

# A TURBULENT FORECAST: NAVIGATING CHOPPY 2019–20 HIGHER EDUCATION PUBLIC POLICY WATERS

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## **Abstract**

*It is vital to the well-being of colleges and universities to maintain and, if possible, increase federal support for student aid and scientific research while establishing a fair, reasonable and effective regulatory regime. But the public policy stakes and the uncertainty facing higher education in a turbulent, polarized, and partisan political and civic environment are as high as they have ever been, creating a complex and diverse set of challenges that will confront all institutions.*

Colleges and universities are faced with a new and potentially more complicated environment for federal policy than ever before<sup>1</sup>. The political reordering underway in national politics is more than just the predictably volatile nature of representative government. It is instead a remarkable moment in which shifts in the voting population, policy debates and legislative imperatives are colliding, with potentially profound consequences for higher education.

Underlying this moment is a generational shift in the relationship between higher education and the voting public. It is hardly novel to say that American politics has undergone a seismic reordering in the last few years and it is easy to frame the 2018 midterm elections simply as a response to the first two years of the Trump presidency. While correct, that view obscures the bigger picture, which in fact, shows the driving forces of this transformation extending back decades. The growing partisan divide reflects an accompanying gap between Americans based on their age, ethnicity, gender, geography and education.

This is more than an academic matter. The federal government plays a massive role in the day-to-day operations of American colleges and universities, particularly in the areas of student aid and scientific research. In 2018, the federal government made \$95 billion available to students and families in student loans. Another \$30 billion was distributed through the Pell Grant program and \$15 billion was provided under the GI Bill. NIH research funds—most of which will be used on college campuses—totaled more than \$39 billion. Just these four sources of funds add up to roughly \$180 billion. Imagine what higher education would look like if these funds were significantly reduced.

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<sup>1</sup> The data referred to in this essay are derived from publicly available sources such as the U.S. Department of Education, Pew Research Center and 2018 election exit polls.

The central premise of democracy is that the public, through their votes, determine the values that will be at the heart of public policy. Changes in the electorate can easily—and indeed are likely to—reshape what the public wants and expects the federal government to do. Such changes could be good, or bad, for higher education.

There have been immediate repercussions from the 2018 mid-term elections, of course, most notably the Democrats gaining forty seats in the House of Representatives and retaking the majority of that chamber for the first time since 2010. The political implications of that change have already been endlessly analyzed in the media. But what is more important than the day-to-day political squabbling is what this election tells us about how deeply polarized the electorate really is. In virtually every demographic group—education, race, age, and even college graduates—American voters are bitterly split.

### **Geography**

Voters from urban areas, who represent 32 percent of the electorate, favored Democrats 65% to 32%. Conversely, voters from rural areas, reflecting 17 percent of the electorate supported Republicans 56% to 42%. The urban versus rural divide along partisan lines remains alive and well in American politics. One telling example is that after the 2018 elections there are no Republican representatives from the 25 largest metropolitan areas, for the first time in American history. The majority of voters live in suburban areas, though, and those voters split evenly between the two parties, with each party garnering 49 percent of their votes. The net effect is a political climate in which Democrats own the cities, Republicans rule the country, and the suburbs are a political battlefield.

### **Race and Gender**

America is also divided by gender and race. While men were more closely split between Democrats (47%) and Republicans (51%), women overwhelmingly voted for Democrats by a margin of 19% (59% to 40%). Similarly, while white voters favored Republicans by 54% to 44%, Black (90%), Hispanic (69%) and Asian voters (77%) overwhelmingly voted Democratic.

### **Age**

Finally, the traditional split among voter preferences by age hardened in the 2018 midterms. Voters aged 18–29 (67%) and 30–44 (58%) disproportionately supported Democrats, while older voters narrowly preferred Republicans, with voters aged 45–64 voting for Republicans 50% to 49% and voters aged 65 and older supporting the GOP 50% to 48%.

### **Higher Education**

In and of itself, the data are not especially surprising. Historically, women, minorities, the young and urban voters have predominantly supported the Democratic Party, with the inverse being true for Republicans. These numbers,

however, are far more pronounced than we have seen in the past. A far bigger change reveals itself when we look at the voting behavior based on college education. America is now a country that also is separated politically by who has a college education.

According to data from the Pew Research Center, a college degree is one of the strongest indicators of party affiliation, regardless of race, ethnicity, gender, geography or age. In 2017, Pew found that 58 percent of people with a college degree identified as Democrats, compared to only 36 percent who identified as Republicans. This is not just a recent phenomenon, and one not specific to the current administration. Instead, it reflects a growing inversion of electoral demographics over the last twenty-five years. Pew found that in 1993, 49 percent of those with a college degree identified as Republicans, compared to 45 percent who identified as Democrats. In 2004, around the time of the Iraq War, Pew found voters with college degrees were equally likely to identify with either party, but since that election the gap has steadily widened.

