**HIGHER EDUCATION REFORM**

High School policy debate topic proposal

2020-2021 School year

The National Debate Topic Selection Meeting

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*“Education is the silver bullet. Education is everything. We don't need little changes, we need gigantic, monumental changes. Schools should be palaces. The competition for the best teachers should be fierce. They should be making six-figure salaries. Schools should be incredibly expensive for government and absolutely free of charge to its citizens, just like national defense. That's my position. I just haven't figured out how to do it yet.”* Sam Seaborn, Deputy White House Communication Director,

“The West Wing” (Season 1, Episode 18)

The importance of a college education or any education can’t be denied. It is the key for many to lift themselves from poverty, improve overall standards of living, and improve global competitiveness. Former Secretary of Education John King Jr. said, “Higher education is the gateway to opportunity for all people.” The U.S. Department of Education indicates that higher education is key to our global success when they wrote: “Ensuring all Americans have the opportunity to gain the knowledge and skills needed to succeed in the global economy is critical to our nation's economic competitiveness and success…” The unfortunate reality exists in the last line of our opening quote. No one has “figured out how to do it yet”. Maybe we should let a group of intelligent, committed, involved high schools have a crack at it and make this the national high school debate topic for the 2020-2021 school year.

### THE GOVERNMENT ROLE IN HIGHER EDUCATION

According to the 10th amendment of our constitution, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The role of educating our citizenry is governed by this amendment. Generally, the states have the responsibility for education. But, both levels of government play a critical, although slightly different, role in supporting higher education and higher education institutions. The U.S. Department of Education explains:

“Although their funding streams for higher education are now comparable in size and have some overlapping policy goals, such as increasing access for students and supporting research, federal and state governments channel resources into the system in different ways. The federal government mainly provides financial assistance to individual students and specific research projects, while state funds primarily pay for the general operations of public institutions.”

The split between federal and state responsibility can become a bit murky. Many issues transcend state borders and are national in scope. In addition, when one fails the other needs to compensate. The federal government has to step in on many issues that neither the states nor market forces can solve. Researchers Baum, Harris, Kelly, and Mitchell described in the Urban Institute publication in 2017:

“Both market forces and state policymakers have important roles to play in structuring and allocating postsecondary education. But there are many imperfections in this market, which is national in scope. Accordingly, there is consensus among a broad range of observers, including all the authors of this brief, about the appropriateness of a significant federal role in providing funding to increase educational opportunities, generating and disseminating information, implementing accountability standards for institutions and students, and supporting research and the creation of knowledge.”

The federal government must look out for much broader interests than the state. It is the responsibility of the federal government to see that all of its citizens are treated fairly. Baum et. al. goes on to indicate that it is incumbent upon the federal government to protect equity in higher education:

 “Federal involvement in higher education is rooted in both efficiency and equity goals. College yields large average returns for individuals, but it also has significant benefits for society as a whole. Without government support, the market would produce less than the optimal amount of education, an inefficiently low level of investment in human capital. Because higher education creates lifelong opportunities that promote economic success, political participation, and other benefits, denying access on the basis of one’s ability to pay widens gaps between rich and poor. And the benefits of higher education do not stay within state lines, so underinvestment in one state has implications for well-being in other states… The central role of the federal government is to remedy the inefficiency of underproviding higher education because the market does not, on its own, account for social benefits and the inequities resulting from dramatically unequal access to resources.”

The federal government has a vast array of regulations on higher education. A comprehensive (although not 100% complete) summary of regulations is done by the Higher Education Compliance Alliance (<https://www.higheredcompliance.org/compliance-matrix/>). The regulations cover some thirty-seven different areas. The following is the list from HECA, not all apply to the subject matter of this paper, but better to be inclusive for information purposes. Many of these could be fertile affirmative case areas. Please go to the URL above for a complete description of each area:

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| Academic ProgramsAccountingAccreditationAdmissionsAthleticsAuxiliary ServicesCampus SafetyContracts & ProcurementCopyright & TrademarkDisabilitiesDiversity Affirmative ActionEnvironmental Health and SafetyEthicsExport ControlsFinancial AidFundraising & DevelopmentGovernanceGrants ManagementHealth Care and Insurance | HousingHuman ResourcesHuman Resources: DiscriminationHuman Resources: Employee BenefitsHuman Resources: Recruitment Hiring & TerminationHuman Resources: RetirementHuman Resources: UnionsHuman Resources: WagesImmigrationInformation TechnologyIntellectual Property and Technology TransferInternational Activities and ProgramsLobbying and Political ActivitiesPrivacy & Information SecurityProgram Integrity RulesResearchSexual MisconductTax |

When the institutes of higher education don’t follow the government regulations, there could be several consequences. The courts could get involved, as there may be lawsuits for issues like Title IX violations or civil rights, institutions could be fined, or more commonly, their federal aid is jeopardized. Michael Harris, associate professor of higher education reports:

“The federal government can compel institutions to behave in certain ways or risk losing their funding. The most frequently cited case of this type of policy is what is known as the Solomon Amendment. This legislation allows the federal government to deny grants to colleges and universities that do not allow military recruiters to recruit on campus. The constitutionality of the law was challenged, and the Supreme Court unanimously upheld the law because it regulated behavior and not speech.”

### CURRENT REGULATORY SITUATION

Recent actions from the Trump administration indicate the federal government is backing off on some of the protection regulations that were established by the Obama administration. Antoinette Flores from the Center for American Progress reports:

“In its first two years, the Trump administration bent over backwards to gut Obama administration regulations designed to hold colleges or programs accountable for ripping off students. Now, Education Secretary Betsy DeVos is kicking 2019 off with an attempt to dismantle bedrock protections created decades ago that define what it means to receive a college education and the role gatekeepers play in conducting quality oversight.

