

AMERICAN COUNCIL ON EDUCATION



OFFICE OF THE PRESIDENT

February 28, 2008

The Honorable Edward M. Kennedy  
Chairman  
Committee on Health, Education, Labor  
and Pensions  
U.S. Senate  
Washington, DC 20510

The Honorable Michael B. Enzi  
Ranking Member  
Committee on Health, Education, Labor  
and Pensions  
U.S. Senate  
Washington, DC 20510

Dear Chairman Kennedy and Ranking Member Enzi:

As you prepare to conference H.R. 4137 and S. 1642, the House and Senate versions of the Higher Education Act (HEA) reauthorization legislation, the associations and organizations listed below—representing institutions of higher education and accrediting agencies—respectfully ask you to consider the following recommendations.

First, both the House and the Senate bills have recognized the importance of preserving the critical balance that exists in law between setting high federal expectations for the accreditation process while affording accrediting agencies and institutions the flexibility to meet or exceed those expectations. Both the House and the Senate seek to safeguard this relationship and have similar approaches to standards with respect to measuring student achievement; the House bill also includes important clarifications in Sec. 496(p). We also applaud the identical amendments to Section 496(g) and (o) made in the bills that prohibit the secretary of education from dictating standards used to assess success with respect to student achievement. **We urge the Senate to recede to the House in regard to Sec. 496(p) and urge that modifications made in both bills to subsections (g) and (o) be retained in the final bill.**

Additionally, the House bill has added the phrase “consideration of course completion” to the list of items that may be considered, as appropriate, in showing success with respect to student achievement. Similar language is contained in current law. **We urge the Senate to recede to the House on Sec. 496(a)(5)(A).**

Second, the Senate bill amends Sec. 496(c), adding new paragraph (2), which requires accrediting agency review of all federally required disclosure to current and prospective students. The House bill does not include a similar provision. This would require accreditors to review items for which they do not have training. Reviewing compliance with disclosure requirements is an enforcement function that is not only duplicative of the work of the Department of Education but is also a distraction from the quality review work which is the purpose of the accreditation process. **We urge the Senate to recede to the House in this matter.**

Third, we believe both the House and Senate have made major improvements to Sec. 114 of the HEA and want to express our appreciation for the efforts of both bodies to improve the process by which accrediting agencies are recognized by the department. We believe the strongest result can be achieved by combining the House and Senate approaches. Specifically, we urge the House to yield to the Senate version of Sec. 114, with the following exceptions: **1) we urge the Senate to accept the House appointment process; and 2) we ask the Senate to recede to the**

**House on the adoption of the Sec. 114(e) limitation.** This provision prevents the advisory committee from acting arbitrarily to deny recognition to an accrediting agency by stipulating that statutory requirements must be followed. Even with the adoption of these changes, however, we remained concerned about the transition from the old to the new advisory committee. To ensure adequate time for completing the process of appointing new committee members, **we urge conferees to strike the 30 days specified in the Senate bill and to replace it with language terminating the current membership by June 30, 2008, and specifying that the new committee will be authorized to hold its first meeting when two-thirds of the new members have been appointed as provided for in this legislation.**

Fourth, the House bill creates a new Sec. 497 that establishes an “accreditation ombudsman.” It is difficult to understand why the ombudsman is necessary, since there are already a number of avenues under current law to provide comments or complaints regarding accreditation or accrediting agencies. We do not understand whether there is a distinguishable role for such an ombudsman and, lacking a clear understanding of its purpose, we believe it raises enormous potential for mischief. For example, who can lodge complaints with the ombudsman? Would the secretary be required to act in some specific fashion on the basis of ombudsman findings or recommendations? When in the process might the ombudsman interfere—at set intervals or at will? We believe the ombudsman puts the federal government permanently between institutions and accreditors in ways that could be extremely detrimental to the integrity of the accreditation process. **We urge the House to recede to the Senate with respect to the new Sec. 497.**

Fifth, the Senate bill characterizes “placement on probation” as an adverse action in both the due process and public notice portions of the accreditation language. The House bill does not. Because probation is not an adverse action, and because it is not a final status indicator, we believe the House provisions better reflect current accreditation practice, preserve probation as a means for seeking quick remediation when necessary, and avoid misunderstandings regarding the actual status of an institution. **We urge the Senate to recede to the House with respect to amendments to Sections 496(a)(6)(C) and 496(a)(8)(B).**

