

Jason Altmire ([00:04](#)):

Hello and welcome to another edition of Career Education Report. I am Jason Altmire, and today we have a very special guest, one that needs no introduction, very well known, and it is Terry Hartle from the American Council on Education. And Terry is the Senior Vice President for Government Relations and Public Affairs. But really what Terry is, is the face of the association and the face of higher education, generally, on Capitol Hill and has been for 30 years.

Jason Altmire ([00:39](#)):

First of all, let me talk more about you. You're about to retire. Terry, let me say hello to you and welcome you and allow you to introduce yourself. But we're going to talk about your career and what you've learned in higher education and what you expect in the future. But just welcome to the program, and thank you for everything you've done for higher education over the years.

Terry Hartle ([01:02](#)):

Well, thank you for the very kind words, Congressman. I'm delighted to be here. Greatly appreciate the chance to spend a little time with you and talk about some of the issues that we're facing now and that we're likely to face in the future. As we were discussing, before they started the cameras rolling, this looks like it's going to be quite a very interesting couple of years in the House of Representatives.

Jason Altmire ([01:26](#)):

Everybody in our sector and across higher education knows you, is fond of you, understands the importance of the work that you have done. And as I said, you've been at the council since 1993. But I don't think people have a full grasp of the incredible work you did in higher education, public policy in particular, before you came to the American Council on Education. Can you talk a little bit about the work that you did in the Senate before then? And then you were also with some think tanks and did some very important writing, as well, and thought leadership in higher ed.

Terry Hartle ([02:04](#)):

Well, before I joined the American Council on Education in 1993, I had been the Education Staff Director of what was then the Senate Committee on Labor and Human Resources. It is now the Senate Help Committee. And the committee at that time was chaired by Senator Kennedy and I was his principal advisor on education issues. And I spent quite a few years with him. It was an amazing, wonderful experience. Before I worked for Senator Kennedy, I had worked as a Senior Fellow at the American Enterprise Institute, and prior to that I'd been a research scientist at the Educational Testing Service, ETS, of course located in Princeton, New Jersey. But I had worked out of their Washington DC office.

Jason Altmire ([02:54](#)):

And when you worked for Senator Kennedy, I think he, of course, has a reputation of having been very much a Democrat, very partisan in some cases. But I think it's a surprise to some that when he led that committee and the work that he did, he did reach across the aisle and he sought compromise, and he had some enormous legislative successes as a result of that. What did you learn from that experience of working for such a legendary senator?

Terry Hartle ([03:24](#)):

Well, it was a highlight of my career to say the least. Senator Kennedy was totally devoted to the work of the committee. But he fundamentally believed that the only way you would get things done would be if you took something of a bipartisan approach. Obviously, as you've noted, he was a very strong Democrat. He was capable of being as partisan as anyone. But he fundamentally understood that if he wanted to get things done, he was going to have to reach across the aisle to get it done. And I think particularly in education, this was something that he was willing to do.

Terry Hartle ([04:02](#)):

When I went to work for him in 1986, he'd been pretty staked out on labor issues. He'd been pretty staked out on health issues. He had done some work in education, but he hadn't really staked out a lot of positions. So there was an awful lot of room for him to do things that surprised people and seemed a little different than what a liberal Democrat might be thinking about doing. So he had great flexibility in education and it was my good fortune to work for him at that particular point in his legendary career.

Jason Altmire ([04:36](#)):

And the fact that you had that experience in the 30 years you've been at ACE put you in a unique position to be able to comment, I think, on the legislative prognosis for Congress over the next couple of years, in the new Congress. And you are stepping away from that role, but I know you must still have some thoughts on the way Congress has evolved. And for those that are going to be involved in advocating for different positions in higher education in the 118th Congress, what would be your suggestion on how to approach the current political apparatus? Because the dynamics have changed so much and it's so much more of a partisan institution.

Terry Hartle ([05:16](#)):

Yes, it's certainly not the Congress it was when I worked there in the late 1980s, early 1990s, and it's not the Congress that it was when you were there. It's a very different institution. I think fundamentally, for people in higher education and in other industries, it's pretty much the same game. You find people who are willing to listen to you and who are interested in what you've got to say. You make your best case for them and do everything you can to move them in the direction you want them to go.

