ASSOCIATION OF PUBLIC & LAND-GRANT UNIVERSITIES

APLU Top Concerns with the Promoting Real Opportunity, Success, and Prosperity through Higher Education Reform (PROSPER) Act, H.R.4508

While APLU continues to carefully review the bill, it is clear the measure is presently highly problematic and would ultimately make college less accessible and affordable and make students more vulnerable to schools and programs that would not serve their best interests. The legislation adopts many of the recommendations of the Taskforce on Federal Regulation of Higher Education but then adds new highly problematic regulatory burdens. There are provisions APLU supports, but cumulatively, the legislation is an alarming setback from present law. APLU strongly opposes the legislation in its present form and continues to urge policymakers to support our priorities for the reauthorization of the Higher Education Act (HEA).

Student Aid is Essential to Higher Education Access & Affordability

Collectively, the policies contained in the legislation would amount to a significant student aid cut jeopardizing access for the neediest students and exacerbating problems with rising levels of student debt.

APLU is most concerned about the elimination of the in-school interest subsidy on undergraduate loans, elimination of Supplemental Education Opportunity Grants (SEOG), and elimination of Graduate PLUS loans.

The legislation makes some positive changes to the student loan programs particularly the elimination of origination fees. However, this change does not come close to offsetting the harm to students by eliminating the in-school interest subsidy. The American Council on Education has projected the skyrocketing increased costs of borrowing that will be imposed on students if the PROSPER Act were enacted. As an example, while accounting for the elimination of origination fees, a student who borrows the average amount ($16,139) for four years, and continues on for two years of graduate school, would see an increase in the interest paid on their undergraduate loan by $3,798 or 87 percent over a standard 10-year repayment plan.

More than 1.6 million low-income students nationwide benefit from SEOG grants. Notably, the program is a partnership between the federal government in that the government leverages its investment by requiring institution to provide matching funds. There is no substitute in the bill for the more than $993 million that is provided in grant aid as a result of SEOG. The elimination of SEOG means low-income students will need to borrow more or worse may consider higher education out of reach.

We are deeply alarmed that the legislation continues a policy trend of eliminating aid to graduate students. This must end if the United States is to retain its global leadership in knowledge, discovery, and innovation. A graduate degree is increasingly seen by employers as a necessary credential. Many of the skilled jobs of today require a level of education and training that goes beyond an undergraduate degree. According to the Bureau of Labor Statistics, occupations that typically require post-baccalaureate study are expected to grow the fastest.

Positions requiring a master's degree are projected to increase 18 percent over the next four years. Over the next decade, a 16 percent increase is projected in positions requiring a doctoral or professional degree. Despite increasing demands for more citizens with an advanced degree, within the past decade policymakers repeatedly have made decisions to the detriment of graduate students, sometimes as an offset for supporting undergraduate students. Recent examples of how federal policy changes have disadvantaged graduate students include the repeal of in-school interest subsidies for graduate students, the higher interest rates graduate students pay on direct loans, and higher origination fees for PLUS loans, and most recently, the loss of eligibility for Perkins loans.

Unfortunately, the legislation would make matters worse. By eliminating Graduate PLUS loans, the bill would force many students into the private market to fill unmet need. We are greatly concerned students will be unable to find favorable terms and interest rates with private lenders. If PROSPER were enacted, there would be serious problems regarding access for students from disadvantaged backgrounds whom often do not have collateral, extensive credit histories, or financial support from their families. Lenders could discriminate based on a student's perceived risk and charge interest rates that rival that of a credit card. The need to eliminate PLUS loan are particularly perplexing given the program generates significant revenue for the federal government. Eliminating PLUS which is a problem in and of itself leads to other cuts for students in the bill in order to offset the loss of revenue for Treasury.

APLU also opposes eliminating Federal Work Study eligibility for graduate students.

