GOOD afternoon. I am Kristen Soares and am testifying today on behalf of the Association of Independent California Colleges and Universities (AICCU), representing over 75 nonprofit, WASC accredited institutions that educate over 320,000 students. Members include traditional liberal arts colleges, major research universities, faith-related institutions, women's colleges, performing and visual arts institutions, and schools of law, medicine, engineering, business, and other professions. AICCU serves as the unified voice on independent (private nonprofit) higher education in California.

My comments today address the two topics related to state authorization.

#1 – State Authorization for Programs Offered Through Distance Education or Correspondence Education

In response to a court decision issued last year, the Department is considering developing new regulations related to state authorization for programs offered through distance education or correspondence education. Given the substantial work being done across the country in
this area, AICCU believes it would be premature to develop federal regulations.

Although the distance education regulation was struck down in court, its issuance has had a marked effect in increasing awareness of the breadth and variety of state requirements affecting distance education providers. The Department is to be commended for raising this important and timely issue especially in this era of increased cross-border on-line education programs.

It has also underscored the complexity of addressing regulatory issues in a manner that is understandable to (and affordable for) institutions seeking to comply with state requirements.

The difficulties of navigating these numerous and various requirements have spurred conversation regarding ways in which compliance can be simplified. The most significant of these efforts is the work being done on the State Authorization Reciprocity Agreement – or SARA. The Presidents’ Forum, Council of State Governments, regional education boards, APLU, and SHEEO – among others – have been engaged in this effort for some time now. A SARA framework has been developed, and while there is still much work to be done on some of the specific features, AICCU is supportive of this effort. Also, the California Higher Education
Round Table Intersegmental Coordinating Committee, will soon be meeting to discuss how such an agreement might be implemented.

Given the work going on now and the high level of involvement of many individuals with deep knowledge of state laws and practices, it doesn’t seem to be appropriate to introduce new federal requirements at this time. We suggest that the Department defer regulatory action in this area to allow the current work to proceed in a manner that will maintain flexibility. At this point, it may simply not be possible to develop uniform federal requirements that capture all the moving parts that will be required to establish a better means to regulate distance education providers.

#2 – State Authorization for Foreign Locations of Institutions Located in a State

The second state authorization issue raised in the April 16 notice relates to authorization for foreign locations of institutions located in a State.

Given the incredible confusion that has been created by the general regulations related to state authorization (34 CFR 660.9 (a) and (b)), we urge that the Department not compound that confusion by trying to regulate foreign locations of US institutions via the States.
Experience with the existing state authorization regulation has shown that the States have chosen a variety of ways in which to recognize and regulate the institutions within their borders. Superimposing a vague set of federal requirements for state activity has already led to massive confusion—with no discernible impact on improving program performance or integrity. Equally troubling are the shifting and inconsistent interpretations of what the regulations require. It is for these reasons that AICCU’s national association of independent colleges and universities, NAICU, advocates for the repeal of the existing state authorization regulation.

Attempts to expand this regulation to incorporate rules related to State regulation of foreign locations would only compound the substantial problems and confusion we’re experiencing today.

I appreciate having the opportunity to present these views today.