(Letter sent to all Senators and Representatives)

December 12, 2005

The Honorable Bill Frist
U.S. Senate
Washington, DC  20510

Dear Senator Frist:

I write on behalf of the member colleges and universities of the American Council on Education and the Association of American Universities to urge you to vote against adoption of the Conference Report on H.R. 3199, the Patriot Act reauthorization bill.

Our two associations represent 1,800 colleges and universities, all of which are directly and profoundly affected by the Patriot Act. The higher education community strongly supports the goal of the Patriot Act to increase national security by strengthening the capacity of the federal government to detect and deter terrorist threats to our nation. But any such expansion of government surveillance and prosecutorial powers must be carefully balanced against the essential need to preserve the fundamental rights and liberties of Americans. The Patriot Act Conference Report fails this balancing test in several ways.

Colleges and universities are particularly concerned with the provisions of Section 215, concerning the disclosure of a wide range of records and information including library, medical, or other records, and the expansion of the power of National Security Letters (NSLs), which allow the FBI to demand records of financial and Internet transactions in intelligence investigations. Both of these provisions would allow the government to order the disclosure of personal records and other information without a meaningful demonstration that the information demanded is connected to a suspected terrorist or spy. Moreover, the recipients of these secret demands for information, including colleges and universities, are prohibited—with severe penalties—from revealing to the targets of these investigations that private records about them have been turned over to the FBI. Furthermore, both provisions lack adequate judicial oversight or opportunity for meaningful judicial challenge. Although the Conference Report provides a four-year sunset for Section 215, it contains no sunset on the use of NSL authorities.

As written, these provisions would force colleges and universities to provide sensitive information about students, faculty, and staff to the government without a specific connection to a terrorist threat having been established and without the affected institutions or individuals having recourse to adequate judicial protection and appeal.

Because of these serious flaws in the treatment of the civil liberties and privacy of American citizens, we ask you to vote against the Patriot Act Conference Report.

Thank you for your consideration of our views.

David Ward, President
American Council on Education

Nils Hasselmo, President
Association of American Universities