APLU appreciates the creation of a Pell Bonus in the legislation. Even though the bonus is a relatively small amount of money, the $300 to encourage full-time students to take 15 credits a semester could help speed time to degree. APLU universities have had success with microgrants which demonstrate even small sums of grant money can help low-income students stay on track for graduation. However, the legislation does not extend the mandatory inflation adjustment for Pell grants which expired at the end of 2017. Without such as extension, the ability to adjust Pell for inflation will be uncertain and dependent on the annual appropriations cycle unlike inflation adjustments for many other entitlement programs.

APLU also strongly supports the provision in the legislation to cap the total sum a borrower can pay under income-based repayment (IBR) at the total sum that would be paid under a 10-year standard repayment plan (principal and interest). We understand that costs of the Public Service Loan Forgiveness program are now estimated to be much larger than originally anticipated. Rather than outright elimination we urge policymakers to look at reforms such as a cap on total forgiveness and/or more targeted definitions for the types of employment eligible for forgiveness. Loan forgiveness is an important tool to attract and retain educated professionals in positions of national need.

Higher Education Outcomes Transparency is Critical for Consumers, Policymakers, and Institutions of Higher Education

Comprehensive, accurate data on student outcomes at each college and university are considerably lacking. We simply do not know enough. As a result, students and families are left in the dark as they make the critical decision about which college or university to attend and program in which to enroll; policymakers struggle to appropriately hold accountable institutions receiving taxpayer dollars; and institutions lack the information they need to assess their performance and improve. Congress should include the College Transparency Act, H.R. 2434/S. 1121, within HEA reauthorization to fix the problem.

Since 1992, institutions have been required under the Higher Education Act to report institutional-level data on a wide range of topics, including college costs, student characteristics, graduation rates, faculty and staff, and institutional finances, via the Integrated Postsecondary Education Data System (IPEDS). In subsequent reauthorizations, the data required to be reported by institutions via IPEDS has been expanded and the Department of Education has been required to make certain data in IPEDS available to students and parents via the College Navigator website. In addition, in recent years, beyond what is required under HEA, the Department of Education has worked to provide what additional data it could under law by leveraging its current data systems and making the data available on the College Scorecard. However, the data provided on both the College Navigator and College Scorecard are incomplete, flawed, and misleading. The problem exists as a result of a provision included in the Higher Education Opportunity Act of 2008, which bans federal student-level data. The provision precludes the federal government from collecting and reporting information students and families need on outcomes at colleges and universities. Those who supported the ban expressed concerns with privacy and security of data as well as the potential for federal overreach. However, those apprehensions can be addressed through proper safeguards and should not be an excuse for impeding transparency and denying students and families better information.

The graduation rate that the Department of Education is currently required to make available via the College Navigator site is incomplete because it fails to account for all students and their progress and graduation outcomes. Student-level data is needed to provide accurate persistence and graduation rates for all postsecondary students. Because of the prohibition against student-level data, the federal government is unable to reliably and consistently report the outcomes of students after they transfer and has only recently added minimal reporting for part-time students. This is a huge problem since nearly 55 percent of those who earn a bachelor's degree attend more than one institution and over 60 percent of students at community colleges attend part-time. Those students are not counted and most people looking at College Navigator and other transparency sites that also utilize the IPEDS graduation rates like the College Scorecard, have no idea that the data is so incomplete. Only 47 percent of postsecondary students meet the "first-time, full-time" criteria of the federal graduation rate.

As the federal graduation rate is often used as an indicator of student success and institutional performance, there is a lack of comprehensive and accurate information for prospective students and their families, for policymakers, and for institutions themselves. The Student Achievement Measure (SAM) is a voluntary initiative that helps to fill the information gap by providing a set of progress and completion outcomes for full-time, part-time, and transfer-in students who attend one institution or multiple institutions. Developed as a cross-sector initiative in 2013, the SAM project is as collaboration among six higher education associations and is led by APLU and the American Association of State Colleges and Universities (AASCU). SAM currently has more than 600 participating institutions that represent 38 percent of the undergraduate enrollment in the U.S.

