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## FEDERAL RELATIONS

### Affirmative Action

The Justice and Education departments' plan to do away with Obama-era guidance on affirmative action is the latest sign that this administration wants to dive into a decades-old battle over how colleges may consider race in admissions. This comes as this President weighs a Supreme Court pick to replace Justice Anthony Kennedy, whose resignation has thrown the future of affirmative action into serious doubt. And it follows indications that this administration may throw its weight behind a new wave of legal challenges to race-based affirmative action, especially at colleges and universities.

The Supreme Court has ruled several times that colleges may use race in admissions as a way of achieving the "compelling interest" of achieving diversity on campuses, but it has also imposed some important limitations on such policies. The Court most recently, in 2016, upheld the use of race in admissions but cautioned that universities must first demonstrate that race-neutral means of addressing diversity have failed.

As federal courts have grappled with the constitutionality of the consideration of race in admissions, states have also taken action over the last several decades. California became the first state to formally ban the consideration of race in public university admissions in 1996 when voters passed a referendum. Since then, seven other states — Washington, Florida, Michigan, Nebraska, Arizona, New Hampshire and Oklahoma — have followed suit with similar bans. The Supreme Court most recently, in 2014, upheld the right of states to ban affirmative action, ruling that Michigan's ballot initiative banning the practice was constitutional.

Opponents of affirmative action, having lost in recent bids at the Supreme Court, have been working to tee up another challenge to race-based affirmative action. And there are signs that this administration is cheering along efforts. The latest wave of legal challenges to affirmative action has largely centered on allegations that elite university admissions are improperly stacked against Asian-American applicants. For unannounced reasons, the Department of Justice rescinded these guidelines.

### Confucius Institutes

The National Defense Authorization Act (NDAA) has language within it that bans federal funding for Confucius Institutes, but fortunately does not eliminate defense funding for universities and colleges that have these institutes on their campuses. An amendment to the NDAA that was adopted would force the Beijing-funded Confucius Institutes, which operate on the campuses of close to 100 American universities, to register with the Department of Justice as agents of a foreign government. Earlier this year, Sen. Marco Rubio (R-Fla.) urged his state's colleges and universities to shutter their Confucius Institutes – which they did. Rep. Seth Moulton (D-Mass.) did the same last week, calling

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on the 40 universities and colleges in his state to either shut or commit to never opening the institutes at all. In May, Sen. Ted Cruz (R-Tex.) alleged that Confucius Institutes are linked to espionage on U.S. universities and introduced legislation — the [Stop Higher Education Espionage and Theft Act](#) — in an effort to help the FBI to monitor the institutes.

In the wake of this Administration’s tariffs on China and crack-down on immigration in general, Congress is worried about CIs because of allegations that teachers and administrators from the institutes have been involved in censoring discussions about China on U.S. college campuses. The institutes are also controversial because many of the agreements between the Chinese government and the colleges and universities have been concluded in secret. Some college administrators, seduced by offers of funding from China, have cut faculty senates — which ordinarily would be involved in such decisions — out of the process. These are serious issues, but nothing that can’t be dealt with by the universities themselves.

APLU and other groups generally believe Congressional action to shut Confucius Institutes is foolish, and will do nothing to deal with the challenges presented by the People’s Republic of China. First, if American students are so easily brainwashed by biased textbooks and biased teaching methods imported from China, then we as a nation are really in trouble. Indeed, the congressional campaign against Confucius Institutes appears to be more politically inspired than based on any real threat emanating from the institutes themselves. There is no doubt Chinese spies are interested in stealing industrial and military technology from the campuses of American universities. There is also no doubt they are *not* doing it from Confucius Institutes. Recently, FBI Director Christopher A. Wray veered from his talking points in February when he told Congress that the FBI was looking into Confucius Institutes. Subsequent conversations with senior counterintelligence officials have confirmed that Confucius Institutes are not considered a threat to national security.

Our concern is instead of clarifying the challenge from China, those jumping on the congressional bandwagon have muddied it. In their eagerness to “do something” about China, they are doing the wrong thing: going after a relatively harmless language-training program while more serious intelligence breaches occur elsewhere. At this point, we have gotten language that is probably going to be the best we can get at this time. This will be worked out in conference committee probably during the month of September.