Terry Hartle ([05:48](#)):

But having said that, I think the likelihood that we're going to see much legislation coming out of Congress in the next couple of years is pretty low. We just saw the challenge of electing a House Speaker. Speaker McCarthy only has a margin of four seats to work with in the Republican caucus. He does not have any wiggle room. Getting legislation passed is going to be a real challenge. It is quite possible that we will see committees pass legislation, and it might even pass on a party line vote the House of Representatives. But it probably isn't going to pass the Senate. And of course you've got the Biden administration that would still have to give its ascent.

Terry Hartle ([06:31](#)):

So I think the likelihood of significant legislation is pretty low. And we have seen, in the past, House committees be able to pass legislation on a committee that they can't bring up on the floor because they don't even have the votes on their own side. In 2017, the House passed a reauthorization bill out of

committee. It was called the Prosper Act, but they passed it out on a party line vote, and they couldn't even bring it up on the floor of the house even though, 2017, they had about a year and a half to try to figure out how to bring it up for a vote.

Terry Hartle ([07:07](#)):

So I think we could see a repeat of that where committees are doing a lot of stuff, they're doing a lot of investigations, there's a lot of noise, a fair amount of controversy, and at the end of the day, relatively little legislation gets done. The Higher Education Act will not be reauthorized in the next Congress. I sometimes tell people that the Higher Education Act will be reauthorized in 2040, give or take a decade, but even in the House, you need some measure of bipartisanship to move that legislation forward. And certainly in the Senate, you can't even think about doing it if you don't have some bipartisan compromise.

Terry Hartle ([07:50](#)):

Congress, and you will well remember at the end of 2020 that Lamar Alexander and Pat Murray, two old time legislators who wanted to get stuff done, tried very hard to negotiate a framework to reauthorize the Higher Education Act, and they couldn't get there. They couldn't even get to a point where they could take something back to their committee and say, "Here's where we're going to start." And my view is, if people like Lamar and Patty can't get it done, the likelihood that any two other members of the Senate are going to find it easier is much less likely.

Terry Hartle ([08:27](#)):

And, of course, you've got the uncertainty over the House. You've got the presidential politics that'll start to kick in, in about six months. So I think major legislation with respect to higher education and public policy, it's just not in the cards in the next two years. I think we will be seeing a huge effort by the Biden administration to do stuff regulatorily because that's the only way that they're going to get things done. In a sense, really since the second Obama term, what we've seen is a Congress that is largely gridlocked, and so we've seen the executive branch move as much stuff as they can by themselves. Certainly this is what the Obama administration did in their second term.

Terry Hartle ([09:15](#)):

The Trump administration put this on steroids. The Biden administration had a couple of years when they had a very thin margin, and in truth, they got a fair amount of things done given how little breathing room they had. But that breathing room is gone, and it's pretty clear, I think, that the House Republicans in particular are going to be looking to contest the administration every opportunity they get over everything. So I think legislation isn't going to happen. I think if the Biden administration wants to get stuff done, they're going to have to do it through the regulatory process.

Jason Altmire ([09:51](#)):

Can you talk on the regulatory process? We, of course, have some significant issues among our membership with regulations that are pending and are coming. How does an organization like ACE, which represents a very diverse membership, all corners, all possible aspects of higher education are

among your members, how do you navigate the politics within your own membership when you decide whether to take a stand on an issue, or to advocate one way or the other?

Terry Hartle ([10:23](#)):

Well, sometimes of course, we just can't take a stand on an issue because the community is too divided for us to find a common ground. That pretty much writes us out of the public policy discussion. All the individual associations can push their own wheelbarrows up on the hill, but they're sort of pushing their wheelbarrows into each other. So finding common ground is really critically important. With respect to the regulatory process, that's, as you know, much more in the weeds, much more detailed. I think in any regulatory process I have ever been a part of, I have seen stuff that I really liked and stuff that I really disliked. And it comes out, at the end, to a question of balance. Are we better off on balance with the regulatory package that they're putting forward or are we not?

Terry Hartle ([11:15](#)):

I've been very interested... the administration has started to signal some of the stuff they would like to do in the next two years. They laid out last week that they want to start another negotiated rule making round in April. Many of these things will deal with regulations that the Trump administration put in place, but they're going to start the process in April. That means they have to do some public hearings. That means they then have to solicit participants. They won't start the actual regulatory process, the actual meeting in negotiated rulemaking, until the fall. The likelihood that we will see regulations in place before the middle of 2025 is infinitesimally small.