The SAM metrics are an effective short-term solution that provides helpful information to consumers, policymakers, and institutions. However, the larger challenge remains – lifting the ban on the collection of student-level data so that more accurate and comprehensive outcomes measures (like the SAM metrics) could replace the current federal graduation rate and be used for all institutions. SAM provides a powerful model of the type of information that would be available if the ban were lifted. Under current law, there are no requirements for the Department of Education to make data available on employment outcomes of college graduates. However, since the HEOA was enacted in 2008, the demand for such data has grown tremendously. There is no question that expanding career opportunities is a top reason why many students enroll and potentially invest significant time and resources in their college educations. In fact, in a national survey of freshmen, the top reason for going to college was to "get a better job."

In the face of the demand for such employment outcome data, the Department of Education's College Scorecard and utilized its current data systems to generate and publish salary information. However, the data is not very useful and can be misleading. The Scorecard provides one aggregate salary figure for each institution, and in some cases aggregated across an entire campus system, rather than breaking out the data by academic program. Further confusing the matter, the aggregate salary figure averages the earnings of individuals who earn a degree with those individuals who did not complete– bringing down the average and obfuscating the economic benefits of earning a college degree. Finally, because the Department of Education generated the information using existing data systems, it can only report information on Title IV recipients, leaving out at least 30 percent of college students, thus skewing the data.

The PROSPER Act makes improvements to our nation's postsecondary education data by expanding the data made available for consumers and replacing the College Navigator site with the new College Dashboards -- but it does not go far enough. We appreciate that the legislation would provide for some program-level data. However, the PROSPER Act maintains the student-level data ban and thus only allows for collection and reporting of data on recipients of federal financial aid, leaving out a significant portion of students attending institutions of higher education. The small positive steps on data taken in PROSPER are inadequate for the modern needs of consumers, policymakers, and institutions.

Lifting the ban on student-level data for limited and relevant data collection would allow the federal government to provide aggregate information on employment outcomes, including salary, of all graduates of institutions and academic programs, not just for those receiving Title IV aid. This would allow for the new College Dashboard site to provide students and parents complete and accurate information to use to set realistic expectations of possible future earnings and appropriately minimize borrowing.

Furthermore, as we have seen over the last decade since the last reauthorization, demands for data change and better measures can emerge as higher education evolves and student characteristics change. It is deeply problematic that the PROSPER Act eliminates the authority of the Secretary of Education to regulate in this area, and requiring that changes to the College Dashboard site be sent to authorizing committees for approval. The PROSPER Act makes it impossible for the Department of Education to be responsive to the changing demands for data, and make improvements to the data and metrics on the site. The Department of Education already has a process in place (Technical Review Panels) through which it seeks input from data experts from institutions and the field at large to make improvements to the IPEDS data collection and dissemination tools like the College Navigator. Such input, coupled with the consumer testing required under the PROSPER Act, helps ensure that the most accurate and relevant data is made available to students and other stakeholders in a useful way. We oppose any changes to current law that would limit the Department of Education's authority to use this process to continuously improve the new College Dashboard site and IPEDS data collection.

APLU was deeply engaged in the development of The College Transparency Act (CTA), H.R. 2434/S. 1121. CTA appropriately balances concerns about privacy and security while providing the key complete and accurate information needed by students and families, policymakers, and institutions. APLU strongly urges Congress to include CTA within HEA reauthorization.

Strengthen Accountability to Protect Students and Taxpayers' Investment in Higher Education

The federal government must do more to protect students and taxpayers from bad actors in the higher education system and poor-performing institutions and programs that leave students with debt they cannot repay.

The U.S. Department of Education has a more than trillion-dollar loan portfolio, extends over $100 billion in new student loans each year, and provides more than $30 billion annually in Pell Grants. These programs and efforts are essential for a vibrant, successful, and diverse higher education system. Higher education is one of the most critical investments our nation can make for economic growth, global competitiveness, and social mobility. Yet, despite both the size and importance of its investments through Title IV of the Higher Education Act, the Department of Veterans Affairs, the Department of Defense, and the Tax Code, the federal government does not do enough to hold poorly performing institutions accountable. Targeted reforms are needed to improve the stewardship of taxpayer dollars and protect students who may attend institutions that saddle them with debt without providing an education that helps them succeed.

