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May 28, 2008

The Honorable Edward M. Kennedy
U.S. Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Michael Enzi
U.S. Senate
379-A Russell Senate Office Building
Washington, DC 20510

The Honorable George Miller
U.S. House of Representatives
2205 Rayburn House Office Building
Washington, DC 20515

The Honorable Howard "Buck" McKeon
U.S. House of Representatives
2351 Rayburn House Office Building
Washington, DC 20515

Dear Senator Kennedy, Senator Enzi, Representative Miller and Representative McKeon,

As you work to complete conference consideration of the Higher Education Act (HEA) reauthorization, I write to add my voice to those expressing concern about a number of issues your committees are facing as you finalize this important legislation.

I appreciate the time and thoughtful consideration you and members of your staff have devoted to the HEA bill. Two years ago I wrote the North Carolina congressional delegation urging our representatives to vote against the House version of the HEA because of the significant steps the legislation took toward eroding the role of trustees in institutional governance and the longstanding, successful relationship between the federal government and institutions of higher education. While the current legislation is somewhat more palatable, I fear that it still represents a major intrusion and regulatory encumbrance for higher education and that the proportion of bureaucracy relative to public value will be extremely high.

Please allow me to highlight several troublesome provisions that I urge you to revise or eliminate before the bill moves forward:

Accreditation

It is apparent that you have taken our concerns about the inappropriateness of unnecessary federal control of accreditation seriously. Including language that limits the authority of the Secretary of Education from prescribing standards and otherwise regulating measures of student achievement success is welcome. But, the language is not

restrictive enough. I urge you to modify it specifically to prevent the Secretary from regulating standards for faculty, facilities, equipment, supplies, student services and the fiscal and administrative capacity of institutions.

Duke takes the accreditation process with great seriousness, and we use what we learn from our intensive self-study, as well as external evaluations, to help guide the high quality of the educational experiences we offer our students. Duke is currently in the midst of its decennial review with the Commission on Colleges of the Southern Association of Colleges and Universities (SACS). I am impressed with the thoughtful questions the SACS team asks of us regarding a wide range of issues. Maintaining this quasi-independent system of assessment and assurance of quality is an important contribution to the unique success of American higher education. While there are areas of accreditation that may need some tinkering, it is not role, nor is it wise public policy, to have the responsibility of institutional trustees and accreditation usurped by federal intrusion. I urge you to fully close the door on the Secretary's ability to dictate the measurement of standards that should remain outside the scope of the federal government's responsibility in higher education.

Reporting requirements

At a time when institutions are struggling to find ways to reduce administrative costs, I am struck by the number of new reporting requirements in the bill, which inevitably will lead to greater bureaucracy both at the institution and at the Department of Education. For example, the reporting of graduation rates in 48 different student categories gives pause and raises questions about the usefulness of such information.

Penalizing institutions for increasing tuition by requiring a report to the Department of Education about cost reducing strategies is an egregious notion, at best. There is little doubt that the quality of the educational experience Duke provides does not come cheap. Our trustees invest in progressive and aggressive financial aid programs to make a Duke education affordable to the more than 40 percent of Duke students who receive financial aid under Duke's need-blind admissions policy. In the coming year alone, we are budgeting more than \$86 million from institutional funds to help ensure that no admitted student is denied access to the Duke educational experience for financial reasons. Our trustees have developed over time both policies and procedures to ensure that the university's budget – including our tuition and financial aid programs – is consistent with the mission of the university. Inserting the Department of Education into this conversation eats away at the delineation between governmental responsibility and institutional autonomy. Please remove this provision.

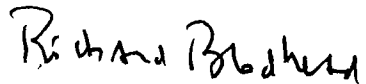
Along those same lines, the proposed requirement to provide non-binding, multi-year estimates of future tuition and fee levels, is misleading and inappropriate. In order for this to be of minimal assistance to an entering student, each institution of higher education would need to forecast every individual student's financial situation in advance. Each year we reassess all of our students' financial aid packages to make sure we are meeting each student's demonstrated need. If their financial situation changes

during the year – for instance if their mother loses her job or wins the lottery – the aid package is appropriately adjusted. We simply can't predict what will happen to the student, nor can we predict the needs of the university as far in advance as the proposed legislation would require.

There is much in the proposed HEA that will benefit students, their families, and institutions of higher education, and I applaud the Congress for these positive steps. As the bill works its way to passage, I urge you and your colleagues to reconsider the inappropriate regulatory burden that will be placed on institutions of higher education if this legislation passes as currently written.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Richard H. Brodhead". The signature is written in a cursive style with a large initial "R".

Richard H. Brodhead

cc: Richard Burr
Elizabeth Dole
David Price
Virginia Foxx