This week, the U.S. Department of Education detailed exactly how it plans to accomplish its goals. The elimination of these protections risks the proliferation of poor-quality schools in the name of innovation, leading to more dead ends and broken promises for students.”

The current state of funding is leaning more heavily to the federal government. It has become increasingly apparent that state funding is inadequate. Ever since the recession of 2008 states have been cutting back on funding for higher education. Although it has climbed back some, it is still not enough. John Marcus from PBS reported in February of 2019 that states have cut back over the last 10 years: “States have collectively scaled back their annual higher education funding by $9 billion during that time, when adjusted for inflation, the Center on Budget and Policy Priorities, or CBPP, reports.”

Therefore, it has been incumbent on the federal government to step in and provide more funding to institutions and students in order to assure the future viability and equity of college education. According to the Congressional Budget office:

“In 2016, the federal government provided students pursuing higher education with about $91 billion in direct financial support through a wide variety of spending programs and income and payroll tax preferences, CBO estimates. The largest programs and preferences give financial assistance to students to offset the cost of school, either through grants or tax credits. Other spending programs and tax preferences reduce borrowing costs for students and their families. Still other tax provisions seek to help families save for postsecondary education by providing tax-favored investment accounts.”

Every few years the government reauthorizes or updates the Higher Education Act. The last time the act was reauthorized was in 2008, so it is due. Congress is working on bipartisan language that would solve some of the current issues. It is worthwhile to watch because it will impact many aspects of higher education. The Atlantic points out in March of 2019:

“The law oversees federal programs—student loans, accreditation, completion initiatives—and updating it could change a lot of things about higher ed. A reauthorization could range from just clearing some cobwebs to a gut renovation of the bill. It could fix the Free Application for Student Aid, the FAFSA; it could make sure the amount of Pell Grants for low-income students is consistent with the rising cost of college; it could increase federal oversight for higher-education institutions; or it could eliminate some regulations to make it easier for colleges to try new things.”

No one really knows if and/or when the reauthorization would happen and what the final bill will like. There are several sticking points which coincide with important areas covered in this report. US News and World Report provides us with an update as of June 2019:

Don't expect to see a draft anytime soon of the Higher Education Act rewrite that Sens. Lamar Alexander and Patty Murray have been negotiating for the last three months.

The chairman and ranking member of the Health, Education, Labor and Pensions Committee, still have their teams huddling, according to committee staff, but while progress is being made and optimism abounds, a number of outstanding issues remain to get through. The problem is, they're the biggest issues that make up the heart of the overhaul – accountability, student loan repayments and campus safety, to name just a few.

The passing of the reauthorization act could mean some changes in the topic, but it should not moot out large sections. Some arguments may shift from affirmative to negative depending on the final version. It is unlikely, given current stalemates, that anything will be “solved”. Compromise might make that a difficult task. Or nothing could happen, and the reauthorization gets pushed forward until after the election. There will still be many issues for debaters to take on.

### KEY TOPIC AREAS

#### Financial aid

The cost of getting a college education is high and getting higher. Increases in costs puts more pressure on students who already can’t afford to pay for college. Rick Seltzer of Inside Higher Education reported:

“…the prices students end up paying in tuition and fees still marched upward in 2017-18 as grant aid and tax benefits did not keep pace with rising sticker prices…Now, net prices for full-time students at public four-year institutions have increased for eight straight years, for seven straight years for students at public two-year colleges, and for six straight years for those at private nonprofit colleges and universities. So, the typical student keeps paying more for college each year.”

Financial aid has become a key component that allows students to attend institutes of higher education. Without assistance, many students would never be able to afford the increasing costs of tuition, books, housing, and fees. According to the College Board:

“In 2014-15, about two-thirds of full-time students paid for college with the help of financial aid in the form of grants and scholarships. Approximately 57 percent of financial aid dollars awarded to undergraduates was in the form of grants, and 34 percent took the form of federal loans.”

The federal government has been tasked with providing student financial assistance. It was President Lyndon Johnson who signed into law the Higher Education Act of 1965 which established the US federal government as the primary provider of financial aid.

The regulations that federal government has put into place to control who gets financial aid, how they receive it, and other logistics are enormous. With the large number of students receiving financial assistance the institutes of higher education have come to rely on the federal government to keep them viable. This reliance forces their compliance with federal regulations for fear the federal government will no longer provide assistance to students who want to attend their schools.

The federal government can posit regulations on the institution so that in order to get financial aid your school has to comply with things like Title IX requirements, the Reauthorization of the Violence Against Women Act which requires school to report certain types of crimes and provide security reports to incoming students. If schools don’t follow guidelines of the Affordable Care Act, or the Campus Accountability and Safety Act (CASA), and other such program, the federal government could deny students financial aid if they choose to go to those institutions. Faced with losing students or meeting requirements, schools will generally choose to meet requirements.

The federal government also has requirements on the individual students that include but are not limited to income requirements, credit hours, the definition of a credit hour, citizenship, repayment requirements, academic performance, the type of school one is attending, is the school accredited, criminal background, and/or incarceration status.

The financial aid purse is very powerful. The federal government can place requirements on the institution and/or the student which determines whether or not they are eligible to receive financial aid.

#### Accountability

Accountability in higher education is all about demonstrating value of an institution. With ever increasing tuition, the consumer/student and the federal government are increasingly pushing higher education institutions to show that they are providing a value to the student and a value worth investing federal dollars.

Institutions of higher education and our current Department of Education are pushing back on accountability standards because they would expose those low performing institutions on a number of scales. Accountability standards have called for criteria on successful student performance, graduation rates, transfer rates, student loan default rates, post education income and employment.

