

The Higher Education Opportunity Act and You

What the Legislation Means for Boards of Trustees



American Council of Trustees and Alumni
Institute for Effective Governance

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AMERICAN COUNCIL OF TRUSTEES AND ALUMNI

Launched in 1995, the American Council of Trustees and Alumni (ACTA) is an independent, non-profit organization dedicated to working with alumni, donors, trustees, and education leaders across the country to support liberal arts education, high academic standards, the free exchange of ideas on campus, and high-quality education at an affordable price.

ACTA's Institute for Effective Governance, founded in 2003 by college and university trustees for trustees, is devoted to enhancing boards' effectiveness and helping trustees fulfill their fiduciary responsibilities fully and effectively. IEG offers a range of services tailored to the specific needs of individual boards, and focuses on academic quality, academic freedom, and accountability.

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If one word could summarize the requirements of the Higher Education Opportunity Act (HEOA), it would surely be “accountability.”

The Act, which passed the House and Senate by overwhelming bipartisan margins, was signed into law in August 2008 and is over 1,100 pages in length. There, Congress makes sweeping new transparency demands on colleges and universities in a clear response to growing public concern about ever-rising prices and threats to academic quality.

Here’s a look at several key provisions of the Act and what you, as a trustee, can do.

Key Provisions of the Higher Education Opportunity Act

New Reporting Requirements

The HEOA places broad new reporting requirements on colleges and universities. Schools participating in Title IV financial aid programs must disclose a range of information aimed at controlling the skyrocketing costs of higher education.

Starting in 2011, the Department of Education is required to publish national lists indicating the “top” five percent of schools based on several criteria: highest tuition and fees; highest net price (the sum total of student expenditures); and largest percentage increase in tuition, fees, or net price. Furthermore, schools with large price increases will have to submit a report to the Department explaining why hikes were necessary and specifically how the institution intends to take steps to lower its costs. Many in the higher education community were unhappy with these “watch lists.” However, they are a far cry from an early proposal by Rep. Howard “Buck” McKeon that would have withheld federal dollars from schools that failed to check tuition inflation.

The Education Department will also be obligated to post on its website information on schools participating in Title IV programs, including institutional mission; admissions statistics, such as test scores, ethnic background, and proportion of in- and out-of-state students; tuition and fees; average grant aid; disaggregated graduation rates for students who receive federal student aid and those who don’t; and campus safety. Ultimately, the purpose is to push universities to act more responsibly, and to promote more extensive disclosure of important distinguishing data.

Accreditation Process

The law pays considerable attention to federal accreditation. For over 50 years, Congress has mandated that institutions be accredited if they

want to receive Title IV funding. By statute, a certified accrediting body must serve as a “reliable authority” on the “quality of education or training offered.”

Today, virtually all colleges and universities in the United States are accredited; yet, there are widespread concerns that college quality has been on a steady decline. In recent years, trustees and others have increasingly raised concerns that the accreditation process is flawed: secretive, focusing on inputs rather than outputs, interfering with institutional mission and autonomy, and costly. The new law takes note of these complaints.

The law obligates accrediting organizations to be sensitive to institutional mission, including religion. The bill outlines Congress’ belief that the “[d]iversity of institutions and educational missions is a key strength of the American higher education system, and that each institution should be able to design its own academic program in accordance with its mission.”

The law also requires that accreditors be more responsive to the public—publishing a summary of their decisions, including the rationale behind the refusal or retraction of accredited status.

Credit Transfer for Students

The new law underscores Congress’ growing concern that institutions are punishing students through their existing transfer policies. In too many cases, transfer policies are obscure and students find themselves forced to re-take courses they have taken in other institutions, raising their costs—and taxpayers’ bills as well.

To address these problems, the new law requires institutions, as a condition of accreditation, to have a transfer of credit policy, to publicize

this policy, and to publish the criteria on which transfer decisions are based. Institutions are also required to report on some of the transfer activity they see.

