Association of Public & Land-grant Universities

October 28, 2019

The Honorable Bobby Scott
Chairman
Committee on Education and Labor
United States House of Representatives
Washington, DC 20515

The Honorable Virginia Foxx
Ranking Member
Committee on Education and Labor
United States House of Representatives
Washington, DC 20515

Dear Chairman Scott and Ranking Member Foxx:

As president of the Association of Public and Land-grant Universities (APLU), I write to provide comments on H.R. 4674—the *College Affordability Act of 2019*.

While APLU continues to review and discuss the legislation with our member institutions, it is clear the bill would take some key strides toward making college more affordable and protecting students, but that it also misses the mark in some crucial areas of the Higher Education Act. We look forward to working with Congress to improve the legislation as it advances through the legislative process.

APLU is a research, policy, and advocacy organization dedicated to strengthening and advancing the work of public universities. Annually, our 197 U.S. member campuses enroll 4.1 million undergraduates and 1.2 million graduate students, award 1.1 million degrees, employ 1.1. million faculty and staff, and conduct $42.4 billion in university-based research.

As you know, the Higher Education Act (HEA) provides critical support for our students and institutions. The CAA contains several affordability provisions that would positively impact students, from increasing the maximum Pell Grant award to making it easier to apply for financial aid. Importantly, the bill would reverse a troubling trend of cuts to graduate education. For example, the legislation includes a restoration of subsidized loans for graduate students. The bill also includes important accountability and data transparency provisions that would strengthen protections for students and taxpayers and more clearly demonstrate the positive impact of higher education to students and society.

Unfortunately, the bill also contains a number of provisions that are highly problematic. The CAA would create new funding incentives for states through a federal-state partnership that would create unnecessary tensions between state investment in public two-year and four-year institutions. APLU has long advocated for a federal-state partnership that supports all of public higher education and urges the Committee to not create incentives for states to invest in one crucial area of public higher education at the expense of another. Both two and four-year public colleges and universities serve vital roles in society.

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Further, the bill contains many provisions that would substantially increase administrative burden, adding new layers of reporting requirements and mandating staff positions on college campuses that will drive up the expense of advancing our education, research, and engagement missions. Ultimately, the impact of such expenses will be felt by students in either tuition and fees and/or the services they receive.

While APLU is unable to support the legislation in its current form, we look forward to working with Congress to improve the bill as it advances through the legislative process. Included with this letter is a more detailed analysis of provisions of particular interest to APLU.

Thank you for your attention to our concerns, and please let me know how we can continue to be a resource.

Sincerely,

Peter McPherson

APLU Analysis of the College Accountability Act of 2019 (CAA)

Updated November 7, 2019

Positive and Mixed Provisions in the CAA

- **Increases Pell Grant Maximum Award and Expands Eligibility**

APLU strongly supports the CAA's increase to the maximum Pell Grant award by $625 and its permanent indexing of the award to inflation. This change would result in a maximum award amount of $6,820 for FY2021, the largest ever year-over-year increase to the Pell award. We also support the change in the CAA to extend Pell eligibility from 12 to 14 semesters with the extension of eligibility to graduate education. Pell recipients who complete an undergraduate degree on-time would be able to use remaining eligibility toward completing their first postbaccalaureate course of study.

- **Boosts Campus-Based Aid Programs and Institutional Support**

APLU supports the increased authorization level for Federal Work-Study (FWS) for FY2021-2026, starting at $1.5 billion and increasing by $250 million annually. The CAA would also boost the authorization for Supplemental Education Opportunity Grants (SEOG) to $1.15 billion for FY2021 and increases the authorization level by $150 million annually. Within SEOG, APLU also appreciates the CAA's inclusion of a new Emergency Grant Program for institutions which would allow them to provide small grants of $750 to students for unexpected financial emergencies, with a maximum of $2,000 in federal funds per student. The changes to the FWS and SEOG formulas, however, will cause concern with some APLU institutions whose students may receive less aid under the new formula. While increased authorization levels could mitigate this concern, there is no ultimate guarantee of increased appropriations. Some other APLU institutions may welcome the changes to the campus-based aid formulas.