Accountability becomes a major issue for the government, it is the basis for determining whether or not students will get loans and grants for attending an institution, whether the institution as a whole is eligible for grants, including how much and what type of federal money is available to institutions for research projects. Adam Looney the Director of the Center on Regulation and Markets reported on the importance of accountability in April 2019

“Accountability policies are an appropriate response to protect to taxpayers’ investments in students, increase the economic value of those investments, and to protect students from economic harm. Federal accountability policies were effective in the past. They remain familiar features of the educational policy landscape today. But they are no longer effective because of legislative and regulatory changes, because of expansions of federal aid that falls outside of current accountability systems, like increased graduate lending, and because of the unintended effects of borrower protections, which, by helping students avoid default, have shielded their institutions from accountability.”

The “for profit” institutions, which have benefitted from the current administration’s deregulation are a major problem in terms of their lack of accountability. Andrew Kreighbaum federal policy reporter for Inside Higher Education indicates:

 “For-profit colleges have for years been higher education's boogeyman for consumer advocates and many Democrats in Congress. And those lawmakers have repeatedly called for tougher standards in response to the sector's relatively high loan default rates and other poor outcomes.”

Accountability also provides the consumer/student with a better picture of the type of school they may be attending. Federal regulations on accountability require institutions to report crime rates especially those for sexual assaults, Clery Act compliance, veteran services, and Title IX compliance. Safety on campus is a major issue at the heart of the debate on increasing accountability. The office of New York Senator Kirsten Gillibrand reports:

“Currently, an American woman who attends college is more likely to be a victim of sexual assault than a woman who does not attend college. At the same time, institutions of higher education across the country do not have an incentive to acknowledge the problem publicly or address it proactively. The current oversight of the federal laws has the perverse effect of encouraging colleges to under-report sexual assaults.”

Many legislators are pushing for the adoption of the Campus Accountability and Safety Act, as part of the Higher Education Reauthorization Act. This act includes expansion of reporting requirements and the requirement to provide reports to prospective students. But the current administration is not a fan of this kind of accountability. Yuen and Ahmed from the Center for American Progress report:

“DeVos’ new regulations—which attempt to reduce school liability in sexual assault cases, create dangerous imbalances between the rights of accused students and survivors, and potentially dissuade survivors from reporting sexual assault—run counter to the intent of this important civil rights law.”

Federal regulations on accountability do require more reporting from higher education institutions. The question is how much is too much for the institutions? And how much is necessary for the students and the government? This is a worthy debate that has many perspectives and proposed solutions, but no clear resolution in the future.

#### Access

Equitable access to higher education has been an issue for decades. Many students, for a variety of reasons, are not attending nor cannot attend college. Ethnic and racial barriers, socio-economic barriers, academic barriers, etc., keep students from attending. The Harvard Education Review aptly summarizes the issue of access:

“For the last century, a college education has been considered the primary engine of social mobility in the United States. Research in the field of higher education has identified many positive economic and noneconomic returns to college participation, but has also revealed racial, ethnic, and class disparities in higher education access, persistence, and achievement. Indeed, at the start of the new millennium, large increases in college tuition, decreased federal and state funding for college students, and growing economic and social disparities in U.S. society appear to be further limiting college access and success for the economically and socially disadvantaged. In light of these concerns, the Editors of the Harvard Educational Review present this Symposium on Equity and Access in Higher Education to call attention to the need for ongoing and creative efforts to provide equal college opportunities to all members of society, and to ensure that higher education institutions fulfill their common mission of serving the needs of students, communities, and society.”

The cause of the disparity in access is rooted in structural racism and systemic poverty as outlined by Achieving the Dream, the largest network of community colleges, when they report:

“However, student access and success in higher education continue to be impacted by the effects of structural racism and systemic poverty. Achievement gaps among student groups reflect structural inequities that are often the result of historic and systemic social injustices. These inequities typically manifest themselves as the unintended or indirect consequences of unexamined institutional or social policies.”

The National Association of Student Financial Aid Administrators (NASFAA) identified 4 important areas of access when they reported”

“The paper—co-authored by Lindsay C. Page of the University of Pittsburgh and Judith Scott-Clayton of Teachers College at Columbia University—examines current academic literature on policies to boost access to college, and the impact those policies have on four barriers to college:

 Financial aid policy;

 The complexity of the college-going process;

 Academic barriers; and

 “Top X percent” admissions plans and affirmative action.”

The current administration has no clear agenda regarding how to address the barriers to access. Christopher Card, Dean of Students at Trinity University indicates:

“DeVos' confirmation hearings failed to reveal a clear outline for a higher education strategy within the Department of Education. Apart from some conversation around Title IX policies and increasing post-secondary options, the incoming Secretary of Education gave no indication of any higher education policy mandates that she expects to pursue in the near term.”

The current state of equitable access to higher education shows some very concerning problem. Our goal should be to provide everyone an opportunity to purse education at the post-secondary level. The International Associations of Universities excellently outlines this goal when they say:

 “Access to higher learning should be made possible to all regardless of race, ethnicity, gender, economic or social class, age, language, religion, location or [dis]abilities. The goal of access policies should be successful participation in higher education, as access without a reasonable chance of success is an empty promise. Equitable access and academic excellence are essential and compatible aspects of a quality higher education.”

### NATIONAL FEDERATION CRITERIA

**Resolutions:** *The topic area should have an appropriate number of potential resolutions that can be debated. These resolutions should be neither too broad nor too narrow.*

This topic area provides a variety of resolutional options. We can utilize a broad resolution (Options 1 and 2) with several areas to choose from, or the resolutions can be narrowed (Options 3, 4, and 5) to focus on a specific problem with high education.

