

AMERICAN COUNCIL ON EDUCATION



OFFICE OF THE PRESIDENT

February 26, 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:

We write to respectfully request that House and Senate conferees exercise caution with regard to needs analysis changes involving the use of data supplied by the Internal Revenue Service (IRS) to an applicant's Free Application for Federal Student Aid (FAFSA).

In particular, we have strong reservations about Sec. 474 of H.R. 4137, which requires the secretary of education to implement an IRS income matching system using prior-prior year income data for federal student aid applicants. Currently, income data is reported on the FAFSA from the year preceding the year in which aid is awarded. Using prior-prior year income data is a significant step that should be tested before it is implemented to determine whether it is both workable and equitable.

We wish to associate ourselves with the thoughtful comments you will receive from our colleagues from the National Association of Student Financial Aid Administrators (NASFAA), who state that "the policy implications of this change are of such a magnitude that a study of prior-prior year is the wisest course of action well before implementation." NASFAA also reminds us that the limited IRS data match authorized by the 1998 Higher Education Act (HEA) amendments was never implemented because the IRS maintains that the tax code needs to be amended in order to authorize the agency to accomplish this task

We have a number of additional concerns regarding immediate implementation, including:

1. *Secretarial Authority to Regulate Needs Analysis:* Because implementation questions regarding the use of the IRS match and the use of prior-prior year data have not been resolved, the House bill gives the secretary the authority to regulate a solution. This cedes congressional authority to regulate needs analysis to the administration, discarding an historic ban on the secretary's authority to regulate Part F, located in Sec. 478(a) of current law. In fact, since the bill does not strike this long-standing statutory limitation, the two provisions are in conflict with one another. Giving the secretary new regulatory authority in this area is a dangerous infringement on congressional control of eligibility for the Title IV programs.

2. *IRS Income Match:* The IRS has been required to provide certain verification functions for the FAFSA since 1998. However, the assistance of the IRS in matters relating to federal student aid has been limited and qualified. Basing a major aspect of the entire student aid delivery

system on the willingness and ability of the IRS to perform certain functions for the Department of Education is risky. As NASFAA points out, the IRS believes it lacks proper statutory authorization to proceed.

3. *Prior-prior Year Data:* During the last reauthorization of the HEA in 1998, proposals were considered to allow students to use two year old income data when applying for federal student aid. The idea ultimately was rejected by Congress. Serious concerns were raised about the negative impact this would have on independent and non-traditional students whose incomes are most likely to fluctuate from year to year. Also concerning was the potential of the proposal to erode the value of the FAFSA as a universal aid application because of a recognition that many states and colleges would not accept old income data as a valid basis for awarding their own aid, resulting in the development of private fee-based, supplemental or alternative income forms.

We do support the concept of a pilot of the idea of an IRS match and prior-prior year data included in both the Senate and House HEA bills. However, the FAFSA system is too important and too successful to make such radical change before a pilot has been conducted and evaluated.

We are sympathetic to the calls for a simpler and more predictable application process for all families, particularly low-income families. Many other provisions in the bills, in addition to those already implemented during the past two years, have made important steps in this direction. For example, the Forecaster will provide families with early estimates of their federal aid eligibility by allowing them to fill out a FAFSA several years in advance.

We want to continue to work with you on even more innovative approaches. However, we need to ensure that the steps taken will truly make the system easier for families and not more complicated and expensive. This particular provision does not meet that test.

Sincerely,



David Ward  
President

DW\ksm

On behalf of:  
American Association of Community Colleges  
American Association of State Colleges and Universities  
American Council on Education  
Association of American Universities  
Association of Jesuit Colleges and Universities  
National Association of Independent Colleges and Universities  
National Association of State Universities and Land-Grant Colleges  
National Association of Student Financial Aid Administrators

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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:

We write to respectfully request that House and Senate conferees exercise caution with regard to needs analysis changes involving the use of data supplied by the Internal Revenue Service (IRS) to an applicant's Free Application for Federal Student Aid (FAFSA).

In particular, we have strong reservations about Sec. 474 of H.R. 4137, which requires the secretary of education to implement an IRS income matching system using prior-prior year income data for federal student aid applicants. Currently, income data is reported on the FAFSA from the year preceding the year in which aid is awarded. Using prior-prior year income data is a significant step that should be tested before it is implemented to determine whether it is both workable and equitable.

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