### Immigration

After the defeat of two separate GOP-drafted immigration bills, the President demanded that Congress pass laws allowing undocumented immigrants and asylum-seekers to be deported without due process, which he characterized as a “long and costly” process that the U.S. is foolish to carry. The President’s immigration policies, long a point of contention with his critics, have drawn extra scrutiny in recent weeks amid the controversy over the Administration’s policy of referring all illegal border-crossers for prosecution, a practice

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which resulted in the separation of thousands of children from their parents. After initially, and falsely, insisting that the separations could be ended only by Congress, the President signed an executive order last month ending the practice.

The concern going forward is the potential of these policies to chilling the interest of researchers, instructors and students to enroll at American universities and colleges. This issue will continue to be a key one going forward, and is ever-changing. One conclusion is Congress will not approve nor vote on comprehensive immigration reform this year.

### Labor HHS/Education

The Senate reported the Labor/HHS/Education Appropriations. The House reported its version from the floor. This bill is expected to be joined with Defense Appropriations, and will be voted as a “mini-bus.” Among other things, the bill provides funding for:

The National Institutes of Health (NIH): The bill provides \$39.1 billion for NIH, an increase of \$2 billion from last year’s level and \$4.5 billion above the President’s budget. The increase includes an additional \$425 million for Alzheimer’s disease research for a total of \$2.34 billion. It also includes increases of \$29 million for the BRAIN Initiative and \$37 million for research to combat antimicrobial resistance. Every NIH Institute and Center receives increased funding to support investments that advance science and speed the development of new therapies, diagnostics and preventive measures

College Access and Affordability: The bill builds on fiscal year 2018 investments made possible by the Bipartisan Budget Agreement of 2018 by maintaining or increasing a range of programs that help students prepare for, succeed in and pay for college. These include: \$22.5 billion in discretionary spending for Pell Grants in fiscal year 2019, and an increase in the maximum award by \$100, when combined with mandatory Pell funding will lead to a new level of \$6,195. The bill also rescinds \$600 million in prior year appropriations not currently needed for the program. The maximum award increase builds on the \$175 increase provided in the fiscal year 2018 Omnibus and reinstatement of year-round or summer Pell grants in fiscal year 2017 that will help make college more affordable for roughly eight million Pell recipients.

\$350 million to continue the discretionary relief fund for Public Service Loan Forgiveness (PSLF) created in the fiscal year 2018 Omnibus. This initiative corrects a flaw in the mandatory Public Service Loan Forgiveness program that has caused teachers and other public servants to be ineligible for forgiveness even though they were the intended beneficiaries of PSLF. The President’s budget eliminates this funding.

\$840 million for the Supplemental Educational Opportunity Grant program, preserving the \$107 million provided in fiscal year 2018 and rejecting the elimination proposed in the President’s budget. These funds provide additional grant aid to 1.6 million undergraduate students, 70 percent of who had family incomes less than 30 percent. The bill also rejects

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the 56 percent cut to the Federal Work Study program proposed in the President's budget, maintaining the current funding level of \$1.030 billion for the more than 600,000 undergraduate and graduate students who receive financial assistance through the program.

Office for Civil Rights (OCR): The bill provides \$125 million, an increase of \$8 million more than last year, for the Department of Education's OCR. These funds are provided to increase staffing levels for timely and effectively investigation of complaints, monitor implementation of corrective actions of education institutions, and allow for timely and accurate reporting of the important civil rights data collection. The President's budget provides just \$107 million for OCR.

## **STATE RELATIONS**

### Meeting with Microsoft re Aware Solutions Initiative

In late August, the Division of Government & Community Affairs met with University officials and representatives of Microsoft to discuss a joint venture called the Aware Solutions Initiative.

According to Corporate Relations, over the last several months, the Provost's Office, including C&IT, and Corporate Relations have been collaborating with Microsoft, WSUPD, Detroit Police Department, Ilitch Holdings, Rock Venture, and Homeland Security to establish an initiative that will:

- Engage private and public partnerships to foster safe and productive environments for those who live, work, and learn in the city.
- Leverage deep organizational and operational ties with law enforcement partners, private businesses, and the surrounding communities beyond the borders of Wayne State University.
- Integrate the community of crime fighting expertise and technology solutions to promote community safety in Detroit.

