



February 15, 2018

The Honorable Lamar Alexander  
Senate Health, Education, Labor and Pensions Committee  
428 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Alexander:

Thank you for soliciting views from the public as you and your Senate HELP Committee colleagues prepare to reauthorize the Higher Education Act (HEA). I write on behalf of the Association of American Universities (AAU), an association of 60 leading U.S. public and private research universities, to offer the following views on your recently released white paper on higher education accountability.

The white paper provides an overview of the current federal accountability requirements in higher education and considers a number of new proposals. AAU agrees with the paper's overall goal of updating existing federal accountability measures, as appropriate, to ensure that students receive an education "worth their time and money." AAU institutions strive to provide the highest quality education possible, and to make it affordable through a range of cost-savings measures, substantial institutional financial aid programs for low- and middle-income students, and the creative use of technology.

A robust higher education sector that is affordable, accessible, and accountable is vital to our country's economic competitiveness. More jobs than ever require postsecondary education, and the federal government invests about \$150 billion a year in student aid to help make college possible for students from low- and middle-income backgrounds.

AAU universities are committed to providing an affordable education to all students. On average, AAU private institutions provide a 57 percent discount on tuition and fees and public institutions provide a 42 percent discount on tuition and fees. In the last year AAU universities provided students with over \$1 billion in institutional aid. For those that did take out federal loans, only 2.3 percent defaulted, which is considerably lower than the national average of 7 percent for nonprofit institutions. Fifty percent of 2015 graduates from AAU universities graduated without any debt.

As a fundamental principle, AAU is committed to the idea that students who wish to pursue a higher education should not be denied the opportunity because of economic circumstances. At the same time, we believe that access should be coupled with the goal of completion of a strong education program. Simply enrolling students at an institution that provides little or no educational benefit for its students should not be the objective of the federal government. This is evident in our undergraduate student graduation rates, as 82 percent graduated in 6 years.

In the context of the HEA, we hope Congress will adopt policies that lead to greater levels of access and student success, take strong steps to address fraud and abuse in student aid programs, and help ensure the integrity of federal student aid programs.

We offer comments on the following components of the white paper, including 1) the Triad: States, Accrediting Agencies, and the Federal Government; 2) Cohort Default Rates and Loan Repayment Rates; 3) the 90-10 Rule; and 4) the Gainful Employment Rule.



## 1) The Triad: States, Accrediting Agencies, and the Federal Government

In recent years, accreditation—its purpose, the players involved in the process, and the actual process of accrediting institutions—has become a significant point of contention among those within and outside of higher education. AAU believes that the accreditation process performs an integral and critical role in U.S. higher education. A hallmark of the U.S. higher education system has been its use of and reliance on an independent accreditation system, a vital leg in the “triad” of federal, state, and higher education mechanisms responsible for ensuring integrity in our higher education enterprise. We reaffirm our continued support for a non-federal tool for determining quality, one that allows for flexibility and informed academic judgment.

### Student Achievement

AAU endorses an accreditation system that promotes effective assessment of student achievement in the context of the missions of individual institutions, provides flexibility for institutions with a record of stability and successful performance, and focuses attention on substandard institutions. It is important to note that federal law requires institutions to provide evidence of “success with respect to student achievement in relation to an institution’s mission.”

We support a system in which all institutions, working with their institutional accreditors, are expected to provide evidence of student success in three areas:

1) student learning experience, 2) student academic performance, and 3) post-graduation outcomes. The areas are drawn from a statement on effective assessment of student achievement endorsed by all seven regional accrediting commissions and the six major national presidential higher education associations. A copy of the statement, “[Principles for Effective Assessment of Student Achievement](#),” is attached.

### Risk-Based Review

We strongly support implementing risk-based accreditation reviews. As stated in [AAU’s HEA reauthorization recommendations of July 2013](#) – as well as by NACIQI in its report [Higher Education Accreditation Reauthorization Policy Recommendations](#) and the American Council on Education’s report [Assuring Quality in the 21st Century: Self-Regulation in a New Era](#) – accreditors should develop and implement expedited review procedures for institutions with a record of stability and successful performance. As discussed in the [Report of the Task Force on Federal Regulation of Higher Education](#), issued by a Senate-appointed Task Force chaired by Chancellors William E. Kirwan, University of Maryland system, and Nicholas S. Zeppos, Vanderbilt University, the authority of accreditors to conduct “differentiated reviews” needs to be clarified. We believe accreditors have the legal authority under the HEA to allow institutions with records of exceptional quality and performance to undergo a less arduous set of procedures and processes.

We realize that not all parties involved may have the same interpretation of current law, so clearer statutory language may be necessary to enable accreditors to focus on those institutions that need additional assistance, as well as to minimize the burden on high-performing institutions. We believe Congress should ensure that accreditors not only have the explicit authority to conduct differentiated reviews but are required to conduct them under specified circumstances. Additionally, we believe accreditors, as part of the certification or recertification process for accreditor status, should demonstrate that they include an active system of expedited review as a component of their accreditation procedures.

### Accreditation and Innovation and Competition

Accreditation, alone, does not constitute an inherent barrier to innovation in educational practice. Appropriately applied, accreditation not only assures the quality of educational innovations, it can also foster them. We agree that more work needs to be done to accommodate new and nontraditional education providers, and we encourage accreditors and the higher education community to think about new procedures for addressing educational quality in these new forms of educational delivery. Many AAU institutions are leading the way in offering students more flexibility through curricula that will include a combination of face-to-face instruction, blended courses, and distance education. These institutions are encouraging their faculty to experiment with course delivery methods and materials to determine what is most effective. For example, some faculty members are now using content created for Massive Open Online Courses in blended courses on campus. The landscape is changing, and accreditation can and should keep up with these changes.

