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February 23, 2018

Honorable Lamar Alexander
Chair
Committee on Health, Education,
Labor and Pensions
United States Senate
Washington, DC 20510

Honorable Patty Murray
Ranking Minority Member
Committee on Health, Education,
Labor and Pensions
United States Senate
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray:

I am writing in response to the Senate Committee on Health, Education, Labor and Pensions' (HELP) request for recommendations on the key issues before Congress as you work to reauthorize the Higher Education Act. This correspondence provides a more extensive list of issues than the list of principles provided to you by the American Council on Education, which we also endorse. It also focuses more specifically on the views of our nation's private, nonprofit colleges and universities. Finally, this letter builds upon the principles for reauthorization NAICU developed in 2016, which are still relevant today.

With more than 1,000 colleges, universities, and associations as members, NAICU serves as the unified national voice of independent higher education and reflects the diversity of private, nonprofit higher education in the United States. Our member institutions include major research universities, church-related colleges, historically black colleges, art and design colleges, traditional liberal arts and science institutions, women's colleges, two-year colleges, and schools of law, medicine, engineering, business, and other professions. With over 3 million students attending independent colleges and universities, the private sector of American higher education has a dramatic impact on our nation's larger public interests.

In answering your request, I will provide a summary view of many issues that are deeply complex and nuanced. Should you wish to dig deeper on any of these matters, our staff and our membership stand ready to assist you in developing more detailed public policy proposals.

Pell Grants: Pell Grants are the cornerstone of the federal student aid programs. Recent innovations such as the reinstatement of the year-round Pell Grant, as well as efforts in the House HEA bill to implement a "Pell Bonus" for students taking 30 credits annually, help students to stay in school and complete on time. The sooner students can complete college, the more quickly they can enter the workforce and find financial independence. Taking these concepts a step further, NAICU is also interested in adoption of a Pell Plus proposal that would provide more equitable funding for on-time completers and incentivize colleges to help students complete on time. The proposal would also require colleges to have a form of "skin in the game" that would benefit students directly. While the proposal illustrates the classic four year to completion time frame, it can be adjusted to serve either community college or five-year-to-completion students. The concept could also be applied to student loans.

Campus-based aid: We do not believe eliminating SEOG and Perkins Loans simplifies aid for students, who fill out the same FAFSA regardless. It simply cuts grant aid and increases loan costs. In addition, at a time in which Congress is considering more "skin in the game" for colleges, it is ironic that Congress is also considering eliminating the very programs that require colleges (and states in the instance of LEAP) to provide matching funds that directly benefit students.

There are several critical features that will be lost if the campus-based aid programs are eliminated. For example, SEOG allows campuses to review and target additional grant aid to the most at-risk students, by looking into their individual circumstances on a case-by-case basis, including many of the financial obstacles students may face that the FAFSA doesn't consider. It also allows a student's changed circumstance to be considered, and many independent colleges use their SEOG funds as emergency funding to help a student stay in school.

The importance of the supplemental feature to Pell Grants that SEOG provides has only increased as Congress has adopted use of prior-prior year earnings information and seeks to simplify the FAFSA by eliminating questions that measure financial factors that are significant for some students. Both of these worthy efforts mean there would be more students with changed or unusual circumstances who need a second look.

We recommend Congress increase, not cut, funding for campus-based aid, including the Federal Work Study program which we strongly support, so it is available to more institutions and students.

Proposed HEA Changes to Student Loans: We do not support lowering annual and aggregate loan limits for parents and graduate students, which would force many to turn to the private market for loans for which they may not qualify. Reduction in loan limits would make it impossible for many students to attend college.

Similarly, we do not support proposals that would, for the first time since the program was created in 1965, charge low-income undergraduate students interest while they are still in school. The in-school interest subsidy rewards low- and middle-income students who stay in school, by not charging them interest until they complete their studies. Ending this subsidy would cost low-income borrowers thousands of dollars in increased loan fees. If uniformity is an overarching federal goal, then it would be better to extend this feature to all students, or for all students below a certain income threshold (such as $125,000), not eliminate it for the lowest income students.

We do support the provisions in the House bill that would eliminate origination fees on student loans, and hope you will adopt a similar provision. We also support simplifying the current confusing array of income-based repayment options, as long as students do not lose current program benefits.

Graduate Students: There are indications of declining federal interest in assisting graduate students. Whether through fewer benefits on student loans or limitations on access to various student aid programs, the net effect of declining federal support will be declining access to advanced degrees for middle- and lower-income students. Graduate degrees are increasingly important to our nation's global economy, and access to these programs should not be limited by a student's wealth.

Institutional Risk Sharing: There is much discussion in Congress to have colleges put up financial guarantees on student loans so institutions have "skin in the game." Such measures could add significantly to the financial risk for institutions, affect their external financial ratings and ratios, and drive up tuition, because there would be no other revenue source for most institutions to make the required payments. Colleges that serve low-income students already have "skin in the game." At private, nonprofit colleges, 67% of all grant aid for students comes from a college's own resources. A more positive, student-centered approach is NAICU's Pell Plus proposal, which would target institutional "skin in the game" directly to low-income students instead of to the federal government in the form of a quasi-tax.