APLU strongly supports the CAA's restoration and permanent extension of Title III, Part F mandatory funds for Historically Black Colleges and Universities (HBCUs) and other Minority-Serving Institutions (MSIs)—funding that lapsed at the end of FY2019.

- **Simplifies Financial Aid Eligibility and Includes Improvements to the Direct Student Loan Program**

APLU is supportive of the CAA's approach to simplifying the financial aid process for most students, reducing the number of questions for students based upon the complexity of their and their families' finances. This change would particularly help students who have benefitted from a means-tested federal program as these students would automatically be determined to have no expected family contribution and would qualify for the maximum federal Pell Grant award. Further, the bill would eliminate origination fees on all federal student loans. APLU has long-advocated for this elimination.

Finally, the CAA would simplify student loan repayment, consolidating existing options into two loan repayment plans—one fixed and one based on discretionary income. The fixed repayment plan would have a tiered structure, extending the time for repayment based upon the amount of loan debt held by the borrower. The new income-based repayment (IBR) would be more generous for most borrowers than the current IBR options and would forgive any remaining debt after 20 years of repayment. While APLU continues to analyze how the move to these two programs would impact individual students, in concept streamlining of repayment options is a positive development.

APLU strongly supports the substitute amendment's restoration of subsidized loans for graduate students. According to the Bureau of Labor Statistics, entry-level jobs requiring an advanced degree are among the fastest growing occupations. HEA should keep pace in making graduate education more affordable.

- **Improves Student Data and Transparency**

APLU strongly supports the inclusion of the *College Transparency Act***,** which would provide for comprehensive reporting on student outcomes—including transfer, employment, and earnings data—for all students. The data will help student and families make informed decisions, help policymakers make evidence-based decisions, and give new tools to colleges and universities to assess their performance and improve.

As a result of a ban on student-level data in the HEA, the federal government has presented students and their families with grossly incomplete information about graduation rates, employment outcomes, and other key information on how students fare at individual institutions and academic programs. This legislation would finally lift the federally-imposed curtain on comprehensive higher education outcomes data and enable students to make better-informed decisions. APLU also sees the data as crucial to our work with member institutions to drive student success initiatives.

- **Supports On-Time Completion of Pell Students**

The legislation authorizes a Pell Bonus program to award public and non-profit institutions of higher education for on-time completion of Pell students pursuing baccalaureate degrees. APLU strongly supports the program in concept. Additional funding for public universities to support completion initiatives would help accomplish a key priority of universities and federal and state policymakers. Most importantly, the funding will support efforts to set students on a path to success.

The legislation sets eligibility criteria for institutions with a requirement of Pell enrollment of 25 percent or above. Some APLU institutions will be concerned about the threshold particularly given different demographic shifts in states.

- **Updates and Increases Programs Supporting International Education**

The bill reauthorizes Title VI of HEA, extending funding for six current international education programs. The CAA also consolidates and updates the five remaining programs into two new programs that are designed to address 21st Century needs through investment in foreign language acquisition; international and world area knowledge; and international business and other professional competencies for students, educators, and employers. APLU strongly supports the reauthorization of Title VI programs and is broadly supportive of the updates to these programs which are similar to those included in the APLU-endorsed Foreign Language Education Act.

- **Makes Meaningful Progress in Accountability for Students and Taxpayers But Reliance on Untested Metrics are Concerning**

The bill introduces an adjusted cohort default rate, or ACDR, which would count borrowers in long-term forbearance as defaulting and account for the percentage of students who borrow. Further, the bill establishes an “on-time repayment rate,” which would measure the percentage of students who have paid at least 90 percent of their monthly payments over the course of three years.

APLU has long advocated for strengthening the HEA’s current cohort default rate test as it has proved ineffective at protecting students and taxpayers from the worst performing institutions of higher education. It is critical that the HEA include policies holding institutions accountable for an appropriate minimum level of successful student outcomes. Policymakers should not accept that the federal government would subsidize programs and institutions that are unlikely to lead to students successfully repaying their federal loans. The current default rate requirements for institutions to maintain access to Title IV are remarkably lenient, subject to manipulation, ineffectively enforced, and moving toward irrelevance.

