Empower Students as Consumers in Higher Education

Challenge:

The federal government can play an essential role in making information on colleges widely available to prospective students. Currently, the market is dominated by commercial interests, offering resources that may not be objective. The federal government, though, has access to valid and comparable information on all post-secondary institutions.

The federal effort to provide students and parents with information about colleges began with the advent of the College Opportunities On-Line (COOL) website in the late 1990s. The Department of Education's current College Navigator evolved from that effort.

Recently, the federal government has created additional consumer tools, including the College Scorecard and the Financial Aid Shopping Sheet. Links to still more consumer resources are available through the Department's Affordability and Transparency Center – including institutional net price calculators, college affordability and transparency lists, 90/10 information, and state spending charts. The Department also maintains a consumer information page, with links to a 31-page "Consumer Disclosures at a Glance" and more detailed information on 11 categories of required disclosures.

Beyond the Department of Education, several other consumer information proposals have been put forward. During the 112th Congress, several members introduced bills that would require collection and disclosure of information – down to the program level – for veteran and military students. Institutions don't currently collect information at this level, so such measures would substantially increase colleges' reporting burden. At the same time, the huge data sets these collections would comprise would likely be too cumbersome and confusing to be of use to prospective students.

Individually, each of these proposals may have merit. However, providing multiple federal information sources can confuse rather than aid consumers. In fact, a recent study by Monroe Community College in Rochester, N.Y., showed that providing students with too much information on the college's early registration actually led students to ignore all available materials. The "communications audit" conducted by the college found that students had received 286 separate communications about enrollment.

As Congress wrestled with similar disparate proposals during the previous HEA reauthorization, NAICU conducted a series of focus groups with a diverse group of higher education consumers to determine their informational needs and preferences. Using the focus group results, NAICU developed U-CAN (the University & College Accountability Network). This interactive consumer college search tool has now been adopted by more than 800 private nonprofit colleges. We believe that U-CAN has been built upon consumer-tested principles that Congress might adopt in addressing consumer information questions.

Other current legislative proposals include making available to prospective college students the earnings by major of each institution's graduates. Advocates believe that consumers need to have this earnings information in order to inform their choice of college and major. Others believe creating a national student unit record system to collect such information will be too costly – both in terms of system design and invasion of graduates' privacy – and will yield information that is too misleading and one-dimensional to serve as a tool for students' college-going decisions. Such proposals could be among the most divisive issues Congress will face during the forthcoming reauthorization.

Recommendations:

1. **Consolidate federal consumer information.** Require the Department of Education to consolidate the various federal consumer information initiatives into a single, widely-available tool that includes information on all Title IV eligible postsecondary institutions. The goal of such a comprehensive tool would be to help a diversity of higher education consumers "shop" for their "right-fit" college. It also should be built on comparing, rather than ranking institutions, thereby avoiding the inherent ranking problems that plague some private vendors. The consolidated tool should be developed using these principles:

   - **Ask consumers what they want.** Policy analysts – many of whom drive reauthorization conversations – want more and different information than do consumers. If this is to be an information tool for consumers, focus group research should be used to determine the information and design consumers prefer. *(See NPEC Study: Student and Guidance Counselor Feedback on the College Navigator Website, May 2012, as an example.)*

   - **Make it long enough, yet short enough.** The profile of each institution should avoid the traps of either too little (College Scorecard) or too much (College Navigator) information. The U-CAN focus groups suggested the equivalent of two pages as the ideal length. They also preferred the profiles employ colors and graphs in addition to data and narrative in presenting the information, making it more readily accessible.

   - **Include both qualitative and quantitative information.** Beyond facts and data points, the 2007-08 U-CAN focus groups also wanted to know about the nature of the institution, or what it considers its most outstanding feature. Such "soft" information helped them determine "fit." U-CAN profiles feature a series of "click-through" buttons taking users to the college's website for such points of consumer interest as mission, community, religious affiliation and traditions, public service opportunities, student employment, special programs, and student services.

   - **Look at the "Improving Postsecondary Education Data for Students Act."** Introduced by Rep. Luke Messer (R-Ind.) and approved by the House earlier this year, H.R. 1949 offers a good framework for such a review. Rep. Messer summarized it well: "Before we add further complexities to the existing programs, we ought to ask the Department of Education to examine whether the information that's out there is working well for families."

2. **Offer multi-faceted "return on investment" information.** Prospective students and their families do want to know what a graduate might earn. However, proposals that simplistically attempt to predict earnings by major at a particular institution miss the point about the skills valued by employers. They will also inevitably ignore the unique combination of interests, responsibilities, priorities, ambitions, study habits, and personal circumstances behind any individual's career choice. This is especially true for liberal arts graduates whose careers are the summation of any number of choices, preferences, and opportunities.

