

July 17, 2013

The Honorable John Kline  
Chairman  
House Committee on Education and the Workforce  
United States House of Representatives  
2181 Rayburn House Office Building  
Washington, D.C. 20515

Dear Representatives Foxx, Kline and Hastings:

I am writing to thank you for introducing H.R. 2637, the Supporting Academic Freedom Through Regulatory Relief Act, which was recently introduced to repeal harmful regulations imposed on higher education.

As you know, the credit hour definition and state authorization regulations were issued as part of the October 29, 2010 final program integrity rule, and will take effect July 1. We support efforts aimed at curbing abuse and bringing greater integrity to the federal student aid programs. However, given the almost total lack of evidence of a problem in either the credit hour or state authorization context, we see no basis for two regulations that so fundamentally alter the relationships between the federal government, states, accreditors and institutions. Ultimately, we believe that these regulations invite inappropriate federal interference in campus-based decisions and will limit student access to high-quality education opportunities.

The state authorization regulation reflects a significant intrusion into prerogatives properly reserved to the states and threatens to upset recognition and complaint resolution procedures that have functioned effectively for decades. It is also very expensive for institutions of higher learning as well as ultimately to the students. For just Excelsior College, we are looking at more than \$350,000 in annual costs for staffing and fees.

Founded as Regents College in 1971 by the Regents of the University of the State of New York and chartered as a private, nonprofit institution in 1998, the College was renamed Excelsior College in 2001. From its inception, Excelsior College was designed to be an innovator in providing access to higher education for underserved populations of students.

The state authorization regulation creates new and significant hurdles for students pursuing higher education through distance education and is especially problematic for Excelsior College. Innovative models like Excelsior College allow students to pursue a degree when they may not otherwise have been able to do so because of family and work responsibilities, geographic

location or financial constraints. This regulation will stifle innovation and outreach for those students with the greatest need for access to learning and ultimately the nation's workforce.

It is not only costly, but places the federal government in the position of enforcing state laws – a role that is inappropriate for it to assume. This mandate will force institutions to secure authorization in all 50 states, even before knowing from which states their students may ultimately enroll.

State policies in this area are often highly complex, ambiguous, outdated, and accompanied by substantial fees. We are committed to working together with states to ensure compliance with all applicable state laws. In addition, a national coalition, including the Presidents Forum, the four regional higher education compacts, and all of the major associations representing all of the sectors of higher education, has been working to advance a State Authorization Reciprocity Agreement (SARA) that would address both federal and state concerns for institutional program and financial integrity and consumer protection.

I strongly believe that the current attempts by the United States Department of Education to expand program integrity rules and associated regulation runs counter to our shared goals to make higher learning more accessible, to increase college persistence, and to lower the cost of attaining a degree.

Our attempts at trying to ameliorate our concerns with the leadership of the Department of Education have not resulted in any satisfactory solution. Last year, The Presidents Forum at Excelsior College hosted a meeting with Assistant Secretary Ochoa for the purpose of establishing a dialogue with presidents of distance learning colleges concerned about the burdens that implementation of the program integrity regulations would have on their institutions of higher learning. In response to this critique, the Department issued “guidance” in an attempt to mitigate the inherent persistent lack of clarity in the distance education context. However, our fundamental objections to the regulations remain.

Passage of H.R. 2637 is important to preserve innovation and to ensure that we may continue to move forward to address the needs of our students and the nation. I greatly appreciate your leadership in advancing this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Ebersole", with a long horizontal flourish extending to the right.

John F. Ebersole, LPD