



POLICY MATTERS

Top 10 Higher Education State Policy Issues for 2013

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The federal government's 2013 domestic policy agenda will largely be shaped by President Obama's second term priorities; compromises forged with Congress on taxes; spending and long-run deficit reduction strategies; and responses to national and global economic dynamics. Meanwhile, state governments will undertake issues across the policy spectrum, but will likely focus on policies and programs aimed at economic development and spurring job creation. Also occupying their time will be implementation of the Affordable Care Act and addressing structural budget imbalances in the aftermath of what has been the longest post-recession recovery since the Great Depression.

Higher Education and States' Policy Agendas

Public higher education's place in the overall 2013 state policy tapestry is unclear and will vary considerably from state to state. Recent history suggests that in any given year a distinct theme will emerge from higher education agendas across the states. In 2012, boosting college degree production was a common subject of conversation; in prior years an emphasis was placed on maintaining college access.

The prevailing theme for state higher education policy in 2013 will likely be improvement in the performance of states' public higher education systems and institutions, collectively aimed at boosting measures of college affordability, productivity and student success. These include implementation of state funding allocation systems designed to incentivize institutions to improve performance on a number of outcomes. Secondary policy issues, such as immigration and campus gun control, are also likely to attract substantial media and policymaker attention this year. This paper provides a summary of what are likely to be among the top higher education state policy issues in 2013, informed by an environmental scan of legislative action, state policy activity and recent trends in higher education.

A New Post-Election State Political Landscape

Higher education officials will confront two political dynamics in 2013 that could present additional challenges and opportunities in the state policymaking process: inexperienced legislators and increased party polarization. As legislative sessions get underway, college leaders will have the added task of conveying key issues and priorities to a

cadre of new lawmakers, many of who are unfamiliar with the complex challenges confronting public postsecondary institutions. At the start of this year's legislative sessions, the collective state policymaking experience of legislators will be at a historic low, with more than one-half having been in office for two years or less. This limited experience among lawmakers will require college and university leaders to communicate their policy and funding priorities in a strategic, concise and effective manner. It will also present the opportunity to build a new generation of legislative champions who understand public higher education's contributions to state economic and social well-being.

Public colleges and universities will also confront the most politically-polarized state government environment in a generation. The number of states with divided government—in which the governor is from one party and at least one chamber of the legislature is controlled by the other party—is at its lowest point since 1952, with only four states having a divided government. The near-monopoly of political power increases the likelihood of highly-charged partisan agendas and the hurried passage of legislation that would otherwise be more heavily debated and compromised on were in not for the absence of a divided government. Higher education leaders must be cognizant of this dynamic, understanding that policies endorsed by majority leadership may swiftly find their way to floor debates and, ultimately, state law. For a detailed analysis of the outcomes and implications of the general elections, see AASCU's briefing, [Higher Education and the 2012 Elections](#).

#1—Boosting Institutional Performance

This year will witness a continued confluence of policy and programmatic strategies to maximize public colleges' and universities' ability to achieve state goals. Embedded in these efforts will be the strong continued emphasis on increasing college graduation rates and overall degree production. Emblematic of this focus are the more than a dozen national college completion initiatives, all of which are strengthening the partnership between states and stakeholders from across the P-20 education spectrum.

This year's legislative sessions will pick up where last year's left off, with ongoing momentum for

developing and implementing state performance-based higher education funding systems. These funding formulas dominate the current higher education policy landscape—33 states have expressed interest or are currently implementing performance-based funding systems, up from fewer than 10 states just two years ago.¹ The thrust behind the shift to performance-based funding is the longstanding absence of additional state investment and new economic realities that beckon the need for better performance on measures of institutional productivity and student success. This has led states to turn attention to *how*—rather than *how much*—state funding is distributed to public colleges and universities.