- **Look at value beyond earnings.** A one-dimensional focus on earnings ignores the fact that the success of a college education can be measured in other equally valid ways. Institutions have a wide range of missions in areas such as the arts, religion, social work, and public service. Students don't choose to teach for the earnings potential; they do so because they want to make a difference in shaping young lives. Careers in public service may not be lucrative, but they are of immeasurable value to the individuals and communities being served. Students have a wide range of aspirations that have nothing to do with maximizing their earnings. A college education allows them to meet those personal goals.

- **Respect student privacy.** Tracking an individual's earnings for years after graduation would require the development of a unit record data system. The federal government has already invested something in the neighborhood of $700 million to set up such systems at the state level, and state governments have invested many millions more. *(As background, see this 2009 Fordham Law School study on educational records and associated privacy issues.)*

  Current discussions seem to be moving away from the statewide systems and toward a national system—the creation of which is prohibited by a provision of the Higher Education Opportunity Act of 2008. NAICU supported the 2008 prohibition in the interest of protecting student privacy, and we believe the prohibition should be maintained. We do not see the need to re-ignite the debate over student privacy rights; nor do we see the value of investing still more money into building data systems.

- **Consider another way.** A better approach might be to make available general information on earnings and employment prospects for particular occupations. For example, the college consumer website could include a link to current employment and earnings information already being collected by the Department of Labor. This would include average career earnings by region, along with any postsecondary education or training required. Department of Labor resources currently available include:

  - **Overview of BLS Wage Data by Area and Occupation**

  - **Occupational Employment Statistics**, showing variation in employee demand and salaries by occupation and geographic location. *(As an example, this link takes you to a set of maps showing employment and salaries of elementary school teachers across the country.)*

Another useful resource for such general earnings information by occupational area is the U.S. Census Bureau's "Pathways After a Bachelor's Degree" website.

Simplify and Improve Student Aid and Loan Programs

Challenges:

Federal student aid is key to providing college access to low- and middle-income students – especially now, as students and families continue to financially recover from the lingering economic downturn. The combination of federal grant, loan, and work-study programs allows for aid to be packaged to meet individual student needs. This original structure and intent of federal student aid programs remain valid today, but should be strengthened.

The core student aid programs – Pell Grants, Stafford Loans, Supplemental Educational Opportunity Grants (SEOG), Federal Work Study, Perkins Loans, and LEAP – do not duplicate each other. Rather, campus-based aid and LEAP are designed to augment the federal student aid efforts. By providing incentives for institutions to supplement federal student aid with their own matching funds, the campus-based programs actually leverage additional aid for students.

Similarly, LEAP incentivizes states to match Pell funds with state grant dollars. However, at the same time states' commitment to need-based aid bottomed out, Congress eliminated funding for LEAP. This lost not only federal incentive funding, but also the program's all important maintenance-of-effort language for state grant programs.

Maintaining incentives for colleges and states to partner with the federal government in providing need-based aid is smart federal policy. Funding should be restored for the campus-based aid programs and LEAP.

Recommendations:

1. **Increase flexibility in the awarding of Pell Grants.** Replace the current system of hard annual loan limits, which gives more federal aid to those who take longer to complete, with a new system. Under such a revised system, every undergraduate student would have access to the same maximum amount of federal Pell Grants – whether they finish early, on-time, or take extra years to complete. *(Also see NAICU recommendations on "Increase College Accessibility, Affordability, and Completion.")*

   At its most basic level, students would draw down Pell funds in proportion to their progress toward completion of a baccalaureate degree. Such flexibility could also address such issues as the loss of "Summer Pell" and new initiatives on time to degree. In this way, providing more access to student aid also proposes a way to improve completion and lessen costs to students. The existing hard annual limits may need to stay in place for freshmen (or even sophomores), until they have demonstrated an ability to succeed in college.

2. **Increase the maximum allowable SEOG grant.** Increase the maximum for the third year and beyond from $4,000 to $7,000, to further encourage student persistence and completion.

3. **Restructure and increase access to Perkins Loans.** Support the president's proposal to restructure and significantly increase access to the Perkins Loan Program. The program has provided low-cost loans to low-income students since 1958, but funding has not been increased to meet growing student demand. Now the program is scheduled for elimination in 2014. With additional funding, the Perkins Loan Program could be transformed and expanded, with savings to the federal government.

4. **Maintain and support LEAP.** Loss of funding for LEAP rendered the maintenance-of-effort language moot, leading to a decline in states' commitment to need-based aid, and the elimination of some states' programs.

5. **Thoroughly review and update the student loan programs.** The programs should be restructured to meet the following goals: provide low cost loans to students and parents who need them; make the terms and conditions clear, and ensure the programs are efficiently administered.

