

NATIONAL
DISABILITY RIGHTS
NETWORK



Protection & Advocacy for Individuals with Disabilities

The Honorable Virginia Foxx
Chairwoman
Education & Workforce Committee
2262 Rayburn House Office Building
Washington, DC 20515

The Honorable Bobby Scott
Ranking Member
Education & Workforce Committee
1201 Longworth House Office Building
Washington, DC 20515

December 11, 2017

Dear Chairwoman Foxx & Ranking Member Scott:

The National Disability Rights Network writes in opposition to H.R. 4508, the “Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act”.

NDRN is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies for individuals with disabilities. The P&A and CAP agencies were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. P&As and CAPs are in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands), and there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Collectively, the 57 P&A and CAP agencies are the largest provider of legally based advocacy services to people with disabilities in the United States. One of the critical areas of focus for the P&A/CAP agencies is education. In 2016 the P&As worked on nearly 14,000 individual and hundreds of systemic cases related to enforcing the civil rights of students with disabilities.

NDRN is alarmed that H.R. 4508 walks back access to and necessary supports for higher education for students with disabilities in a number of crucial ways. Specifically, the bill eliminates several programs that are critical to the success of students with disabilities and the educators who instruct them in K-12 and postsecondary programs.

- **H.R. 4508 eliminates programs that support teachers.** H.R. 4508 removes all of Title II from the Higher Education Opportunity Act (HEOA), which included grants that improve teacher quality and incentivize teachers to serve in high-need areas like special education. In addition, it eliminates the Teacher Education Assistance for College and Higher Education (TEACH) grants, which provide financial assistance to individuals who choose to pursue careers in public service, including educators and other school

professionals. Eliminating these programs will only exacerbate the special education teacher shortage crisis that 98% of school districts are already facing and limit the services and supports available to students with disabilities.

- **H.R. 4508 does not include the Respond, Innovative, Succeed and Empower (RISE) Act.** H.R. 4805 fails to include an essential component of the RISE Act that would require colleges and universities to accept a student's individualized education plan (IEP) or 504 plan as evidence of their disability. The RISE Act is a bi-partisan proposal that seeks to help more students with disabilities get in the door of their college's Disability Service Office and seek the accommodations they need to succeed.
- **H.R. 4508 eliminates grants that increase accessibility for students with disabilities on college campuses.** The PROSPER Act eliminates grant programs that support faculty who work with students with disabilities and provide accessible materials in college. This will make it more difficult for students with disabilities to secure technology and accessible materials in postsecondary education. Furthermore, it will leave college faculty with fewer resources and less training to support and instruct students with disabilities.
- **H.R. 4508 does not meaningfully include universal design for learning (UDL) in any provisions that address post-secondary instruction or accessibility for students with disabilities.** UDL is critical to ensuring that students with disabilities are provided an equal opportunity to participate in higher education. Any reauthorization of HEA should include opportunities for IHEs to develop campus-wide UDL strategies and for faculty to incorporate UDL as a strategy to improve instruction for students with disabilities.
- **H.R. 4508 includes a Pell Grant provision that may present additional barriers and diminish eligibility for students with disabilities in need of financial aid.** Students with disabilities in higher education may use accommodations that provide greater flexibility with their schedules and course loads to allow them to meet their academic goals. They should not be denied financial aid based on this. Students with disabilities must be eligible for the same types of financial aid, such as Pell Grants, as all other students. Federal law should ensure that students with disabilities are accommodated if they cannot meet requirements due to their disability.
- While NDRN appreciates the inclusion of the Accessible Instructional Materials in Higher Education (AIM High) language in the Amendment offered in the Nature of a Substitute, we oppose the inclusion of a safe harbor provision. NDRN believes that the AIM High language goes a long way towards addressing the problem of inaccessible instructional materials in post-secondary education. Indeed, technology holds the promise of equal access for many students with disabilities. However, NDRN cannot support the inclusion of a safe harbor provision which would essentially take away the mechanism to enforce accessibility requirements through the Department of Justice. The inclusion of a safe harbor provision undermines the entire goal of the language establishing accessibility guidelines.

NDRN does appreciate and acknowledge the below four provisions to support students with disabilities contained within H.R. 4508, specifically:

- (1) The bill includes new, improved data collection on students with disabilities and their postsecondary completion rates that will be publicly shared on the federal College Dashboard;
- (2) The bill includes new IMPACT grants to improve post-secondary access and completion for disadvantaged groups, including students with disabilities;
- (3) The bill maintains the National Technical Assistance Center that provides information to students and families on post-secondary options and supports college faculty in serving students with disabilities;
- (4) The bill maintains the Transition and Postsecondary Programs for Students with Intellectual Disabilities (TPSID) program which provides grants for individual supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program.

However, despite inclusion of the above mentioned provisions, NDRN feels that H.R. 4508 does not come close to providing students with disabilities meaningful access to higher education. We know that the unemployment rate for people with disabilities remains twice that of workers without a disability, despite the fact that there are 6.1 million available jobs in the United States and we know that the poverty rate for people with disabilities is 26.8%. It is unacceptable that H.R. 4508 diminishes rather than increases the chances of an individual with disabilities attending an institution of higher education with meaningful supports in place with the goal of obtaining competitive, integrated employment. We can and must do better than this.

We urge you to reconsider your approach to reauthorizing the Higher Education Act. NDRN stands ready to work with Congress to draft a legislative proposal that meets the needs of underserved students – including students with disabilities – and the faculty that serve them. Please feel free to contact Amanda Lowe, Senior Public Policy Analyst at Amanda.lowe@ndrn.org with any questions or concerns.

Sincerely,



Curt Decker
Executive Director