**Timeliness:** *A good topic should be timely. It will be a topic that is being debated both in academic debate rounds, among the general population, and perhaps within government. Thus, topics that are likely to appear frequently in the media are generally good topics. However, it is important to note that the report will be written two years before the final debate on the topic takes place; it is important to choose a topic that will not be rendered meaningless (for example, by the passage of new laws) by the time the debates occur. New issues should arise as the topic is debated.*

Education is always an issue. With the upcoming presidential elections each candidate will be forwarding their education agenda. Education impacts our overall societal health along with our global standing. It will likely appear frequently in the media with the Reauthorization of the Higher Education Act on the current agenda. By the time this topic is debated that will either be passed or rejected leaving a wealth of literature on both sides. While there may be plans adopted to address specific issues of higher education, there is little doubt that any part of these resolutions will be rendered meaningless.

**Scope:** *A good topic will address a problem that is significant in all sectors of the country, not merely in a single area or group of people.*

Education or lack of the ability to obtain higher education impacts all sectors of society and the country. There are specific subsections of our population that will be impacted more than others, but just about every sector struggles with some issue in higher education.

**Range:** *A wide range of skill levels exists among debaters who will use a topic. A good topic is one that can be understood and debated by novice debaters, yet will also challenge advanced debaters.*

This is a great topic as far as range is considered. Beginning debaters can take a strong policy-oriented approach while leaving philosophical, kritik oriented approaches for the more advanced debaters. Students can talk about financial aid requirements and repayment or they can deal with the systemic racism issue of access to higher education.

**Quality:** *The topic should be one that enables high quality debates to take place. The issues involved in the topic should be ones that we want our high school students to be debating. It should be one that can be debated for a full year without producing repetitive debates. A good debate topic is one that will be of value to debaters, providing exposure to divergent points of view, experience in analyzing significant current issues and problems, and the opportunity to develop analytical and problem-solving skills.*

Higher education impacts all high school students. Those currently in high school are concerned about what colleges to apply to, which ones have a greater chance for their acceptance, how they plan to pay for college, and their success once they are admitted. From politicians to researchers, everyone seems to have a plan to fix higher education. Solvency advocates will be plentiful. How to best fix higher education has been, and will be, an issue that will last a very long time.

**Material:** *There should be a wealth of material available on the topic. It should help encourage debaters to utilize a wide range of reference materials. This material should be available to all debaters, not simply those with access to a large library or access to special Internet databases.*

Education journals, economic prognosticators, political agendas, news media, and a whole host of others write about higher education. Material will be available from professional journals, studies, and the popular media. There will be no problem finding resources on this topic.

**Interest:** *The topic should be one that can generate the interest of high school debaters, judges and community members.*

High school debaters are concerned with how or will they may pursue high education. Judges could be college students or those who are former debaters that for some reason have encountered barriers to college attendance. Community members may be concerned about economic growth, job availability, along with having adequate and educated pool of potential employees. The broad appeal of this topic has been well established with its prominence in popular media and political discussions.

**Balance:** *There should be issues and arguments supporting both sides of the topic under consideration. Ideally, neither side of the controversy should have a significant advantage over the other side. Balanced affirmative and negative ground should exist. Examples of possible affirmative cases and negative positions inherent in the resolutions should be taken into consideration.*

For every argument for government regulation of higher education someone has advocated for less government regulation. Our current administration has some very opposite views of the past administration. The wealth of research on both sides should provide a well-balanced topic. Affirmatives can choose from policy options or critical argument cases, negatives will have material to challenge any policy options with a wide variety of critical arguments to pull from. If either side had a significant advantage, we would have solved the problems with higher education a long time ago.

### PROPOSED RESOLUTIONS

1. Resolved: The United States federal government should substantially increase its regulations on higher education institutions in one or more of the following areas: financial aid, federal accountability policies, equitable access
2. Resolved: The United States federal government should strengthen its higher education regulations in one or more of the following areas: federal student aid, federal accountability policies, equitable access
3. Resolved: The United States federal government should substantially remove access barriers to higher education in the United States
4. Resolved: The United States federal government should substantially increase accountability regulation of higher education institutions in the United States
5. Resolved: The United States federal government should reform regulation of higher education financial aid in the United States

### DEFINITIONS

#### Regulation

regulation noun

Definition of regulation

1 : the act of regulating : the state of being regulated

2a : an authoritative rule dealing with details or procedure safety regulations

b : a rule or order issued by an executive authority or regulatory agency of a government and having the force of law

Merriam Webster https://www.merriam-webster.com/dictionary/regulation

Regulation
1. General: Principle or rule (with or without the coercive power of law) employed in controlling, directing, or managing an activity, organization, or system.
2. Law: Rule based on and meant to carry out a specific piece of legislation (such as for the protection of environment). Regulations are enforced usually by a regulatory agency formed or mandated to carry out the purpose or provisions of a legislation. Also called regulatory requirement.
Business Dictionary http://www.businessdictionary.com/definition/regulation.html

#### Department of Education regulation

What does the Department of Education regulate?

The primary functions of the Department of Education are to "establish policy for, administer and coordinate most federal assistance to education, collect data on US schools, and to enforce federal educational laws regarding privacy and civil rights." The Department of Education does not establish schools or colleges.

[United States Department of Education - Wikipedia](https://d.docs.live.net/952f7dcfc18f23b6/Documents/nfhs/topic%20reports%202019/Higher%20ed/United%20States%20Department%20of%20Education%20-%20Wikipediahttps%3A/en.m.wikipedia.org/wiki/United_States_Department_of_Education)

[https://en.m.wikipedia.org/wiki/United\_States\_Department\_of\_Education](https://d.docs.live.net/952f7dcfc18f23b6/Documents/nfhs/topic%20reports%202019/Higher%20ed/United%20States%20Department%20of%20Education%20-%20Wikipediahttps%3A/en.m.wikipedia.org/wiki/United_States_Department_of_Education)

#### Higher education

higher education noun

Definition of higher education: education beyond the secondary level especially : education provided by a college or university