   - **Loan Access*: Create flexibility in the loan program so that students who complete on-time have the same access to full federal student aid benefits as those who take longer to complete.*** Because of annual loan limits, students who complete college in four years or less are unable to borrow the maximum aggregate loan amount. As a result, they often have to borrow in the more expensive private loan market.

     As an example, a student who takes five years to graduate has access to $4,000 more in federal loan capital than a student who completes in four years. Students who are on track to complete a bachelor's degree in four years or less should be provided access to this additional borrowing. This would incentivize students to graduate sooner, and would lessen their dependence on private loans.

     (Also see NAICU recommendations on "Increase College Accessibility, Affordability, and Completion.")

   - **Interest Rates: *Students should benefit from current low student loan interest rates, and should be protected from excessive rates in the future.***

     Current interest rates for unsubsidized and PLUS loans are higher than they would be if tied to today's market conditions. While we understand that market-based interest rates fluctuate, programs should be designed to be as low cost as is reasonably possible for students during their college-going and repayment years.

     Historically, it has been difficult for Congress to set an appropriate interest rate, or to establish a process for rate-setting, that maintains a balance between providing low-cost loans to students and accommodating the nation's changing economic conditions. Linking student loan interest rates to loan market conditions, while at the same time instituting a low-interest cap, offers a possible mechanism for equity and flexibility.

     In addition, the federal government should not profit from student loans at the expense of low- and middle-income borrowers.

- **Loan Terms:** ***Reinstate both the in-school interest subsidy for graduate student loans and the interest-free grace period for subsidized student loans, and also eliminate the origination fees for student loans.***

  Recent statutory changes, such as the elimination of in-school interest subsidy for graduate students, have made loans more expensive for certain subsets of students. Higher repayment costs can deter students from pursuing advanced or professional education – a loss to the nation in our complex and highly technological world.

  The federal government should support and encourage advanced learning and skill acquisition, not make it cost-prohibitive. Low-income graduate students should be eligible for subsidized loans. They should not be forced to fund their further education with loans carrying interest rates of 6.8 and 7.9 percent that are subject to capitalization, increasing the amount that the student must ultimately repay.

  Also, Congress should review the necessity of origination fees, especially at a time when the federal government is making money from the loan programs.

- **Student Debt:** ***Support reasonable and legitimate efforts that encourage students to limit borrowing to the amount needed for college, and give campus financial aid officers authority to set lower borrowing limits for certain groups of students based on their program of study or course load.***

  Most students have manageable student loan debt levels and repay their loans. Unfortunately, though, unwise borrowing can lead to delinquency, default, and resultant financial problems. In some cases, individual student loan debt can affect a borrower's decisions later in life. It is important that terms of repayment remain flexible and easily understood, with limits on the compounding of debt.

  A student who gets a good education, minimizes borrowing, and can take advantage of reasonable repayment terms is less likely to default, even in tough economic times. Reducing the debt held by student loan borrowers is a worthy goal that benefits not only the borrower, but ultimately, society.

- **Preferred Lender List Exceptions:** ***Exclude beneficial, state, or non-profit student loan programs from the preferred lender requirements so that students are aware of these programs and of their more attractive terms.***

  The use of preferred lender lists was severely curtailed to eliminate "sweetheart deals" between colleges and banks, both in the former Federal Family Education Loan Program (FFELP) and in the private loan arena. While the intent of the restrictions was positive, it has left students on their own to sort out information on nonfederal loans. Also, the subsequent elimination of FFELP has made the preferred-lender rules largely irrelevant.

Under the current preferred lender rules, colleges may suggest beneficial private loans under prescribed conditions, such as rotating the names of the loan originators so there is no "top of the list" that might indicate a preferential ranking. Unfortunately, in the case of many states, this means that students are not clearly informed about nonfederal loan resources with the best conditions.

A number of states now have established their own low-cost loan programs, but they cannot be highlighted on the preferred lender list as considerably better for students without also rotating into the list much less favorable private loans. As a result, a bureaucratic rule stands in the way of the more important goal of providing information on low-cost loans to students.

- **PLUS Loans*: Review the conditions for approval of PLUS Loans.***

  Recent changes in the Department of Education's interpretation of "adverse credit history" have made the parents of dependent students ineligible for this federal source of college funding. Some of these parents had qualified for PLUS Loans in the past. The lack of funding has affected their children's ability to continue college and, as a consequence, a number of colleges experienced drops of enrollment.

  Since these loans are now all provided under the Direct Loan Program, and program losses through defaults are costs to the federal government, Congress should take a serious look at how eligibility is determined to ensure a reasonable balance between providing access for needy students and not burdening them with risky debt levels.

