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Senator Tom Harkin
Chairman
Committee on Health, Education, Labor and Pensions
United States Senate
428 Senate Dirksen Office Building
Washington, D.C., 20510

Dear Chairman Harkin,

We write on behalf of the undersigned associations to offer the comments of the higher education community on the Higher Education Act reauthorization discussion draft released by the committee. We welcome the opportunity to offer our views, and appreciate the thoughtful approach you have taken to reauthorization.

In any legislation as wide-ranging and important as the Higher Education Act (HEA), there will necessarily be multiple policy perspectives, particularly among a membership as diverse as that represented by the associations below. With that in mind, this letter will seek to identify proposals where the community shares broad consensus, where it shares concerns, and where it has differing viewpoints.

Similarly, the letter will address only the issues of greatest significance, or that rise to the highest level of support or opposition. As comprehensive as the discussion draft is, it would not be practical to explore every new proposal from a community-wide perspective. It should be understood that many of the proposals not addressed in this letter remain subjects of concern for the community, and their omission does not imply support.

In addition, the discussion draft does not address a number of areas in current law. The campus-based aid programs and financial responsibility standards are just two examples. While there are not specific proposals on these programs in your draft, the community has a number of policy objectives we would like to see addressed. To that end, we felt it would be useful to refer you to our August 2013 letter outlining the goals of colleges and universities in reauthorization. A copy of that letter is attached for your reference.

One broad point we would like to make is on the importance of rigorously examining the need for each regulatory and legislative requirement in the HEA. There is a sizable and complex federal regulatory structure and its impact on U.S. colleges and universities is significant, with substantial compliance costs and challenges for institutions and little

evidence that new requirements placed on institutions provide any further benefits to taxpayers. As you know, a bipartisan group of senators has asked a group of college presidents to address these issues through the Task Force on Federal Regulation of Higher Education. We are concerned that the discussion draft includes a substantial number of new requirements, but does not eliminate any existing ones. This approach will only serve to exacerbate an already serious problem, and we would ask that the committee pay meaningful attention to simplifying and streamlining requirements placed on institutions in any future legislation.

Provisions Receiving Community Support

- **Educator Quality Partnership Program (Sec. 201, Part A):** We believe this proposal, with some small changes, would positively impact the existing Teacher Quality Partnership Grant Program.

- **Extension of Pell Grant Inflation Adjustments (Sec. 411):** This provision has widespread support within the community.

- **Year-Round Pell (or YRP, Sec. 411):** The restoration of YRP (at the 150 percent annual level) is strongly supported within the higher education community. Restricting YRP to only those students enrolled full-time may have the effect of limiting completion among low-income students.

- **Simplification of Repayment Options (Secs. 421, 422, 423, and 493):** There is strong community support for simplifying the myriad and confusing income-based repayment plans into one plan. The community also supports this bill's preservation of different options for fixed repayment plans (the standard and extended repayment plans in particular), as these are used by the overwhelming majority of borrowers.

- **Elimination of Origination Fees (Sec. 451):** The community has long requested that Congress eliminate origination fees, which represent an unnecessary surcharge on students participating in the federal student loan programs.

- **Improved Student Loan Services and Debt Collection Practices (Sec. 452):** We appreciate the committee's efforts to improve the servicing of federal student loans and to address a number of problems in how borrowers' accounts have been handled. The community has long supported the creation of a single portal for borrowers that would allow them to handle their loan obligations in a clear and comprehensive way. We believe such an approach would resolve a large majority of the problems borrowers currently face in repayment.

- **Changes to Income Protection Allowance (or IPA, Secs. 471-474):** There is consensus among the sectors that it is necessary to raise the IPA across all categories, including parents of dependent students.

- **Making Use of Prior-Prior Year Mandatory (or PPY, Sec. 475):** There is broad support for allowing for the use of PPY. We appreciate the approach taken to PPY in this bill to allow some flexibility to ensure that students aren't erroneously denied aid they are entitled to.

- **Partial Restoration of Ability-to-Benefit Eligibility (or ATB, Sec. 486):** Restoration of ATB eligibility for students in career pathways programs is a welcome change. It is important to note that restoring ATB eligibility as previously defined in law is critical to institutions that disproportionately serve low-income students, particularly community colleges.

- **Institutional Certification of Private Student Loans (Secs. 488, 491, 1016):** Our members and their financial aid officers have long sought to have this authority and believe that it will be a valuable tool in curbing over-borrowing. However, the provision as written would require financial aid officers to verify whether private student loans contain certain terms and conditions. Campuses do not have the staffing or resources to do the comprehensive research and analysis of the myriad, rapidly-changing financial products this provision would require. If all private student loans should contain certain terms and conditions, then it is more appropriate for the federal government to require lenders to include them.

