



American Council on Education
Office of the President

September 7, 2005

The Honorable Michael B. Enzi
Chairman, Senate Committee on
Health, Education, Labor and Pensions
835 Hart Senate Office Building
Washington, DC 20510

The Honorable Edward M. Kennedy
Ranking Member, Senate Committee on
Health, Education, Labor and Pensions
644 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Enzi and Kennedy:

I write on behalf of the associations listed below to offer comments on the Higher Education Act of 2005. We greatly appreciate the amount of time and effort it has taken to produce this legislation and we pledge ourselves to continue to work with you to fine tune the bill in ways that will have broad-based support in the Congress and the higher education community. Like you, we are eager to see a bill signed into law before Congress adjourns.

The most welcome aspect of your bill is that it significantly strengthens the student financial assistance programs. Among the provisions that will enhance student access and opportunity, we especially appreciate the following examples:

- Increasing loan limits for undergraduate and graduate students
- Making Pell Grants available year round to students in 2- and 4-year institutions
- Extending expiring provisions related to loan disbursements
- Expanding LEAP
- Making PLUS loans available to graduate students
- Expanding Perkins Loan forgiveness
- Creating the new ProGAP grant program

In addition, there are a number of other positive provisions in the bill, such as the very helpful changes that were made to Title II – Teacher Quality Enhancement. However, given that the mark-up of the bill is tomorrow and you are under tremendous pressure, the most important thing for us to do is highlight four major issues which continue to raise concerns. It is our understanding that you have received, and will receive additional comments from institutions and associations requesting modifications to the legislation. We believe that if these suggestions are taken into consideration and changes are made, the legislation will be strengthened.

- **Reporting requirements:** We are very appreciative of the Committee’s efforts to streamline regulations affecting higher education, but are very concerned that these improvements are outweighed by the extensive new reporting requirements in this bill. The bill requires institutions to collect and publish information on employment “placement” of graduates, transfer of credit, and enrollment in graduate school. The cost and complexity of these mandates will be extraordinary. It is difficult to justify undertaking this type of expense since it is unlikely students will find the information to be useful.
- **Transfer of Credit:** We would like to thank you for removing the transfer of credit provisions from Sec. 487 that had been included in an earlier version of the bill that we reviewed. However, we are puzzled by the last minute inclusion of a requirement that asks the accrediting agency to certify that an institution bases its transfer of credit policies on “criteria established in guidelines developed by the institution’s admissions committees.” There are at least three problems with this language. First, it is unnecessary, since by definition institutions follow their own transfer of credit guidelines and no one else’s; second, institutional “admissions committees” do not exist at all schools and even if they do, they rarely, if ever, determine institutional credit evaluation and transfer policy; and third, this provision would necessitate a one-size-fits-all regulation by the Department of Education that would be very difficult for our institutions to comply with. We strongly urge you to strike this provision.

In addition, as noted earlier, the requirement that schools calculate “the percentage of students successfully transferring academic credit from another institution of higher education” would impose an expensive and burdensome workload on institutions of higher education.

- **Integrity and accountability for federal funds:** The committee has attempted to retain some elements of the 1992 requirements that have helped to constrain fraud and abuse in the student aid programs and we appreciate the retention of current law governing the definition of an institution of higher education. However, we believe the legislation falls short in other areas and will expose the Title IV programs to new abuses. The following are provisions that concern us:
 - The bill effectively eliminates the “50 percent” rule. The most critical lesson learned from the scandals of the 1980’s was that the absence of front-end controls is a formula for disaster for taxpayers and students. This is particularly the case when the Congress is poised to open the Title IV programs to untold millions of new students through unmonitored, unrestricted online education. We continue to urge that the Department of Education be given a role in approving and monitoring the growth of distance education. We also are concerned by the precedent set in the “Special Rule” that bars the Secretary from taking action against an entity that violated current law.
 - The legislation maintains the 90/10 provision in name, but changes it so extensively that it effectively nullifies the provision. The net effect is an extensive new reporting requirement on all institutions, including those whose Title IV revenues are a minuscule segment of total revenues, that does nothing to promote the accountability of the original provision.
 - Likewise, while we are pleased with the continuation of the experimental site legislation, we believe that it should proceed under the tightly controlled basis upon which it has been operating. It may be useful, therefore, to reinstate the

“consultation” provision in which institutions must obtain prior approval for regulations they are seeking to set aside and the purpose they hope to achieve by such means.

- **Title VI International Education:** We are extremely concerned about the bill’s requirement that Title VI programs “reflect diverse and balanced perspectives” with respect to applications made by institutions for funding, and institutional descriptions of such programs. Institutions of higher education take the importance of reflecting and balancing diverse perspectives in the classrooms and programs very seriously. Therefore, our concern is that it is unnecessary. We do not believe that the law and subsequent regulations can appropriately reflect “balanced perspectives.” Even if regulations were developed, the anticipated prescriptive and detailed language would violate the long-standing relationship between the federal government and institutions on academic independence.

In addition, the new compliance procedures for the Title VI programs outlined on page 313 add an additional bureaucratic requirement to a process already in place at the Department of Education. Indeed, in the last two years, the Department of Education has only received one complaint about a Title VI grantee, a complaint that was ultimately dismissed.

Moreover, the combination of the “diverse and balanced perspectives” requirement with the suspension of federal funds provision may well lead to frivolous and politically-motivated complaints, as well as a backdoor mechanism for federal control of curriculum.

Thank you for your work on this legislation and for seeking our comments on it. We believe the bill will make a difference in the lives of America’s college students. We look forward to working with both of you and the other members of the Committee on the reauthorization of the Higher Education Act as it moves through the legislative process.

Sincerely,



David Ward
President

DW/cms

On behalf of:

American Association of Colleges for Teacher Education
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
American Indian Higher Education Consortium
Association of American Universities
Association of Jesuit Colleges and Universities
Coalition for International Education

Council for Christian Colleges and Universities
Council for Higher Education Accreditation
Council of Graduate Schools
Hispanic Association of Colleges and Universities
National Association of College and University Business Officers
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators
United Negro College Fund