College Accessibility, Affordability, and Completion

Challenge:

Fundamentally, accessibility, affordability, and completion sum up the underlying purpose of the Higher Education Act, and are deeply intertwined with the other topics about which the House Education and the Workforce Committee has asked for proposals. Although recent policy discussions have honed in on "completion," separating it from "access" is a false dichotomy. The student aid programs were established to help students who needed financial help to not only attend college, but also to complete a degree or certificate. Access without completion is a failed hope. And access without affordability is not possible.

The recent focus on affordability and completion has enriched and shaped the national conversation about the goals of federal student aid. In particular, there is growing recognition that purposeful institutional efforts improve completion. These efforts should be encouraged. The federal government can make a positive contribution toward that end by providing support for programs that work, and by assuring that students on the path to completion have the aid they need to stay the course.

Recommendations:

1. **Ensure that student aid programs incentivize completion.**

   - **Pell and Loan Flex.** Restructure Pell and loan limits so that, as they successfully progress toward degree completion, students can draw down from the maximum aggregate amount for which they are eligible.

     Time to degree matters. Students who attend more than one institution, or who take extra years to complete college, spend more in tuition and forfeit valuable income-earning years. One of the best ways for a student to reduce the expense of a college education is to complete a four-year degree in four years. As illustrated in the attached chart, when lost wages and additional years of tuition payments are taken into account, it is less expensive to graduate on time from a higher-priced college than to spend five or six years earning a bachelor's degree from a lower-cost institution.

     Despite the added cost to students and taxpayers of a longer degree completion time, though, the federal student aid system provides *less* grant and loan aid for students who complete on time. The result is that many of these students must make up the difference through less favorable private loans.

     Pell Flex: Similarly, create a system by which each undergraduate student has access to the same amount of Pell Grant funding that is available to those students who use the maximum eligibility time. Grants would be based on student need, and would be drawn down as the student moves toward degree completion.

     Loan Flex: Replace the current system of hard annual loan limits, which gives more federal aid to those who take longer to complete, with a new system. Under such a revised system, every undergraduate student would have access to the same maximum amount of federal student loans – whether they finish early, on-time, or take extra years to complete. At its most basic level, students would draw down loan funds in proportion to their progress toward completion of a baccalaureate degree.

Note: This proposed flexibility also would address such issues as the loss of "Summer Pell." The existing hard annual limits may need to stay in place for freshmen (or even sophomores), until they have demonstrated an ability to succeed in college.

- **SEOG:** Increase the maximum allowable SEOG grant from $4,000 to $7,000 for the third year and beyond, to encourage student persistence and completion.

  The Supplemental Educational Opportunity Grant program is an effective, but underfunded program, designed to complement the Pell Grant program.

- **Federal Work Study:** Recommit to the Federal Work Study Program.

  One of the most effective and measurable steps to assist college completion is work on campus. Students say that this opportunity makes for important connections to the campus community that help them persist. A recent study by Purdue University showed that students employed on campus were retained at a rate 13 percent higher than the general student body.

2. Support the *First in the World* proposal.

Private nonprofit colleges take pride in their four-year completion rates, which surpass those of all other sectors – even when controlling for risk factors such as poor academic preparation and poverty.

To better understand the reasons behind this success, NAICU asked member institutions to submit short summaries of their programs targeted to helping students complete college. The resulting collection is available on our Building Blocks to 2020 website. The common thread across these programs is that they have been developed at the ground level, where transformative change takes place. As such, they are tailored to the mission of the particular college and the needs of its students. These are valuable and effective models.

The administration has proposed funding for colleges to scale up or duplicate successful programs through their First in the World initiative. NAICU supports this initiative and encourages Congress to incorporate it into HEA reauthorization legislation.

Encouraging Institutions to Reduce Costs

Challenge:

Private nonprofit colleges are deeply aware of the growing college affordability crisis: more students from low-income families are attending college, middle-income families have limited funds, states' support for all sectors of higher education has decreased, students are borrowing more, and the economy continues to recover more slowly than hoped. We welcome congressional focus on college affordability, and want to jointly work toward solutions that address the issue without diminishing the quality of education, reducing the rigor of degrees, or conflicting with institutional autonomy.

For the past decade, private nonprofit colleges have continuously sought efficiencies in delivering a quality education. A growing number have entered into consortial arrangements with other institutions. Through these partnerships, they have maximized their joint purchasing power – and decreased overhead – in such areas as insurance; technology; energy; back-office functions; and cross-institutional academic offerings and calendars. The economic downturn has accelerated this work. Such efforts achieve savings without sacrificing the quality of educational programs, or impeding access to them.

Still, private nonprofit colleges want to do more. However, anti-trust restrictions severely limit private non-profit colleges' ability to explore issues and innovate solutions in such areas as financial aid, price, and a myriad of related topics.