Significantly, shifting voter identification is seen among adults without a college degree as well. Traditionally, the Democratic Party was seen as the party of the working class, unions, and blue-collar employees. The numbers in 1993 bore that out, with 53 percent of voters without a college degree identifying as Democrats, relative to only 39 percent who identified as Republicans. While Democrats maintained the majority of support from voters without a degree over the ensuing decades, starting in 2012, the gap narrowed significantly, to the point that in 2017, voters without a college degree are equally likely to identify as Republicans as they are to identify as Democrats.

Why is this meaningful? There are any number of ways to answer that question, but the focus here is on what it means for how the federal government approaches higher education. Elected officials tend to follow, and act upon, the views and priorities of their constituents. Historically, support for the importance of a higher education has been bipartisan, and strong bipartisan support has enabled the development of policies intended to provide access to postsecondary education for low- and middle-income families.

Part of the reason for that bipartisan support was a belief that a college education represented a central form of economic opportunity. College enabled individuals to move up the economic ladder. Parents, and therefore politicians, assumed that a college degree meant that their children would enjoy more economic prosperity than they would.

But that view may be changing. Increases in the price of college, the growth of student loan debt, a tight labor market and widespread (if inaccurate) stories in the media featuring college graduates living in their parents' basements playing video games have seriously undermined the long-standing narrative that a college degree is a passport to financial well-being.

This shift in the public narrative, modest as it currently may be, could have profound implications for how colleges and universities operate. The last two years have been generally positive for higher education, with a few caveats. Federal funding for student aid, scientific research and institutional support increased, in

some cases substantially. Efforts to reduce regulatory burden on institutions have been undertaken by the Department of Education, and while some of these efforts are ongoing, the general result has been to eliminate or reduce a number of existing reporting and regulatory requirements, while avoiding the creation of new ones. More federal spending and less regulation is, for the most part, a positive scenario.

But the gains have been somewhat offset by other federal policy initiatives that are problematic. For the second year in a row, there has been a decline in the number of foreign students applying to American colleges and universities, with other countries such as Canada and Australia seeing sizable increases. While there are several factors contributing to this, the Trump administration's approach, and the rhetorical tone it takes, toward countries such as China, undoubtedly affects the perception of the United States as a welcoming destination for international students. Similarly, the administration's termination of the Deferred Action for Childhood Arrivals (DACA) program, has created legal uncertainty for hundreds of thousands of students, known as Dreamers, who were brought to the United States illegally as children. The harsh and uncompromising tone of the immigration debate has contributed to the lack of a permanent legislative solution, even as multiple efforts to resolve the status of Dreamers have been attempted.

Looking forward, the situation grows increasingly complex. Divided government sharpens partisan rhetoric and limits the ability of the government to act. This often results in increased exercise of executive authority through regulation, and as we write this, that process appears to be underway. The Department of Education recently concluded the public comment period for its proposed regulations on the handling of sexual assault on college campuses under Title IX. This effort, which received greater public attention than any other rulemaking process in the agency's history, resulted in over 107,000 public comments being submitted, roughly twenty times the number of comments it usually receives.

While many of these comments represent thoughtful critiques of the Administration's proposed rules, many are nothing more than vituperative personal attacks on Secretary of Education DeVos and her team. In such an environment, a nuanced, careful discussion of how colleges should address the enormously complex issues related to campus sexual assault becomes impossible. If ever there was a regulatory issue where we need to be able to seek common ground, this is it. Whether we can have that conversation in the current environment seems highly unlikely.

Most colleges and universities have grave concerns about the overall approach of the regulatory proposal offered by the Department of Education. More generally, we fear, the proposed rule represents an unfortunate step away from the administration's stated goal of giving institutions the flexibility to handle sexual assault complaints in the ways that best fit their unique mission and circumstances. This is particularly true in the proposed rule's mandate that institutions adopt quasi-courtroom proceedings for the handling of sexual assault complaints.

As the Department works to address the voluminous public feedback it received on its Title IX regulations, it is simultaneously undertaking a separate

rulemaking focused on accreditation and innovation. While many of the proposals the Department has shared in these early stages are clearly well-intentioned, there are serious problems in how they attempt to address them. This process was still in the early stages as this was written, so we remain hopeful that better approaches will come to the fore.

