



National Association of  
Independent Colleges and  
Universities

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May 2, 2022

Dear:

**Subject: College Transparency Act**

I am writing to you on behalf of the National Association of Independent Colleges and Universities (NAICU) to provide our views on the College Transparency Act (CTA), which has been added as an amendment to the House version of the America COMPETES Act. NAICU, which represents the private, nonprofit sector of American higher education, welcomes the increased transparency and information about student outcomes that such a system could provide. However, we believe there are better ways to reach this important goal without compromising student privacy. In short, we do not believe the benefits of the creation of a student unit record data system outweigh the privacy risks.

For decades, NAICU has been supportive of efforts to promote transparency about our sector, which has the highest on-time completion rates and serves similar percentages of students from underrepresented backgrounds as our public counterparts. Currently, there is an abundance of information available about student outcomes via multiple national databases, such as IPEDS, the National Student Clearinghouse, the College Scorecard, and more. These databases are generally accurate, comprehensive, and reliable, yet they do not require institutions to turn over personal information about their students. We believe that the collection methodology in the College Transparency Act that requires institutions to turn over individual student files to the federal government would violate student privacy without adding significantly to the current information available about student outcomes.

We appreciate that the version of the College Transparency Act under consideration contains several important new privacy protections, including notice to students, an opportunity for students to inspect and correct their records, data minimization and security provisions, data retention and destruction protocols, and a requirement that data may be made available only for vetted research purposes. However, because the bill would authorize the establishment of a federal student tracking system and allow access to student records without their consent, NAICU cannot support it.

Among the important privacy safeguards the bill **does not include** are protections that would require students to opt in (or at a minimum allow students to opt out) of having their records provided to the federal government. Despite the data security measures contained in the bill, it is the act of accessing student records without consent that is the fundamental privacy violation at the heart of the bill. As a result, the CTA would completely override the privacy promise at the heart of the Family Educational Rights and Privacy Act (FERPA), the federal statute that, for nearly 50 years, has guaranteed that student educational records may not be released without their written consent.



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Based on feedback from our institutions, it is also our understanding that this bill would not reduce the institutional reporting burden as its proponents suggest. Instead, it would layer these new reporting requirements on top of all of the existing federal requirements, such as submitting data to IPEDs, at a time when institutions are struggling with additional costs from the pandemic and concerns with access and affordability for students has never been higher. The result is that, in its current form, this bill would both increase administrative overhead and staffing burdens on colleges and costs for students. At a minimum, should this bill be adopted, the federal government must provide support to small, under-resourced institutions, including but not limited to, Historically Black Colleges and Universities, Minority-Serving Institutions, and Tribal Colleges and Universities, to assist these schools in implementing the new reporting requirements

We applaud the work of Senators Wyden and Rubio, the original proponents of a federal student tracking system, to develop an alternative proposal. Their Student Right to Know Before You Go Act would explore using improved technology to gather – and protect – the information colleges, students, and policymakers desire, while avoiding the creation of a permanent federal repository on each individual U.S. student. NAICU believes this alternative proposal has the potential to solve the privacy issues that have been central to our concerns while also promoting transparency about student outcomes.

We hope you will make protecting students' privacy and their right to control their own educational records a primary goal of any federal effort to gather data on students by opposing passage of the College Transparency Act. Additionally, any new data the federal government collects should take advantage of emerging and promising technologies to protect and safeguard individual students' personal information.

Respectfully,

A handwritten signature in cursive script that reads "Barbara K. Mistick".

Barbara K. Mistick, D. M.  
President