



**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503**

February 6, 2008  
(House Rules)

## **STATEMENT OF ADMINISTRATION POLICY**

### **H.R. 4137 – College Opportunity and Affordability Act of 2007**

(Reps. Miller (D) CA and 29 cosponsors)

The Administration supports reauthorizing the Higher Education Act (HEA) in a manner that makes higher education more accessible, affordable, and accountable. However, the Administration strongly opposes House passage of H.R. 4137, the “College Opportunity and Affordability Act of 2007,” as reported by the Committee on Education and Labor, because it would restrict the Department of Education’s authority to regulate on accreditation; create nearly four dozen new, costly, and duplicative Federal programs; condition receipt of Federal grant funding on tuition price; and restrict the Department’s ability to evaluate and effectively manage Upward Bound and other TRIO programs.

Reauthorization provides the opportunity to enact needed reforms to the Department of Education’s postsecondary education programs, simplify the complex system of Federal financial aid for students and families, target resources to the neediest students, and provide flexibility to address the needs of adults and other non-traditional students. The President’s FY 2009 Budget includes several proposals that achieve these objectives, but unfortunately H.R. 4137 does not address these urgent issues. The Administration looks forward to working with Congress to address these objections and other concerns, and to improve the bill as the legislative process moves forward.

In particular, the Administration strongly opposes provisions that prohibit the Department of Education from promulgating regulations affecting postsecondary accreditation. The ability to regulate in this area is a necessary check on an otherwise self-regulating system to maintain transparency, rigorous oversight, and accountability for the investment of Federal tax dollars. H.R. 4137’s prohibition would hamper the Department’s ability to protect the integrity of the large Federal investment in postsecondary education and to help students and parents make informed decisions about college.

The Administration also strongly opposes the bill’s creation of many new Federal programs, many of which are narrow in purpose, duplicative, burdensome, and poorly targeted. For example, H.R. 4137 would create a new research organization that would likely duplicate the work of other Federal entities, such as the Institute of Education Sciences, without being subject to the same high standards for scientifically based research.

In addition, the Administration is concerned that many of the bill’s new Federal programs would prioritize or restrict eligibility to institutions or groups defined by racial or ethnic criteria, including express racial enrollment quotas. These provisions raise significant constitutional concerns under the equal protection component of the Due Process Clause.

The Administration opposes a provision of the bill that would direct the Secretary to ask the Attorney General to review any settlement agreement for any claim under the HEA exceeding \$1 million and to issue “an opinion” concerning the settlement agreement to the Secretary and oversight committees of Congress. If the intent of this provision is to direct the Attorney General to prepare and disclose to Congress legal opinions addressing settlement details in particular cases, such a directive would raise concerns including, but not limited to, interfering with the Executive Branch’s law enforcement authority and jeopardizing the confidentiality of information and the government’s legal positions in current and future cases.

The Administration supports provisions in H.R. 4137 that would provide additional information about the quality and value of the education that students and families are paying for, such as institutional enrollment and graduation rates. H.R. 4137 takes a good first step toward having institutions be more transparent about costs and quality through reporting and publication of such data.

However, the Administration strongly opposes the “Incentives and Rewards for Low Tuition” program that would condition receipt of Federal grant funds on tuition price. While college affordability is a worthy goal, the Administration opposes tuition price controls or any attempt to require the justification of pricing to the U.S. Government instead of to consumers who are best able to decide such issues, especially when armed with adequate information. Pricing of services like higher education is complicated, and government regulation of pricing comes with unintended consequences such as penalizing institutions for making investments in quality improvements.

The Administration also strongly opposes provisions in H.R. 4137 that would prohibit the Department of Education from ever rigorously evaluating the effectiveness of the Upward Bound or TRIO programs. In addition, the Administration strongly opposes provisions that would nullify Upward Bound’s FY 2007 grant competition requirement that grantees target their activities to the neediest students and give rejected TRIO applicants special appeal rights not available in other grant programs.

Though the Administration is pleased that the bill includes a number of the President’s HEA-related budget proposals for FY 2008, such as providing for year-round Pell Grants, H.R. 4137 does not fully offset these increased costs. Congress should include current Pell Grant recipients, and limit the proposal to 16 semesters as in the President’s proposal.

The Administration opposes the bill’s revisions to the Federal Perkins Loan program. Rather than eliminating or reforming this poorly targeted program, H.R. 4137 would allow institutions to retain defaulted Federal Perkins Loans that institutions have been unable to collect on for seven or more years, rather than refer them to the Department of Education. The Department has access to numerous debt collection tools that are unavailable to institutions, and it is better positioned to manage the prompt repayment of these delinquent loans.

The Administration supports the steps taken by H.R. 4137 to ensure that students and parents have the information they need to make informed decisions about borrowing for college. The Administration also supports the bill’s provisions designed to eliminate questionable lender arrangements with institutions, but notes that Congress needs to further work on these provisions

to ensure that they do not extend the Department's enforcement powers beyond the Title IV programs. The Administration also appreciates the bill's efforts to simplify the Free Application for Federal Student Aid (FAFSA). However, the Administration notes that the bill would actually make the FAFSA process more complex for low-income families by adding new income-reporting requirements for dislocated workers.

The Administration strongly opposes the bill's failure to reform the Title VI International Education programs to increase accountability, and urges the House instead to adopt the Senate's language. This will ensure that students have access to diverse views and allow for a dispute resolution process; provide for interagency consultation to ensure Title VI programs are focused on areas of national need; and improve information on the occupational outcomes of program participants. Finally, the Administration opposes H.R. 4137's unnecessary and intrusive requirement that the Department establish a new Assistant Secretary of International Education position.

The Administration will work to address other concerns with the legislation, including: (1) provisions that remove authority for performance pay for teachers and principals; (2) provisions creating new nurse education grant programs in the Department of Education that duplicate HHS programs; (3) the establishment of an inefficient new loan program for institutions affected by disasters that is inconsistent with Federal credit policy; (4) the restructuring of the National Advisory Council on Institutional Quality and Integrity; and (5) addressing the information policy and technology requirements throughout the bill to ensure they are consistent with current Administration policies, and not duplicative of existing Federal programs.

The Administration looks forward to working with the Congress to resolve these objections through the legislative process and to produce a reauthorized HEA that is limited in size, cost-effective, targeted, streamlined, and improves accountability.

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