Centering Racial Justice in the Reauthorization of the Higher Education Act:

A Roadmap for Policymakers

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BACKGROUND

While a college education is often viewed as a means of securing social mobility and equity, higher education institutions all too often reproduce and perpetuate racial inequities.[1] Postsecondary enrollment, particularly in selective institutions, is highly stratified along lines of race, despite evidence that racially minoritized students are academically prepared for and experience greater success when enrolled at highly selective institutions.[2] These inequities affect all Black, Indigenous, and people of color (BIPOC) students; however, the ways in which these inequities tend to fall most heavily on Black students is a reflection of larger patterns of systemic racism, anti-Blackness, and caste in US society.[3] A focus on disrupting anti-Blackness calls on policymakers, institutional leaders, and stakeholders throughout higher education to recognize and counter the dehumanization of Black people, rooted in slavery, that occurs through overt racism, structural policy, and everyday practice. In doing so, we can celebrate and amplify Black excellence in every sector of life.

Anti-Blackness is manifested in various ways in higher education. Black faculty and administrators are scarce[4] and Black students frequently face microaggressions and a racialized climate on campus.[5] As a result of these and other systemic inequities in how opportunities are structured across the K-12 and postsecondary education systems, racially minoritized students, and particularly Black students, enroll in higher education at lower rates, graduate at lower rates, and report lower feelings of belonging than their white peers.[6] Despite these systemic barriers, Black students continue to lead and succeed in higher education, demonstrating that racial inequities are not inevitable and that Black students are making a profound impact on postsecondary institutions.

Countering the systemic racism and anti-Blackness endemic to higher education requires action at multiple levels of the higher education system—from policymakers re-examining ostensibly race neutral policies, to faculty members incorporating anti-racist pedagogical approaches, to institutions rethinking admissions, to entire campus communities building inclusive, welcoming climates. While the federal government cannot address all of the manifestations and causes of systemic racism and anti-Blackness in the academy through the Higher Education Act (HEA), its reauthorization can serve as a lever to implement specific regulations that address racial inequities and that prioritize anti-racist work (e.g., work that disrupts systemic racism and promotes equitable opportunities and outcomes across racial/ethnic groups).

First passed in 1965, the HEA provides the federal government a means of influencing policy across the

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[1] Cabrera, 2019.

[2] Posselt et al., 2012; Baker et al., 2018; Melguizo, 2010.

[3] Wilkerson, 2020.

[4] Minor, 2014.

[5] George Mwangi et al., 2018.; Harper & Hurtado, 2007.

[6] Hussar et al., 2020; Causey et al., 2020; Gopalan & Brady, 2019.

country's decentralized higher education system. The HEA should be reauthorized every five years, but an updated HEA has not been passed since 2008. Instead, Congress has repeatedly passed temporary extensions continuing the law. At the end of 2020, Congress included a number of provisions in its omnibus spending bill (called The Further Consolidated Appropriations Act, or H.R. 1865) that represented important steps towards making federal higher education policy more equitable. These changes included restoring the ability of formerly incarcerated individuals to receive federal Pell Grants, simplifying the Free Application for Federal Student Aid (FAFSA), and forgiving federal loans used by Historically Black Colleges and Universities (HBCUs) for facilities maintenance, along with other changes to regulations surrounding student loans and Pell eligibility. President Biden called for racial justice in his Inaugural speech, and, on his first day, extended interest-free student loan deferment, signaling a commitment to racial justice in higher education policy. In this moment, Congress has the opportunity to enact the call for racial justice through HEA reauthorization.

In 2017, the University of Southern California's Pullias Center for Higher Education released a report that suggested three principles to guide HEA reauthorization: equal opportunity to learn and equal protection under the law; evidence-based policy; and consumer protection. This follow-up brief is intended as an evidence-based guide for policy analysts and decision makers to inform critical areas in the HEA related to racial justice. Our recommendations in this brief prioritize combating systemic racism in higher education with a particular focus on disrupting anti-Blackness, though several sections focus on racial justice broadly due to the overlapping implications for and often aggregated research on racially minoritized groups. While additional work beyond the scope of this brief is needed both to support HEA reauthorization and racial justice, it is our hope that by centering racial justice those in higher education can work to overcome our complacency and complicity with systemic racism and anti-Blackness to enact change.

