

National Association of Schools of Art and Design (NASAD)

Briefing: Federal Issues for Art and Design Administrators

Paul Florek, Accreditation and External Affairs Associate

The webinar will begin momentarily

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**Briefing: Federal Issues for
Art and Design Administrators**

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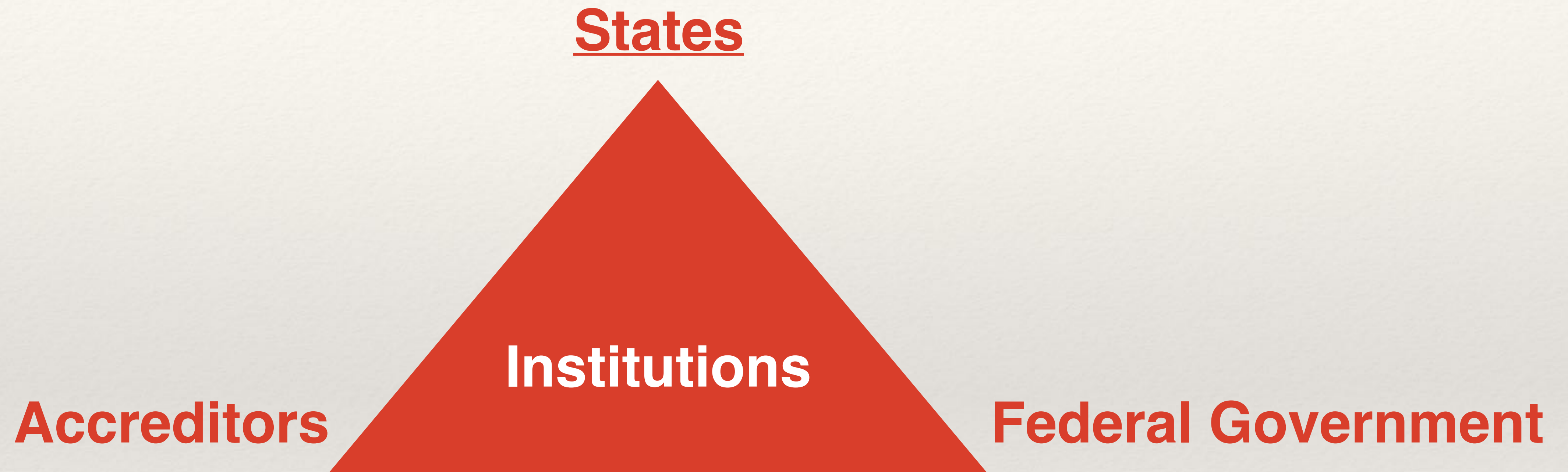
Institutional Autonomy and Independence

- ❖ **Rules of Practice and Procedure, Part II., Article I., Section 1.**
 - ❖ **To encourage the diversity of American education, and allow institutions to achieve their particular objectives and goals**
 - ❖ **To endeavor to protect institutions against encroachments which might jeopardize their educational effectiveness or their freedom to make academic and associated decisions**