Education law provides some extremely limited relief (only on institutional need analysis principles, common aid applications, and exchange of financial aid data) to a very narrow band of universities (only those that are need-blind). However, the exceptions are so restricted as to render them inaccessible for most colleges, and of only limited value to the few who quality. Anti-trust restrictions on private nonprofit institutions put this sector at a significant disadvantage in comparison with their public college competitors, none of which are under the same prohibitions. More importantly, the restrictions stifle the ability of colleges to work collectively on policies intended to ensure that college choice remains possible and affordable for most Americans, particularly those from middle- and low-income families.

Recommendations:

1. **Encourage consortial arrangements.** Congress could play a positive role in helping colleges work cooperatively in reducing cost by providing support to cash-strapped colleges that cannot afford the start-up costs associated with many of the efforts outlined above.

   We propose establishment of a grant program to support innovative collaborative approaches to reducing institutional overhead expenses. These could include such techniques as shared services, common purchasing, and streamlined administrative procedures. The impact of this program would reach beyond direct grant recipients, in that new cost-saving approaches developed under these grants would serve as models that could be adopted by other institutions throughout the country.

2. **Consider an anti-trust exemption.** Congress should consider amending and expanding the exemption[1] from anti-trust restrictions for private, non-profit colleges for purposes of promoting affordability. Such an exemption could be for a limited time and could be under circumstances prescribed by Congress to ensure public affordability purposes are served through the exemption.

[1] Section 568 of the Improving America's Schools Act of 1994

Innovation in Access to and Delivery of Higher Education

Challenge:

American higher education is the most diverse, innovative system in the world. No other nation has our array of colleges – reflecting our unique heritage as the world's melting pot of people of various religions and national origin. Our system of higher education also reflects an historical belief in education as an essential element of a highly functioning democracy, in which the power to govern ultimately resides in the wisdom and engagement of its people.

No sector better represents this history and diversity than private nonprofit colleges, with origins that go back to the first wave of colonial settlers, and a role in society that continues to today. The mix of colleges include traditional liberal arts colleges, major research universities, church- and faith-related institutions, historically black colleges and universities, women's colleges, work colleges, performing and visual arts institutions, two-year colleges, and schools of law, medicine, engineering, business, and other professions.

Innovation at American colleges is an essential component of our nation's economic health. Future economic competition is knowledge-based. It is not coincidental that the United States leads the world in overall research and development. Institutions of higher education play an important role in helping maintain this competitive edge. In the critical area of basic research, America's colleges and universities not only produce over half of such research, but also train the next generation of researchers and scientists. In these roles, they have fostered the free flow of ideas to be tested, defended, and expanded in a competitive marketplace that rewards success, but also tolerates failure.

Innovation now reaches to the very delivery of education, degrees, and credentials. Among the current array of experiments are MOOCs, expanded distance education offerings, joint degrees, early college programs, evaluation and award of experiential credit, competency-based education, articulation agreements, and alternative credentialing.

Given the length of time between reauthorizations of the Higher Education Act, it is not easy for Congress to design student aid programs that keep pace with this change. Indeed, several well-intentioned actions by the federal government have unintentionally impeded the ability of colleges to innovate. It is critical that Congress appreciate the dynamic transformation going on at American colleges and universities. At the same time, in supporting that transformation, Congress must not enact legislation that stifles the very innovation it seeks to promote.

Recommendations:

1. **Distinguish between recognizing and paying for college.** Congress should continue the long practice of actively considering when the federal student aid programs should assist students in paying for college. Deciding when to help students *pay* for college is distinct from *recognizing* the legitimacy of a new or emerging educational concept.

   Here are some parallel initiatives that Congress has addressed in previous student aid decisions:

   - Many high school students are completing coursework for which colleges are giving academic credit. A growing number are receiving credit for advanced placement, international baccalaureate, and community college dual enrollment program, for example, allowing them to get a jump start on core college coursework. Federal student aid programs do not – *nor do they need to* – pay for college-level coursework offered as part of the regular high school curriculum if there are no postsecondary tuition expenses.

   - Many Americans enroll in college for immediate skill and knowledge acquisition, not with the intention of completing a credential or degree. These efforts are supported by the Lifetime Learning tax credit. However, federal student aid programs have always been reserved for credential- or degree-seeking candidates.

   - Federal student aid programs fund room and board expenses for students enrolled in correspondence programs only when the expenses are incurred for a required period of residential training. Congress appropriately determined that such students are likely to already be covering their living expenses, and that assisting with housing for such students was not an expense that should be covered with federal funds.

   - Federal student aid does not pay for short-term programs, under the assumption that such programs are most likely designed to provide an immediate boost in job earnings, and can be privately funded.