REFORMING FINANCIAL AID AND ADDRESSING STUDENT LOAN DEBT

With student loan debt at nearly $2 trillion in the United States,[7] the Biden Administration will have to address the issue of student loan debt and implement sustainable policies for financial aid moving forward. Student loan debt disproportionately falls on racially minoritized students and perpetuates the racial wealth gap in the country.[8] For example, Black students report an 85.8% higher debt burden than white students, and, because of labor market discrimination and other factors, this disparity grows for at least a decade and a half into graduates' early adulthood.[9] Financial aid reforms need to address two key issues: accessibility and amount. Similarly, student loans are accompanied by issues that occur both at the time of issuance and repayment. We thus see the need for policies that address the student loan debt crisis on two fronts. First, there is a need

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[7]Board of Governors of the Federal Reserve System, 2020.

[8]Houle & Addo, 2019; Addo et al., 2016; Taylor et al., 2020; Scott-Clayton, 2018.

[9]Houle & Addo, 2019

to reduce the burden students face when using loans to pay for the cost of attendance. Second, student loan repayment and forgiveness programs need to be reformed to alleviate how student loans affect students throughout their lives.

In order to disrupt systemic racism and anti-Blackness, we recommend that policies addressing the student loan crisis and reforming financial aid adhere to the following **principles**:

- ➠ **Improve Affordability**

- ➠ **Simplify The Borrowing Process**

- ➠ **Reduce The Administrative Burden Of Federal Student Aid[10]**

- ➠ **Reduce Existing Racial Wealth Gaps and limit Future Growth in Wealth Gaps**

We offer **seven** recommendations to both financial aid and the student loan system in line with these principles that could be included in an HEA reauthorization under the Biden Administration.

1 Substantially increase the Pell Grant to cover a greater share of college costs, including cost of attendance

By making college more affordable, Pell Grants enhance the likelihood that BIPOC students from low-income backgrounds will attend college. Subsidizing the cost of college enables students to take advantage of higher education's benefits, but funding has not always kept up with need. The maximum Pell Grant covered about 80% of college costs in 1975, but that has dwindled recently to less than 30% in 2018.[11] The share of total education revenue in state higher education in 2019 that came from student tuition was 46%.[12] Pell grant awards should be regularly increased to keep pace with inflation and rising tuition costs. However, tuition is only part of the issue—the total cost of attendance, including housing, food, basic needs, and books, among other expenses, can derail the enrollment and persistence of low-income and racially minoritized students.[13] Proposals aimed at increasing the affordability of higher education, including those promising "free college" need to address students' full cost of attendance.[14] Ensuring adequate financial support to students has the potential to promote students' well-being in the shorter term and bolster intergenerational wealth in the longer term, limiting the growth of the racial wealth gap.

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[10]Herd & Moynihan, 2018.

[11]Protopsaltis & Parrott, 2017.

[12]State Higher Education Executive Officers Association, 2020.

[13]Goldrick-Rab, 2016.

[14]Jones & Berger, 2018; Jones et al., 2020.

2 Increase financial aid availability through other (e.g. non-Pell) programs

Financial aid matters. Reducing the price of college by $1,000 increases the likelihood of enrollment by 4 percentage points and persistence/attainment by 1.5-2 percentage points.[15] There are public and private benefits to financing college. If more students enroll and attain a college education, they can experience better labor market outcomes, and the government can receive more tax revenue from college-educated earners.[16] By protecting and increasing programs such as federal work-study and the Federal Supplemental Educational Opportunity Grant (FSEOG) and targeting institutions that need aid the most, including Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions (MSIs), Congress can help reduce reliance on federal student loans by expanding student aid and work-study to more students.