- **Competency-Based Education Demonstration Program (Sec. 490):** Our institutions view competency-based education as a pedagogical practice with substantial promise for postsecondary education and support efforts to incentivize institutions to develop and test its use.

- **Auto-Enrollment in Income-Based Repayment for Certain Borrowers 150 Days Delinquent (Sec. 493):** The community believes this would be a valuable tool to assist borrowers struggling to repay their loans. While institutions have long-standing concerns about the value of cohort default rates (CDR) as an indicator of institutional performance, current law utilizes CDR triggers to determine Title IV eligibility for institutions. Considering the significance of these determinations, there is some concern that this provision will have an unknown impact on student repayment and the subsequent calculation of default rates as indicators, without any clear sense of what measures may replace them.

- **Targeted Program Reviews (Sec. 498):** Institutions strongly support the idea of moving to a smarter, risk-based review process. As written though, this proposal includes criteria that are so broad they will result in thousands of institutions being targeted for review annually, far exceeding the Department's capacity. This proposal would be much more effective if the number of 'review triggers' were reduced to a few specific indicators.

- **Statutory Authorization of the First-In-The World Program (Sec. 702):** This program has widespread support within the community and we strongly encourage the creation of statutory authority for it.

- **Dual Enrollment and Early College High School Programs (Sec. 703):** The community supports these promising programs, and appreciates efforts to expand their use. There is concern that the language in the draft is too prescriptive and may prevent participation. The program would also be improved by specifying the institutional types eligible to participate, to ensure that certain categories (such as tribal colleges and universities) are not excluded at the state level.

- **Minority-Serving Institutions Innovation Fund (Sec. 704):** The community is strongly supportive of the creation of such a program. The only concern is that the proposed matching requirement may prevent the institutions that would benefit the most (those with limited resources serving high-need students) from participating.

- **Community College and Industry Partnerships Program (Sec. 803):** This proposal builds upon successful efforts already being undertaken by community colleges across the country. It would incentivize the creation of similar programs to build effective educational and career training programs tied to the needs of industry and the community. Establishment of many of these programs has been cost-prohibitive.

- **Bankruptcy Discharge for Private Label Student Loans (Sec. 1031):** The community has consistently and strongly supported this idea.

- **Study on the Impact of Federal Financial Aid Changes on Graduate Students (Sec. 1110):** Our members have been concerned at the continued erosion of federal support for graduate and professional students and believe this study will be useful in documenting the problem.

<u>Provisions of Concern to the Community</u>

- **Requirement to Use a Single Financial Aid Award Letter (Sec. 103):** The exceptional diversity of postsecondary institutions and the wide range of student circumstances would require the creation of a single award sheet that could comprehensively address every possible aid package. Such a letter would necessarily exceed one page in length and contain data fields irrelevant to the majority of students receiving it. This approach is likely to increase confusion, not reduce it.

- **Universal Net Price Calculator (Sec. 106):** We are concerned that the requirements are too prescriptive, including the details of where the tool must be

located on an institution's website, as well as how the actual numbers must be displayed. Furthermore, the provision inserts and adopts widely used terms and phrases inappropriately, such as "cost of attendance," thus potentially creating more confusion for students and families. Finally the requirement that the Secretary create a universal net-price calculator with a limited number of data fields would undermine the very reason net price calculators were created--namely, to provide families with a more accurate estimate of the aid practices at individual colleges.

- **Integrated Postsecondary Education Data System Report on Faculty Tenure Status (Sec. 108):** It is unclear what purpose this serves, or who has requested this data. The Department used to collect and report this data, but stopped due to complete lack of public interest.

- **Changes to College Scorecard (Sec. 109):** The vast expansion of data included in this provision is likely to have the unintended effect of making the College Scorecard overwhelming to prospective students. Narrowing the information provided to fewer but more relevant and fundamental data points would better serve the public. Until federal graduation rate metrics accurately track transfer students, existing data remains incomplete and misleading for the large majority of students (who are less likely to attend full-time and start and finish at their first institution). We suggest the inclusion of language to allow campuses to voluntarily link to more comprehensive alternative progress and completion metrics (such as the Student Achievement Measure) through the College Scorecard. In order to accurately reflect their student populations, community colleges should account for graduates through 300 percent of the "normal time" for completion.

- **Information Measures for Graduate and Professional Students (Secs. 103, 106 and 109):** As constructed, the College Scorecard, the Universal Net Price Calculator and the proposed single financial aid award sheet are inaccurate and misleading for graduate and professional students. Requiring institutions to use them for these students is highly problematic. We would propose that institutions only be required to use these measures for undergraduate students.