2. **Test ideas first.** Balance the desire to support new ideas with the need to protect against fraud and abuse. Just as the 1980's innovation of "correspondence courses" became a major area of fraud and abuse in the student aid programs, so too can innovations in time and place offer new opportunities for unscrupulous school operators to take advantage of students and taxpayers. In the past, tools such as demonstration programs or experimental sites have provided an avenue for controlled experimentation in the structure or delivery of higher education programs. The information gathered through these "tests" offers valuable analysis of such innovations before a full-scale federal investment is made.

3. **Repeal the federal definition of credit hour.** On the one hand, the federal government is encouraging colleges to innovate with time-to-degree concepts, while maintaining academic quality. On the other hand, for the first time ever, there is a federal definition of a credit hour

that promotes the "safer" course of maintaining traditional seat-time measurements. The federal definition undermines the government's own goals to promote innovation, while also standing as a wholly inappropriate intrusion into academic affairs.

4 . **Maintain award of credit as an academic decision.** Leave decisions about the award of academic credit in the hands of each institution – as has historically been the case. Without the protection of this core function, not only is the federal government inappropriately determining the value of an individual institution's credential, but an important check-and-balance on both academic quality and fraud and abuse is lost.

   The use of the credit hour for some aspects of the delivery of student aid does not change its core purpose as an academic – not a fiscal – unit. Determining its key components must remain an academic decision, particularly regarding recognition of credits from other institutions.

5. **Continue to explore Pell and Loan Flex.** As noted in our recommendations related to access, affordability, and completion, Pell and Loan Flex proposals hold great potential for promoting on-time completion. These proposals also can encourage innovative practices, such as awarding college credit for challenging courses in high school and thereby allowing students to complete more quickly.

Balance Accountability Against Regulatory Burden

Challenge:

Institutions should be held accountable for the responsible use and management of federal funds – whether received directly or provided to their students. Also appropriate are requirements relating to the operation of programs, as well as requirements for institutions to provide accurate information to the federal government and to students.

Federal requirements become unduly burdensome, however, when:

- They don't relate directly to federal program activities or performance, but instead are imposed simply because an institution participates in federal student aid programs;
- Similar, but not identical, requirements are imposed by different agencies;
- Requirements conflict with one another;
- The expense of compliance exceeds the benefit received;
- The requirements are ineffective in achieving their stated goals;
- Federal expectations aren't clearly articulated;
- The requirements become so numerous that they become impossible to manage; or
- They attempt to micro-manage academic decisions.

Regulatory burden has been a concern for many years, and NAICU is aware of 17 studies of the issue conducted over the past 20 years. On several occasions, Congress has called on various agencies to review the regulatory burden facing colleges. These reviews have either not been conducted, or have failed to lead to any significant relief. Ultimately, though, the agencies themselves are the only entities capable of sorting through the unintentional "build-up" of regulations in particular program areas over the years.

However, it is only at the individual institution level that the cumulative effect of these competing and overlapping regulations can be truly seen. A few institutions have attempted to assemble a regulatory overview – the most recent being Hartwick College. With an enrollment of about 1,500 undergraduates, Hartwick is regulated by 28 federal agencies as well as by various state and local governments and private organizations. In an impressively detailed study issued in December 2012, Hartwick identified 247 separate compliance items "that require the College to file reports, report data, provide notice to constituents or perform some other specific action."

Another aspect of the problem with federal regulation is that institutions are often given unreasonable time frames in which to meet new disclosure or reporting requirements. In some cases, they in fact have to retroactively gather data that they previously had not been required to collect. In other cases, reporting time frames are too brief to accommodate the necessary establishment of new collection systems, reformatting data, or creating or revising forms.

Finally, additional burdens are being imposed on colleges via indirect federal regulation – most notably the Department of Education's micromanagement of accreditation through the recognition process. Likewise, substantive policy changes are being issued via policy guidance rather than through formal regulations.

Recommendations:

1. **Regulatory Burden Reviews.**

    - **Federal** – Require a serious review of regulatory requirements by the Department of Education, focused on untangling the build-up of requirements in particular program areas.

    - **Institutional** – Establish a small grant program to give mini-grants to institutions to review their own compliance activities, and to report back on those that are unduly burdensome, duplicative, or unnecessary.

    Since the publication of the Hartwick study, NAICU has explored the possibility of having other institutions replicate the study – building in features that the Hartwick researchers felt would have been useful. For example, they would have asked campus staff not only the time it took to complete a particular task, but also whether the task was duplicative, excessively burdensome, or without an obvious use or purpose. Such information is easier to elicit when the work is "fresh."

