \$150 billion**
- ❖ **Outstanding Loans / Default Rate**
 - ❖ **ca. \$1.57 trillion (second to mortgage debt at \$16.56 trillion) (Q3-2020)**
 - ❖ **11.1% delinquency rate - \$39 billion in default (Q3-2020) (prior to pandemic moratorium)**
- ❖ **Student Loan Debt Holding Individuals**
 - ❖ **30 million in 2011 (average balance \$25k) vs 45 million in 2020 (average balance \$36k)**
- ❖ **Burden of forgiveness deferred to taxpayers**
 - ❖ **\$200 billion in loans signed up for IBR / Forgiveness of loans of closed institutions**
 - ❖ **PSLF - 1.3 million borrowers averaging \$76k (Q3 2020)**
 - ❖ **Ongoing temporary 0% interest and administrative forbearance due to pandemic**

Philanthropy/Tax Policy

- ❖ **Charitable Giving (Giving USA, Report 2020 for FY 2019; 2020 available June 15)**
 - ❖ **Total Charitable Giving: \$449.64 billion (increase of 4%)**
 - ❖ **Giving to Education: \$64.11 billion (increase of 12%) (70% to Higher Ed)**
 - ❖ **Giving to Arts, Culture, and Humanities: \$21.64 billion (increase of 12%)**
- ❖ **Charitable Deduction for Giving**
 - ❖ **14% of all giving goes to Education (~70% to Higher Ed), 5% to Arts**
 - ❖ **Individuals: \$309 billion; Foundations: \$75 billion; Bequests: \$43 billion; Corporations: \$21 billion**

Taxes/Budget/Appropriations

- ❖ *Tax Cuts and Jobs Act* December 22, 2017 - became law
- ❖ *Bipartisan Budget Act of 2019* Comprehensive tax bill
- ❖ *Further Consolidated Appropriations Act 2020* Investment tax changes; expiration of tuition and fees deduction; expansion to the deduction for charitable contributions; increase to the standard deduction; caps for state and local taxes; changes to 529 plans; loan forgiveness change
- ❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*
- ❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act* Published October 15, 2020 - Final rule on investment tax (effective October 14, 2020)
- ❖ *American Rescue Plan Act of 2021*
- ❖ **American Jobs Plan/American Families Plan**
- ❖ **Budget Process**

Taxes/Budget/Appropriations

❖ *Tax Cuts and Jobs Act*

❖ *Bipartisan Budget Act of 2019*

August 2, 2019 - became law

❖ *Further Consolidated Appropriations Act 2020*

**Increases discretionary spending limits through FY 2021
(No debt ceiling)**

❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*

❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act*

❖ *American Rescue Plan Act of 2021*

❖ **American Jobs Plan/American Families Plan**

❖ **Budget Process**

Taxes/Budget/Appropriations

❖ *Tax Cuts and Jobs Act*

December 20, 2019 - became law

❖ *Bipartisan Budget Act of 2019*

Eight-bill minibus appropriations bill

❖ *Further Consolidated Appropriations Act 2020*

Includes the delay of mandatory distribution of IRA funds to age 72; other changes to contributions and beneficiary rules

❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*

❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act*

❖ *American Rescue Plan Act of 2021*

❖ **American Jobs Plan/American Families Plan**

❖ **Budget Process**

Taxes/Budget/Appropriations

❖ *Tax Cuts and Jobs Act*

❖ *Bipartisan Budget Act of 2019*

❖ *Further Consolidated Appropriations Act 2020*

❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*

❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act*

❖ *American Rescue Plan Act of 2021*

❖ **American Jobs Plan/American Families Plan**

❖ **Budget Process**

March 27, 2020 - became law

\$2.2 trillion bill includes nearly \$31 billion in emergency funding for K-12 and higher education; \$14 billion for Higher Education (HEERF)

Includes six-month automatic forbearance with no interest from monthly payments for federal student loans