Textbook Costs and Course Information

The average college student spends approximately \$900 annually on textbooks. And, in recent years, students have become more vocal about this financial burden and their desire to find cheaper sources for required books. In the new law, Congress requires institutions to tell students the name and cost of textbooks used in a given course and to post such information on online course schedules. The Act reasons that supplying information, before classes begin, allows students to look for copies of books online, where they are often available for less.

The bill also requires publishers to disclose any major revision in new editions to school purchasers and to sell supplements, such as CDs or workbooks, and textbooks separately.

Teacher Preparation and Accountability

The HEOA responds to growing public concern about the quality of teacher training programs. Colleges with teacher training programs must set “quantifiable goals” for increasing the number of prospective teachers in subjects with documented teacher shortages. And they must report annually on whether those goals were met.

The new law also gives the public and policymakers substantially more information about educational outcomes of teacher training programs. Since 1998, institutions have been required by Congress to report on certain outcomes of teacher training exams. However, because of a major loophole in the law, institutions were able to report pass rates of

100 percent by only counting students who had already passed the tests as “program completers.”

The HEOA closes this loophole and requires colleges and universities with education schools to report on “the percentage of students who have completed 100 percent of the nonclinical coursework and taken the assessment who passed such assessment” as well as “the percentage of all students who passed such assessment.” Teacher preparation programs must also report on the average scale score their students obtain on teacher licensure exams, allowing comparison across tests.

Strengthening History Education

An alarming number of recent studies, including several by the American Council of Trustees and Alumni, show woeful historical illiteracy amongst recent college graduates. In the face of this evidence, Congress has authorized a three-year competitive grant process to enable institutions to start or strengthen post-secondary programs in “traditional American history, history of free institutions, or history and achievements of Western Civilization.”

Protecting Free Speech and Intellectual Diversity

In the face of public concern about a lack of intellectual openness on campus, the HEOA outlines the sense of Congress that institutions of higher education should facilitate the free and open exchange of ideas and that students’ constitutional right to religious liberty, freedom of expression, and association must be protected.

What Trustees Can Do

Now, let's talk about what you, as a trustee, can do in light of these changes. And as you do it, ACTA, an independent organization with more than a decade of success in improving higher education, can help you.

Demand Greater Accountability

As a trustee, you are in a unique position to encourage your university to innovate and improve.

It is your job to ensure that taxpayers have as much information as possible about how their money is being spent. Not only do you need to ensure that you, yourself, have all the information necessary to make informed decisions for your institution, but you must also ensure that parents and students can make informed decisions when it comes to choosing a school.

The reporting requirements laid out in the HEOA are a floor, not a ceiling. You should ask your institution to post the information it gives to the Education Department on its own website—consumer-friendly data about graduation rates, general education, and student achievement—for prospective students and their parents.

When tuitions are rising, especially in such trying economic times, the public deserves to know how its money is being spent. You can make that happen.

Insist Upon More Efficiency

Universities are being assailed for ballooning costs, and, as a trustee, you are in a position to help lower them. Universities have been slow to understand the depth of public frustration with the ever-rising costs of a university education.

As a trustee, you must take the lead in pushing your institution to control costs. Some simple ways include insisting that the president demand clear and attainable performance benchmarks, requiring better cost management, and advocating the increased use of cost-saving technology. Before your institution says it doesn't have enough money, make sure your institution is spending what it does have as efficiently as possible.

How to do it? Request and review all of your institution's financial data, including—and especially—how tuition is calculated, and pinpoint areas where excess spending can be pared down. Question the administration when it tries to institute new programs, and demand that your university be more prudent by exploring with an open mind expanded teaching loads, staff reductions, and combining programs. Ask for productivity assessments as frequently as practicable so that the institution can close wasteful and unneeded programs.

Remember, if you don't take the lead now, in a few years Congress may do it for you.

