

# Higher Education Recovery Task Force

*May 14, 2020, Breakout Session Summary*

The second meeting of the Higher Education Recovery Task Force focused on legal issues facing postsecondary institutions as they reopen their campuses to students, faculty, staff and others. The meeting featured a guest speaker, Jim Keller, a member of the National Association of College and University Attorneys (NACUA) and co-chair of Saul Ewing Arnstein & Lehr's higher education practice in Philadelphia. Notes from his presentation are found in a separate document. This document includes notes from the three breakout sessions that met for approximately 20 minutes after Mr. Keller's presentation. Task Force members were divided into three breakout groups: Campus Administration and Finance, Campus Health and Safety, and Academic Programs.

## **Campus Administration and Finance**

1. Did institutions in your state or system refund tuition, fees, or room and board? Were there any issues with that?

One urban institution in Texas reported it had refunded tuition and fees for the spring term. The Task Force member representing this institution explained they have low tuition and very few fees so not much to refund. Also, this institution does not offer housing or dining contracts so that question does not apply to them. They will be waiving some fees (e.g., parking) for summer term(s).

In Georgia, institutions refunded pro-rated housing, dining, parking, and other fees for the spring term. They will only charge tuition and limited technology fees for the summer term(s).

West Virginia did not refund any fees for the spring term but did pro-rate room and board charges and returned the unused portion to students. They do not typically charge fees for summer courses and plan to continue that policy this year.

2. Was there any push back on not returning fees?

Those Task Force members who were in this situation indicate there was no push back.

3. How will faculty and staff be monitored for compliance to policies on health and safety when returning to campus?

Task Force members reported that these policies are still a work in progress. They are working with state and local health officials for guidance. One Task Force member explained that this guidance can be general or broad.

In Louisiana, some community and technical colleges have contracted with nearby hospitals to provide personal protective equipment, testing and temperature checks.

A Task Force member from West Virginia asked if we are putting faculty and students at greater risk to participate in face-to-face instruction when they can attend most courses online.

A Task Force member representing an urban commuter campus pointed out that an institution can have a policy for testing and taking temperature of individuals on campus, but how do you make students, faculty, staff and visitors adhere to the policy?

4. Does state or college workers' compensation law include COVID-19 or similar diseases as compensable?

The breakout group did not respond to this question.

## **Campus Health and Safety**

How do you operationalize and make effective temperature checks, testing and tracing?

**Temperature checks.** Task Force members asked if institutions could require students, faculty, staff, and visitors to submit to temperature checks. And, if you can, how do you cover a large college campus with multiple entry points? Where would an institution get the equipment to do these checks? Also, are these temperature checks a valid indicator of whether an individual is sick? Finally, how do you enforce the policy? How do you make a person submit to a temperature check if they do not want to? If they do submit and their temperature is elevated, how do you get them to leave the campus?

**Testing.** A Task Force member asked if an institution can require that a student or employee be tested for COVID-19. A member from Georgia reported that the University System of Georgia is developing a menu of testing options for institutions to consider. This recognizes that capacity to test varies by institution. Some smaller institutions are working with local health departments and laboratories for testing.

Another Task Force member asked if it would be sufficient to test a random sample of students since traditional age students are more likely to be asymptomatic.

**Contact tracing.** With respect to tracing, Task Force members asked who would be responsible and is it realistic to expect that contact tracing could be done for all infected individuals.

In Georgia, when an institution works with the local health department, an individual employed with the institution serves as a point of contact for the health department to help them navigate the campus environment. When a local health department finds a positive case from an institution, they will inform the contact person at the institution. The goal is for the institution to assist and support the health department in contact tracing. The health department, not the institution, will notify the contact that they might have been exposed.

West Virginia is working with the National Guard to develop a course on contact tracing to build their capacity for contact tracing in that state.

**Screening questions.** A Task Force member asked if asking basic screening questions can be helpful. The CDC self-checker self-assessment tool might be useful. It is found at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.

**Cleaning.** West Virginia is developing new procedures for cleaning that differ from the cleaning processes that already exist. They are working with the National Guard data analysts to identify formulas for estimating how much product institutions will need to buy with the new cleaning procedures.

### Academic Programs

1. How will your college/system change policies regarding ACT/SAT for admissions if students are unable to take exams? How will you mitigate legal risk of students who were denied admissions based on ACT/SAT prior to changes in the admissions policy?
2. What actions are you taking to accommodate students with disabilities taking online courses?
3. How will pass/fail grading affect student's GPA, transcripts, transfers, or scholarship opportunities?
4. How will pass/fail grading affect graduate opportunities?

Members of this breakout group indicated that institutions have already created policies in response to the first question. In Kentucky, many are temporarily not requiring the ACT or SAT for admission. They are still requiring high school grade point average. A Task Force member from Kentucky also suggested that institutions have also had to answer the second question with the transition to digital learning midway through the spring term.

Some Task Force members reported that institutions in their state or system allowed students to choose a pass/fail grade rather than a letter grade midway through the spring term. Some students who chose to take a class pass/fail later requested to change that to a letter grade. They discovered that letter grades were needed, in some cases, to qualify for student financial aid or for admission to graduate and professional (medical, law, etc.) programs. The reason is pass/fail grades do not have quality points and cannot be included in the grade point average calculation. As a result, institutions in some states are allowing students to change back to letter grades. Another Task Force member said that remedial students who are repeating a course to raise their grade point average and opted to take it pass/fail can be hurt because the pass/fail grade will not be included in the grade point average calculation.

One Task Force member reported that NCAA restrictions made it impossible for students with those scholarships to take classes pass/fail.

Another Task Force member said that community colleges in her state were not offering the option of pass/fail grades. Instead, they are working with students to give them more time to complete course work or offer them the option to take incompletes and finish the course work later.