3 Continue to simplify the Free Application for Federal Student Aid (FAFSA)

FAFSA simplification began with the passage of the omnibus spending bill at the end of 2020, which limited the number of questions on the FAFSA from over 100 to under 40. The FAFSA is complex, and deters many students from enrolling in college.[17] Racially minoritized students are also more likely to be flagged for FAFSA verification, which can also derail students' enrollment plans.[18] Calls to reform the FAFSA are not just about simplifying the number of questions; simplification also entails coordination with the Treasury Department to automatically retrieve required information to complete the FAFSA, reducing or eliminating the amount of information that students have to compile and submit. The Department of Education could also move to a one-time FAFSA so that students do not have to resubmit FAFSA every year unless there is a significant change in financial need status. Finally, while FAFSA completion is a challenge every year, during the Covid-19 pandemic FAFSA completion rates have dropped, amplifying the need for high schools to provide support and programming to help all students complete the FAFSA.[19] Simplifying the FAFSA and providing students with additional, school-based support to complete the FAFSA, can help reduce administrative burdens and increase access to financial aid.

4 Make repayment more affordable and simplify Income Driven Repayment

Income Driven Repayment (IDR) plans allow borrowers to repay their loans by limiting payments to an affordable percentage of their income (between 10 and 20% of discretionary income[20]) with forgiveness occurring after 20 to 25 years of repayment. Enrollment in IDR plans is associated with lower rates of default, regardless of

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[15]Nguyen et al., 2019; Carruthers et al., 2020; Gandara & Li, 2020.

[16]Carnevale et al., 2020.

[17]Klasik, 2012.

[18]Holzman & Hanson, 2020.

[19]Ed Trust-NY, 2020.

[20]Government Accountability Office, 2016.

degree/credential attainment.[21] Almost one third of Black student borrowers default on a student loan within six years of enrolling in higher education, as a result of labor market discrimination, inequities in familial wealth, and other factors.[22] While enrollment in IDR plans is growing, less than a quarter of all borrowers enroll in IDR.[23] Enrollment in IDR plans should be the automatic default for all borrowers to simplify the process and reduce borrowers' likelihood of default.[24] Additionally, to make monthly payments more affordable, IDR plans should reduce the maximum percentage of discretionary income directed towards loan payments.

5 Repair the Public Service Loan Forgiveness (PSLF) program

Currently, the PSLF program requires ten years of repayment while enrolled in an IDR. However, because of the administrative complexity of applying for PSLF, some claims are not approved in borrowers' first few years of eligibility even when borrowers believed they were making on-time payments. Simplifying the process will allow more qualified borrowers to have their debt forgiven. The PSLF program could also provide gradual forgiveness of loans; for example, a percentage of the loans would be forgiven after 3-5 years of public service rather than having an all-or-nothing cutoff at 10 years.

6 Explore student loan forgiveness options

Student loan forgiveness, or cancellation, is a contentious issue, with some researchers questioning whether loan forgiveness would actually benefit the populations who need it the most.[25] What is clear is that student loan debt is a racial equity issue and student debt contributes to the racial wealth gap. Substantial reform to student loan debt up to and including loan forgiveness is needed to address racial wealth gaps. Congressional Democrats have called for anywhere from $10,000 to all loan balances being cancelled. There are also debates on how to target such forgiveness: whether forgiveness should be universal or conditioned on income (and how high that income should be), for special populations of students who are most at risk of default, and whether the President can forgive student loans without the need to go through Congress. Whatever approach is adopted, it should adhere to the principles outlined above: easy to administer; easy for borrowers (in this case, the students) to understand how they'll qualify and what benefit they will get, and result in a substantial reduction in the racial wealth gap or decrease BIPOC borrowers' negative wealth. While ensuring that BIPOC graduates are able to enter high-paying careers is an important goal, focusing on future incomes alone is not enough to address racial wealth gaps—policies focused on debt, including student loan forgiveness, must be part of the conversation.

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[21] Miller, 2019.

[22] Miller, 2019.

[23] Government Accountability Office, 2015; Miller, 2019.

[24] Scott-Clayton, 2019.

[25] For example, see Chingos & Marron, 2020.