We will be drafting language and a briefing to present to State officials in hopes of having funding for the initiative included in the upcoming budget supplemental. Once the briefing materials are completed, we will engage with the lobbying team from Microsoft and meet with lawmakers.

### WSU Ilitch School of Business Ribbon Cutting

Members of the Division of Government and Community Affairs attended the ribbon cutting ceremony of the new WSU Ilitch School of Business facility in Detroit.

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We invited several state officials, included the Detroit Delegation and the winners of the primary elections in Detroit. That we observed, Sen. Ian Conyers was the only state lawmaker to attend the ceremony.

### Governor Signs General Fund Omnibus

On June 21st, the Governor signed the general fund omnibus budget (the non-education budgets). As expected, the budget contained the funding authorizations for the university Capital Outlay projects, including WSU's STEM Innovation Learning Center.

### Governor Signs Education Omnibus

On June 28th, the Governor signed the Education Omnibus budget, which includes the Higher Education budget.

The budget provides an overall 2 percent increase for university operations with a tuition restraint cap of 3.8 percent or \$490. The penalty for going over the cap in this budget is the loss of performance funding for three fiscal years and the loss of potential Capital Outlay projects for two fiscal years.

The budget would provide WSU with a \$3.19 million (or 1.6 percent) increase.

The sexual assault prevention/Title IX provisions of the budget are notable because, if a university is found not compliant with some of the new provisions, operations funding will be cut by 10 percent.

Dan Hurley of MASU sent the Budget Director and the Governor a letter on behalf of all of the universities asking the Governor to declare two portions of the Higher Education budget "unenforceable" in his signing letter.

The first area pertains to the tuition cap (no new state funding or capital outlay for three years for universities that exceed the cap) and boilerplate provisions regarding extensive new campus sexual assault reporting (reduction of 10% of base state appropriation for institutions that fail to meet all requirements). MASU believes that both sets of provisions are in conflict with state constitutional principles; conflicts that have been affirmed by court rulings and attorney general opinions.

As we now know, the Governor did not make these declarations in his signing letter but, as a group, we felt it was important to have registered a formal opposition to this language for future purposes.

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### URC Infrastructure Tour

The Directors of State Relations of the University Research Corridor (URC) institutions recently participated in a planning and brainstorming call with the new CEO of the URC regarding plans for the URC Infrastructure Tour. We discussed locations, timing and who would might participate. We will continue to meet and finalize plans in this regard.

### SB 889

In late July, the Governor signed into law Senate Bill 889, sponsored by Sen. Marty Knollenberg (R-Troy). This is the legislation that would delete requirements that an individual pass the basic skills examination in order to receive a teaching certificate.

As you might recall, this is the legislation the institutions with Colleges of Education requested earlier this year following the passage of SB 727, which changed the criteria used to grant an interim teaching certificate by deleting the requirement that an individual pass the basic skills examination. Our Education Deans felt it was only fair that the basic skills examination be eliminated for everyone.

## **GOVERNMENT HEALTH AFFAIRS**

### Opioid Awareness Day

On Tuesday, September 18, we will hold an Opioid Awareness Day on campus. There will be tables hosted by various schools and offices set up on Gullen Mall beginning at Noon. We plan to have representation from the School of Medicine, College of Pharmacy, College of Nursing, and Counseling and Psychological Services (CAPS), which will be providing a few different activities and demonstrations to engage and educate students about the epidemic.

The day will conclude with a panel discussion beginning at 4:00 p.m. in the Partrich Auditorium at the Law School. We have the following individuals as confirmed panelists: Richard Issaacson, a former DEA agent; Mike Hirst, a parent of a victim who now does advocacy work on this issue; and Dr. Beena Sood, a physician who works closely opioid abuse. We are still waiting on confirmation from an additional physician and a state legislator. Each panelist will give a brief presentation on their background and perspective of the opioid epidemic and then the program will open up to a Q&A session, so that the students have the opportunity to steer the conversation towards their particular interests and concerns.