The future of the regulatory efforts related to Title IX and accreditation is, for now, in the hands of the Department of Education. That is not the case with previous regulations, such as those on Gainful Employment (GE) and Borrower Defenses to Repayment (BDR). To recap: the Obama administration put in place regulations designed to limit the eligibility of occupationally-oriented programs to those that demonstrated that they provided participants with a solid economic return (GE), and another set of regulations to specify the circumstances under which a borrower could refuse to repay student loans because they had been defrauded (BDR). The Trump administration killed both regulations and has not yet moved to replace them. Democrats in Congress have protested and, at least in the House, plan to investigate.

Indeed, regardless of where the Department lands on regulations regarding colleges' handling of sexual assault and accreditation, there will be intense scrutiny of previous regulatory efforts by the Democratic majority in Congress. Democrats are eager to use their oversight authority, and already five separate House committees have announced they intend to hold hearings into various aspects of the Department of Education's work. Certain committees, such as the Education and Labor Committee (previously the Education and the Workforce Committee) plan to hold multiple hearings and it has already made numerous requests for documents and answers on the record targeting the actions of Department leadership over the past two years. The Department will undoubtedly slow walk any response. Such oversight always exacerbates partisan disagreement, and with a presidential election looming, the political posturing will be even greater than normal.

Heightened rhetoric over higher education will add another obstacle to Congress reauthorizing the Higher Education Act (HEA) before the 2020 elections. Rewriting this law, the most significant piece of federal legislation governing the relationship between colleges and universities, is already six years overdue to be reauthorized. As we enter 2019, there is momentum in the Senate, where the last two years witnessed a deadlock in discussions between the members of the Health, Education, Labor and Pensions (HELP) Committee. Sen. Lamar Alexander (R-TN), chairman of the committee, announced he will retire in 2020, and he would like to reauthorize the HEA before he does.

Beyond heated partisan rhetoric, there are a number of challenges that complicate the path to passing a comprehensive HEA bill. A presidential election year always shortens Congress's work schedule, with little meaningful legislation passed after July of an election year. More meaningfully, significant gaps exist between Republicans and Democrats in the Senate on issues like the handling of sexual assault, Public Service Loan Forgiveness, the cost of student aid programs and how for-profit institutions are handled in the law.

These gaps were very clear in the respective reauthorization bills offered in the House in the last Congress. The House Republican PROSPER Act, introduced in December of 2017, eliminated a number of student aid programs and made student loans more expensive for most borrowers. In all, the PROSPER Act would have cut nearly \$15 billion from student aid programs, while greatly loosening existing accountability measures and greatly expanding the number and types of organizations that could access federal financial aid. The AIM HIGHER Act, introduced by Democrats last July, went in exactly the opposite direction, massively increasing funding for student aid programs while adding new and more stringent accountability measures and regulatory and reporting requirements. Early estimates placed the cost of the AIM HIGHER Act above \$700 billion in additional federal spending over the next ten years.

In fact, partisan differences are more easily overcome in the House where the majority can (and often, does) simply outvote the minority party. That does not work in the Senate. Bills can, of course, be approved a committee on a party-line basis, but they rarely are considered on the Senate floor. Still, a House bill that sharply expands federal support for college would, eventually, need to be reconciled with whatever the Senate has passed, and any Senate bill is unlikely to sharply increase federal spending.

These proposals come against a backdrop of greater uncertainty for federal spending overall. In February 2019, Congress finally approved the federal 2019 budget, for a fiscal year that started almost five months earlier. While this agreement resolves one hurdle, the year ahead could easily see several more to overcome. The last two years have seen a sharp increase in the deficit, as spending increased and massive tax bill reduced government revenues. Concern about the deficit by the administration and Republican members of Congress has not yet been matched with concrete action, but an emphasis on reducing spending could easily set up a bitter partisan clash as Democrats seek to expand domestic programs they support. Hanging over all of this, the debt ceiling limit is set to expire on March 2, requiring new action to raise it, or risk the United States defaulting on its obligations. The use of so-called “extraordinary measures” will most likely push the effective deadline back to the fall, but in an election cycle with divided government, and a renewed concern by Republicans with government spending, lifting the debt limit could prove to be, well, a big lift.

It should be clear by now that both the stakes and the uncertainty facing colleges and universities in this environment are as high as they have ever been. Navigating those waters and the changes they portend will test the ability of institutional leadership as never before. The bottom line is that the federal policy environment creates a complex and diverse set of challenges that will confront all colleges and universities. Maintaining and, if possible, increasing federal support for student aid and scientific research, and establishing a fair, reasonable, and effective regulatory regime while dealing with a toxic partisan atmosphere in Washington and an increasingly divided electorate is a tall order. But given how central the federal government is to the well-being of every institution of higher education, this is vital to our well-being. To paraphrase Bette Davis in the film *All About Eve*: Buckle up. It’s going to be a bumpy ride.