7 CONTINUE TO STRENGTHEN FINANCIAL SUPPORT FOR CURRENTLY AND FORMERLY INCARCERATED INDIVIDUALS TO ACCESS HIGHER EDUCATION

We support recent legislation that lifted the long-standing ban on Pell grants to individuals who are incarcerated.[26] Further measures could include expanding the Second Chance Pell program to encourage institutions to develop programs and resources to support incarcerated individuals in obtaining degrees.[27] The federal government can also provide financial resources so that higher education institutions can help students working to expunge records for non-violent crimes; for example, connecting students to lawyers who can help students navigate governmental processes. Expunging non-violent crimes from individual records aids formerly incarcerated individuals in applying their education towards jobs and goes further than alternatives like Ban the Box programs whose implementation can vary across states and applications, potentially leading to inequities.[28] Our inclusion of this recommendation is rooted in the fact that the U.S. criminal justice system has targeted racially minoritized individuals, resulting in their disproportionate representation amongst incarcerated populations.[29]

REGULATING FOR-PROFIT INSTITUTIONS

The reauthorization of the HEA should strengthen federal regulation of for-profit colleges and universities (FPCUs). Racially minoritized students comprise over half of all students at for-profit institutions, where they often accrue large amounts of debt and drop out before attaining a degree.[30] Additionally, for-profit colleges market academic programs that lead to lower-paying careers more frequently to Black students than to white students.[31] Students who attend FPCUs have lower employment rates and salaries, and higher student loan balances, and a higher likelihood of defaulting on these loans.[32] In fact, predatory and racialized recruitment by some for-profit colleges has resulted in a 67% student loan default rate among Black students who attended a for-profit but did not complete a credential.[33]

FPCUs have a history of predatory student recruitment, exploiting Federal Student Aid programs, and prioritizing profits over education.[34] In order to address racial inequities in student debt burden and labor market returns

[26]Cantora, 2020.

[27]U.S. Department of Education, 2020.

[28]Hanks, 2017.

[29]Alexander, 2012; Murillo, 2021.

[30]Body, 2019.

[31]Iloh, 2015.

[32]Belfield, 2013; Cellini & Turner, 2019; Deming et al., 2012.

[33]Scott-Clayton, 2018.

[34]Angulo, 2016; McMillan Cottom, 2017.

to higher education, policymakers need to look critically at for-profit institutions. We recommend the HEA reauthorization address the regulatory rollback that occurred in recent years, codify Obama-era rules protecting students, and address long-ignored loopholes of current regulations. We offer **three** specific recommendations:

1 Congress should incorporate the gainful-employment rule into the HEA

This rule would state that for a program to maintain access to Title IV funds, its graduates may maintain an annual student loan payment that is less than 30% of the students' discretionary income or less than 12% of total earnings. When the rule was first enacted, over 800 programs failed to meet the standards, and 98% of those were at for-profit colleges.[35]

2 Revise the 90/10 ratio and close the Veterans Affairs loophole

The 90/10 rule states that only 90% of an FPCU's revenue can come from federal financial aid.[36] We encourage two revisions to this rule: altering the ratio of allowable Title IV funding to total revenue and including Veterans Affairs (VA) aid programs in the calculation of that share. First, Congress should change the 90/10 rule back to its original ratio of 85/15. FPCUs that provide a valuable education are likely to attract students willing to pay for their programs as well as students whose employers would support this postsecondary training. Such a change is likely to push institutions unable to recruit students willing to pay out of pocket out of the market and improve the overall quality of the sector.[37] Second, Congress should eliminate the so-called "VA loophole" that allows FPCUs to use VA dollars to maintain a nearly universal reliance on federal funding without violating the 90/10 rule. While fully disaggregated data are not available, the Department of Veterans Affairs notes that racially minoritized veterans are more likely to use their education benefits. As such, closing the VA loophole can spare Black veterans from being used by FPCUs to avoid federal regulation.[38] Congress took an important step towards doing so in the American Rescue Plan, passed in March 2021, with implementation delayed until 2023. We urge the Department of Education to expeditiously implement this change.

3 Acknowledge that FPCUs require different regulations than nonprofit colleges

We echo the calls that FPCUs should be required to acknowledge that their tax structure necessitates a different set of regulations than nonprofit colleges.[39] This acknowledgment can put to rest debates over

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[35]Zamudio-Suarez, 2017.

