



US Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Regarding: Executive Order 13777 – “Enforcing the Regulatory Reform Agenda”
Docket ID: ED-2017-OS-0074

To Whom It May Concern:

The Pennsylvania Association of Private School Administrators (PAPSA) is the state association representing over 100 postsecondary technical colleges and career-focused trade schools in Pennsylvania (including both private non-profit and for-profit members).

As the Executive Director of PAPSA, I have personally visited over 100 different campuses of higher education in Pennsylvania. I have spent countless hours meeting with school leaders, administrators, faculty, students, employers, and local leaders. I have heard many stories through these visits about how excessive regulations have impeded the potential growth of a school, prevented the implementation of education programs, diverted resources out of the classroom and into the compliance office, stifled creative and new learning opportunities, and many more concerns from school officials. In the worst-case scenarios, I have had to help several schools over the last two years deal with the process of closing their institution, including three separate institutions that were over a 100 years old each. In every one of these school closures, excessive federal regulation was either a primary or secondary reason for closure. This is why the work of the Regulatory Reform Task Force and the Department is so important!

First, thank you to Secretary DeVos, the Department, and the White House for recognizing the need for significant regulatory reforms in higher education. Although regulation is generally well-intentioned and some very limited regulation is necessary to provide accountability and quality assurance in the system, the reality is excessive regulation becomes counter-productive, expensive, time-consuming and often does more harm than intended.

We also understand this work will not be easy. Our current regulatory environment is a culmination of several decades of rules and guidance implemented by several administrations and both political parties. All of these regulations had an original purpose and some of the regulations still have supporting interest groups. Unraveling the rules to keep what regulations are necessary and useful, while removing or minimizing provisions that are not needed or counterproductive will be difficult. We

sincerely commend you for taking on this important challenge and we are willing to work with you as a resource in this effort.

RECOMMENDATIONS

We understand the Federal Register notice on this public comment period requested recommendations on specific regulations with cites to be included and it indicated specific recommendations would be preferred over general recommendations. The rest of this letter will be divided into two parts: Recommendations #1-5 are general and broad recommendations, while recommendations #6-18 are specific recommendations with cites that have been submitted to me by some schools and other issue-area experts.

General Recommendations:

- 1) Provide flexibility in regulations – Higher education and the workforce are changing at a pace that are often too fast for regulators to keep pace. Higher education in the next five, ten, or twenty-five years will look nothing like it does today. Some examples of how it is changing, include; online learning, digital tools replacing textbooks, enrollment declines in brick-and-mortar campuses, more interstate reciprocity across state lines, competency-based education, new and alternative course scheduling models, 18-22 year-old students no longer being the “traditional student” in many schools, a stronger need for skilled training and industry certifications compared to general liberal arts degrees, and countless other changes that are already impacting higher education. The regulatory structure adopted now must recognize this and be flexible enough to account for the inevitable changes that will continue to occur.
- 2) End arbitrary application of rules based on tax status of institution – Too many regulations, particularly several large regulations from the previous administration, are applied unequally and have stricter rules for institutions based on their tax status. If a rule makes sense and is effective, then it should be applied across the different sectors of higher education. If the rule does not make sense or is ineffective, then it should not be applied to any institution.
- 3) Gainful Employment regulation – We know the Department has announced new negotiated rulemakings for this specific regulation and these sessions will cover this regulation in-depth. However, it is important the Regulatory Reform Task Force is aware of the rule and the need to reform it. Some general recommendations to improve this rule include; making it apply evenly across higher education sectors and uniform across tax statuses, make sure data used in the regulation is accurate, make the rule less punitive to institutions and students, recognize there are numerous factors regarding earnings in specific careers that can’t easily be quantified, and also recognize schools can’t control personal and family decisions of graduates after they leave their institution.
- 4) Borrowers Defense to Repayment regulation – Since there is also already a negotiated rulemaking established for this rule, here are just a few general comments for now on this significant regulation; make it apply evenly across sectors of higher education and tax statuses, focus the rule on its original purpose of providing students’ debt relief in very limited and severe cases of problems with their institution, don’t use this regulation as a vehicle to implement

other policies that are not directly related to its original purpose, and make sure the rule provides adequate due process for both the student and the institution when there are claims.

- 5) Accrediting Commission for Independent Colleges and Schools (ACICS) – Although this issue may be outside the primary scope of this task force, it is probably the federal issue that could produce the most immediate harm to students and institutions if federal policy-makers do not make responsible decisions regarding the issue. There are hundreds of schools that are in this situation to no fault of their own, and who educate many thousands of students across the country who have done nothing wrong as well. Whether it is providing additional time for schools in the process of transitioning accreditation, assuring programmatic accreditation is preserved in this process, working with states to make sure state licensure is protected, or any other considerations federal officials can take to prevent unnecessary impacts, this issue needs the utmost attention of federal decision-makers.