We oppose authorizing states to enter into agreements with the Secretary of Education to develop accreditation agencies for nontraditional providers. Similarly, we do not support proposals such as the one offered by Senator Mike Lee to allow states to set up their own alternative accrediting systems and decouple accreditation from Title IV student aid eligibility. We believe such State-mandated accreditation systems would lead to regulations that would stifle creativity and innovation in the classroom.

Through increased accreditation oversight, the Department of Education may be responsible, however unintentionally, for creating roadblocks to innovation. While the agency publicly encourages the development of new programs that are relevant to consumer and market needs, the applications to launch these programs can languish for months and years at the Department even after they have been approved by accrediting agencies. Even more problematic, the Department does not allow institutions to submit more than one new program request at a time, so one new pending program application creates a complete bottleneck.

As part of reauthorization, we encourage the Committee to develop a comprehensive list of barriers to educational innovation, identify the most serious, and find ways to alleviate them. Along these lines, we recommend reviewing the flawed state authorization regulations for distance education programs. We believe these serve as a barrier to innovation. Overall, assuming that a single actor or policy is responsible for limiting innovations means that proposed solutions will only fall short.

## **2) Cohort Default Rates and Loan Repayment Rates**

AAU agrees that the cohort default rate as the primary measure of accountability with student aid funds is flawed. As the White Paper points out, sanctions are rarely applied by the Department of Education. According to the Congressional Research Service analysis of the Department of Education data, since 1999, only 11 colleges and universities have been removed from the Title IV student aid programs because of high cohort default rates. We encourage Congress in the context of the HEA reauthorization to determine whether it should, in fact, be eliminated or improved and used in conjunction with other measures, for accountability purposes. One accountability measure may not be sufficient to meet the collect goal of ensuring accountability for all institutions of higher education.

As cited in the White Paper, policymakers are increasingly considering repayment rates for accountability purposes either in addition to or to supplement cohort default rates. However, AAU encourages Congress to carefully study the application and negative consequences that may arise when using a repayment rate measure at the program level. Such a new risk-sharing program could potentially penalize institutions that

admit the most at-risk students and increase costs for institutions, which will inevitably be passed on to students. Additionally, because programs across higher education are unique to their institution, such a metric cannot be easily defined due to program variability. Examples include how combinations of programs are defined for the purpose of dual majors and how different sectors define their programs. As a result, it is unclear in practical terms how this program would be implemented by the federal government and higher education institutions. This could lead to unintended consequences and new regulatory burden. It is also unclear how this measure would impact access for low-income students to study the humanities, arts, education, and other areas of study that provide students with critical thinking, problem solving skills, and other skills valued by employers but not necessarily immediately remunerated well by the marketplace.

### 3) The 90-10 Rule

For accountability purposes, AAU's believes for-profit colleges should not be funded solely by federal taxpayers, and federal taxpayers should not be propping up low-quality schools. While, few institutions have been subject to sanctions because of the 90-10 ruling, this is largely because of the leniency of the law and it does not count all forms of federal funding. Removing the 90-10 rule raises serious accountability concerns. AAU supports strengthening, rather than removing, this rule, as an important quality control provision.

### 4) The Gainful Employment Rule

AAU strongly supports careful examination of current regulations impacting higher education. Specifically, the report of the bipartisan Task Force on Federal Regulation of Higher Education includes many recommendations to streamline federal mandates and help reduce administrative costs and better serve students. AAU is [on the record](#) for requesting changes to the gainful employment regulation to increase their effectiveness and reduce unnecessary burden. While AAU has made these recommendations, AAU does not support rescinding this regulation or precluding the Department of Education from taking action in this space, as has been suggested by some policymakers.

As stated in a [community letter](#) to the Department of Education on May 27, 2014, AAU strongly supports gainful employment regulations that would exclude programs from Title IV federal financial aid programs that fail to serve students well, regardless of where such programs are offered. Identifying and eliminating such programs from eligibility is legally required in the Higher Education Act and is clearly in the interest of students and the federal government.

While it has been argued that the ruling is ineffective, we believe this is because the substance of the existing metric is too weak to be effective against underperforming programs. Programs with extremely high borrowing rates and loan volumes—precisely the ones the department should be most concerned about—are provided with multiple means of manipulating the metrics to navigate their safeguards. In particular, the regulation allows for the shifting of debt to non-completers, periodic tuition discounts to generate better outcomes for just one year, and the application of institutional “default management” techniques to program cohorts (intended solely to push inevitable defaults out of the three-year cohort default window). All of these practices could undermine the regulation's intent.

Second, the regulations as designed are not well-targeted and provide no reasonable safe harbors for good actors within the system. A fundamental tenet of prudent oversight and enforcement is to focus attention on programs and institutions where the risks are highest. Needlessly requiring low-risk programs to navigate this complicated compliance regime will overwhelm them and even the department for no obvious gain. We recommend the committee examine specific degree programs like those offered only at the post-baccalaureate level or that do not have high default rates and consider those to be exempt.



Again, we appreciate the opportunity to provide comments on how to improve the higher education accountability system. If you would like to discuss our comments or other sections of the White Paper not covered in these comments, please do not hesitate to contact us. We look forward to a continuing dialogue with you on this important set of issues.

Sincerely,

A handwritten signature in cursive script that reads "Mary Sue Coleman".

Mary Sue Coleman  
President