[36]The 90/10, which began as the 85/15 rule, states that Title IV funding cannot comprise more than 90% of a for-profit college's total revenue. Violating this rule jeopardizes the institution's ability to access any federal funding, which would eliminate nearly all of the institution's revenue. Proponents of the rule argue that if a for-profit college offers a valuable credential, students, or their employers, will be willing to pay for it and thus the non-Title IV revenues will be greater than 10%.

[37]Ward, 2019.

[38]Department of Veterans Affairs, 2017.

[39]Bob Shireman, 2019.

whether or not the same standards should be applied across institutional types. Given the evidence that FPCUs disproportionately harm students and fail accountability standards, openly acknowledging that these institutions are fundamentally different and thus need to be regulated differently, can help protect students, especially Black students who disproportionately enroll at FPCUs. The profit motives of FPCUs and the fact that education is an experience good that consumers may not be able to evaluate until after receiving it requires the federal government to regulate this market and protect students from abuse and profiteering.

FUNDING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Historically Black Colleges and Universities (HBCUs) play a critical role in promoting postsecondary success for Black students in the United States.[40] They have a strong track record of offering high quality postsecondary education to undergraduate and graduate students, with 24% of Black undergraduate students in the U.S. enrolling in HBCUs. Additionally, 26% of degrees conferred to Black students nationwide are earned through HBCUs, including 32% of all STEM degrees earned by Black students.[41] Research on Black students who enroll in STEM doctoral programs suggest that HBCUs are uniquely situated to support Black students through positive faculty-peer engagement and graduate school environment, and solid exposure to research opportunities.[42] HBCUs promote higher graduation rates among Black students than do non-HBCUs serving similar students,[43] thereby disrupting inequities brought about by racial segregation and under-funding of K-12 schools that disproportionately harm racially minoritized students.[44] HBCUs disproportionately serve more first generation, low-income Black students, and have been chronically under-funded since their founding.

We applaud now-President Biden's campaign pledges to make the first two years of tuition free at HBCUs, allocate $10 billion towards HBCUs in order to increase access and completion, and direct significant funds towards more research funding.[45] We are particularly interested in seeing the HEA address the following **five** points:

1 INCREASE FUNDING THROUGH A VARIETY OF SOURCES

Despite their undeniable positive impact, HBCUs suffer from a legacy of inequitable funding from the federal government. In 2014, for example, all four-year HBCUs received less funding combined than did the top

[40]Nathensen et al., 2019.

[41]United Negro College Fund, n.d.

[42]Preston, 2017.

[43]Gordon et al., 2020.

[44]Jackson et al. (2018).; Reardon et al. (2019); Card & Rothstein (2006).

[45]Murakami, 2021.

four traditionally White institution (TWI) recipients of federal funds; eighty nine HBCUs earned $1.2 billion in grants and contracts from federal, state and local governments and private foundations, whereas John Hopkins University alone earned $1.6 billion; and the average annual amount awarded to individual HBCUs through government contracts and grants was $12.8 million, whereas the average for all higher education institutions was $27.7 million.[46] Funding inequities create a detrimental cycle in which institutions are not able to secure the most prestigious and generously funded federal grants because they have not been able to invest in research infrastructure including state-of-art equipment, sufficient research faculty, and robust contracts & grants and/or government affairs departments. As a consequence, HBCUs remain under-funded in comparison to their TWI peers, making it more difficult to bring in top research dollars. Title III (as well as Title V for other Minority Serving Institutions) of the HEA offers flexible funding institutions can use to bolster a variety of organizational activities, from instruction to management, and offer institutions a secure financial foundation.

2 INFUSE RESOURCES INTO RESEARCH AND TEACHING OPPORTUNITIES

In order to remain competitive in the research field and bolster opportunities for learning– and in order to rectify decades of inequitable funding allocations—HBCUs would benefit from significant funds targeting modernization of research labs, growth of research infrastructure, and the ability to cultivate and sustain research teams over time. Building onto the high quality and engaging programs that already exist, additional funding would create more space for innovation and the promotion of Black excellence. In addition, a byproduct of increasing research funding would be the creation of high-quality job opportunities connected to HBCUs.