The sophistication of these new state appropriations allocation systems has evolved markedly, with institutions incentivized to improve key *outcomes*, such as student retention and degree completion, and less attention to boosting *inputs*, such as student enrollments. As important, performance-based funding systems are becoming more equitable. An illustration of this is the provision of a funding premium in some states for graduating low-income students, who are often less academically prepared for college. This encourages public colleges not only to maintain admission standards that promote student access, but also to utilize intensive retention strategies that increase the likelihood of student success.

#2—State Operating Support for Public Higher Education

For the first time in the six years that this *Top 10* list has been compiled, state higher education funding is not listed in the top slot—a move that could certainly be called into question by public college and university leaders in the many states that continue to be negatively affected by funding cuts. The adjustment in rankings is based on the broadening acceptance that state reinvestment in public higher education will be slow in coming—and institutions must readjust both their operations and revenue mix accordingly.

States have dramatically disinvested in public higher education in recent years. According to the College Board, inflated-adjusted state appropriations per

full-time equivalent (FTE) student decreased 25 percent from 2006-07 to 2011-12, including a 10 percent decline in the most recent year.² Likewise, the State Higher Education Executive Officers (SHEEO) estimate that heading into the current fiscal year, inflated-adjusted state and local higher education funding per FTE student was at its lowest level in 25 years.³ When the final figures for fiscal year 2012 are released, a modest increase in higher education funding may be registered, thus finally reversing the multi-year decline and rebounding from what was, in the prior year, the largest year-over-year decrease in state funding in nearly a half century.

Public colleges and universities will continue to operate in a fiscally-challenged environment. While state revenues are likely to continue rebounding from the recession, state budgets will continue to face short- and long-term structural imbalances due to growing Medicaid costs, underfunded state pension programs, federal deficit reduction efforts, narrowing tax bases, and a host of other demands on state revenues. At the campus level, tough decisions involving institutional spending, resource reallocation and mission-sustaining investments are the new norm. Add in the simultaneous demands of boosting degree production and maintaining, if not enhancing, academic quality, and the challenges for public postsecondary institutions are evident.

#3—Tuition Prices and Tuition Policy

The strong focus on college affordability amidst the state-to-student cost shift in who pays for college will once again bring considerable attention to tuition policy in many states. Tuition price increases have come under heavy scrutiny and will continue to be a controversial talking point for policymakers in this year's legislative sessions. Since 1987, tuition and fees at public four-year universities have doubled, while state funding for higher education has decreased by one-third.⁴ By 2012, the tuition revenues collected by public universities in 20 states covered more educational costs than did state-provided dollars.⁵

Tuition-setting authority, along with state-mandated tuition caps and tuition freezes will also be discussed in a number of states this year. Several states are currently weighing where authority should rest with regard to the setting of tuition rates; whether

it should be at the campus, system or state level. Further, a number of higher education leaders have made offers to governors and legislatures promising to freeze tuition in exchange for stable or increased state funding.

#4—State Student Grant Aid Programs

Ensuring the long-term sustainability of state financial aid programs will be a focus in many states. While states collectively managed to increase funding in grant aid programs by 4.3 percent in 2010-11, according to data from the National Association of State Student Grant Aid Administrators (NASSGAP),⁶ the College Board, using NASSGAP data, estimates state grant aid per FTE undergraduate student has decreased by about 2 percent from five years ago, after adjusting for inflation.⁷ This trend may well persist, with student demand for state aid continuing to outpace available funds, leading to budget pressures and program reforms designed to reduce future spending outlays.

Higher education policy analysts remain concerned that the growth in states' investment in merit-based programs (involving non-financial need factors such as high school and college academic achievement) continues to outpace programs in which eligibility is based on students' financial need. In 2010-11, state investment in merit-based programs grew 11.2 percent (in current dollars), compared to just 1.7 percent for need-based programs, with the former now representing 29 percent of all state grant aid funding.⁸ Research has shown that merit-based state financial aid programs, while politically popular, are not particularly effective in increasing student retention and graduation rates, given the already-strong likelihood of success of high academic-achieving students. The continued growth of investment in state aid programs that do not integrate financial need-based eligibility criteria represents a misalignment with states' efforts to increase degree production and educational attainment rates, especially when considering current demographic trends.