Higher Education - The Context

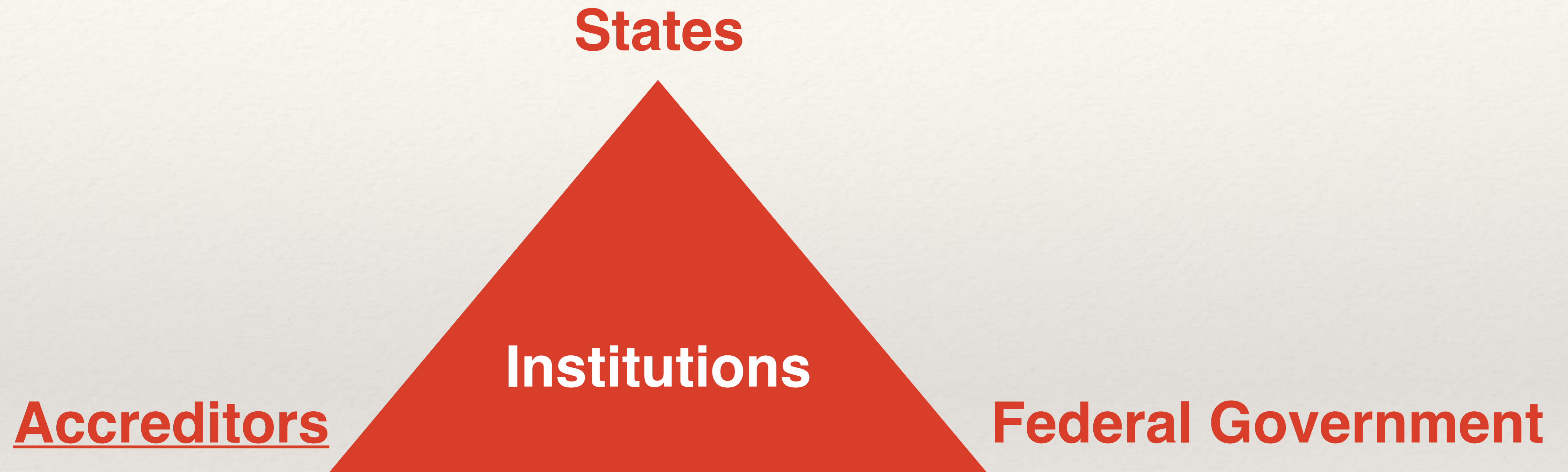
- ❖ **Over 4,000 institutions of higher education**
- ❖ **Local control**
- ❖ **Institutional choice**
- ❖ **The “triad”**

Higher Education - The Triad



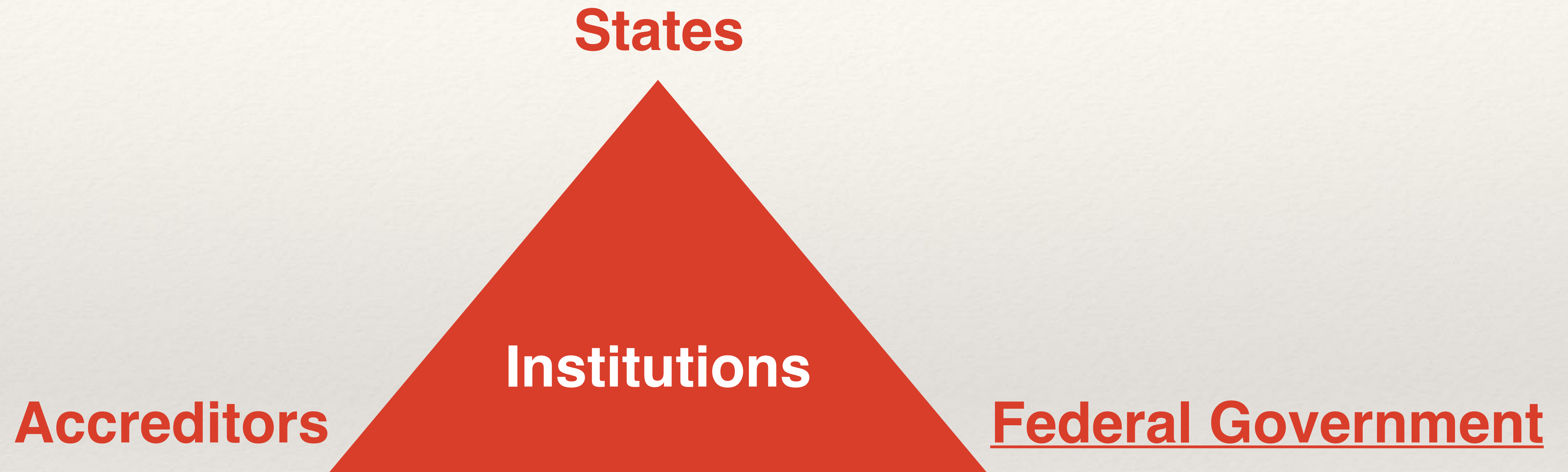
- ❖ **Funding**
- ❖ **Reporting Requirements**

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. DOL Overtime Rule-Fair Labor Standards Act; USDE Gainful Employment-Higher Education Act)**
 - ❖ **Negotiated Rulemaking Process**
- ❖ **Guidance - (ex. Dear Colleague, Interruptions of Study, HEERF, Rescinded)**
- ❖ **Staff Conversation (Department of Education/FSA - Reorganization)**
- ❖ **Executive Actions (ex. Executive Orders)**