Merriam Webster https://www.merriam-webster.com/dictionary/higher%20education

Higher, post-secondary, tertiary, or third level education is the stage of learning that occurs at universities, academies, colleges, seminaries, and institutes of technology. Higher education also includes certain college-level institutions, such as vocational schools, trade schools, and career colleges, that award academic degrees or professional certifications. The right of access to higher education is mentioned in a number of international human rights instruments. The UN International Covenant on Economic, Social and Cultural Rights of 1966 declares, in Article 13, that "higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education". In Europe, Article 2 of the First Protocol to the European Convention on Human Rights, adopted in 1950, obliges all signatory parties to guarantee the right to education.

https://www.definitions.net/definition/higher+education

#### Higher education institution

According to 20 USCS § 1001(a), the term “institution of higher education” means “an educational institution in any State that--

(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of section 484(d)(3) [20 USCS § 1091(d)(3)];

(2) is legally authorized within such State to provide a program of education beyond secondary education;

(3) provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this Act, other than title IV [20 USCS §§ 1070 et seq.], the term "institution of higher education" also includes--

(1) any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a); and

(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students individuals--

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.”

US Legal.com, Institution of Higher Education, Law and Legal Definition <https://definitions.uslegal.com/i/institution-of-higher-education/>

Higher educational institutions include universities, polytechnical institutes, industrial institutes, branch institutes of different specializations (for example, engineering, agriculture, medicine, pedagogy, the arts, and economics), and higher military educational institutions. In many countries there are various kinds of higher theological educational institutions as well as secular higher educational institutions.

The Free Dictionary

[https://encyclopedia2.thefreedictionary.com/Higher+Educational+Institutions](https://encyclopedia2.thefreedictionary.com/Higher%2BEducational%2BInstitutions)

Defining “U.S. Institution of Higher Education” for H1B Cap Exemption Purposes

Although the section 214(g)(5) of the INA relies upon 20 U.S.C. 1101(a) for a definition of “U.S. institution of higher education,” Title 20 of the U.S. Code is a set of statutes regarding federal education law rather than federal immigration law. For reference, Title 8 of the U.S. Code includes the provisions of federal law that make up the INA.

20 U.S.C. 1101(a) defines an “institution of higher education” as an educational institution in any State that meets the following requirements (each numbered subsection corresponds to a provision of 20 U.S.C. 1101(a)).

1. Student Admissions

In order to qualify as a “U.S. institution of higher education,” the institution is limited in who it can accept as a regular student. In general, the school must only admit as regular students those who have:

 Obtained a certificate of graduation from a school that provides secondary education; or

 Obtained the recognized equivalent of such a certificate of graduation.

The statute also notes that a “institution of higher education” may accept students who do not have a certificate described above, but otherwise qualify for student grants, loans, or work assistance under 20 U.S.C. 1091(d). This means that an “institution of higher education” may accept as regular students those who:

 Are enrolled in a qualifying career pathway program (defined in 20 U.S.C. 1091(d)(2)) and meet other specific requirements found in 20 U.S.C. 1091(d)(1)(A)(i)-(iii); or

 Have completed a secondary school education in a home school setting that is treated as a home school or private school under State law.

2. State Authorization

The institution must be authorized to provide a program of education beyond secondary education in the state in which it is situated.

3. Program Requirements

The school must provide at least one of the following educational programs in order to qualify as a “U.S. institution of higher education”:

 Awards a bachelor's degree;

 Is a program of at least two years in length that is acceptable toward a bachelor's degree; or

 Awards a degree that is acceptable for admission to a graduate or professional degree program.

The programs are subject to the approval of the Secretary of Education.

4. Institution Status

The institution must be a public institution or other nonprofit institution.

5. Accreditation

The institution must be either:

 Accredited by a nationally recognized accrediting agency or organization; or

 Have been granted preaccreditation status by a nationally recognized accreditation agency or organization that has been recognized by the Secretary of Education for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accrediting agency's or organization's accreditation standards within a reasonable time.

Institutions that Are Not Included

Only institutions that meet the statutory description in 20 U.S.C. 1101(a) qualify for H1B cap exemption purposes. Notably, this means that “for profit” colleges and universities do not qualify for H1B cap exemption purposes. Furthermore, as we discussed in the introduction, a degree from a foreign institution of higher education does not qualify a degree-holder for a master's degree or higher degree H1B cap exemption.

Also excluded are certain institutions defined in 20 U.S.C. 1101(b) that otherwise qualify as institutions of higher education for certain purposes under the education statutes. This includes institutions that offer training programs of at least one year to prepare students for gainful employment in a recognized occupation (and meets the requirements found in 20 U.S.C. 1101(a)(1), (2), (4), and (5)). This also includes institutions that admit as regular students, instead of those specified in 20 U.S.C. 1101(a)(1), students who are beyond the age of compulsory school attendance or who will be dually or concurrently enrolled in the institution and a secondary school.

One interesting note is that Department of Education (DOE) regulations found in 34 C.F.R. 600.4(a)(4)(i)(A) include in the definition of “institution of education” a school that has an educational program for which it awards a “professional” degree.1 This is interesting in the sense that the DOE regulations are for implementing 20 U.S.C. 1101. However, because the INA only references 20 U.S.C. 1101(a) and not the implementing regulations or 20 U.S.C. 1101(b), the DOE regulations are not binding on the USCIS and may not necessarily be applicable for H1B cap exemption purposes.

#### Post-secondary education

The definition of postsecondary is a reference to any education beyond high school.

Your Dictionary <https://www.yourdictionary.com/postsecondary>

Post-secondary education, in a nutshell, refers to all education that takes place after high school. Although often thought of as university or college education, it can also include education at community colleges and trade schools. Post-secondary educational institutions can be privately funded or state funded.

