



National Association of Independent
Colleges and Universities

October 24, 2011

Office of the Deputy Secretary
(Attention: State Fiscal Stabilization Fund Proposed Revisions Comments)
U.S. Department of Education
400 Maryland Avenue, SW
Room 7E214
Washington, DC 20202-6200

State Fiscal Stabilization Fund – Proposed Revisions
[Docket ID ED-2011-OS-0005]

To Whom It May Concern:

I am writing on behalf of the National Association of Independent Colleges and Universities (NAICU) in response to the notice of proposed revisions to certain data collection and reporting requirements established for the State Fiscal Stabilization Fund (SFSF) program and a proposed priority for States that develop and implement longitudinal data systems. This notice was published in the September 23, 2011, *Federal Register*.

The proposal related to Indicator (c)(11) provides that a State that does not have the capacity to collect and publicly report by January 31, 2012, data on the number and percentage of high school graduates who enroll in institutions of higher education may request an extension to December 31, 2012. A State requesting an extension of Indicator (c)(11) requirements related to students who enroll in private or out-of-state institutions must use the alternative standard specified in the proposal.

We fully support the deadline extension. The need to establish a longer time frame for full compliance with this Indicator seems fair as it responds to the many commenters on the original requirements (published in final form on November 12, 2009) who noted the difficulties in obtaining the required information. Considering that 43 States indicated in their March 2011 SFSF amended applications that they were not able to collect and publicly report data for Indicator (c)(11), it seems clear that the analyses of the 2009 commenters were accurate and appropriate.

The straightforward way to address the issue would be a further extension of the deadline for compliance. Instead, however, the Department is requiring the collection of even more data from those requesting the Indicator (c)(11) alternative standard, in effect negating the extension by requiring additional work in exchange for additional time.

Specifically, the State will need to report to the Department information about:

- Any State funding to in-state private institutions of higher education (IHEs);
- Whether the State has data-sharing agreements with any in-state private IHEs;
- Whether data-sharing agreements either with any private IHEs or with out-of-state public IHEs permit the State to track recent high school graduates; and
- Whether the State provides funds to any out-of-State private or out-of-State public IHE with which the State has a data-sharing agreement.

The rationale for these new information reports is unclear—in that the information requested has no bearing on the regulatory requirement. Indicator (c)(11) requires that States provide information about the number and percentage of high school graduates who enroll in college within 16 months of receiving a regular diploma. Whether or not a private or out-of-state IHE receives funds from the State has no bearing on the number of a particular State's high school graduates in attendance.

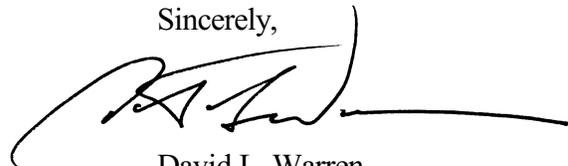
If the Department were confining the additional reports to cover only those institutions that received SFSF funds from the State, then perhaps there would be a regulatory nexus for collecting this information. However, that is not the case.

By the same token, formal data-sharing agreements between the State and an IHE are not the only means available to the State to obtain the required information. Requiring these reports might imply otherwise—leading to unnecessary confusion.

The addition of extraneous new reporting requirements in order to allow States more time to meet requirements already proving difficult is, at best, a counter-productive step. It is also an unusual exercise of regulatory authority to use a deadline extension to gather new information about a sector of higher education that had little, if any, access to the funds to which the original requirements were tied.

Therefore, I recommend deletion of the requirements for the extraneous data collection contained in the Indicator (c)(11) Alternative Standards Requests portion of *Proposed Requirements for Requests for Extensions to December 31, 2012, of Deadlines for Indicators (b)(1), (c)(11), or (c)(2) or Use of the Indicator (c)(11) Alternative Standard*.

Sincerely,



David L. Warren
President