

Office of the President

June 10, 2011

The Honorable Virginia Foxx
Chairwoman, Subcommittee on Higher Education
and Workforce Training
House Education and the Workforce Committee
2181 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Foxx:

On behalf of the higher education associations and accrediting organizations listed below, I write to thank you for introducing H.R. 2117, legislation to block two highly problematic and proscriptive regulations issued by the Department of Education (ED). Specifically, H.R. 2117 would repeal the regulation in Section 600.2 creating a federal definition of a credit hour and the state authorization regulation in Section 600.9. In addition, the legislation would prohibit ED from attempting to impose a federal definition of credit hour in the future. We strongly support these legislative provisions and appreciate the effort to address the concerns we have raised with these two regulations.

The credit hour definition and state authorization regulations were issued as part of the Oct. 29, 2010, final program integrity rule and will take effect July 1, which is less than one month from today. We support efforts aimed at curbing abuse and bringing greater integrity to the federal student aid programs. However, given the almost total lack of evidence of a problem in the context of credit hour or state authorization, we see no basis for two regulations that so fundamentally alter the relationships between the federal government, states, accreditors and institutions. Ultimately, we believe these regulations invite inappropriate federal interference in campus-based decisions and will limit student access to high-quality education opportunities.

A credit hour is the most basic building block of any academic program. By establishing a definition of a credit hour, the regulation opens the door to inappropriate federal interference in the core academic decisions surrounding curriculum—the exact type of interference expressly prohibited in the department's enabling legislation. Consistent with our support of the principles and limitations outlined in this and other

laws, it is our position that no federal definition of a credit hour is ever appropriate because it becomes the basis for perpetual regulatory intervention in multiple institutional and accreditation decisions associated with the credit hour.

As a secondary but practical matter, the ambiguity of the particular definition at issue poses serious challenges for institutions as they review tens of thousands of courses in an effort to ensure consistency with it. Accreditors will face similar burdens as they attempt to develop or revise policies and practices to review credit policies of institutions consistent with the definition. The presence of the definition also places accreditors in the unprecedented position of being required to force institutions to meet a federal standard in an academic area as a condition of accreditation.

The state authorization regulation reflects a significant intrusion into prerogatives properly reserved to the states and threatens to upset recognition and complaint resolution procedures that have functioned effectively for decades. The regulation could also open the door to inappropriate state involvement in the academic decision-making of private non-profit institutions, in particular for religiously affiliated institutions.

The regulation also creates new and significant hurdles for students pursuing higher education through distance learning and places the federal government in the position of enforcing state distance education laws—a role inappropriate for it to assume. As a practical matter, because of the inability to accurately predict or control student mobility, most institutions will need to pursue authorization in all 50 states even before knowing from which states their students may ultimately enroll. Unfortunately, state policies in this area can be highly complex, ambiguous and outdated and are often accompanied by substantial fees that may be cost-prohibitive for some public and non-profit institutions. Indeed, due to these burdens, some colleges and universities may well determine that they will no longer offer distance education programs in certain states.

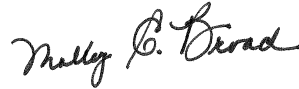
Institutions are already committed to working together with states to ensure compliance with all applicable state laws. In addition, institutions, states, State Higher Education Executive Officers (SHEEO) and other distance education coalitions are already engaged in an effort to achieve better coordination and other improvements to existing state policies. However, at a time when the higher education community is working with others to increase college persistence and attainment, we believe this federal regulation runs counter to our shared goals.

For over a year, we have engaged in conversations with ED in hopes that our concerns with these regulations could be addressed. Although ED has issued guidance to mitigate some of the most serious problems in distance education context, our

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fundamental objections to both the state authorization and credit hour regulations remain. Therefore, we are pleased to offer our support for H.R. 2117, and we look forward to assisting in your efforts to advance this important legislation.

Sincerely,



Molly Corbett Broad
President

MCB/lw

On behalf of:

Higher Education Associations

American Association of Colleges for Teacher Education
American Association of Colleges of Osteopathic Medicine
American Association of Colleges of Pharmacy
American Association of Community Colleges
American Council on Education
American Dental Education Association
American Indian Higher Education Consortium
American Library Association
Appalachian College Association
Association for Continuing Higher Education
Association of American Medical Colleges
Association of American Universities
Association of Catholic Colleges and Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Association of Schools and Colleges of Optometry
Council for Christian Colleges & Universities
Council for Higher Education Accreditation
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
EDUCAUSE
National Association of College and University Business Officers
National Association of Independent Colleges and Universities

National Association of Student Financial Aid Administrators
The New American Colleges and Universities
University Professional & Continuing Education Association
Women's College Coalition
Work Colleges Consortium

Accreditation and Other Organizations

Accreditation Commission for Audiology Education
Accreditation Commission for Midwifery Education
Accreditation Council for Pharmacy Education
Accreditation Review Commission on Education for the Physician Assistant
Accrediting Bureau of Health Education Schools
Accrediting Commission of Career Schools and Colleges
Accrediting Council for Independent Colleges and Schools
American Board of Funeral Service Education
American Culinary Federation's Education Foundation's Accrediting Commission
American Occupational Therapy Association (AOTA): Accreditation Council for Occupational Therapy Education
American Podiatric Medical Association
American Psychological Association
Association for Biblical Higher Education
Association of Advanced Rabbinical and Talmudic Schools
Association of Specialized and Professional Accreditors
Commission on Accreditation for Marriage and Family Therapy Education
Commission on Accreditation in Physical Therapy Education/American Physical Therapy Association
Commission on Accreditation of Allied Health Education Programs
Commission on Accrediting of the Association of Theological Schools
Commission on Collegiate Nursing Education
Conference for Mercy Higher Education
Council for Accreditation of Counseling and Related Educational Programs
Council on Accreditation of Nurse Anesthesia Educational Programs
Council of Arts Accrediting Associations, including:
 National Association of Schools of Art and Design
 National Association of Schools of Dance
 National Association of Schools of Music
 National Association of Schools of Theatre
Council on Education for Public Health
Distance Education and Training Council
Higher Learning Commission of the North Central Association of Colleges and Schools
International Association of Baptist Colleges and Universities
Joint Review Committee on Educational Programs in Nuclear Medicine Technology
Middle States Commission on Higher Education
National Accrediting Agency for Clinical Laboratory Sciences

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National Accrediting Commission of Cosmetology Arts & Sciences
National League for Nursing Accrediting Commission, Inc.
New England Association of Schools and Colleges, Commission on Institutions of
Higher Education
Society of American Foresters
Southern Association of Colleges and Schools Commission on Colleges
Western Association of Schools and Colleges, Accrediting Commission for Junior
Colleges and Universities
Western Association of Schools and Colleges, Accrediting Commission for Senior
Colleges and Universities