Specific Recommendations and Cites from Schools and Issue-Area Experts:

- 6) Timing of submittals for Campus Crime Reports - The Annual Campus Crime Report has to be distributed to students by October 1. However, it is not required to be completed and submitted to the federal government until several weeks later in October. Students should receive the same final report submitted to the government. Thus, it is recommended the ordering of these submittals and distribution be changed so the federal government's deadline is first and then the schools provide a copy to the students second.
- 7) The Audit Guide – The Department of Education released in 2016 a several-hundred-page document designed to significantly increase regulation of audits for schools classified as for-profit for tax purposes. The old Audit Guide had not been updated since 2000 and probably needed some changes, but the new guide went too far. We encourage the Department to review and update the guide if needed, but not use it as a punitive tool arbitrarily against one sector of higher education.
- 8) One common set of consumer information (34 CFR 668.41-49) – Students should have uniform access to relevant information that helps them have the information needed to make decisions about their education. However, the current processes for collecting and distributing such information is not helpful and may be confusing to students. For example; the College Scorecard, the GE Disclosure Template, the Financial Aid Shopping Sheet, and the Net Price Calculator all use different metrics, cohorts and time frames. The Department should revise all consumer information regulations so that all institutions of higher education are disclosing the same information in the same format. One common set of metrics should be the goal.
- 9) Definition of Credit Hour (34 CFR 600.2, 602.24, 603.24 and 668.8) – Many institutions of higher education from different sectors believe the Department should repeal this rule. The diversity of today's postsecondary education programs show that one size doesn't fit all. The definition of credit hours used to be in the hands of accreditors who have diverse expertise working with many different types of schools and programs. The Department should consider reverting back to this system.

- 10) Eligibility and Certification Approval Record (ECAR) timelines (34 CFR 600.20 (c) and (d)) - Schools and the Department must work together to serve the needs of the Department to protect program integrity, while also assuring the school's ability to expand programs and/or locations to maintain the high quality of academic programs needed by students. The current regulations place timelines on schools' applications, but there are no similar timelines for the Department's consideration of the application and a formal response. In postsecondary career education, new and updated programs are necessary to educate students with the most current skill demands. Regulations should establish clear timelines and expectations for both parties.
- 11) Verification regulations in processing Financial Aid (34 CFR 668.57) – Verification is important in processing the correct federal aid to students. However, the revised verification regulations significantly expanded the data elements for verification. This created a significant new burden on both students and institutions. The data can also be very difficult for students of low-economic means to produce. One option suggested would be for the Department to consider random verification based upon appropriate triggers rather than placing a universal burden on all students and institutions.
- 12) The process for R2T4 is too complex (34 CFR 668.22) – For today's adult students who sometimes must start and stop their academic studies several times for multiple reasons, this process is too complex and difficult to manage for every student's unique needs. This can result in delays in processing a student's financial aid. The Department may want to consider a more streamlined approach.
- 13) Loan and borrowing limitations (34 CFR 685.301 (a) (8)) – Student debt is a growing problem and measures must be taken to curb overborrowing. Schools should be allowed to create policies to align loan amounts to a student's actual costs.
- 14) Recertification timelines (34 CFR 668.13 and 600.20) - Improved timelines for consideration of recertification may be considered.
- 15) Appeal process in denial of recertification (34 CFR 600.20) - A school denied recertification has little recourse unless they choose legal action. Schools should be provided an appeal option and due process in the regulations.
- 16) Appeal process in termination of Provisional PPA (34 CFR 668.13(d)) – If a Provisional PPA is terminated, the school also has little recourse unless they choose legal action. Schools should be provided an appeal option and due process in the regulations.
- 17) Establish appropriate period for payment to schools (34 CFR 668.164 and 668.690) - The distribution of loan payments and Pell Grants to schools need appropriate timelines to assure funding is received within a reasonable time.
- 18) Sale and/or transfer of school ownership/operations: (34 CFR 600.3) - The previous administration required that if school ownership wanted to sell or transfer control to one or more locations of an institution, then all campuses within a school's OPE-ID number must be transferred. The problem was significant when the closing of several large groups of campuses occurred and some very good schools were unable to continue operating because a potential buyer was not able to separate successful campuses from others. They also required buyers to

accept the liabilities of a past operator and incur any problems the previous owner had with 90/10 and other issues. The previous administration's approach resulted in many successful campuses having to close; students losing their education and taxpayers on the hook for loan forgiveness. This should be changed.

Sincerely,

Aaron M. Shenck
Executive Director – PAPSA
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