3 ENSURE EQUITY IN FUNDING ALLOCATION

More oversight into the types of contracts and amounts awarded across postsecondary institutions is critical. Federal agencies should commit to making sure that the boards reviewing applications for funding are composed of racially diverse individuals—a practice that would also serve private funding agencies well. The federal government should consider incentivizing collaborations between HBCUs and other institutions—a practice that would also serve non-HBCUs well to consider. Federal agencies can also dedicate grant funding to MSIs; for example, the National Science Foundation has a grant program specifically for researchers at Hispanic Serving Institutions. By implementing a variety of regulations (e.g., dedicated funding lines, reviews of funding allocations) and structure (e.g., diversity on review boards), agencies can move towards more equitable patterns of funding across institutions.

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[46]Toldson, 2016.

4 Incentivize interdepartmental support of HBCUs

After the U.S. Department of Education, the U.S. Department of Health and Human Services (HHS) provides the largest amount of federal dollars to HBCUs.[47] HHS funding is often directed towards programs that promote community well-being and thus benefits the entire country, and in particular, communities that have been historically minoritized. And yet HBCUs received less than 1% of HHS funding in 2014—and relatedly, only 1.7% of National Science Foundation funding.[48] Strategic coordination of resources could lead to a significant infusion of resources into HBCUs from multiple agencies; the resulting research and products could produce significant benefits for society.

5 Appropriate funds to protect and modernize buildings on HBCU campuses

A 2018 U.S. Government Accountability Office (GAO) study found that the vast majority of HBCUs (70 out of 79 surveyed) had a large number of buildings in need of significant repair or replacement. The report identified three key reasons for capital projects: (1) deferred maintenance due to funding emergencies or constraints that funneled funds away from capital projects; (2) a need to update buildings, in particular academic buildings and residence halls; and (3) the upkeep of buildings that are designated as historic by the National Register of Historic Places which tend to be costly to maintain.[49] Investing in the physical infrastructure of HBCUs will promote a safer and more engaging environment for students—and likely increase the competitiveness of HBCUs in securing additional funding. The Department of Education's Capital Financing Program is one avenue for low-cost capital funding yet some HBCUs experience roadblocks in accessing the funds.[50] Direct, coordinated and sustained outreach about this opportunity and support for institutions applying to the program could literally change the landscape of HBCUs if more funding was secured to maintain and/or update building infrastructure. Funding for HBCU physical infrastructure should not rely on debt financing; such a shift would build on the recent debt-forgiveness included in the 2020 Congressional Appropriations bill.

Funding Community Colleges to Promote College Access and Student Success

Community colleges are a key gateway to higher education for racially minoritized students; however, too few students starting in a community college earn a certificate, associate's degree, or bachelor's degree.[51] Nationally,

[47]Toldson & Washington, 2015.

[48]Murakami, 2020.

[49]Emrey-Arras, 2018.

[50]Emrey-Arras, 2018.

[51]Shapiro et al., 2019.

community colleges receive about $8,800 less in total revenue per full-time equivalent (FTE) student than four-year institutions.[52] Given declining enrollments at community colleges in the wake of the Covid-19 pandemic[53] and anticipated cuts in higher education funding due to declining state budgets,[54] community colleges are facing an existential crisis, threatening access for millions of students. In order to support community colleges and leverage their potential as drivers of mobility and equity, we offer the following **three** recommendations:

1 Increase funding for community colleges

Funding increases could be achieved through direct federal investment in community colleges by creating tuition-free programs, as proposed by President Biden on the campaign trail and by the Democratic National Committee, or by offering matching grants to states who invest in community colleges. Community colleges should receive both flexible funds they can allocate as determined by local leadership and needs, as well as funds geared towards building comprehensive support programs proven to increase student success. These funds should also be invested in faculty, particularly recruiting and supporting Black and other racially minoritized faculty, and protecting full-time positions.[55] These reforms will benefit all community college students, and particularly Black and other racially minoritized students.[56]

2 Invest in programs supporting racially minoritized students

Congress should continue funding grants that encourage institutions to develop and replicate programs supporting racially minoritized students. For example, the First in the World grant competition rewarded institutions for implementing innovative, evidence-based practices to support racially minoritized students as well as low-income students, adult learners, first-generation students, and other non-traditional student populations.[57] Institutions received funding in 2014 and 2015 through Title VII funding provided by the HEA. Funding for this and similar grant competitions should be included in an HEA reauthorization to continue to encourage institutions to implement transformative programs and practices grounded in evidence and theory to improve equity in student outcomes, such as community college graduation rates.