While improving these metrics is a positive step toward meaningful accountability, institution-level information is not currently available to understand current performance levels. Due to the lack of data, it is not clear how this accountability system would impact institutions and inhibits our ability to provide comments on this broader framework. We are concerned about reliance on an accountability structure in which implications cannot be projected at this time.

The CAA also restores the current 90/10 rule back to a ratio of 85/15, as well as closes the loophole in the calculation to ensure it counts all federal education benefits, including veteran’s education benefits. The CAA would also reinstate the gainful employment regulations, requiring that ED establish performance metrics for career training programs (at a minimum, this would include a debt-to-earnings rate).

APLU is generally supportive of gainful employment requirements for career training programs as they are essential accountability to protect students, taxpayers, and the integrity of the federal financial aid system from poor-performing programs. Legitimate concerns regarding a gainful employment rule such as institutional reporting burden should be addressed by ED.

Areas of Concern in the CAA

- **Excludes Public Four-Year Institutions from a Federal-State Partnership**

The federal-state partnership in the CAA would create an incentive for states to reinvest in community colleges but largely excludes public four-year colleges and universities, which educate most students who attend public institutions. As states respond to funding incentives in the bill and shift new investments accordingly, APLU is confident that the most likely scenario stemming from the bill's policy is that increased support at the state level for community colleges will come at the expense of four-year institutions. The impact will be felt by students through tuition, academic quality, and/or support services.

The CAA attempts to hold four-year institutions harmless by requiring that states maintain existing levels of funding, but APLU is not confident that a maintenance of effort (MOE) provision would preclude states from finding budget gimmicks and other work-arounds. Even if an MOE is successful, the likely scenario is that four-year institutions would receive flat funding while states direct new investments toward community colleges. While the legislation would allow states to choose to use federal-state partnership funding to support four-year institutions, it is only an allowable use after a state has achieved free community college.

All of public higher education has been underfunded—a federal-state partnership should lift the entire public sector. After adjusting for inflation, 41 states are spending less per student now than in 2008. The unintended consequences of the CAA's policy would be deeply severe and harmful for public four-year institutions of higher education and the students they serve.

APLU urges Congress to adopt an approach that supports all of public higher education.

- **Extends Pell Grants to Short-Term Programs, As Short as Just 8 Weeks**

The CAA includes "Job Training Federal Pell Grants" for short-term programs, which would extend access to Pell Grants to programs as short as eight weeks. The evidence is mixed as to whether such short programs lead to good jobs or meaningful wage increases. And, outcomes data on loan default rates for graduates of certificate programs are alarming. We appreciate the bill's inclusion of language that holds short-term programs accountable for labor market outcomes, as well as the limitation restricting funds to public and nonprofit institutions. Nonetheless, we would strongly caution against making such a significant structural change to the Pell Grant program—and opening the door to future changes that could extend Pell funds to all providers of short-term credentials.

- **Excludes Most Students From New Student Success Fund**

The CAA would create a new competitive grant program authorized at $1 billion annually for community colleges to plan and implement a program to improve completion within 150 percent of time for graduation and boost transfer rates. There is a strong need for federal investment in student success. Increased evidence-based efforts by institutions, as exemplified by public universities participating in APLU's Powered by Publics initiative, merit federal support. While there is significant need at community colleges, the need is not exclusive to community colleges. Such a program should be eligible to all public institutions demonstrating a commitment to boosting student success.

- **Expands Clery Reporting, Creating Unclear and Burdensome Requirements**

While well-intentioned, the CAA would add expansive and ambiguous definitions of hazing and harassment and include both as reportable offenses under the Clery Act despite no corresponding Uniform Crime Reporting definitions. This will create substantial compliance challenges for institutions, significant variations in institutional response, and data that will be confusing for policymakers and the public. The ambiguous requirements would come attached to increased fines for violations of the Clery Act to $100,000, from the current $25,000, including for inadvertent errors resulting from ambiguous requirements.