The PROSPER Act would be an alarming setback for students and taxpayers making both more vulnerable to unscrupulous actors and terrible outcomes that can financially wreak havoc on lives. Accountability is needed across all sectors and a review of data from all higher education sectors is informative. New data reported by the Department of Education tracked outcomes of borrowers over 20 years. Analysis by the Brookings Institute shows that borrowers from for-profit institutions defaulted at twice the rate of public two-year borrowers (52 versus 26 percent after 12 years) and the rate of default among all for-profit entrants is nearly four times that of the nonprofit and public sectors (47 percent versus 13 percent).

Pell and Short-Term Programs

The legislation would for the first time open up eligibility for Pell Grants to short-term programs and would do so with a stunning lack of accountability to protect students from bad actors and poor performing programs. APLU strongly opposes such a move. Although there are undoubtedly some short-term programs that provide students with valuable experience including many at APLU universities, opening up Pell Grants is a very risky move. First, the policy would make students more vulnerable to poor performing programs. The Brookings analysis of data recently reported by the Department of Education demonstrates that loan defaults are actually higher among those who complete a postsecondary certificate than those who drop out of college. It is not difficult to imagine the predatory behavior that would inevitably result with institutions making outlandish claims of employment outcomes to prospective students in exchange for only a short-term educational commitment and no financial obligation since Pell Grants can potentially cover the full cost. Second, the policy would likely lead to an explosion of costs for the Pell program, that will endanger the financial stability of the program. Thirdly, students who use up Pell eligibility on short-term programs may run out of eligibility in the middle of earning a degree thus throwing significant hurdles in their path to degree completion.

90/10 Rule

The 90/10 rule within the Higher Education Act precludes for-profit colleges and universities from receiving more than 90 percent of their revenue from federal student aid. However, the rule does not include revenue from Department of Defense (DOD) and Department of Veterans Affairs (VA) student aid. This loophole has had significant repercussions, making servicemen and women and veterans targets of aggressive recruitment campaigns by some unscrupulous institutions. The 90/10 rule was developed to be a quality assurance indicator for an institution through its accountability to the free market.

We are alarmed that instead of strengthening the 90/10 rule to include VA and DOD benefits to ensure it remains an effective protection for students and taxpayers, the PROSPER Act would eliminate the rule altogether. If the legislation were enacted, for-profit institutions could be 100 percent subsidized and propped up by federal taxpayer dollars.

Program Integrity Regulations (Gainful Employment, Credit Hour, State Authorization)

While many of the Obama administration regulations rightfully received varying levels of criticism and concern among institutions of higher education and APLU, the PROSPER Act goes too far in not only repealing the regulations but also blocking the Department of Education from ever regulating in the space. To the extent there are remaining concerns about Gainful Employment (GE), Credit Hour, and State Authorization regulations, APLU urges they be addressed through the regulatory process and the Department of Education continue to have appropriate authority to promulgate regulations with the intent of protecting students from poor performing programs and unscrupulous actors.

On GE in particular, we caution against a regulatory repeal that might be a relief to some colleges and universities but ultimately would leave students more vulnerable to taking on debt for academic credentials of little value. We think it is appropriate for the Department to hold "gainful employment" programs accountable for delivering on implicit promises made to students. Programs that saddle students with overwhelming debt while failing to prepare them for meaningful and expected careers should not benefit from lack of transparency of results or federal funding that can seemingly flow as long as students enroll.

We understand that institutions and associations most impacted by GE have voiced concerns about reporting burden and quality of data. The Department of Education is right to consider these concerns through the regulatory process. Some changes may be appropriate. But, we also note that transparency of outcomes from the GE rule have already resulted in institutions ending programs because of data showing poor outcomes for students. As a result, students have been protected from enrolling in poorly performing programs and the integrity of the Title IV system is stronger.