Terry Hartle ([12:01](#)):

The regulations at the Department of Education, when they have to do negotiated rule making, take forever. And that's something that has bedeviled them so far. Obviously, all the folks that are listening to us will know that the administration has already done two rounds of negotiated rulemaking. They completed those last spring, the spring of 2022, but they were only able to get about half of them published in final form before November 1st.

Terry Hartle ([12:31](#)):

So the other regs that are still pending from that last regulatory session are hanging around. They're going to move those forward this year, but it's another load that they're putting on the wagon that they're trying to pull, and it's going to take some work to get everything they want over the top. They don't always have to do negotiated rule making. We expect, because the administration has now announced it, that they will do a regulation this year on section 117. This doesn't typically affect for-profit schools the way it does, say, major research universities. This is foreign gift reporting, but this doesn't require negotiated rule making because it's in Title I of the Higher Education Act, not Title IV. But it's another regulatory initiative that is going to compete for time and energy and resources within the agency. The department is waiting to publish a final regulations on Title IX, sexual assault.

Terry Hartle ([13:37](#)):

This is something all colleges and universities have had to contend with over the last couple of years. They received 200,000 comments on their draft Title IX regulation. This is an agency that usually gets 1000 or 2000 comments on their draft regulations. And one of the rules of the regulatory process is that the agency has to be able to show that they have considered all of the comments that were submitted. They don't have to take the comments, but they have to show that they thought about them. And when you've got 200,000 people writing comments in, the workload to think that through is overwhelming. It took the Trump administration 18 months to publish final regulations on Title IX, and they only got about 125,000 comments. Biden administration's looking at even a bigger workload on that.

Terry Hartle ([14:30](#)):

So I think regulation, regulation, regulation is going to be the agenda for people who do what you and I do, in terms of watching the federal government on behalf of colleges and universities. How much of it they get done remains to be seen. But we're going to be spending a lot more time worrying about the executive branch and comparatively less worrying about the legislative branch than we did in the last two years.

Jason Altmire ([14:57](#)):

And in your career we've seen the pendulum of presidential administration swing back and forth. It went from, for you, president Bush the first, George H.W. Bush, to Bill Clinton, to George Bush, to President Obama, to Trump, now to Biden. And what happens more recently is the new administration will come in and take a completely different look at implementing regulations that have already been slated to take effect, and in some cases overturning them and starting from scratch. Does ACE have a concern about that dynamic?

Terry Hartle ([15:34](#)):

Oh, sure. Because one of the things that's important for all colleges and universities, doesn't matter what type you are, is some stability in the regulatory apparatus that you have to deal with. Regulations that change frequently are a great problem for campuses to deal with because campuses have lots of stuff going on and a new set of regulations that seems to reverse what the previous administration did means a great deal of work for the school to figure out how to comply with it. We've seen this particularly with respect to Title IX. Title IX, for a very long time, did not have regulations. It was operated under guidance, which is, sort of, letter rulings from the agency saying this is how we're going to look at things.

Terry Hartle ([16:22](#)):

The Trump administration said, "This isn't right. We are going to have formal regulations on Title IX." And to their great credit, they put forward a regulatory process and published final regulations. I say that not because I necessarily like the Trump administration regulations, but because it was such an extraordinarily complicated task. And frankly, it was the right thing to do for schools and universities to make sure they understand exactly what was expected of them.

Terry Hartle ([16:53](#)):

Biden administration has now said, "We don't like the Trump administration rules. We're going to rewrite them." Well, this'll be the third set of requirements imposed on colleges and universities of all types in the last 10 years. This is not a simple regulation. This is not a light switch that's either on or off. This is stuff that is very, very hard. It affects a large number of people on campus in terms of responsibilities and requirements. So schools are going to spend a lot more time, I think, trying to understand how the regulatory environment is changing, what requirements are new, what requirements are going away, and how they're going to deal with them.

Terry Hartle ([17:39](#)):

I think, particularly looking at the huge regulatory agenda that the Department of Education and the Biden administration in general has put forward for the coming Congress, suggests that there's going to be an awful lot of regulatory work going on on campuses. As you would fully appreciate, regulatory work is not as exciting as legislative work. Legislation is a big deal. There's the floor of the House, the floor of the Senate, it's on CSPAN. The regulatory stuff is very much in the weeds. Getting campuses to see what the implications of regulations can be, can be a huge challenge for any association.