- **Mandating In-State Tuition Rates for Homeless Students (Sec. 110):** It is not an appropriate role for the federal government to determine state tuition policy.

- **Complaint Resolution and Tracking System (Sec. 113):** As written, this provision would be impracticably broad in scope, requiring institutions to respond in an expedited manner to all complaints, regardless of whether those complaints are frivolous, erroneous or outside their control.

- **Code of Conduct in Affiliated Consumer Financial Products or Services (Sec. 125):** Colleges and universities are constantly exploring ways to

offer improved services to students and their parents, as well as find savings in their own budgets. We fully agree that colleges and universities need to ensure that students' consumer interests are protected. However, this section seems poorly targeted, and does not acknowledge that well-structured arrangements can provide benefits to students, such as making banking faster, safer, less expensive and more convenient. Such restrictions and the prohibition on revenue-sharing arrangements of any kind would limit ongoing efforts to hold tuition and administrative expenses down and hinder the ability of colleges and universities to develop alternative ways to provide cost-effective services to students.

- **State Innovation in Educator Preparation (Title II, Part B):** This proposal represents the adoption of a highly problematic approach, using widely discredited measures (such as value-added metrics) and limited or unrepresentative data. Implementation would represent significant compliance challenges for institutions, and will not produce valid and reliable assessments.

- **Educator Preparation Program Reporting and Improvement (Title II, Part C):** This provision would impose a significant unfunded mandate on states and institutions and would subject institutions to large fines if they are deemed out of compliance under excessively vague criteria.

- **Borrower Claims and Defenses Against Repayment (Sec. 451):** The language in this provision is exceedingly broad in scope (referencing all federal and state laws) and will necessarily result in significant litigation issues and massive complications in federal student loan servicing and collection. We do support allowing the Secretary to act on behalf of groups of borrowers in the authority given under current law.

- **Loan Repayment Rate and Speed-based Repayment Rate (Sec. 485):** Usage of repayment rates based on loan volume holds promise. However, as conceptualized in this draft, the calculation is confusing, and added as disclosure requirements, and it is not clear whether or how it would replace CDR.

- **Institutional Disclosure of a Student's Remaining Grant and Loan Eligibility (Sec. 488):** Pell eligibility and loan usage are already provided by ED to anyone filing the Federal Application for Student Aid on the Student Aid Report. If additional disclosure is necessary, that information should more appropriately be handled by ED.

- **Institutional Collection of Receipt of Notification (Sec. 488):** If the intent of this legislation is to ensure that students annually confirm that they understand the amount borrowed and the terms on which it is borrowed, it would be far less problematic for ED to issue and collect the receipts of notification or to return to annual promissory notes.

- **Requirement of Institutional Confirmation for PLUS Loan Counseling (Sec. 488):** Such a requirement could result in significant disbursement issues, and pose a considerable new burden on financial aid administrators tasked with contacting and securing such confirmations with respect to Parent PLUS loans. This responsibility would be more appropriately handled by the Department. Graduate students borrowing through the PLUS Loan program are already required to undergo counseling as a condition of borrowing, with existing confirmation measures in place.

- **"At-Risk" or 'Mid-Stream" Student Counseling Program (Sec. 488):** We are concerned about the lack of specificity in this proposal, and the challenges inherent in developing a campus-based intervention system for aid and eligibility determinations that relies on academic affairs personnel.

- **Reporting Requirements on Clinical Training Programs (Sec. 488):** This provision represents a massive new reporting requirement for all institutions that send students to clinical training programs, without any evidence that the problem this proposal seeks to address has occurred at more than one institution.

- **Harassment Reporting Requirements (Sec. 488):** Harassment based on race, sexual orientation and other protected categories is a serious matter for campuses. However, the proposed definition of harassment in the bill is so overly broad and ambiguous as to be unworkable, and may raise First Amendment issues. While the proposal requires institutions to track all reports of harassment based on this confusing definition, "harassment" in and of itself is not defined under the Uniform Crime Reporting protocol. We note that much of the conduct that would constitute harassment under this definition is already reported under other Clery Act categories, including, for example, stalking, and in the context of a hate crime, simple assault and intimidation. Finally, the potential overlap between these provisions and Title IX's requirements on sexual harassment is likely to cause confusion.

- **Mandating Policies on How Mental Health Leaves of Absences Are Handled (Sec. 491):** We believe this issue is already appropriately governed by the Americans with Disabilities Act, and should not be included here.