3 Invest in digital and technological infrastructure for community colleges

The Covid-19 pandemic has highlighted racial inequities in college students' access to broadband internet,

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[52]Yuen, 2020.

[53]National Student Clearinghouse Research Center, 2020.

[54]Murakami, 2020.

[55]Kezar et al., 2019; Umbach, 2009.

[56]Harris et al., 2017.

[57]U.S. Department of Education, 2016.

laptops, and other tools necessary to participate in online learning.[58] While colleges will likely not remain remote following the widespread availability of a vaccine and the end of the pandemic, it is nevertheless increasingly critical to have reliable internet access and electronic devices for full economic participation and connection. By investing in digital tools, libraries, and students' access to technology, the HEA reauthorization has the potential to improve community college students' learning environments and long-term outcomes, such as graduation and labor market success.

Addressing Intersectionality in Gender-Based Discrimination through Title IX

In order to address systemic racism in higher education, the federal government must attend to the issues related to gender equity that fall under Title IX protections and disproportionately affect BIPOC women. Title IX of the Education Amendments of 1972 provide the framework for protecting individuals from sex-based discrimination. Sexual assault is common among women of all ages, races, and ethnicities, with one in five women in college experiencing sexual assault.[59] Black, Indigenous, and Latina/x women are sexually assaulted at higher rates than are white women, and are less likely to report the assault as a result of feelings of alienation from campus Title IX offices.[60] While data for anti-LGBTQ hate crimes and assault specifically among college populations are not available, nationally, 79% of people murdered in anti-LGBTQ hate crimes are people of color; this share increases to 82% when looking specifically at trans women of color.[61] Additionally, 13% of Black trans individuals report facing sexual violence in their workplace.[62] Here, we provide **three** recommendations to strengthen and reinforce Title IX protections that would help address these disparities:

1 SURVIVORS SHOULD BE PROTECTED THROUGHOUT THE PROCESS OF REPORTING SEXUAL VIOLENCE

Between 2011 and 2020, institutions received inconsistent and often contradictory guidance from the Department of Education about how to respond to sexual violence (including assault, harassment, stalking, and other physical and online behaviors) and protect students who either brought forward or were implicated by allegations of sexual violence. Many advocates view the current guidance as making it more difficult for

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[58]Ed Trust-West, 2020.

[59]Krebs et al., 2016.

[60]End Rape on Campus, n.d.; Murphy, 2015; National Organization for Women, 2018.

[61]Office for Victims of Crime, 2014.

[62]Office for Victims of Crime, 2014.

survivors to report sexual violence.[63] Specifically, the rule codified under the Trump Administration expanded the rights of students accused of sexual violence by creating a judicial-like process that gave the accused the rights to a live hearing with multiple panel members and to cross-examine accusers, which was not previously allowed. The rule also bars colleges and universities from allowing one person to both investigate and judge complaints and narrowed the definition of sexual harassment.

These decisions have widespread impacts for all survivors of sexual violence,[64] but their impact disproportionately falls on racially minoritized women. Black women report poor relationships with police and other law-enforcement agencies, affecting their willingness to report.[65] If they do report, they can face microaggressions and biases from investigators, panel members, and others involved in the process that can magnify the trauma of sexual violence. The Department of Education can support racial equity by protecting victims' rights, making reporting processes easier, and moving away from judicial-like processes for investigations.

2 PRIORITIZE THE PROTECTION OF TRANS* STUDENTS

Research shows that a larger percentage of anti-LGBTQ hate crimes and assault occur among people of color.[66] In addition to inconsistent protection of trans* rights through its investigatory and regulatory powers,[67] the Department of Education has previously maintained that Title IX was excluded from the Supreme Court's finding that laws prohibiting discrimination on the basis of sex also prohibit discrimination on the basis of sexual orientation and gender identity in the workplace.[68] Given the rapidly changing legal landscape and shifting directives from the Department of Education, campuses have not been provided with enough support or guidance for ensuring trans* rights and anti-discrimination.