#5—College Readiness

Always a top higher education state policy issue, emphasis will again be placed on college readiness this year. Policy efforts will be embodied in a multitude of ways, with two of particular note:

implementation of the Common Core State Standards (CCSS) in mathematics and English language arts at the secondary education level, and reform in the delivery of developmental education. Regarding the CCSS, a vast majority of states have adopted the more rigorous academic standards and are now in the implementation phase. States will work with stakeholders along the P-20 education continuum to ensure a smooth transition to the new standards. Activities will include making curriculum modifications at the secondary level and in teacher preparation programs at the postsecondary level, training teachers on the standards, and putting in place assessment mechanisms aligned with the standards.

Reforming developmental education (also known as remedial education) continued to be a topic of discussion among lawmakers and higher education officials in 2012 and will remain on the policy agenda this year. Currently, 21 states and postsecondary education systems either prohibit remedial education courses from being taught at four-year institutions or strongly discourage such courses by discontinuing funding for developmental education.⁹ The Education Commission of the States' (ECS) *Getting Past Go* Project identifies five state and system strategies that limit public universities' ability to deliver developmental education: prohibiting course-based developmental education at all four-year institutions; funding limits; minimum admission standards; shifting primary responsibility to two-year colleges; and conditional exemptions.¹⁰ With developmental education playing a key role in facilitating college completion, these policy directions will again be analyzed and deliberated this year.

#6—Immigration

The ability of undocumented students to receive in-state (resident) tuition rates at public universities will again be debated in many statehouses in 2013. These policies have been hotly contested for the past several years, with no clear trend toward either expanded or restricted access to public higher education for this population. The National Conference of State Legislatures (NCSL) reports that as of July 2012, 12 states have laws that allow undocumented students who meet specific requirements to receive in-state tuition rates at public postsecondary institutions. A

new policy unveiled by Massachusetts Governor Deval Patrick (D) in November will add another state to that list.

For the first time in several years, 2013 may present a rare window of opportunity for Congress to come together in a bipartisan manner around comprehensive immigration reform. Potential federal legislation could include elements of the DREAM Act (Development, Relief, and Education for Alien Minors), first introduced more than a decade ago, which would provide conditional permanent residency for undocumented residents who meet certain criteria, including completion of two years of college or military service. Regardless of whether immigration reform gains traction in the 113th Congress, legislators in several states will introduce and debate legislation intended to either expand or restrict public postsecondary access to undocumented students.

#7—Competency-Based and Online Education

A renewed emphasis on the assessment of students' prior learning—the granting of credit for competencies gained outside the classroom—and the evolution of online course and program delivery models, signals that a considerable broadening in access to postsecondary education is underway, especially as it involves returning students and working adults. As one approach, the states of Indiana, Washington and Texas have opted to import the competency-based online programs of Western Governors University. Alternately, the states of California, Florida and Wisconsin are among those building upon existing homegrown capacities, bringing public universities together to offer online educational offerings tailored to labor market needs and which capitalize on each institution's programmatic strengths.

State policy officials will also pay closer attention to how the fast growing array of free and fee-based online courses can be optimally packaged into competency-based and credit-bearing credentials and which can prove to be a sustainable business model for institutions. An example of this are the 14 universities of the Pennsylvania State System of Higher Education (PASSHE), which have formed an innovative collaboration with LearningCounts.

org and the Council for Adult and Experiential Learning (CAEL). Together, this group will ensure that prospective students receive credit for college-level learning they have gained through their work, military or other prior learning experiences, including completion of online instruction such as Massive Open Online Courses (MOOCs).¹¹ The expansion of online and competency-based educational delivery models will help push the boundaries of lower-cost higher education. This has been a current focus of many policymakers, including the governors of Texas and Florida, who recently called on the public colleges in those states to find ways to offer bachelor's degrees for as little as \$10,000.