Finally, we believe the House has overreached in its inclusion of two additional elements related to due process. By adding new paragraphs (10) and (11) to Sec. 496(a), the House has created a loop that could create infinite delay—in essence, a filibuster—in final action against an institution. Moreover, paragraph (11) imposes rules related to accreditation policy, practice and precedent that hinder the ability of accrediting agencies to apply their professional judgments and standards in a mission-based context, which currently permits agencies to consider factors that may make an institution or its situation unique. To the extent that these provisions support consistency and transparency in process, the changes are superfluous, since actions against a school are required to be based on published policy, process, and practice. The Senate has no comparable provisions in its version of the bill. **We urge the House to recede to the Senate.**

The organizations and associations listed below rarely take joint positions on legislation. We do so in this instance because of our collective commitment to ensuring strong, clear statutory language that satisfies the federal government’s need for assurance that the accreditation process

is a meaningful arbiter of institutional quality, while respecting the autonomy that makes that assurance possible. We respectfully ask you to accept our recommendations.

Sincerely,



David Ward  
President

DW\ksm

On behalf of:

Accreditation Council on Optometric Education, American Optometric Association  
Accreditation Council for Pharmacy Education  
Accreditation Review Commission on Education for the Physician Assistant  
American Association of Colleges of Pharmacy  
American Association of Community Colleges  
American Association of State Colleges and Universities  
American Board for Accreditation in Psychoanalysis, Inc.  
American Council for Construction Education  
American Council on Education  
American Dental Association  
American Dental Education Association  
American Indian Higher Education Consortium  
American Occupational Therapy Association  
American Psychological Association  
Association of Advanced Rabbinical and Talmudic Schools Accreditation Commission  
Association of American Universities  
Association of Community College Trustees  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Specialized & Professional Accreditors  
Commission on Accreditation for Health Informatics and Information Management Education  
Commission on Accreditation in Physical Therapy Education, American Physical Therapy Association  
Commission on Accreditation of Allied Health Education Programs  
Commission on Accreditation of Healthcare Management Education  
Commission on Collegiate Nursing Education  
Council for Accreditation of Counseling and Related Educational Programs  
Council for Higher Education Accreditation  
Council on Academic Accreditation in Audiology and Speech-Language Pathology  
Council on Naturopathic Medical Education  
Council on Podiatric Medical Education, American Podiatric Medical Association  
Council of Regional Accrediting Commissions  
Hispanic Association of Colleges and Universities

National Accrediting Agency for Clinical Laboratory Sciences  
National Association of Independent Colleges and Universities  
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  
National Association of State Universities and Land-Grant Colleges  
National Association of Student Financial Aid Administrators  
National Council for Accreditation of Teacher Education  
Planning Accreditation Board  
Teacher Education Accreditation Council  
The Accreditation Commission for Acupuncture and Oriental Medicine  
The Accreditation Commission for Audiology Education  
The Council for Chiropractic Education  
The Council on Rehabilitation Education  
The Joint Review Committee on Educational Programs in Nuclear Medicine Technology

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OFFICE OF THE PRESIDENT

February 28, 2008

The Honorable George Miller  
Chairman  
Committee on Education and Labor  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Howard P. "Buck" McKeon  
Ranking Member  
Committee on Education and Labor  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Miller and Ranking Member McKeon:

As you prepare to conference H.R. 4137 and S. 1642, the House and Senate versions of the Higher Education Act (HEA) reauthorization legislation, the associations and organizations listed below—representing institutions of higher education and accrediting agencies—respectfully ask you to consider the following recommendations.

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Commission on Accreditation of Allied Health Education Programs  
Commission on Accreditation of Healthcare Management Education  
Commission on Collegiate Nursing Education  
Council for Accreditation of Counseling and Related Educational Programs  
Council for Higher Education Accreditation  
Council on Academic Accreditation in Audiology and Speech-Language Pathology  
Council on Naturopathic Medical Education  
Council on Podiatric Medical Education, American Podiatric Medical Association  
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National Association of Student Financial Aid Administrators  
National Council for Accreditation of Teacher Education  
Planning Accreditation Board  
Teacher Education Accreditation Council  
The Accreditation Commission for Acupuncture and Oriental Medicine  
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