Title IV Eligibility by Program: As I wrote to you on February 15, in response to Sen. Alexander's white paper on accountability, NAICU presidents are deeply concerned with the concept of moving in the direction of program eligibility for federal student aid. They view this proposal as a path to upending the entire higher education enterprise. While this might have a certain logic when applied to job training programs, which currently apply to credential programs at private, nonprofit institutions, the concept turns the idea of equal access to higher education for low-income students on its head. In effect, students who do not have the means to pay for college would only be eligible to major in certain programs, making equal access regardless of income—the very premise of the Higher Education Act—an abandoned dream.

Finally, at a regulatory level, the idea of abandoning certain majors, creating new ones, restructuring faculty hiring to accommodate these changes, and sorting majors by pricing would be an unprecedented level of regulatory burden and federal intrusion. Recent work, such as the *Recalibrating Regulation of Colleges and Universities* report, done under the excellent leadership of the HELP Committee, is one of the few substantive steps ever taken by Congress to undo unnecessary regulation. That work would be seriously undermined by going to programmatic eligibility.

Accreditation: We strongly support an independent system of higher education accreditation in order to promote institutional quality and diversity. This quality and diversity is fostered by the accreditation agency's peer-review process, and by an institution's autonomy to establish its own mission and academic standards. The core function of accreditation is ensuring educational quality; it must not become an agent of federal or state compliance. We strongly oppose giving this private function to state governments.

Regulatory Burden: Reporting, disclosure, and other compliance requirements continue to grow and overwhelm colleges. We hope Congress will consider the recommendations contained in the 2015 higher education deregulatory report of a bi-partisan task force initiated by Senators Lamar Alexander (R-TN), Barbara Mikulski (D-MD), Richard Burr (R-NC), and Michael Bennet (D-CO). We also support the House HEA proposal to fix the problematic implementation of the Financial Responsibility Standards for nonprofit colleges. These standards have forced many institutions that are not at risk of precipitous closure to waste limited resources by buying unnecessary letters of credit. We also support eliminating the state authorization regulations (both the core regulations and those pertaining to distance education), but not the legislative requirement. Finally, we also support eliminating regulations regarding the federal definition of credit hour.

Award and Transfer of Credit: The awarding and defining of academic credit is central to an institution's academic mission, and to the value and meaning of its diploma. In a rapidly changing environment of increased student mobility, and new modes of course delivery, institutions are taking a careful look at their policies. However, federal mandates on the standards to be used are not only inappropriate, they place at risk one of the most effective quality control mechanisms in higher education.

Data and Accountability: We recognize the importance of data both in informing consumer decisions and ensuring institutional accountability. When considering new data or accountability requirements, Congress should take steps to ensure that student privacy is not compromised. We believe federal accountability, transparency, and consumer information needs can be served, while maintaining the current ban on a federal student unit records system.

Campus Sexual Assault: We anticipate that Congress will address this issue in any HEA reauthorization, and we strongly believe that all students should expect to find a safe and supportive campus environment. Legislative initiatives should be focused on safety and support, education and prevention, and the fair and equitable treatment of all students. Any legislative proposal must also be fair and flexible enough to be adapted to the particular circumstances of each institution.

Freedom of Speech: Our institutions are committed to promoting the free and open exchange of ideas. We understand that Congress has considered proposals to regulate how institutions handle freedom of speech on campus. Any such proposals must consider an institution's duty to balance free speech protections with other essential values, such as student safety, inclusion, and respect.

Anti-Trust Exemption: Private, nonprofit colleges are deeply aware of the growing college pricing strains on both families and institutions. For more than 20 years, federal anti-trust practices have prevented private, nonprofit colleges from engaging in full discussions of new business models. Congress should provide private, nonprofit colleges temporary (5 years) relief from anti-trust restrictions for the purpose of discussing affordability and efficiency. At a time when many states are promoting the idea of a free college for students from families under a certain income threshold, private colleges are prohibited from engaging in these types of conversations either among themselves, in their geographic regions, or in conjunction with their public sector colleagues. Public colleges are not restricted by anti-trust rules.

Fraud and Abuse: Congress needs to ensure that it does everything in its power to protect students from unscrupulous practices by some institutions who may see access to student aid funds as a means toward acquiring wealth, instead of a tool to serve students of need. As higher education changes and adapts to an evolving practice in learning and technology, we must redouble our efforts to ensure that provisions designed to enhance educational flexibility don't become avenues for abuse of student aid programs. Short-term programs, non-synchronous learning, badging and credentialing, and competency-based education are all among the cutting edge practices being tested in higher education. But each could pose risk for fraud and abuse, if not carefully framed to ensure the educational providers are fully legitimate educators with the interest of students central to their missions. All Title IV institutions share in a collective responsibility to ensure program integrity, both to sustain the programs and on behalf of students everywhere. We also support the current provisions in law that protect against fraud and abuse, including separate definitions of non-profit and for-profit institutions.

We appreciate your interest in the input of our nation's private, nonprofit institutions.

Sincerely,

David Warren
President