

**Statement of
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**Before the
Subcommittee on 21st Century Competitiveness
Committee on Education and the Workforce
United States House of Representatives**

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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss issues concerning H.R. 1992, Internet Equity and Education Act of 2001, and your desire to increase access to postsecondary education while maintaining the integrity of our Student Financial Assistance (SFA) programs. My testimony today will focus on the areas addressed in the legislation: 1) limitations on telecommunications and correspondence education (the "50% rule"); 2) requirements for the amount of instructional time (the "12-hour rule"); and 3) the prohibition on incentive compensation. In particular, I will highlight questions that we believe should be considered before changes are made.

There have been great advances in technology and in the growth of the Internet since the major amendments to Title IV of the Higher Education Act (HEA) in 1992. These developments warrant reconsideration of the manner in which the Federal government finances students who pursue distance learning, as well as other non-traditional programs. Congress initiated this process in 1998 when it authorized the Distance Education Demonstration Program, and H.R. 1992 continues this process. The key issue is how to make changes that encourage innovative educational program delivery while ensuring accountability of taxpayer dollars and preserving the integrity of the SFA programs.

It is important that the policy decisions of the future be informed by the lessons of the past. Our analysis is guided by the principle that all students should receive an appropriate amount of instruction to justify the amount of SFA funds awarded, through traditional, as well as non-traditional methods.

LIMITATIONS ON TELECOMMUNICATIONS AND CORRESPONDENCE EDUCATION

In the 1980s and early 1990s, our audits and investigations identified numerous problems with institutions offering correspondence-only programs that resulted in many schools being terminated from the SFA programs. The correspondence programs functioned by providing students lessons through the U.S. mail, students completing the lessons and returning them by U.S. Mail. These programs presented unique oversight difficulties for the Department, including determining the appropriate program length due to a lack of scheduled instructional hours. Excessive awards of SFA funds for these types of programs were common. Thus, the 1992 amendments to the HEA established the current 50% limitations on an institution's courses being offered through correspondence and 50% of the students enrolled in these courses. Telecommunications courses are considered to be correspondence courses if the sum of the telecommunication courses and other correspondence courses equal or exceed 50% of total courses offered.

We believe that in revisiting that limitation, certain policy issues should be considered.

- 1) Should the criteria for recognition of accrediting agencies require that they have specific standards for evaluating the quantity and quality of distance education programs?**

The Department is required to rely on recognized accrediting agencies as experts for assessing the quality of education provided by member schools. Their standards must provide

for, among other things, an evaluation of an institution's academic practices, academic calendars, measures of program length, and compliance with Title IV responsibilities.

We performed a review of the management controls for distance education by accrediting agencies and state agencies. Our report titled, "Management Controls for Distance Education at State Agencies and Accrediting Agencies," (ACN: 0990030, September 2000, which is located at <http://www.ed.gov/offices/OIG/Areports.htm>) shows that inconsistencies exist in how these oversight agencies have established standards to evaluate the quality and quantity of education offered through distance education.

We were provided information from 29 accrediting agencies and focused on distance education provided by computer transmission (through the Internet). We found that:

- Eleven agencies used the same requirements and procedures that they used for programs and courses offered through traditional classroom methods.
- Sixteen agencies supplemented their requirements and procedures for traditional classroom methods, with additional criteria and procedures for distance education.
- Two agencies were developing or reviewing specific requirements.

Both state agencies and accrediting agencies provided opinions and comments on issues related to distance education. They indicated a high level of concern regarding programs offered through computer transmission such as how to evaluate and measure curricula, educational outcomes, student support services, faculty, satisfactory academic progress, and availability of information about the institution.

The state agencies were also inconsistent in establishing standards for distance education. Given what we found in this review, Congress should consider whether to require that

recognized accrediting agencies have specific standards for determining the quality and quantity of education provided through distance education.

2) What is the fundamental difference between correspondence courses and certain courses offered through telecommunications?

A popular mode for providing distance education is the Internet, which qualifies as telecommunications. The Internet provides for many options for the delivery of instruction, ranging from simply providing lessons to students electronically, to interactive communication with an instructor. Amending the statute to provide that telecommunication courses will not be considered correspondence courses, provided the institution has a cohort default rate below 10% for the past three years, raises a question. If an institution provides lessons via the Internet, to be completed by the student in web sessions or returned via electronic mail, how is this any different than correspondence courses provided through the U.S. Mail?

Students enrolled in correspondence courses are considered only half-time students for awarding SFA funds, while students in telecommunication courses are considered full-time students. Thus, the students are eligible for different amounts of SFA funds.

3) Should the cost of attendance be calculated in the same manner for distance education programs as it is for residential programs?

Institutions must establish the “cost of attendance” (COA) budget in calculating the amount of eligible SFA awards. The COA as defined by the HEA primarily includes:

- Tuition and fees normally assessed a student including the costs for rental or purchase of any equipment materials, or supplies.
- An allowance for books, supplies, transportation, and reasonable miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer.