- **Requirements for Institutions Serving More Than 100 Veteran Students (Sec. 491):** This provision is highly prescriptive and represents a significant expansion of federal authority into campus policies and procedures. It is also duplicative of a number of existing agreements institutions already enter into with the federal government regarding active duty and veteran students.

- **Requiring Designated Points of Contact and Housing Plans for Homeless Children and Youth (Sec. 491):** While this is an understandable

concern, such a requirement represents a significant overreach of federal authority into institutional policies.

- **Increased Penalties Without Opportunity for Mitigation (Sec. 492):** There are a number of concerns with this provision. The definition of substantial misrepresentation is overly broad, covering almost any violation. The imposition of significant penalties without the option for mitigation represents an inflexible approach that ignores the need for matching penalties to the severity of a specific incident. The imposition of substantial fines (reaching into millions of dollars) based on an as-yet undetermined formula is highly problematic. Additionally, while not exclusive to this provision, the Secretary's lack of authority to adjust penalties for postsecondary education under GEPA needs to be remedied.

- **State Competitive Grant Program for Reforms to Improve Higher Education Persistence and Completion (Sec. 705):** The program has admirable goals, but as designed would represent significant implementation problems, with a highly prescriptive approach that is unlikely to improve persistence and completion.

- **National Data Center on Higher Education and Disability (Sec. 902):** This proposal represents a massive expansion of data reporting and related institutional burden with no assistance for institutions to comply. This provision would also result in significant privacy issues with the high level of individually identifying data required.

- **Accessible Instructional Materials (Sec. 931):** This provision creates an impossible to meet standard for institutions and will result in a significant chilling effect in the usage of new technology. Such a proposal, if implemented, will seriously impede the development and adoption of accessible materials, harming the very students it is intended to assist.

- **Professional Certification Requirements (Sec. 1101):** While our members share the concerns this provision seeks to address, as written it would be impossible for institutions (particularly those serving students from across the country) to be in compliance.

- **Other General Concerns:**

    - We are broadly concerned with the significant expansion of counseling requirements proposed in this draft. There is widespread agreement that effective counseling is a critical tool in helping students make informed choices and reduce debt. The approach taken in this draft would, rather than clarify choices for prospective and current students, instead overwhelm them with data neither relevant nor useful in their decision-making. We recommend that instead of layering new requirements on top

of existing ones, counseling be narrowly focused on only the data and delivery methods that have been proven to effectively guide students.

- We are concerned that the bill does not provide a tax exclusion of student loan debt discharge to all currently available federal loan forgiveness programs and other statutorily provided student debt discharges including, but not limited to, death and permanent disability.

- We strongly support the draft's emphasis on employing consumer testing in guiding the implementation of policy proposals. Such an approach only works when the Department has adequate authority to act on the results of that testing. This draft includes numerous provisions so prescriptively written as to make any consumer testing essentially meaningless, and we would ask that they be revised to permit more flexibility in response to what has been learned from the public.

- Our campuses recognize the desire to ensure that all students are treated fairly, and receive the appropriate amount of financial aid they are eligible for. However, we are concerned that a number of provisions in this draft would broaden the definition of an independent student to the point that it allows for the possibility of fraud and abuse.

- We would caution against the use of similar terms for different programs, such as American DREAM Grants in Sec. 414 and American Dream accounts in Sec. 1109.

Provisions Where Sectors Differ

- **Making All Accreditation Documents Publicly Available (Sec. 497):** While there is some disagreement among sectors as to what, if any, accreditation documents should be made publicly available, there is consensus that it is important to maintain appropriate levels of privacy in order to permit candid discussion, and therefore some categories of documents should remain confidential.

- **State-Federal College Affordability Partnerships (Sec. 499):** Public colleges and universities strongly support this proposal, while private colleges and universities strongly oppose it.

- **Unit Record Database (previously included and expected to be re-inserted):** Most private institutions have significant concerns about privacy and the appropriate federal role in collecting this information. However, most public colleges and universities welcome the development of a limited student unit record data system with appropriate privacy safeguards in order to provide a

more accurate and more transparent picture of educational outcomes that policymakers, students and parents seek.

We understand that this is the beginning of the process, and we are encouraged by the care and consideration you have taken in offering this discussion draft. We thank you for the opportunity to offer our thoughts, and we look forward to working with you as the reauthorization process advances.

Sincerely,

Molly Corbett Broad
President

MCB/ldw

On behalf of:

American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
American Indian Higher Education Consortium
Association of American Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
Council for Christian Colleges & Universities
Council for Higher Education Accreditation
Council for Opportunity in Education
Council of Graduate Schools
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Hispanic Association of Colleges and Universities
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators
UNCF (United Negro College Fund)