Cohort Default and Loan Repayment Rates

It is critical that the Higher Education Act include policy to hold institutions and programs accountable for an appropriate minimum level of successful student outcomes. Neither students nor taxpayers should accept that the federal government would subsidize programs and institutions that are unlikely to lead to students successfully repaying their federal loans.

The current requirements for institutions to maintain access to Title IV are remarkably lenient, subject to manipulation, ineffectively enforced, and moving toward irrelevance. Under current rules, an institution is subject to the loss of Title IV eligibility if its three-year cohort default rate (CDR) exceeds 30 percent for three successive years or if the three-year rate is greater than 40 percent in any one year. In 2015, only 15 institutions out of the more than 7,000 that participate in the Title IV program were subject to sanctions that could lead to their loss of eligibility to participate in Title IV programs. The CDR test clearly is failing to capture some institutions that are not doing right by their students. Furthermore, with the increasing use of income-driven repayment options, the default rate alone is an inadequate metric to determine the ability of an institution's students to repay their loans.

The PROSPER Act would replace the CDR test with a measure of repayment of loans and at the program level rather than the institution level. While APLU needs to do additional work to examine how the repayment rate is determined as well as the appropriateness of the threshold, in concept we support accountability at the program level and repayment rates are a critical tool to measure performance. However, we urge that this new accountability measure at the program level not replace accountability at the institution level. The CDR test should be fixed not abandoned. If accountability is only at the program level, the Department of Education could be playing a game of "whack a mole" of terrible programs taking advantage of students while it is clear the institution should not be able to access Title IV funding.

Single Definition of Institution of Higher Education

The Higher Education Act includes multiple definitions of "institution of higher education" to differentiate between public, non-profit private, and for-profit institutions. The definitions are used not only in HEA but also throughout the U.S. Code and Code of Federal Regulations as policymakers look to use distinctions between sectors within federal policy. The PROSPER Act would eliminate the multiple definitions so that only one definition would exist and it would encompass public, non-profit private, and for-profit institutions.

The policy would have far-reaching consequences throughout the federal government, consequences not likely fully understood by lawmakers. With enactment of PROSPER, federal policy in statute or regulations that use the present HEA definitions would instantly change to potentially include institutions not intended when the law was passed or regulation was promulgated. In addition to the Department of Education, the definitions in HEA have been used by the Departments of Agriculture, Homeland Security, Defense, Interior, State, Health & Human Services, Housing and Urban Development, Treasury, Labor, Justice, and the National Science Foundation, Postal Service, Environmental Protection Agency, among other agencies.

Differentiations by sector may be appropriate depending on the policy under consideration. Nonprofits and for-profits are fundamentally different in their primary mission and need to be treated differently. No one would argue that contributions to multinational for-profit corporations should be tax exempt. Similarly, nonprofits must make disclosures to the IRS in ways for-profits do not. Of course, entire state oversight and regulatory regimes apply to public institutions that do not apply to non-profit privates or for-profits. But, the fundamental difference is the primary mission of for-profits which is the generation of profit, not a charitable or public purpose.

APLU strongly opposes changing HEA to go to a single definition of institution of higher education.

Accreditation Reform

APLU supports two important changes in the PROSPER Act related to accreditation reform and urges that policymakers go a step farther. Among other changes, the PROSPER Act provides statutory clarity giving accreditors authorization to adopt risk-based models of accreditation. The legislation also scales back a number of requirements in HEA burdening accreditors and institutions with matters unrelated to academic quality and student outcomes.