#8—Guns on Campus

Attempts by legislators to overrule existing institutional policies that seek to restrict concealed handguns on public college campuses will again occupy numerous state legislative calendars in 2013, with some state lawmakers already pre-filing legislation. According to the NCSL, 18 states introduced campus gun legislation in 2011 and 16 states introduced legislation in 2012.¹² While most of those measures failed, some progressed deep into the legislative process. Five states currently require public universities to allow guns on their campuses.¹³ The recent mass shooting tragedy in Newtown, Connecticut, however, may spur action at both the federal and state levels aimed at restricting the acquisition and concealed possession of some types of firearms.

#9—Economic and Workforce Development

Continued high unemployment and concerns over future skilled workforce shortages will make alignment between education systems and state economic and workforce policies a salient topic in the upcoming legislative sessions. For higher education, this may translate into a renewed focus on STEM majors at universities and policies to give greater prominence to the role of community and technical colleges in state workforce development. Policies aimed at helping adult students access and finish higher education will also be considered, as well as policies to encourage partnerships between businesses and college campuses. Legislation calling for the establishment of programs designed to

recruit students into high need occupations (such as those affiliated with the health professions) and communities will also likely be on the docket.

#10—Consumer Protection Involving For-Profit Colleges

Allegations of fraud and abuse in the for-profit college industry continued to plague the sector in 2012. U.S. Senator Tom Harkin (D-IA) concluded a two-year congressional investigation of for-profit colleges' practices and performance in July 2012. The investigation found that for-profit colleges have much higher tuition rates than community colleges and public universities; comparatively low college completion rates; higher levels of student debt and loan defaults; and a history of engaging in misleading student recruitment tactics.¹⁴ Within the context of the Higher Education Act reauthorization, the Senate will continue to investigate and hold hearings involving practices and allegations of consumer fraud and abuse by institutions of higher education, in particular, for-profit colleges.

Outside of actions on Capitol Hill, states have revisited their oversight structure and launched investigations into the practices of for-profit colleges. According to the NCSL, 20 states introduced 44 bills in 2012 concerning for-profit higher education.¹⁵ California Watch, a nonpartisan watchdog group, has detailed over two dozen state attorneys general investigations into the practices of this sector.¹⁶

Conclusion

Other higher education-related issues will be at the periphery of state policy activities in the months ahead. One involves state authorization of distance education providers. On the heels of the federal government's attempt to reinforce state regulations involving distance education providers that was subsequently remanded by the courts, three national efforts are underway to promote state reciprocity agreements. These reciprocity efforts are designed to ease the burden on states and institutions by streamlining the process of state authorization of distance education providers. As more and more institutions of higher education

offer distance education options, reciprocity will reduce the approval burden on state administrators and ultimately provide broader access to students. Other issues that will be addressed in the state policy domain this year include facilitating college access and success for military veterans, devising strategies for financing campus deferred maintenance and capital outlay needs, and implementing robust state student data systems that can inform policy education and labor market policy decisions.

The preceding *Top 10* list makes clear that higher education leaders will be involved in a diverse array of public policy discussions this year that will shape the future of higher education. Concerns by lawmakers and the general public about college affordability and student outcomes will amplify current efforts by higher education leaders to drive measurable improvements on a host of accountability and productivity measures. All the while, policy efforts will coexist with advocacy efforts, with institutional and system leaders working to broaden their political bases and communicating the unequivocal link between an educated citizenry and economic prosperity. Through cooperative partnerships with an array of stakeholders, based on shared values of institutional accountability, collective responsibility and broad-based economic opportunities, we believe that new and refined higher education state policies implemented this year will expand student access to a high-quality, affordable college education and deliver renewed prosperity to our states, communities and the nation.

Endnotes

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