    What we have found is enormous institutional interest in exploring regulatory burden, but serious concerns about the costs of doing so. Providing mini-grants to institutions, or groups of institutions, to undertake this effort would be a cost-effective way to address regulatory burden questions that have proven so difficult to assess. Such grants could support several different review models: a replication of the Hartwick model; a more intensive study of just Department of Education requirements; or a "deep-dive" into narrowly-defined campus activities subject to regulation by multiple federal agencies, for example.

    Note: Also see our related recommendations in the HEA proposal on empowering students as consumers in higher education. Our recommendations in that area are focused on providing information to students that is useful and is sufficiently, but not overly, detailed. As a byproduct, streamlining consumer information requirements would also reduce the reporting and disclosure burden on institutions.

2. **Establish a master calendar for reporting requirements.** Such a calendar for new disclosure or reporting requirements might be modeled on the master calendar currently established for student aid regulations.

    An integral part of such a calendar should be a minimum of 270 days' notice to institutions from the time final regulations or guidance on new disclosure or reporting requirements are published, before institutions are required to start collecting the data related to the new requirements. This would permit adequate time for data collection, analysis, and report preparation. It also would avoid situations in which institutions must compile the required information retroactively.

3. **Establish priorities for program reviews.** In conducting program reviews and enforcement activities, the Department of Education should give priority attention to serious violations of the law.

4. **Repeal state authorization.** The state authorization regulations (34 CFR §600.9), issued in 2010, exemplify the serious problems that are created when the Department's requirements and expectations are not clearly articulated and when the guidance that is provided is inconsistent.

Currently, across the country, institutions that have offered high-quality postsecondary education for decades, and that are clearly acknowledged as institutions of higher education, are now uncertain as to whether or not they are authorized to be what they are. What is particularly frustrating is that some states have taken action that all thought met the standard, but are now being told otherwise by state officials.

5. **Repeal the federal credit hour definition.** This definition (found in 34 CFR §600.2), also issued in 2010, is an example of the regulatory problems created when the Department of Education attempts to micromanage academic decisions.

   Credit hour decisions are appropriately made in an academic – not a regulatory – setting. The commonly accepted and long-standing concept of a credit hour has been remarkably resilient over time. It establishes a common understanding of what is required in coursework across a wide range of programs and levels. Credit hour decisions are largely made by faculty members, and require informed judgment.

By its very nature, a regulatory requirement seeks standardization and conformity. It simply cannot provide the kind of breadth and adaptability that current practices have provided. No amount of "clarification" by the Department can surmount the inherent problem of imposing the rigidity of federal regulation on a dynamic process – a process that has allowed our system of higher education to grow, improve, and respond to changing circumstances.

6. **Require cost-benefit analyses of new regulations.** All new regulations should be subject to an accurate and objective cost-benefit analysis. Further, the accuracy of the analysis should be formally reviewed in Years 1 and 5 following the effective date of the regulation.

7. **Establish a formal comment procedure for significant guidance.** Develop a formal means by which the public can comment on significant guidance issued by the Department, and require the Department to respond to those comments.

   On several occasions, the Department has implemented major policy changes, not through the normal regulatory process, but rather through the issuance of guidance that is not subject to formal rulemaking procedures. There is no opportunity for public comment on such guidance, nor is the Department required to respond to any comments that are made.

8. **Financial Responsibility Standards.**

   - Establish a formal appeals process as part of the federal financial responsibility procedures.

   - Create an advisory board of independent accounting experts to assist the Department of Education in keeping abreast of changes in, and interpretations of, accounting standards for nonprofit colleges.

   - Strengthen the current legal requirement under Section 498(c)(3)C) of the HEA, to ensure the Secretary steps back and examines the "total financial circumstances" of institutions that fail the ratios test before assessing penalties.

   Following a two-year study, a NAICU task force in November 2012 produced a report recommending a number of changes in procedures the Department of Education uses in carrying out its financial responsibility regulations. The report, which was forwarded to the Department, did not recommend changing the financial responsibility formula, but rather pointed to various accounting problems in the Department's approach. Because the Department has since declined to work on resolving the problems identified, NAICU proposes that the processes noted above be included in statute.

These changes would reduce the instances of institutions being improperly designated as failing the financial responsibility standards. They also would give institutions the ability to contest failing scores before they are made public, and before institutions must spend precious resources on additional reporting and the purchase of letters of credit to insure their federal student aid funds.

As an example on such accounting problem, when the market fell in 2008, the endowments of most colleges lost value. However, the methodology used by the Department was inconsistent with Generally Accepted Accounting Practices, causing the Department to view the decreases in endowment portfolio value as a current operating loss. A number of schools requested a correction, but the Department refused to reconsider its practice. Finally, the Secretary should be forced to follow Section 498(c)(3)C) of the HEA, which requires that the Secretary step back and examine the "total financial circumstances" of institutions that fail the ratios test before assessing penalties.