The Department of Education should provide clear guidance for campuses on an approach to trans* students' rights, building upon 2016 guidelines and in line with recent executive actions taken by President Biden to protect trans* people's rights:

✓ Respond promptly and effectively to sex-based harassment of all students, including harassment based on a student's actual or perceived gender identity, trans* status, or gender transition;

✓ Treat students consistent with their gender identity even if their school records or identification documents indicate a different sex;

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[63] Anderson, 2020b.

[64] Melnick, 2020.

[65] Crenshaw et al., 2015; Ritchie, 2017.

[66] Human Rights Campaign, 2018.

[67] Tatum & Allen, 2020.

[68] Rubenstein, 2021.

- ✓ Allow students to participate in sex-segregated activities (including sports) and access sex-segregated facilities consistent with their gender identity; and

- ✓ Protect students' privacy related to their trans* status under Title IX and the Family Educational Rights and Privacy Act.

3 Collect additional data on Title IX complaints

As a starting point for enacting these two focus areas, the Office of Civil Rights should collect additional data on students who report and who are accused of sexual violence and discrimination on campus. Currently, colleges and universities are not required to collect information on student race and ethnicity in Title IX reports, and very little data exists on the experiences of trans* students. Collecting such data prevents the erasure of the experiences of racially minoritized and trans* students, and can prompt institutions to better protect students. While university staff and faculty are trained as mandatory reporters, institutions often lack mandatory reporting systems that can be used to file allegations and connect students with support; such systems could also be used to capture racial violence, discrimination, and hate on campus.

Conclusion

As a candidate and now as President, Joseph Biden has expressed a commitment to investing in education, expanding economic opportunity, and promoting racial equity. By reforming financial aid, regulating for-profit institutions, fully and strategically funding HBCUs and community colleges, and acknowledging students' intersectional identities through Title IX protections, HEA reauthorization offers the Biden Administration and Congress the opportunity to pursue all three goals. While HEA reauthorization represents an important opportunity to advance racial justice and counter anti-Blackness, it is far from the only action needed in higher education policy. State policymakers, institutional leaders, faculty members, staff members, and students all need to work together to respond to the call for transformation, healing, and racial justice.

ADDITIONAL RESOURCES:

This brief, focused on leveraging HEA reauthorization to combat systemic racism and anti-Blackness in higher education, joins a robust and ongoing conversation about how to advance racial equity in higher education. Here, we highlight a few additional writings and organizations working towards similar goals.

Further Reading:

American Association of Community Colleges: Transition Priorities for Biden-Harris Administration

Association of American Universities: AAU Recommendations to President-Elect Biden

American Association of University Professors: Recommendations to the Biden Administration

American Council on Education and Signatories: Open Letter on Higher Education Regulations

U.S. Public Interest Research Group: 100 days to defend students

Presidents' Alliance on Higher Education and Immigration: Ending DACA would limit access to higher education in ten states

The Institute for College Access and Success: How the 117th Congress Can Restore the Promise of Higher Education for All

Education Trust: Using Professional Judgement in Financial Aid to Advance Racial Justice and Equity

Pullias Center for Higher Education: Higher Ed Conversations in Black

Organizations:

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About the Pullias Center for Higher Education

The world's leading research center on student access and success in higher education, the Pullias Center for Higher Education advances innovative, scalable solutions to improve college outcomes for underserved students and to enhance the performance of postsecondary institutions. The Pullias Center is located within the USC Rossier School of Education, one of the world's premier centers for graduate study in urban education.

Since 1995, the mission of the Pullias Center for Higher Education is to bring a multidisciplinary perspective to complex social, political, and economic issues in higher education. Our work is devoted to the key issues of college access, retention, and accountability for underserved students—and the effectiveness of the colleges and universities that serve them. Both directly and through our research, we engage with institutional leaders, policymakers and the community at large to address the major challenges in educational equity today. For more information, please visit: **https://pullias.usc.edu**