- An allowance for room and board costs incurred by the student which shall be an allowance for (a) students without dependents residing at home with parents, (b) students without dependents residing in institutionally owned or operated housing, and (c) for all other students an allowance based on the expense reasonably incurred for room and board.
- An allowance for dependent care for students with dependents.

For students engaged in correspondence courses, the COA is limited to tuition and fees, and, if required, books, supplies, and travel. For students enrolled in telecommunications programs, there is no similar limitation for determining COA. Students in telecommunications programs and residential programs can be eligible for the same amount of SFA awards based on the same COA. For a student enrolled in telecommunications programs and receiving education through the Internet, the need for a COA budget that includes an allowance for room and board should be examined.

REQUIREMENT FOR AMOUNT OF INSTRUCTIONAL TIME

The HEA amendments of 1992 mandate that an academic year, for undergraduate programs, must be a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 credit hours. The Department faced difficulty in applying this requirement to programs measuring student progress in credit hours but not using a semester, trimester, or quarter system. Thus, the 12-hour rule was published in regulation to assure consistency in the amount of instruction between programs for the amount of SFA funds awarded. The assumption is that a full-time student attempting 12 credit hours in a semester would have 12 hours of scheduled instruction per week.

In revisiting this requirement, the following issues should be considered.

1) Should the term “instruction” be defined?

Neither the Higher Education Act nor the implementing regulations define what constitutes instruction. There are many different delivery methods for instruction, such as the traditional residential term-based programs; residential programs not offered on a semester, trimester, or quarter system; correspondence courses; telecommunications programs; and independent study. There is no specificity in what can be included as instruction for determining an institution’s academic year and credit hours for the awarding of SFA funds. Providing a statutory definition of instruction would help clarify for the Department and the higher education community the appropriate amount of SFA awards for various methods of education.

2) Should student study groups be included as instruction?

Our audit report titled “University of Phoenix’s Management of Student Financial Assistance programs,” (ACN: A0970022, March 2000, which is located at <http://www.ed.gov/offices/OIG/Areports.htm>) found that the institution’s programs offered much less classroom education than programs provided by traditional term-based institutions. This institution without standard terms (semesters, trimesters, or quarters) used small student study groups of four to six students where there was no requirement for an instructor or other institutional representative to be present at the study groups, the groups were not scheduled for a particular time or place by the institution, and the groups were not required to occur at an institutional facility. The institution defined the study groups as instruction, and they were included along with classroom instruction to meet the minimal number of instructional hours required by the 12-hour rule and the minimal academic year requirement.

For institutions providing traditional residential classroom education in semesters, generally a student would be provided three hours of scheduled classroom instruction for 15

weeks, or 45 hours of classroom instruction for a three-credit hour course. This institution, offering a mix of classroom instruction and student study groups, provided only four hours of classroom instruction for a five-week period for a three-credit hour course. This resulted in only 20 hours of classroom instruction. Congress should consider whether it intends to allow institutions to award the same amount of SFA funds for providing 20 versus 45 hours of classroom instruction. Similar issues arise in measuring the amount of distance education via telecommunications.

PROHIBITION ON INCENTIVE COMPENSATION

Prior to 1992, the HEA contained a prohibition on the use of incentive compensation based on success in securing enrollments or financial aid in the program eligibility section for the Federal Family Education Loan program. In the 1992 amendments to the HEA, Congress expanded the prohibition to all SFA programs and placed it under the Program Participation Agreement section of the HEA. The prohibition was designed to protect students from the high-pressure tactics used by recruiters to enroll students in programs for which they may not have been prepared or did not want. The students were saddled with unwanted debt, at increased cost to the taxpayers.

Any modification to this restriction raises the following issues.

1) In removing the term “indirectly” from the current provision, what type of activity currently not allowed does Congress intend to allow?

Recruiting activities may be varied. They may encompass recruiting visits to high schools, telephone calls, and similar communications aimed at recruiting prospective students, personal interviews of prospective students, tours for prospective students, and obtaining certain information from students. What the law prohibits is basing compensation solely on the number of students that actually enroll as a result of those activities.

Congress should clarify the types of recruiting activities and compensation plans permitted, and those that will remain unallowable, under this proposal.

2) What is intended by including a prohibition on “non-salary” payments?

The bill adds the term “non-salary” to the types of incentive payments that would not be allowed. This language may be interpreted to permit institutions to make salary adjustments monthly or even weekly based on prior success in securing enrollment.

In providing guidance to specific institutions, the Department has stated that permanent salary increases based on factors relating to enrollment are permissible, but cannot be made more frequently than annually and must be based on merit factors other than those directly relating to enrollment. Without some clarification to the definition of “non-salary,” incentive payments based on success in securing student enrollment could be labeled as salary and permitted under this bill. Congress should clarify its intent.

3) What contractual arrangements will be covered by the ban on incentive compensation?

The legislation continues to ban an institution from paying an entity based on enrollment success. The bill limits this ban to entities “directly engaged in student recruiting or admission activities.” Congress should clarify what types of contractual arrangements would be covered by the ban on incentive compensation.

Thank you for the opportunity to raise these important issues as you begin your consideration of H.R. 1992. This concludes my statement. I would be happy to answer any questions that the Subcommittee may have.