Study.com https://study.com/academy/lesson/what-is-post-secondary-education.html

The postsecondary definition is essentially any schooling that occurs after the completion of high school. Secondary education refers to high school. If you earn your high school diploma, then you have completed your secondary education. To pursue a postsecondary education, you would need to enroll in a college, university or trade school after completing high school. Since there are so many options available, do your research to ensure that you choose the postsecondary institution that best meets your individual needs.

Kristina Barroso “Postsecondary Education Definition”, The Classroom, December 21, 2018

<https://www.theclassroom.com/postsecondary-education-definition-4793321.html>

#### Financial aid

Financial aid is money to help pay for college or career school. Grants, work-study, loans, and scholarships help make college or career school affordable.

Federal Student Aid, Office of the US Dept of Education

<https://studentaid.ed.gov/sa/types>

There are three types of federal student aid:

[Grants](https://studentaid.ed.gov/sa/types/grants-scholarships)—financial aid that doesn't have to be repaid (unless, for example, you withdraw from school and owe a refund)

[Work-study](https://studentaid.ed.gov/sa/types/work-study)—a work program through which you earn money to help you pay for school

[Loans](https://studentaid.ed.gov/sa/types/loans)—borrowed money for college or career school; you must repay your loans, with interest

Federal Student Aid, Office of the US Dept of Education

<https://studentaid.ed.gov/sa/types>

Financial Aid is any grant or scholarship, loan, or paid employment offered to help a student meet his/her college expenses. Such aid is usually provided by various sources such as federal and state agencies, colleges, high schools, foundations, and corporations.

[What Is Financial Aid? | New York State Financial Aid Administrators Association (NYSFAAA)](https://d.docs.live.net/952f7dcfc18f23b6/Documents/nfhs/topic%20reports%202019/Higher%20ed/What%20Is%20Financial%20Aid%20%7C%20NYSFAAA%20https%3A/www.nysfaaa.org/docs/student_family/what_is_finaid.html)

 https://www.nysfaaa.org/docs/student\_family/what\_is\_finaid.html

Four Types of Financial Aid. There are four main types of financial aid for college students including grants, scholarships, loans, and work-study funds.

CollegeQuest,

[What are the Different Types of Financial Aid for College Students? www.collegequest.com/different-types-of-financial-aid-for-college.aspx](http://What are the Different Types of Financial Aid for College Students? www.collegequest.com/different-types-of-financial-aid-for-college.aspx)

financial aid

[noun](https://www.merriam-webster.com/dictionary/noun)

Definition of financial aid

US

: money that is given or lent to students in order to help pay for their education She qualified for financial aid.

MERRIAM WEBSTER <https://www.merriam-webster.com/dictionary/financial%20aid>

#### Federal student aid

The U.S. Department of Education awards more than $120 billion a year in grants, work-study funds, and low-[interest](https://studentaid.ed.gov/sa/taxonomy/term/37?width=300px&height=auto&className=glossaryterm&closeButton=true) loans to more than 13 million students. [Federal student aid](https://studentaid.ed.gov/sa/taxonomy/term/153?width=300px&height=auto&className=glossaryterm&closeButton=true) covers such expenses as tuition and fees, [room and board](https://studentaid.ed.gov/sa/taxonomy/term/132?width=300px&height=auto&className=glossaryterm&closeButton=true), books and supplies, and transportation. Aid also can help pay for other related expenses, such as a computer and dependent care. Thousands of schools across the country participate in the [federal student aid programs](https://studentaid.ed.gov/sa/taxonomy/term/89?width=300px&height=auto&className=glossaryterm&closeButton=true); ask the schools you’re interested in whether they do!

Federal Student Aid, Office of the US Dept of Education

<https://studentaid.ed.gov/sa/types> Federal Student Aid, Office of the US Dept of Education

Overview: Federal Student Aid

Federal student aid comes from the federal government – specifically, the U.S. Department of Education. It's money that helps a student pay for education expenses at a postsecondary school (e.g., college, vocational school, graduate school).

Federal student aid covers such expenses as tuition and fees, room and board, books and supplies, and transportation. Aid also can help pay for a computer and for dependent care.

The four categories of federal student aid are:

Grant – Grant money usually doesn't have to be repaid. Most U.S. Department of Education grants are based on the student's financial need.

Scholarship – U.S. Department of Education scholarship money is awarded based on a student's academic achievement and does not have to be repaid.

Work Study – Work study money is earned by a student through a job on or near campus while attending school and does not have to be repaid.

Loan – Loan money must be repaid with interest.

University of Hawaii-Manoa

<http://www.hawaii.edu/fas/basics/fsa.php>

#### Accountability

School accountability—the process of evaluating school performance on the basis of student performance measures—is increasingly prevalent around the world. In the United States, accountability has become a centerpiece of both Democratic and Republican federal administrations' education policies.

[School accountability | Center for Education Policy Analysis, September 10, 2004](https://d.docs.live.net/952f7dcfc18f23b6/Documents/nfhs/topic%20reports%202019/Higher%20ed/School%20accountability%20%7C%20Center%20for%20Education%20Policy%20Analysis%2C%20September%2010%2C%202004%20https%3A/cepa.stanford.edu/content/school-accountability)

[https://cepa.stanford.edu/content/school-accountability](https://d.docs.live.net/952f7dcfc18f23b6/Documents/nfhs/topic%20reports%202019/Higher%20ed/School%20accountability%20%7C%20Center%20for%20Education%20Policy%20Analysis%2C%20September%2010%2C%202004%20https%3A/cepa.stanford.edu/content/school-accountability)

Accountability—the idea of holding schools, districts, educators, and students responsible for results—has become the most-recent watchword in education. In more and more states and districts, policymakers are moving to reward achievement and punish failure in schools, in an effort to ensure that children are getting a good education and that tax dollars aren't being wasted. "Accountability for student performance is one of the two or three -if not the most- prominent issues in policy at the state and local levels right now," https://www.edweek.org/ew/issues/accountability/index.html

Richard F. Elmore, a professor at Harvard University's Graduate School of Education (Quality Counts, 1999)

Providing better information to policymakers and the public on college prices and student outcomes, particularly post-graduation earnings, should make the higher-education system more effective, efficient, and even more equitable….Calls for more information about higher education and more accountability for colleges and universities are, of course, nothing new. There is a long history of political movements that have demanded such policies at the state and federal levels. Some policies aim to purge for-profit diploma mills from the market; others seek to rein in universities that are charging excessive tuition or check colleges that are offering faddish curriculums unlikely to help students secure jobs.