Federal Activity - Congress

- ❖ **Congress**
 - ❖ **Reauthorization of Higher Education Act (HEA)**
 - ❖ **Series of hearings and legislative proposals**
 - ❖ **Senate vs. House approach to HEA reauthorization**
 - ❖ **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: Lamar Alexander (R-TN); Ranking Member: Patty Murray (D-WA)**
 - ❖ **Subcommittee on Employment and Workplace Safety**
- ❖ **Introduced Bills (D): College Transparency Act (S. 800); Student Aid Improvement Act (S. 2557)**
- ❖ **Introduced Bills (R): Student Aid Improvement Act (S. 2557)**

Federal Activity - House

- ❖ **Education and Labor Committee**

- ❖ **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 (R): PROSPER Act (H.R. 4508) - Advanced**

- ❖ **Introduced Bills (D): AIM Higher Act (H.R. 6543); College Affordability Act (H.R. 4674) - Advanced; FUTURE Act (H.R. 5363) - Became Public Law**

Federal Activity - Personnel Changes

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

Federal Activity - Personnel Changes

- ❖ **115th Congress (ended January 3, 2019)**
 - ❖ **Senate (51 R, 47 D, 2 I) and House (237 R, 196 D, 2 vacant)**
- ❖ **116th Congress (current ends January 3, 2021)**
 - ❖ **Senate (53 R, 45 D, 2 I) and House (232 D, 197 R, 1 L, 5 vacant)**
- ❖ **117th Congress (January 3, 2021 - January 3, 2023)**

Federal Activity - Higher Education Act

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

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

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

Federal Activity - Higher Education Act

- ❖ **Program Integrity Regulations** **Effective July 1, 2020: rescinded in entirety**
- ❖ **Regulatory Reform Taskforce** **Intention to replace with expanded program level data and the possibility of risk-sharing**
- ❖ **Gainful Employment Regulations**
- ❖ **Borrower Defense to Repayment Regulations**
- ❖ **State Authorization 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.”

- ❖ **State Authorization Regulations**

- ❖ **Accreditation and Innovation Regulations**

Each student must apply individually, limitations period of three years, specific evidence required

- ❖ **Title IX**

- ❖ **Distance Education And Innovation**

Congress overturned rule using a Congressional Review Act resolution which was vetoed by the President

Federal Activity - Higher Education Act

- ❖ **Program Integrity Regulations**

Effective July 1, 2018

- ❖ **Regulatory Reform Taskforce**

- ❖ **Gainful Employment Regulations**

“An institution offering distance education or correspondence courses must be authorized by each State in which the institution enrolls students, if such authorization is required by the State.”

- ❖ **Borrower Defense to Repayment Regulations**

- ❖ **State Authorization Regulations**

Guidance by USDE indicating that SARA agreements provide compliance

- ❖ **Accreditation and Innovation Regulations**

Further regulatory guidance offered in the 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**
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
- ❖ **State Authorization Regulations**
State Authorization - states may voluntarily participate in reciprocity agreements but must waive own rules; publication of determinations regarding professional licensure applicability
- ❖ **Accreditation and Innovation Regulations**
- ❖ **Title IX**
- ❖ **Distance Education And Innovation**

Federal Activity - Higher Education Act

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

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
- ❖ **State Authorization Regulations**
Increases flexibility for direct assessment programs
- ❖ **Accreditation and Innovation Regulations**
- ❖ **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 are 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**
- ❖ **Fixed Time Visas - INA**

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**
 - ❖ **Fixed Time Visas - INA**
- Notice of Proposed Rulemaking - September 23, 2019
(13,000 comments)**
- 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**

❖ **Fixed Time Visas - INA**

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**
- ❖ **Admissions and Recruitment - NACAC/DOJ**
July 6, 2020 - Supreme Court decision to block the administration's actions
- ❖ **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**
- ❖ **Fixed Time Visas - INA**

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**
- ❖ **Fixed Time Visas - INA**

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**

❖ **Fixed Time Visas - INA**

September 25, 2020 - NPRM - “Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media” (Immigration and Nationality Act)

Comment period ends October 26, 2020 (ca. 25k comments)

