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October 17, 2008

Ms. Wendy Macias
U.S. Department of Education
1990 K Street, NW, Room 8017
Washington, DC 20006

Dear Ms. Macias:

As we review the provisions in the Higher Education Opportunity Act (HEOA), we note the following as possible items for inclusion in the agendas for negotiated rulemaking activities to implement or clarify the statute.

- The determination of the Maintenance of Effort (MOE) for states relating to public institutions of higher education should exclude student tuition and fee revenue that some states collect from institutions and treat as appropriations in the state budget process. This treatment is necessary given the intent of the MOE provision, which would be negated if the tuition and fee revenue were to be treated as state effort.
- The definition of accelerated progress toward a degree for purposes of awarding more than one Federal Pell Grant in an award year should consider enrollment in non-credit or partial credit remedial courses toward the determination of accelerated progress. Students who successfully complete these courses are, in fact, shortening the chronological time frame toward achieving the degree.
- The rules should provide clarity about the proper accounting and attribution of administrative cost allowances for administering federal financial aid programs. This change in statutory language no longer permits the treatment of these funds as unrestricted revenue to institutions.
- The rules should provide clarity and direction about the informational requirements in Sections 132 and 485 of the Higher Education Act. It is apparent that some of the information required of institutions and Secretary for dissemination overlap, some may not need to be categorized by income, and in the case of graduation rates, institutions will be required to produce data by both income and aid recipient status criteria. Thus, it is imperative the reporting requirements both for IPEDS and for display on College Navigator and the information dissemination requirements be clearly and quickly delineated for institutional implementation and compliance.
- In particular, we believe that the intent of Congress was to provide parent and student consumers with the best available data from the U.S. Department of Education to make decisions about college attendance. This intent to provide more transparency would be enhanced if all variants of

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disaggregated graduation data were directly available on the institutions' College Navigator profiles. Since, by virtue of the two sections of the HEA, institutions will have to produce multiple disaggregated graduation rates, a slight increase in reporting through IPEDS would not be an intolerable burden in the interest of enhanced transparency for the consumer.

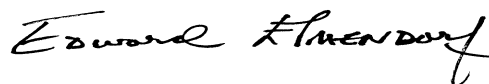
Thus, we propose an early negotiated rule-making session be convened to facilitate a timely conveyance of regulatory specifics to institutions to enable timely software maintenance to assist NCES in meeting statutory implementation deadlines.

There are a number of provisions in Title X of HEOA that will require rulemaking by the Board of Governors of the Federal Reserve System. As the Secretary consults with the Board in promulgating the rules, we suggest the following points be considered for inclusion in the discussion:

- The requirement for institutional reporting of reimbursed expenses by lenders for institutional employee participation on advisory boards should include a requirement for the lenders to provide a comprehensive statement of expenses covered or reimbursed to the employee. Often the arrangements for these meetings are made by the sponsoring lender and thus expenses for lodging and meals are directly billed to the lender. In these cases, neither the institution nor the employee would have accurate information to submit on the report. Thus, in the interest of accurate and comprehensive reporting, it is necessary for lenders to provide a statement of costs and reimbursements for the institutional employee's participation in advisory board activity.
- The disclosure requirements for lenders should include a process for the institution to acknowledge to the lender the receipt of the information regarding the amount of the loan to the student and an option to reduce the amount the lender has approved. Such a process will permit institutions to make any necessary adjustments in the student financial aid package by reducing the least beneficial funds early in the process. The lender should not be permitted to disburse prior to the receipt of the institutional acknowledgement.

We have attempted to bring forth some items which have not been or unlikely to be submitted by other organizations in testimony prior to today. We hope you find these suggestions to be useful as you compose the preliminary agendas for the negotiation sessions in the spring.

Sincerely,



Edward M. Elmendorf
Senior Vice President
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