



## Comments to the Notice of Proposed Rulemaking – “Program Integrity Issues”

Docket ID: ED-2010-OPE-0004

Submitted By: Council for Christian Colleges & Universities (“CCCU”)

The CCCU supports the efforts of the Department of Education to ensure the integrity of Title IV student financial aid programs and applauds the Department’s efforts to eliminate instances of fraud, abuse, and waste within higher education. The CCCU is concerned, however, that the Department’s efforts reach too broadly, create cumbersome regulatory hurdles for all schools when there are only a few instances of this bad behavior, and impose too heavy an administrative burden for reporting.

Our member institutions value our independence and believe we contribute significantly to the extraordinary mosaic of American higher education that has served our country so well and makes American higher education so sought after by the peoples of the world. We reject a one-size-fits-all approach that seems to be a basic concept in the proposed regulations. Institutional autonomy to pursue unique educational missions is especially important to our faith-based member institutions. The proposed language regarding state authorization is so broad as to give states unchecked control over private, higher education institutions creating sweeping changes in historically proven self-policing systems in favor of an untried, untested, and unwarranted governmental/political system. As the Department finalizes these regulations, we ask you to reevaluate the broad impact of these rules. Instead of adding such sweeping regulatory requirements, we ask that the proposals be directed at schools that have committed bad acts, so that the stated goal is accomplished without creating expensive and cumbersome regulations for all schools. Further, we ask that the federally mandated provisions for state authorization be removed altogether, and that the manner of state authorization of private institutions be left to the discretion of the individual states.

### Section 600.9 – State Authorization

1. States have historically approached authorization in a variety of ways most appropriate to the individual state and there is insufficient justification for the radical proposal for a uniform approach. This approach may lead to substantial increase in regulations and reporting requirements in order to secure legal authorization – including curricular requirements that interfere with institutional autonomy and institutional mission, especially important to our faith-based schools.
2. The proposals say what the state may and must do, but do not put any limits on states. What “adverse action” may they not take? Are there any factors that a state may not consider when granting legal authorization?
3. What current state agencies would be qualified to review and appropriately act on complaints filed against institutions? A consumer protection office? Would a state agency that can review complaints and take adverse action against a school have to have any sort of particular qualifications? Would their revocation of authorization require corroboration from the accreditation agency or Department of Education?
4. Finally, the regulations do not provide an example or an indication of the specific state authorization envisioned.



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### Section 603.24 – Secretary’s Recognition Procedures for State Agencies: Criteria for State Agencies

1. This provision raises many of the same concerns as above. Not only is requiring the state to perform the same functions as the accreditation agencies duplicative, but it puts the review of academic institutions into the hands of a political government, instead of the neutral, academic oriented accreditation agencies.
2. And as above, whereas accreditation agencies are approved by the Department, and are comprised of qualified accreditors and institutional peers, the Department gives little guidance as to what state agency is qualified to review “the application of the institution’s policies and procedures to its programs and coursework.” Or whether there is any restriction on the requirement that the “state agency must take such actions that it deems appropriate to address any deficiencies that it identifies at an institution as part of its reviews and evaluations.” Must these state agencies also receive Department approval to ensure that they are non-partisan and academically qualified? If the Department is committed to the idea of state approval, perhaps the state agency should act as more of a consumer protection agency, ensuring that the business of running the school is legitimate, but leaving the academic components to the accrediting agencies.

The Department’s stated purpose for requiring state authorization is for the states to serve as an additional check on institutional integrity. No check, however, is created on state authority. Instead, a state can unilaterally revoke authorization. Further, should a state decide to revoke the authorization of a school, or take other adverse action, no recourse is outlined. The autonomy of higher education is one of its unique and hallmark characteristics. We strongly oppose giving such unilateral authority over to political pressures and whims.

Finally, if these regulations remain, in the same way that the Department of Education, the Accreditation Agency, and the state must all approve a school’s eligibility to receive Title IV funds, the same multi-tier approach should be required before legal authorization could be revoked.

### Section 600.2 – Definition of a Credit Hour

1. We oppose the Department’s decision to take the historic step of defining a credit hour for the first time. The credit hour should be left within the confines of the academic world and should not be co-opted as a fiscal or regulatory measurement. To create a federal definition changes the nature of the credit hour, long reviewed by academics through peer-reviews.
2. If, however, the Department is committed to providing a standardized definition, we suggest that the Department apply such definition only to those schools that have been found to have a deficiency.

In summary, our schools are concerned about the increased regulatory requirements and state involvement that these regulations would invite and even require. As private schools, much of what sets us apart are the unique programs, courses, and curriculum that we offer. Increased state scrutiny, particularly by unchecked and potentially unqualified agencies could work to unravel fabric of our institutions. Further as our institutions and all schools are struggling through these tough economic times, we ask the Department to reevaluate the potential administrative cost burden – especially to smaller independent institutions – of the proposed rules.