Transition F, J, and I visas to a two-year or four-year period based on the date of admission and program end date rather than current “duration of student’s studies”

Decreases from 60 to 30 days the allowed period for individuals on F visas to depart after completion of study

Initiates routine biometrics collection

Economy - Trends

❖ Monies

- ❖ **Federal Debt: \$27.06 trillion (2009 Federal Debt - \$13.5 trillion)**
- ❖ **Gross Domestic Product (GDP) 2020 Q2 est.: \$19.41 trillion**
- ❖ **US Federal Budget Deficit: 2019 - \$984 billion; 2020 - \$3.1 trillion (highest ratio of debt to GDP since 1945)**
- ❖ **Federal Annual Tax Revenue Per Citizen (est.): \$9k; Federal Debt Per Citizen (est.): \$81k**

❖ Population

- ❖ **Total Population estimate: 328.2 million**
- ❖ **Unemployment (September 2020): 7.9%**

❖ Markets

- ❖ **Market Gain (DOW): 2017 +25.6%; 2018 -5.6%; 2019 +22.3%; 2020 YTD +0.2%**
- ❖ **Consumer Price Index (CPI): September 2020 +0.2%; +1.4% in past 12 months**
- ❖ **Higher Education Price Index (2020 Preliminary Forecast): 2.2%**
- ❖ **Annual Expenditure on student aid by Federal Government - ca. \$150 billion**

Economy - Federal Funds in Higher Education

- ❖ **Annual Expenditure on student aid by Federal Government**
 - ❖ **ca. \$150 billion**
- ❖ **Outstanding Loans / Default Rate**
 - ❖ **ca. \$1.54 trillion (second to mortgage debt at \$15.8 trillion) (Q2-2020)**
 - ❖ **9.2% delinquency rate - \$37 billion in default (Q2-2020)**
- ❖ **Student Loan Debt Holding Individuals**
 - ❖ **30 million in 2010 (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 \$87k (Q2 2020)**
 - ❖ **Ongoing temporary 0% interest and administrative forbearance due to pandemic**

Philanthropy/Tax Policy

- ❖ **Charitable Giving (Giving USA, Report 2020 for FY 2019)**
 - ❖ **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***

❖ **Budget Process**

Published October 15, 2020 - Final rule on investment tax (effective October 14, 2020)

Taxes/Budget/Appropriations

- ❖ ***Tax Cuts and Jobs Act***
August 2, 2019 - became law
- ❖ ***Bipartisan Budget Act of 2019***
Increases discretionary spending limits through FY 2021 (No debt ceiling)
- ❖ ***Further Consolidated Appropriations Act 2020***
September 30, 2020 - Continuing Resolution funding the government through December 11, 2020 - extends COVID-related nutrition benefits but not expanded unemployment benefits included in the CARES Act
- ❖ ***Coronavirus Aid, Relief, and Economic Security (CARES) Act***
- ❖ ***Budget Process***

Taxes/Budget/Appropriations

❖ ***Tax Cuts and Jobs Act***

December 20, 2019 - became law

❖ ***Bipartisan Budget Act of 2019***

Eight-bill minibuss 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***

❖ **Budget Process**

Taxes/Budget/Appropriations

- ❖ ***Tax Cuts and Jobs Act***
March 27, 2020 - became law
- ❖ ***Bipartisan Budget Act of 2019***
3 of 4 and most expensive bill passed to responding to pandemic conditions
- ❖ ***Further Consolidated Appropriations Act 2020***
- ❖ ***Coronavirus Aid, Relief, and Economic Security (CARES) Act***
\$2.2 trillion bill includes nearly \$31 billion in emergency funding for K-12 and higher education; \$14 billion for Higher Education (HEERF)
- ❖ **Budget Process**
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***

❖ **Budget Process**

Fiscal Year runs October 1-September 30

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

Congress currently using emergency supplemental appropriations bills (Current Congressional D Proposal - \$2.2 trillion; R Proposal - \$500 billion; Executive Proposal - ca. \$1.8 trillion)

Communications

- ❖ **Stay Informed and Triangulate**
 - ❖ **NASAD 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 the Workforce 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**

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**
- ❖ **Questions/Comments?**

Thank you

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