APLU requests that instead of just giving accreditors statutory authorization to adopt risk-based models that HEA require accreditors to adopt risk-based accreditation. APLU proposes regional and national institutional accrediting agencies be required to use three broad categories of outcomes data (comprehensive graduation rates, financial sustainability measures, and employment outcomes) as part of assessing the accreditation status of a postsecondary institution. Accreditors should be required to use these categories in determining the appropriate level of review, with high performing institutions requiring less attention. All institutions would need to meet standards for reaffirmation of accreditation, but the process used would vary based on the performance outcome of institutions. HEA could then leave it to accreditors to determine their process as appropriate including whether they want to use thresholds for eligibility for expedited review.

APLU's HEA priorities document includes additional details.

Return of Title IV Aid (Risk Sharing)

The bill would make significant changes to the return of Title IV funds (R2T4) process. Under the bill, the percentage of aid earned would be based on a quarterly assessment of the payment period rather than a day-by-day assessment. Depending on the range of percentages within which the student's withdrawal date occurs, the amount earned would be zero, 25, 50 or 75 percent of aid. Under the bill, the institution would be responsible for returning all unearned aid, thus introducing a concept of risk-sharing where the institution takes on the full risk of student withdrawals through the first 25 percent of the payment period.

These provisions would create substantial institutional liabilities for the instances in which students do not complete their period of enrollment. APLU is greatly concerned that risk sharing would ultimately encourage institutions to minimize "risk." That is, the policy would essentially drive many institutions to favor admission of students who are the least likely to dropout. As policymakers highlight real concerns about achievement gaps and income inequality, we should be working to make higher education more, not less, accessible to low and middle-income families.

The land-grant system was created to democratize higher education, to make what was once a privilege for the elite and wealthy class, an option for more Americans. A broad risk-sharing policy would promote an environment in which students from advantaged backgrounds could be more appealing to institutions as a means of reducing risk of federal penalties.

Public institutions, particularly those most suffering from state disinvestment in public higher education and those which admit high numbers of Pell recipients and first-generation students such as the historically black 1890s land-grant institutions, would have no option, but to pass the costs of risk sharing on to students and families in the form of increased tuition and fees and/or reduced academic services. Risk sharing might require institutions to set aside funds which should be used to support its academic mission, in the event of incurring penalties under the policy.

Teacher Training Programs are Needed to Ensure an Adequate Pipeline of Professional Educators

The PROSPER Act eliminates the entirety of Title II of the Higher Education Act, programs which help build a pipeline of teachers prepared to educate our nation's next generation. If these eliminations were to occur, we would take from many present and future children the opportunity to learn from trained educators who utilizes evidence-based practices.

As examples, The Teacher Quality Partnership (TQP) Grant Program increases student achievement by improving the quality of new prospective teachers. APLU universities prepare new teachers in the highest need fields such as in math, science and special education, who will work in states' highest need schools many of which are in rural areas. The TQPs are high quality models of: (a) partnerships with school districts, (b) focus on skills essential for new teacher effectiveness, (c) optimal clinical preparation, and (d) data for continuous improvement in preparing tomorrow's teachers.

The Teacher Education Assistance for College and Higher Education (TEACH) grant is among the most valuable federal financial aid programs for teacher candidates. The TEACH grant, which provides a nearly $4,000 a year scholarship support to eligible candidates for up to four years is a major asset encouraging future teachers to enter fields in which there is a teacher shortage such as math, science and special education and to teach in high need schools upon receiving their credential.

Support Global Learning through Title VI International Education Programs

The Department of Education's International and Foreign Language Education programs, authorized by Title VI of the Higher Education Act, provide undergraduate and graduate students with opportunities for in-depth study of foreign languages and regions of strategic importance to the United States. APLU is concerned that PROSPER would limit funding for these critical research and training programs below the FY 2017 appropriated level. Title VI provides the infrastructure for a steady supply of specialists with deep expertise exists so that the United States is prepared to meet expanding diplomatic and national security needs. Federal agencies, including the Departments of Defense, Commerce, and State depend upon the Title VI education infrastructure in order to promote effective economic, military and diplomatic engagement.