- **Makes Study Abroad More Expensive**

The bill would add significant new tracking and reporting of safety in study abroad while also imposing highly burdensome and unnecessary requirements around study abroad orientation sessions, advising, and pre and post study-abroad meetings/interviews. These provisions would also add significant compliance confusion and expense to institutions, driving up the costs of providing study abroad opportunities, and discouraging institutions from expanding their efforts. There are alternative and more effective ways to advance safety in study abroad such as those proposed in the bipartisan, bicameral Senator Paul Simon Study Abroad Act.

APLU urges policymakers to set as priorities increasing study abroad participation while expanding diversity of participants and destinations. The legislation would substantially setback universities' efforts to increase study abroad participation by diverting resources to alternative, bureaucratic efforts that would not meaningfully benefit students in balance with the costs of compliance.

- **Standardizes Required Biannual Campus Safety Survey**

The CAA would require the Department to develop a standardized online survey tool regarding student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking. Climate surveys can be a useful tool for institutions to better understand the experiences of their students as related to sexual violence and harassment and for that information to be used to improve prevention efforts, student services, and other responses.

Institutions of higher education that have the knowledge and capacity to construct and administer valid and reliable surveys and collect, analyze, and report data and results should be given the option to do so. If the bill envisions the Department of Education will administer the survey, there should be clear requirements on the Department to respond to requests from institutions to customize questions as appropriate. We are concerned that the likely outcome of a one-size-fits-all type survey from the Department of Education would result in information that is not as meaningful as it could otherwise be if institutions could tailor surveys to solicit feedback on matters specific to their campuses. Finally, we are concerned with requirements to administer the survey every two years, as institutions need more time to analyze survey results, implement new measures and procedures, and assess outcomes of those new efforts. A survey every four years would be more effective.

- **Mandates New Staff Positions on Campus**

The CAA would add several personnel requirements for institutions, including requiring institutions to establish an office of accessibility to support students with disabilities; bring on a full-time employee or volunteer trained as a veterans' benefits counselor; hire a designated employee for handling Title VI civil rights complaints; and designate an employee or office to be responsible for receiving and tracking reports of student harassment. Supporting students with disabilities, student veterans, and students who have experienced discrimination or harassment are of the utmost importance to APLU members. Different institutions, however, will have different staffing needs—prescriptive legislative requirements do not account for the differences in size and diversity of student populations at different institutions and add confusing overlap with ways in which states oversee public institutions.

While the committee aims to advance compelling policy objectives with such mandates, it is more appropriate to allow institutions the ability to determine how limited resources can be devoted to advancing these and many other compelling priorities.

- **Provides Secretarial Authority to Regulate on Cost of Attendance**

Historically, the HEA has not permitted the Department to regulate on cost of attendance for colleges and universities. The CAA would provide the authority for the Secretary to issue regulations on a methodology for calculating the allowance for room and board costs for students living off-campus. This change would create a one-size-fits-all definition for part of an institution's cost of attendance calculation, taking decision-making authority out of the hands of those who best understand communities in which institutions are located.

- **Expands Foreign Gifts Reporting**

The CAA would make limited changes to the foreign gifts reporting statute, extending reporting to in-kind gifts and clearly exempting tuition and related fees. APLU supports the bill's requirement that the Department undergo negotiated rulemaking to develop regulations for institutions on foreign gifts reporting. Additional provisions for Section 117 should be considered within the context of the negotiated rulemaking. Additionally, requirements should be streamlined to ensure the collection of data is limited to that which is necessary to fulfill compelling public policy objectives. As drafted, the requirements would expand reporting requirements but not necessarily lead to valuable information for policymakers or the public.

- **Overreach Into Accreditation**

APLU has advocated for increasing usage of student outcomes data to help accreditors assess risk and performance in their critical roles as gatekeepers to Title IV access. It is important to recognize that the fundamental purpose of accreditation is to ensure academic quality through an individualized, peer-review process. While accreditors serve a federal purpose as a determining factor of institutional access to financial aid, policymakers should ensure an appropriate balance of academic autonomy with effective Title IV gatekeeping.