### Michigan Department of Corrections (MDOC)

The partnership between MDOC and WSU is now more than nine months old and

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functioning at a very high level. We have had multiple calls with MDOC leadership and have received consistently positive feedback on the performance of Drs. McIntyre, Blessman, and Hussain. We were supposed to receive a six-month extension on the contract as of June 1<sup>st</sup>. Instead, MDOC requested an 18-month extension, which reflects on how well the relationship is performing. I have quarterly update calls with MDOC leadership to make sure we are exceeding their expectations.

#### Psychiatry Residency Training Grant

WSU has initiated contract conversation with DMC, to receive FY19 signatures well ahead of the beginning of the fiscal year on October 1<sup>st</sup>. In years past, DMC has delayed signing the contract, in some cases for more than a year. The WSU team has agreed to be more aggressive in moving up that time table, because of the risk of leadership changes or other instability within Tenet. To that end, DMC has agreed to sign a contract and agreed to terms, similar to the FY19 agreement. We are just waiting on their final signatures.

#### Graduate Medical Education (GME) Reform – MIDOCS

WSU and other members of the MIDOCS consortium have successfully received state legislative approval for \$25 million in funding for new primary care graduate medical education slots. This will provide WSU the opportunity to create approximately 12 new residency slots, including pediatrics, preventive medicine, family medicine, and psychiatry. The government affairs office has been working with the state Medicaid office to submit our pre-print application to CMS to authorize federal Medicaid matching funds. We hope to have approval from CMS by October and then approval from the accrediting bodies by early 2019. It is also likely that MIDOCS will use the Michigan AHEC (hosted by WSU) to run many of the day to day operational needs of MIDOCS.

#### Lycaki-Young Fund

The Lycaki-Young fund was first introduced in the mid-1990s. Since that time, WSU has received more than \$100 million in state funds to support care for the mentally ill and those affected by substance abuse. WSU has been a leader in providing critically important services to those affected in Wayne County and beyond. We host one of the largest Methadone clinics in the country.

Seven years ago, Governor Snyder introduced a state budget that completely eliminated the Lycaki Young Fund. Due to strong support from the Michigan Department of Health and Human Services, as well as a concerted effort to educate the Governor's office on the fund, we were able to save the fund from elimination. Each year since then, there have been efforts to cut the funds either by the executive branch or the legislature. We are proud to report that after seven years of hard work, the Governor has included full funding of \$5.6 million for Lycaki Young in his FY19 budget recommendation without any cuts. This is the first time the Governor has included full funding in four years. Furthermore, the legislature included into the final budget full funding for Lycaki Young and the governor signed it.

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### Poison Control Center

WSU staff has been performing due diligence on financials and operational details to determine whether we should take on the responsibility of running the Poison Control Center (PCC). The PCC receive more than 65,000 calls per year related to emergencies (most involving children). Tenet Corporation and DMC have hosted the PCC for more than 60 years, but it no longer fits into their scope of services plan. We have informed the state that, based on our analysis, there is an operational deficit of approximately \$600,000 per year and a one-time transition cost of \$350,000. We met with the Department of Health and Human Services, who has agreed to work with us and the legislature to identify approximately \$600,000 funds in a FY19 supplemental appropriation, which is likely to take place in November of this year. To that end, the government affairs team has met with house and senate legislative leaders to measure their level of support. Thus far, we have received very positive feedback and are optimistic we can get this done before the end of the calendar year. If so, then the PCC can fully transition to WSU by March 1<sup>st</sup> of 2019. This would be a significant opportunity for Wayne State in demonstrating our public health mission and expertise across the entire state. The PCC serves all counties in Michigan.

### Medicaid Enhanced Funding

For the past two years, government affairs has been working with other public universities in the state to prevent the elimination of the Medicaid enhanced funding program (PEPPAP). The PEPPAP program provides hundreds of millions of dollars annually to ensure Medicaid recipients have access to quality health services, especially as it relates to sub-specialty care. The loss of this program would devastate the state Medicaid program. The HHS Center for Medicaid and Medicare (CMS) issued a new rule three years ago that puts the program in danger of being eliminated. The public entities have met monthly to identify a solution. In July, the state Medicaid office applied to CMS to modify the PEPPAP program and ensure its indefinite survival. We expect to hear back from CMS by October on whether the revisions have been accepted.