APLU supports inclusion within HEA of S. 2255, the Advancing International and Foreign Language Education Act introduced by Senators Young (R-IN) and Baldwin (D-WI) to reauthorize six presently funded Title VI programs: National Resource Centers; Foreign Language and Area Studies (FLAS) Fellowships, Language Resource Centers, Centers for International Business Education and Research (CIBERs), Undergraduate International Studies and Foreign Language (UISFL) Programs, and American Overseas Research Centers. The bill would also consolidate several currently authorized programs into two new and innovative programs designed to promote the use of technology to strengthen the capacity, coordination, delivery and outcomes of international education, and identify the incentives and partnerships required to internationalize business education.

Constitutionally-Protected Free Speech is the Bedrock of Campus Dialogue

The First Amendment, explained by many Supreme Court decisions, provides wide-ranging protections for free speech. Time and again, the Supreme Court has ruled that restrictions based on speakers' views are unconstitutional. Public universities are rightly held to a more stringent constitutional standard than private institutions.

Those broad constitutional protections match our values. Free speech is the lifeblood of our democracy. It is the foundation of academic inquiry. And it is essential to the educational experience and part of our commitment to provide a robust learning environment for an increasingly diverse student body. Public universities firmly believe their students should be exposed to an array of ideas and opinions – not only those with which they agree, but also those that challenge their perspectives and worldview. Any attempt to limit the free exchange of ideas is an affront to our shared values as Americans.

The vital importance of these civil liberties makes them no easier to safeguard. Public universities must reconcile issues of safety in the face of credible threats to speakers. It is sometimes challenging, but public universities must also protect constitutional speech even if it is odious and hateful speech. Hateful speech can, of course, be harassment that is not protected speech. Public universities must protect the expression of clashing opinions about some of the most fraught issues of our times as they work to foster a productive learning environment.

Public institutions may not always strike the right balance, especially when they must make decisions with incomplete information in rapidly changing circumstances. But public universities and their leaders learn from their experiences and those of other campuses. They are reaffirming their commitment to free speech at a time of deep tensions on many campuses. Universities are taking the opportunity to educate students on the history of free expression and our collective responsibility to uphold those values and rights.

Just as communities across the country struggle to facilitate free and civil debate at a time when polarization has reached new heights, public universities must strive to safeguard those civil liberties on their campuses. As public universities, whose mission is to advance the public interest, we believe our institutions have a responsibility to not just be outspoken advocates for free speech, but leaders in providing a forum for civil discourse and disagreement.

The PROSPER Act includes a number of unnecessary and concerning provisions related to speech and association. The legislation would create a position at the Department of Education to empower a government employee in Washington to receive student and organizational complaints regarding speech on campus and to render decisions on the merits of the claim in comparison to the institution's policies. Importantly, not less than 10 days after receiving the complaint, and regardless of whether the institution provides a response, which will not be likely given the timeline, the employee will rule on the complaint. If the employee concludes the institution did not comply with a disclosed policy, they can require immediate compliance. If the employee concludes the institution was enforcing an unpublished policy, they could require immediate publication and order the institution to allow the speech as if the policy was not enforced.

This is a highly problematic and inappropriate, one-sided requirement that will empower certain groups to file endless complaints, complaints over technicalities, and substantive complaints without full facts, and get immediate determinations (which appear to have no appeal) prior to the institution even becoming aware of the complaint (and certainly prior to a full opportunity to respond). The Department of Education should not have a bureaucrat assigned to review, judge, and compel regarding campus speech.

PROSPER Act Effectively Cuts Programs Through Authorization Levels

The PROSPER Act would freeze many programs at or below Fiscal Year 2017 appropriations levels, taking discretion out of the hands of appropriators, and guaranteeing that funding is effectively cut as inflation increases. APLU strongly opposes authorization levels that cap funding based on appropriations levels.

This would impact the Title III Strengthening Historically Black Colleges and Universities program, TRIO, GEAR UP, Graduate Assistance in Areas of National Need, some Title VI international education programs, and many other programs critical to students and public universities, including specifically to our 1890 land-grant university members.