Jason Delisle, National Affairs Spring 2019

<https://www.nationalaffairs.com/publications/detail/accountability-for-higher-education>

A higher education accountability framework that promotes equitable access and success must:

\*Establish minimum standards for institutions on enrolling historically underserved students (i.e. low-income students and students of color);

\*Establish minimum standards for institutions on student performance, experiences, and outcomes using measures such as retention, transfer, graduation and job placement, especially for historically underserved students (i.e. low-income students and students of color);

\*Provide rewards for institutions making continual growth toward reaching ambitious access and success goals within a reasonable timeline;

\*Sustain and increase investments in historically under-resourced institutions to support the implementation of evidence-based strategies that improve completion especially for historically underserved students; and

\*Enforce meaningful consequences for underperforming institutions that, after getting needed resources, time, and support, fail to meet minimum enrollment and performance standards.

The Education Trust, “Accountability for Access and Success in the Higher Education Act” March 27, 2018 https://edtrust.org/resource/accountability-for-access-and-success-in-the-higher-education-act/

In order to construct effective accountability and oversight systems, Congress must act to improve higher education data systems so they may provide reliable, consistent, and usable information. A reauthorized HEA should:

--Overturn the ban on creating a student unit record system

--Create a student level data network that disaggregated data by race and income

--Ensure privacy and security for sensitive student information such as citizenship status, discipline records, and criminal history

--Improve IPEDS and NSLDS so that data on critical measures of student success are disaggregated by race and income

The Education Trust, “Accountability for Access and Success in the Higher Education Act” March 27, 2018 https://edtrust.org/resource/accountability-for-access-and-success-in-the-higher-education-act/

A new push for accountability has become an increasingly important feature of education policy in the United States and throughout the world. Broadly speaking, accountability seeks to hold educational institutions responsible for student outcomes using tools ranging from performance “report cards” to explicit rewards and sanctions.

David Deming Prof Harvard, David Figlio Prof of Education and Social Policy Northwestern, “Accountability in US Education: Applying Lessons from K–12 Experience to Higher Education” Journal of Economic Perspectives Summer 2016

https://pubs.aeaweb.org/doi/pdf/10.1257/jep.30.3.33

Educational accountability begins with collecting consistent information on specific outcomes and inputs of interest over time. This information can be used in two broad ways. A first approach, called report-card accountability, makes certain information public, but without other explicit stakes. This approach is the norm in many countries. As a consequence of the No Child Left Behind Act of 2001, nearly every US state has developed school report cards with information on test performance and other outcomes by K–12 grade, subject, and student subgroup. The second approach is the use of rewards and sanctions to motivate increased performance—what Hanushek and Raymond (2005) call consequential accountability. This means attaching rewards and sanctions to benchmarks, such as the percent of students meeting the proficiency standard on a mathematics test, or the rate of return on investment in a college degree

David Deming Prof Harvard, David Figlio Prof of Education and Social Policy Northwestern, “Accountability in US Education: Applying Lessons from K–12 Experience to Higher Education” Journal of Economic Perspectives Summer 2016

https://pubs.aeaweb.org/doi/pdf/10.1257/jep.30.3.33

#### Federal accountability policies

Federal accountability policies should focus on student outcomes. For instance, an institution’s repayment rate–how much a cohort of borrowers has repaid several years after leaving school–would be a better indicator of student success, institutional or program quality, and the return on federal investments, than the measures we use now.

Adam Looney, Director of the Center on Regulation and Markets, Joseph Pechman, Senior Fellow Economic Studies, Brookings tax Policy Center, Reauthorizing the Higher Education Act: Strengthening accountability to protect students and taxpayers, April 10, 2019

<https://www.brookings.edu/testimonies/reauthorizing-the-higher-education-act-strengthening-accountability-to-protect-students-and-taxpayers/>

#### Access

Let us first identify and explain the background of access. The Educational Policy Institute (2008) identifies two types of access: type I and type II. Type I access is "how many," which is the actual number of people attending and participating in PSE; whereas, type II access is "the who," which is the composition of the participants in PSE and their relative percentage of the overall population

Angelo Vaccaro, The College Quarterly Fall 2012, “An Analysis of Access Barriers to Post-Secondary Education”

<https://files.eric.ed.gov/fulltext/EJ998777.pdf>

For the last century, a college education has been considered the primary engine of social mobility in the United States. Research in the field of higher education has identified many positive economic and noneconomic returns to college participation, but has also revealed racial, ethnic, and class disparities in higher education access, persistence, and achievement. Indeed, at the start of the new millennium, large increases in college tuition, decreased federal and state funding for college students, and growing economic and social disparities in U.S. society appear to be further limiting college access and success for the economically and socially disadvantaged. In light of these concerns, the Editors of the Harvard Educational Review present this Symposium on Equity and Access in Higher Education to call attention to the need for ongoing and creative efforts to provide equal college opportunities to all members of society, and to ensure that higher education institutions fulfill their common mission of serving the needs of students, communities, and society.

Harvard Education Review Winter 2007

<https://www.hepg.org/her-home/issues/harvard-educational-review-volume-77-issue-4/herarticle/equity-and-access-in-higher-education_629>

In education, the term access typically refers to the ways in which educational institutions and policies ensure—or at least strive to ensure—that students have equal and equitable opportunities to take full advantage of their education.