Jason Altmire ([18:19](#)):

We've talked a lot about what has happened in the past and what you've seen. I want to focus and take advantage of your expertise on what is to come. What do you think are the hot issues in higher education that are going to take place over the next few years?

Terry Hartle ([18:36](#)):

Well, I think for many colleges and universities, an issue that they're going to face, of course, is enrollment. There is an enrollment cliff that is particularly going to affect schools in New England, upstate New York, the Rust Belt, the Great Plains, the Upper Plains. A lot of states in those areas are already seeing declines in 18-year-old population. That's traditional population colleges and universities have drawn from. So great concerns about how this is going to play out going forward. Interestingly, I have seen this before in my career. The post World War II baby boom ended in 1964, so about 1978, 1979, people started saying, "Whoa, there is a huge shortage in 18-year-olds coming because we didn't have as many babies, starting in 1964, as we used to." And it was widely assumed that we would see widespread closures of colleges and universities. It didn't happen.

Terry Hartle ([19:36](#)):

Why didn't it happen? Because colleges and universities discovered a new market, largely adult students. So it is quite possible we will see colleges and universities close. Indeed, the numbers suggest we're seeing more of them close and merge in the last couple of years than we had seen over the preceding decade. But it's equally possible that colleges and universities might identify new markets to serve as they try to fill their seats. I don't want to be seen as being Pollyanna ish about this. On the other hand, history tells us that a lot of these institutions that have been around since the middle of the 19th century have shown that they can adjust to changing circumstances. Whether they can do it again or not, I think will be one of the big issues we will be watching over the next 10 years.

Terry Hartle ([20:27](#)):

I think a second issue that will be of great interest to many colleges and universities, and certainly to our students, are questions related to student debt. Whether or not they've borrowed too much money that they can't possibly pay it back. Whether we as a country have made it too easy for people to borrow money for higher education. Whether we need to start limiting access to education loans based on the expected rate of return in light of the major that students are enrolling in.

Terry Hartle ([20:56](#)):

This would obviously be a huge change in federal policy. The administrations have been thinking about this with respect to something called gainful employment for a few years. The Biden administration says they want to go back and look at gainful employment. I don't think there's any reason why they won't look at it in terms of traditional colleges and universities as well. Certainly, it's possible right now to look at any school in the country, any school, and to calculate an average indebtedness and average earnings two years after graduation. At traditional colleges they can actually break this down by major field of study. So I think we'll be hearing a lot more about the financial return from higher education and whether people are able to pay off their student debts and whether or not we ought to be thinking about new policies involving federal student loans.

Terry Hartle ([21:52](#)):

I think for much of higher education, the big issues in the coming year will be in the Supreme Court. The Supreme Court will decide if President Biden's student loan debt forgiveness plan passes Constitutional muster. Probably won't have a decision on that until May or June. And they will also decide whether colleges and universities can, if they want to, continue to consider race as one part of a holistic admissions process. Those are really significant, important, major decisions that are going to have quite an impact on students and on institutions. And frankly on shaping the environment in which colleges and universities exist in. So I think that the Supreme Court is another area where things will be busy and active, more so than in most years, with significant implications for us.

Jason Altmire ([22:45](#)):

This has been Dr. Terry Hartle, Senior Vice President, Government Relations and Public Affairs for the American Council on Education. And Terry, on behalf of everybody in higher education, thank you so much for everything that you have done over the years. A 50-year career in higher education, the last 30 of which were at ACE. Just cannot thank you enough for everything that you have done. And I just wonder, as we close, as you step away, what would be your words of wisdom for those who were continuing in higher education moving forward?

Terry Hartle ([23:21](#)):

Well, I guess it's partly we're all creatures of what our experience is and our background. But the one thing I would say is that the federal government is not going to be less important to colleges and universities in the years ahead. They will be at least as important as they are now. It would appear we're going to have another big set of debates, particularly in the House, about the federal budget and what the federal government spends money on. All institutions depend to a large extent on federal student aid to help students enroll. And of course, many colleges and universities depend significantly on federal research help to keep their research arms operating. So I think that the political environment is not

going to get neater and cleaner. I think it's going to be very messy in the years ahead, but I think the stakes for colleges and universities and our students and their families will be very high indeed.

Jason Altmire ([24:18](#)):

Terry Hartle, thank you for being with us today.

Terry Hartle ([24:21](#)):

Thank you very much, Congressman. I'm honored to be on with you.

Jason Altmire ([24:26](#)):

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