

Office of the President

June 10, 2011

The Honorable Virginia Foxx  
Chairwoman, Subcommittee on Higher Education  
and Workforce Training  
House Education and the Workforce Committee  
2181 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Foxx:

On behalf of the higher education associations and accrediting organizations listed below, I write to thank you for introducing H.R. 2117, legislation to block two highly problematic and proscriptive regulations issued by the Department of Education (ED). Specifically, H.R. 2117 would repeal the regulation in Section 600.2 creating a federal definition of a credit hour and the state authorization regulation in Section 600.9. In addition, the legislation would prohibit ED from attempting to impose a federal definition of credit hour in the future. We strongly support these legislative provisions and appreciate the effort to address the concerns we have raised with these two regulations.

The credit hour definition and state authorization regulations were issued as part of the Oct. 29, 2010, final program integrity rule and will take effect July 1, which is less than one month from today. We support efforts aimed at curbing abuse and bringing greater integrity to the federal student aid programs. However, given the almost total lack of evidence of a problem in the context of credit hour or state authorization, we see no basis for two regulations that so fundamentally alter the relationships between the federal government, states, accreditors and institutions. Ultimately, we believe these regulations invite inappropriate federal interference in campus-based decisions and will limit student access to high-quality education opportunities.

A credit hour is the most basic building block of any academic program. By establishing a definition of a credit hour, the regulation opens the door to inappropriate federal interference in the core academic decisions surrounding curriculum—the exact type of interference expressly prohibited in the department's enabling legislation. Consistent with our support of the principles and limitations outlined in this and other

laws, it is our position that no federal definition of a credit hour is ever appropriate because it becomes the basis for perpetual regulatory intervention in multiple institutional and accreditation decisions associated with the credit hour.

As a secondary but practical matter, the ambiguity of the particular definition at issue poses serious challenges for institutions as they review tens of thousands of courses in an effort to ensure consistency with it. Accreditors will face similar burdens as they attempt to develop or revise policies and practices to review credit policies of institutions consistent with the definition. The presence of the definition also places accreditors in the unprecedented position of being required to force institutions to meet a federal standard in an academic area as a condition of accreditation.

The state authorization regulation reflects a significant intrusion into prerogatives properly reserved to the states and threatens to upset recognition and complaint resolution procedures that have functioned effectively for decades. The regulation could also open the door to inappropriate state involvement in the academic decision-making of private non-profit institutions, in particular for religiously affiliated institutions.

The regulation also creates new and significant hurdles for student pursuing higher education through distance learning and places the federal government in the position of enforcing state distance education laws—a role inappropriate for it to assume. As a practical matter, because of the inability to accurately predict or control student mobility, most institutions will need to pursue authorization in all 50 states even before knowing from which states their students may ultimately enroll. Unfortunately, state policies in this area can be highly complex, ambiguous and outdated and are often accompanied by substantial fees that may be cost-prohibitive for some public and non-profit institutions. Indeed, due to these burdens, some colleges and universities may well determine that they will no longer offer distance education programs in certain states.

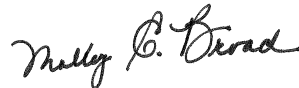
Institutions are already committed to working together with states to ensure compliance with all applicable state laws. In addition, institutions, states, State Higher Education Executive Officers (SHEEO) and other distance education coalitions are already engaged in an effort to achieve better coordination and other improvements to existing state policies. However, at a time when the higher education community is working with others to increase college persistence and attainment, we believe this federal regulation runs counter to our shared goals.

For over a year, we have engaged in conversations with ED in hopes that our concerns with these regulations could be addressed. Although ED has issued guidance to mitigate some of the most serious problems in distance education context, our

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fundamental objections to both the state authorization and credit hour regulations remain. Therefore, we are pleased to offer our support for H.R. 2117, and we look forward to assisting in your efforts to advance this important legislation.

Sincerely,



Molly Corbett Broad  
President

MCB/ldw

On behalf of:

**Higher Education Associations**

American Association of Colleges for Teacher Education  
American Association of Colleges of Osteopathic Medicine  
American Association of Colleges of Pharmacy  
American Association of Community Colleges  
American Council on Education  
American Dental Education Association  
American Indian Higher Education Consortium  
American Library Association  
Appalachian College Association  
Association for Continuing Higher Education  
Association of American Medical Colleges  
Association of American Universities  
Association of Catholic Colleges and Universities  
Association of Community College Trustees  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Schools and Colleges of Optometry  
Council for Christian Colleges & Universities  
Council for Higher Education Accreditation  
Council for Opportunity in Education  
Council of Graduate Schools  
Council of Independent Colleges  
EDUCAUSE  
National Association of College and University Business Officers  
National Association of Independent Colleges and Universities

National Association of Student Financial Aid Administrators  
The New American Colleges and Universities  
University Professional & Continuing Education Association  
Women's College Coalition  
Work Colleges Consortium

**Accreditation and Other Organizations**

Accreditation Commission for Audiology Education  
Accreditation Commission for Midwifery Education  
Accreditation Council for Pharmacy Education  
Accreditation Review Commission on Education for the Physician Assistant  
Accrediting Bureau of Health Education Schools  
Accrediting Commission of Career Schools and Colleges  
Accrediting Council for Independent Colleges and Schools  
American Board of Funeral Service Education  
American Culinary Federation's Education Foundation's Accrediting Commission  
American Occupational Therapy Association (AOTA): Accreditation Council for Occupational Therapy Education  
American Podiatric Medical Association  
American Psychological Association  
Association for Biblical Higher Education  
Association of Advanced Rabbinical and Talmudic Schools  
Association of Specialized and Professional Accreditors  
Commission on Accreditation for Marriage and Family Therapy Education  
Commission on Accreditation in Physical Therapy Education/American Physical Therapy Association  
Commission on Accreditation of Allied Health Education Programs  
Commission on Accrediting of the Association of Theological Schools  
Commission on Collegiate Nursing Education  
Conference for Mercy Higher Education  
Council for Accreditation of Counseling and Related Educational Programs  
Council on Accreditation of Nurse Anesthesia Educational Programs  
Council of Arts Accrediting Associations, including:  
    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  
Council on Education for Public Health  
Distance Education and Training Council  
Higher Learning Commission of the North Central Association of Colleges and Schools  
International Association of Baptist Colleges and Universities  
Joint Review Committee on Educational Programs in Nuclear Medicine Technology  
Middle States Commission on Higher Education  
National Accrediting Agency for Clinical Laboratory Sciences

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National Accrediting Commission of Cosmetology Arts & Sciences  
National League for Nursing Accrediting Commission, Inc.  
New England Association of Schools and Colleges, Commission on Institutions of  
Higher Education  
Society of American Foresters  
Southern Association of Colleges and Schools Commission on Colleges  
Western Association of Schools and Colleges, Accrediting Commission for Junior  
Colleges and Universities  
Western Association of Schools and Colleges, Accrediting Commission for Senior  
Colleges and Universities