Taxes/Budget/Appropriations

- ❖ *Tax Cuts and Jobs Act*
 - ❖ *Bipartisan Budget Act of 2019*
 - ❖ *Further Consolidated Appropriations Act 2020*
 - ❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*
 - ❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act*
 - ❖ *American Rescue Plan Act of 2021*
 - ❖ *American Jobs Plan/American Families Plan*
 - ❖ *Budget Process*
- December 27, 2020 - became law (part of Consolidated Appropriations Act of 2021)
- \$2.3 trillion with \$22.7 billion to institutions of higher education through HEERF II
- Significant guidance and reporting requirements found on the Office of Postsecondary Education website
- Includes FAFSA Simplification Act effective July 1, 2023
- On April 5, 2021 13 public and 32 private HBCU Capital Financing Program discharged \$1.6 billion

Taxes/Budget/Appropriations

- ❖ *Tax Cuts and Jobs Act*
 - ❖ *Bipartisan Budget Act of 2019*
 - ❖ *Further Consolidated Appropriations Act 2020*
 - ❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*
 - ❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act*
 - ❖ *American Rescue Plan Act of 2021*
 - ❖ **American Jobs Plan/American Families Plan**
 - ❖ **Budget Process**
- March 11, 2021 - became law
- \$1.9 trillion with \$40 billion specifically earmarked for higher education
- Distributed under HEERF requirements
- 7.5% dedicated to HBCUs and MSIs
- No tax on loan forgiveness through January 1, 2026

Taxes/Budget/Appropriations

- ❖ *Tax Cuts and Jobs Act*
Released March 31, 2021 and April 28, 2021 respectively
- ❖ *Bipartisan Budget Act of 2019*
Depending on analysis -
Pay for themselves in 15 years and increase real GDP by \$1 trillion over ten years
- ❖ *Further Consolidated Appropriations Act 2020*
Or \$1.2 trillion spending over revenue over 10 years and decrease GDP by 0.34% over ten years
- ❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*
Total spending ca. \$4.5 trillion
- ❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act*
Anticipated introduction in the summer
- ❖ *American Rescue Plan Act of 2021*
- ❖ American Jobs Plan/American Families Plan
- ❖ **Budget Process**

Taxes/Budget/Appropriations

- ❖ *Tax Cuts and Jobs Act*
- ❖ *Bipartisan Budget Act of 2019*
- ❖ *Further Consolidated Appropriations Act 2020*
- ❖ *Coronavirus Aid, Relief, and Economic Security (CARES) Act*
- ❖ *Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act*
- ❖ *American Rescue Plan Act of 2021*
- ❖ **American Jobs Plan/American Families Plan**
- ❖ **Budget Process**

Fiscal Year runs October 1-September 30

President submits budget request; House and Senate pass resolutions; markup appropriations bills; vote and reconcile; sign into law

Presidential Budget Released

Communications

- ❖ **Stay Informed and Triangulate**
 - ❖ **Advisories on Federal Issues**
 - ❖ **Federal Register; Government Publishing Office (GPO) Electronic Code of Federal Regulations; Information for Financial Aid Professionals (IFAP) Resources**
 - ❖ **USDE, Senate HELP Committee, House Education and Labor Committee**
- ❖ **Consider Consequences**
- ❖ **Study, Communicate, and Stay Involved**
- ❖ **Counter Myths by Offering Facts**

Communications - External Resources

- **Inside Higher Ed**
- **Chronicle of Higher Education**
- **Politico - Weekly ED**
- **www.govtrack.us**
- **Alliance for Excellent Education**
- **AASCU - Daily Higher Ed Report**
- **Daily Lumina News**
- **EdWeekly Updates**
- **UB Daily Newsletter**
- **American Enterprise Institute - Reports**
- **Smart Brief for the Higher Education Leader**
- **The Alliance for Charitable Reform**
- **American Council on Education**
- **Thompson Coburn Higher Education**
- **Congressional Research Service**

Communicate/Stay Involved

- ❖ **Study Issues in sufficient depth, review various sources of information**
 - ❖ **Strength in unity/cohesive voice**
- ❖ **Determine whether issue is federal, state, or local**
 - ❖ **Review law, regulation, guidance, and relationships among**
- ❖ **Work to correct misperceptions using depth of knowledge**
- ❖ **Stay in touch with the National Office**
- ❖ **Feel free to contact me with questions or comments**

Thank you

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