Oversee the Accreditation Process

Accreditors often interfere in board affairs, requiring major allocations of resources or revisions of policy. Never allow your governance authority to be overruled by an accreditor.

Appoint a standing committee or a task force to supervise the accreditation process and facilitate coordination with the board. You might also consider taking bids for accrediting services, as you would for any other service. Finally, have your institution make accreditation reports publicly available.

Address Student Credit Transfer

A survey of college catalogs by the Council on Higher Education Accreditation found that 28 percent of regionally accredited institutions consider transfer requests only from other institutions that are regionally accredited. Another 10 percent outlined a preference for regional, rather than national, accreditation.

In a world where nearly 60 percent of students attend more than one institution of higher learning, privileging certain kinds of federally-recognized accreditors over others cannot continue. The students who are hurt most by difficulties in transfer are those with the least amount of advising and the least amount of money to spend. It is a matter of simple fairness to demand more clearly-developed articulation agreements with other institutions.

You and your fellow trustees should examine how your institution manages the transfer function to ensure an easier and less costly progression by students.

Demand More Accessible Course Information

Under the new law, your institution is now, to the maximum extent practicable, required to give students the name and cost of textbooks and supplemental materials required or recommended, and to post such information on online course schedules for pre-registration and registration purposes.

Take this opportunity to be a model for greater transparency. Insist that the administration work with department chairs to develop a system that will provide for the posting of course syllabi well in advance of the registration deadline. Posting before the term begins provides students

with insight into what will be required and what books they will be expected to purchase.

The University of Washington and Duke University have already implemented online posting systems—so it can be done. With syllabi available, professors and department heads can evaluate their courses against peers in other schools. Outlining course requirements online also will make comparisons between classes at different universities easier for the determination of transfer credits, an area that the HEOA has targeted for institutional attention.

Pay Particular Attention to Your Education School

ACTA has published booklets, expressly for trustees, outlining key questions you can ask to ensure teacher quality. Please call us to receive printed copies of *Teachers Who Can* and *Educating Teachers* or locate them online at www.goacta.org.

And don't forget the most critical point:

Focus on Student Learning

The new law makes it explicit—your institution has the responsibility for assuring educational quality. And as a trustee, you should insist on it!

Too often these days, universities have abandoned the rigorous general education that our students need. Instead of meaningful requirements, most college curricula are “anything goes.” Reports by ACTA have shown that most students can graduate today without exposure to English, history, math, and science. Stop this trend. Ask for a clear summary of what students are expected to learn, and take steps as a board, if necessary, to ensure the institution addresses any deficiencies.

It is the board's responsibility, in consultation with the faculty, to ensure an effective curriculum. ACTA's trustee guide, *Restoring the Core*, available at www.goacta.org, can help you do just that.

Make Sure Your Students Are Genuinely Succeeding

Urge your president and provost to examine the Collegiate Learning Assessment and other assessments that can help the institution ensure students are learning and enhance information and instruction. The Board of Regents at the University of Colorado recently approved learning assessments in math and writing so that the value of the education can be fairly evaluated.

Fight to eliminate grade inflation so that students, parents, and faculty have a genuine metric for assessing their progress. ACTA's report *Measuring Up: The Problem of Grade Inflation and What Trustees Can Do* provides tips on this important task and is available at www.goacta.org.

Call ACTA's IEG for Help

ACTA's Institute for Effective Governance supplies information trustees can use in making decisions for their institutions, including best practices from across the country. Drawing on a broad network of higher education experts, IEG works with trustees to promote high academic standards, a strong liberal arts-based core curriculum, an end to grade inflation, improved teacher training, and increased accountability.

IEG also offers a wide range of services including orientations and retreats, board management seminars, institutional assessments and presidential searches and evaluations, at little or no additional charge.

To learn more, go to www.goacta.org or call 202/467-6787.

ACTA's Institute for Effective Governance

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