

Office of Government & Public Affairs

November 21, 2011

Secretary Leon E. Panetta
Office of the Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Panetta:

On behalf of the higher education associations listed below, I write to express our concerns with the Department of Defense's (DoD) Memorandum of Understanding (MOU) for the Military Tuition Assistance (TA) program. The MOU was issued March 15, 2011 as the appendix to DoD Instruction 1322.25. Institutions are required to submit a signed MOU before January 1, 2012 in order to maintain eligibility to participate in the TA program next year.

Our members are committed to serving the educational needs of Service members, and view participation in the TA Program as a badge of honor and a moral obligation to the members of the nation's armed services. They also share and strongly support DoD's efforts to ensure that Service members are provided access to quality post-secondary education programs that operate in the members' best interest. As such, we also support the Department's goal of enhancing efforts to fight fraud and abuse in the TA program by providers who are targeting Service members with heavy advertising for questionable programs with little or no genuine educational value. We realize that the MOU is a good-faith effort by the Department to ensure better educational outcomes for Service members and greater accountability to the taxpayers.

However, as well-intentioned as the MOU may be, in recent months, a significant number of public and private non-profit institutions have raised concerns regarding some MOU provisions that are inconsistent and, in many cases, incompatible with their well-

established academic policies and administrative practices. These include MOU provisions related to the awarding of academic credit, in-school residency requirements, education plans, tuition policies and payment processing among others. These provisions are at odds with traditional assumptions about federal versus institutional control over academic affairs and thus have far reaching implications. We are concerned that a significant number of our nation's finest institutions, many of whom heavily contribute to DoD's research agenda, will be unable to sign the MOU despite their strong desire to do so and their ongoing commitment to educating Service members. Unless these concerns can be addressed, Service members would no longer be able to use their TA benefits to attend these institutions.

In an effort to address these concerns, we have engaged in extensive discussions with DoD's Continuing Education Programs staff regarding possible technical corrections to the text of the MOU. After the Office of the General Counsel determined that changes would not be made to the MOU text, your staff worked diligently to attempt to address institutions' concerns through the release of a set of clarifications (the "MOU Clarifications" document). These clarifications have been sufficiently reassuring to some institutions, which have decided that they could sign the MOU despite their initial—and in some cases, continued—misgivings. However, the Department's clarifications, while helpful, unfortunately do not carry the same legal weight as the text of the MOU itself and do not go far enough in addressing other institutions' concerns. In addition, inconsistencies between the clarifications and the MOU text may well cause confusion for Service members, who could be misled about these institutions' policies based on the plain wording of the MOU.

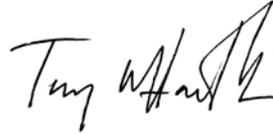
For these reasons, we respectfully request that the Department withdraw the MOU and reopen a discussion about ways to modify the document to better serve its intended purposes. This would allow this group of high-quality institutions to continue their participation in the TA program without compromising their academic policies and help the Department ensure that proper safeguards are in place to protect against fraud and abuse. If the process for making changes to the MOU cannot be completed before January 1, 2012, we ask that you consider delaying the implementation date as necessary. Finally, we ask that you also consider providing a de minimis exception to allow high-quality institutions with a relatively limited number of TA participants to continue their participation in the program without a signed MOU.

Again, we reiterate our strong support for DoD's efforts to ensure the proper oversight of TA funds. Unfortunately, we believe that as drafted, the MOU will have the unintended consequence of limiting the opportunities available to Service members.

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We appreciate your consideration of our views and look forward to continuing to work with you and your staff in an effort to resolve these issues in the most expeditious manner possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry W. Hartle". The signature is written in a cursive, somewhat stylized font.

Terry W. Hartle
Senior Vice President

TWH/mjm

On behalf of:

American Association of Collegiate Registrars and Admissions Officers
American Council on Education
Association of American Universities
Association of Public and Land-grant Universities (APLU)
National Association of College and University Business Officers
National Association of Independent Colleges and Universities