The Glossary of Education Reform, March 10, 2014

<https://www.edglossary.org/access/>

#### Equitable access

Equity in education means that personal or social circumstances such as gender, ethnic origin or family background, are not obstacles to achieving educational potential (definition of fairness) and that all individuals reach at least a basic minimum level of skills (definition of inclusion).

Educational equity - Wikipedia

<https://en.m.wikipedia.org/wiki/Educational_equity>

The OECD [Organization for Economic Cooperation and Development] (2008) defines equitable HE [higher education] systems as “those that ensure that access to, participation in and outcomes are based only on the individual’s innate ability and study effort. They ensure that the achievement of educational potential at tertiary level is not the result of personal and social circumstances, including factors such as socio-economic status, gender, ethnic origin, immigrant status, pace of residence or visibility”.

“Equitable Access and Retention in Higher Education: Challenges and the Road Ahead” [https://www.asef.org/images/docs/ARC6\_Commissioned%20Paper\_ESCARRE%20&%20BOLDRINI.pdf](https://www.asef.org/images/docs/ARC6_Commissioned%20Paper_ESCARRE%20%26%20BOLDRINI.pdf)

What is equitable access?

Equitable access is about addressing social and economic imbalances when developing policy and rolling out ICTs, so that people from diverse backgrounds have more or less similar opportunities when it comes to accessing and using technology.

[Association for Progressive Communication](https://d.docs.live.net/952f7dcfc18f23b6/Documents/nfhs/topic%20reports%202019/Higher%20ed/Association%20for%20Progressive%20Communicationhttps%3A/www.apc.org/en/pubs/research/equitable-access-papers-and-commentaries)

[https://www.apc.org/en/pubs/research/equitable-access-papers-and-commentaries](https://d.docs.live.net/952f7dcfc18f23b6/Documents/nfhs/topic%20reports%202019/Higher%20ed/Association%20for%20Progressive%20Communicationhttps%3A/www.apc.org/en/pubs/research/equitable-access-papers-and-commentaries)

Equitable access

Robust and reliable access to current and emerging technologies and digital resources, with connectivity for all students, including those with special needs, teachers, staff and school leaders.

International Society for Technology in Education

https://id.iste.org/connected/standards/essential-conditions/equitable-access

Barrier to learning

A barrier to learning is anything that stands in the way of a child being able to learn effectively. A learner may experience one or more barriers to learning throughout his or her education. ... For example extreme poverty, abuse or neglect will all act as barriers to a child's learning.

[children face numerous barriers to learning.](http://children face numerous barriers to learning. R2ECWD, Promoting the Right to Education for Children with Disabilities www.included.org.za/R2ecwdsite/docs/Factsheet%206.pdf)

[R2ECWD, Promoting the Right to Education for Children with Disabilities www.included.org.za/R2ecwdsite/docs/Factsheet%206.pdf](http://children face numerous barriers to learning. R2ECWD, Promoting the Right to Education for Children with Disabilities www.included.org.za/R2ecwdsite/docs/Factsheet%206.pdf)

#### Google numbers

FINANCIAL AID About 59,600,000 results

FEDERAL STUDENT AID About 2,820,000 results

FEDERAL ACCOUNTABILITY POLICIES About 108,000,000 results

“FEDERAL ACCOUNTABILITY POLICIES” About 3,320 results

VS just accountability policies About 127,000,000 results

When using the word federal most all are education related

HIGHER EDUCATION About 254,000,000 results (0.87 seconds)

POST SECONDARY EDUCATION About 732,000,000 results (0.54 seconds)

EQUITABLE ACCESS About 1,890,000 results (0.41 seconds)

ACCESS HIGHER EDUCATION About 1,480,000,000 results (0.68 seconds)

### POTENTIAL AFFIRMATIVE AREAS

Obviously dependent on the resolution and not nearly an exhaustive list

#### Financial aid

Academic performance eligibility

Accreditation

Balancing complexity with equity—in order to be more equitable FAFSA becomes more complex, the

complexity then becomes a barrier

Coverage for community college and two year degrees or occupational/trade schools

Credit hours and student aid

Eligibility for Student aid—loans, grants

Free college

Immigration

Increase aid to those who take a more rigorous schedule of HS courses

Individual tuition tax credits

Loan repayment options and forgiveness options

Loan repayment programs

“Promise” programs that cover only tuition not additional costs like textbooks

Private sector role is student aid

Restrictions on student aid to prevent fraud

Risk sharing programs—make colleges responsible for student loan repayments

Tax credits for college savings

Veterans issues

Vocational programs, trade schools etc.

Work study programs

#### Accountability

Accreditation standards

Civil Rights

Clery Act

College rating system

Comprehensive college comparison programs

Create a student level data network that disaggregated data by race and income

Credit hours

Dept of Ed deregulation

Interaction “regular and substantive”—self-learning or instructor taught

Medical marijuana and ADA exemptions

Oversight of non-profits

Retention, transfer and graduation rates

Sexual assaults/crime on campus

Student Interaction with artificial intelligence

Student loan information

Student outcomes

Title IX compliance and regulations

Underserved student population groups

Vocational programs, trade schools etc.

What should get measured and reported

#### Access

Academic preparation

Access by students with learning disabilities

Accreditation

ADA compliance

Admission policies in general

Admissions lotteries

Affirmative action and other “race conscious” admissions policies

Affordability in general

Class ranking admissions policies

Community colleges as gateways/gate keepers to high education

Cost

Financial aid policies

Immigration and citizenship

Quotas

Retention/drop out

Socio-economic issues in admissions and affordability

Standardized test (ACT, SAT)

Student success

Underrepresented groups

Vocational programs, trade schools etc.

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