9. **Simplify and target gainful employment requirements.** Simplify the current requirements and target them more appropriately on areas of high risk.

   Specifically, certificate programs should be screened under a "first-test" standard (such as the newly formulated repayment standard) that does not require any additional reporting by institutions. Programs that meet this standard should be exempted from the burdensome collection, reporting, and disclosure requirements currently imposed on all gainful employment programs.

   Under this framework, only colleges that fail the "first test" would be required to gather additional information or meet additional standards – such as a minimum debt-to-earnings level – in order to avoid negative action. This would be a simple way to deregulate satisfactorily performing institutions, while at the same time targeting enforcement on programs that are performing under par.

10. **Avoid proposals intended to use accreditation for enforcement.** Accreditation agencies must not be repurposed as an enforcement arm of the federal government.

    Accreditation is not perfect, but it has made possible the development of a diverse and robust system of higher education unequalled in the world. Yet every legislative change affecting accreditation in recent years has made for more stringent federal control and prescriptiveness over the activities of accreditors.

    There also has been an alarming trend over the past several years to deputize accreditors as federal law enforcement officials. Accreditors are being required to single out one aspect – credit hour determinations – of comprehensive accreditation reviews for all institutions. Furthermore, they are increasingly being asked to undertake compliance work for agencies such as the Department of Homeland Security.

Improving Teacher Preparation Programs

Challenge:

The education reform movement, data-driven decision-making, state standards-setting, and outcomes-based assessments all come to a confluence in current policy conversations on teacher education. Teacher preparation programs are seen as a key piece in the puzzle of fixing our nation's K-12 public schools. Teacher preparation programs – whether federally funded or not – are under increased scrutiny to ensure that their graduates are high quality, and that the students they teach can perform well on outcomes-based assessments.

Private nonprofit colleges and universities have a long history of preparing highly-qualified teachers for America's classrooms. These institutions range from relatively small institutions with modest teacher education departments, to large research institutions with distinct colleges of education encompassing doctoral programs, and traditions of multi-disciplinary research in teaching, learning, and human development.

The most recent effort to reform teacher preparation programs came through the regulatory process at the Department of Education. However, the more appropriate place to discuss teacher preparation accountability and improvement is through the deliberative legislative process. Title II of the Higher Education Act is still relevant in today's teaching world. Teacher Quality Partnership Grants fund college and school district partnerships, which serve to disseminate the innovation in teaching taking place at colleges and in schools. Title II institutional and state reporting requirements remain useful, and have not been found to be particularly burdensome.

As a response to the administrative rulemaking process, the Educator Preparation Reform Act has been introduced by Sen. Jack Reed (D-R.I.) and Representative Mike Honda (D-Calif.) – S. 1062 and H. R. 2172 respectively – that seeks to encourage a productive approach to teacher education reform through reauthorization. Integral to that reform are accountability based upon valid and reliable research, evaluations based upon multiple measures, data for improvement rather than punitive purposes, and the active participation of states that are principally responsible for teacher preparation. The legislation encourages colleges to make the programmatic changes that are already revolutionizing teacher education on many campuses.

Recommendation:

Incorporate the Educator Preparation Reform Act into reauthorization proposals. Key provisions of the legislation include:

1. **Improve and expand the Teacher Quality Partnership Grants program**. The core mechanism of the program is to recruit and prepare teachers who commit to serve at least three years in a high-need school. This central purpose should be maintained. However, expanding the program to support principals, librarians, school counselors, and other educators would provide more holistic reform within these partnerships.

2. **Revamp reporting by teacher preparation programs.** All teacher preparation programs qualifying for federal student aid, whether higher education or non-higher education based, should be required to report key indicators of program quality and performance.

    - Allow for institutions that use teacher performance assessments to report on those outcomes, rather than on outcomes of traditional certification exams.
    - Include data reporting by program on selectivity and type of clinical preparation.
    - Require outcome measures – including placement, retention, and performance – *only if the teacher preparation entity has such data available.*
    - Require states adopt transparent processes in their development of criteria for *low performing* programs, and require states to consult with their education stakeholders (including teacher educators) in the development of such criteria.
    - Clarify that it is a state -- not federal – responsibility to develop criteria for assessing program performance levels, and that proposed criteria must be submitted for public comment.
    - Prohibit the federal government and states from using the data collected under this legislation to rank programs.

3. **Reform TEACH Grants in Title IV of HEA:** To ensure federal dollars are targeted to students committed to entering the teaching profession, limit TEACH Grant eligibility to juniors, seniors, and master's degree students only.

    - Restrict eligibility to offer TEACH grants to institutions not designated as *low performing* or *at risk* by the state.
    - Create a proportionate payback provision for TEACH grant recipients who do not complete their full service obligation, linking the amount they must pay back to the length of service they have completed.