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September 16, 2010

The Honorable Arne Duncan  
Secretary of Education  
400 Maryland Ave SW  
Washington, DC 20202-0008

Dear Secretary Duncan:

I am writing to express my concern regarding the proposed rules published in the Federal Register on June 18, 2010 from the U.S. Department of Education.

The proposed rules will ultimately place public and private colleges and universities under the direct control of state governments instead of long-established independent accrediting agencies. The rules, as currently written, threaten to undermine the academic freedom and First Amendment rights of colleges and universities by forcing them to meet potentially arbitrary standards set by state bureaucrats. Additionally, the proposed government regulations are ambiguously worded and would create uncertainty for institutions of higher learning in an already uncertain economic environment.

The U.S. Department of Education should draft rules that err on the side of student (and parent) choice and institutional independence. To that end, strong deference must be granted to different forms of learning, including private, religious, online and non-traditional means of education.

The proposed rules would negatively affect my constituents in two specific areas:

- 1) Subjecting public and private institutions to “substantive” regulation at the state level instead of through independent accrediting agencies raises questions of academic freedom and First Amendment rights (§600.9).

Colorado Christian University, a private Christian college in my district, contacted me regarding this aspect of the proposed rules. They see such regulation as an affront to their autonomy as a private institution with religious values. While some states may not use this authority to control specifics such as course content or faculty qualifications, it is possible that other states could use the proposed rules as a means to strip private institutions of the right to educate in a manner that is consistent with their beliefs. I am concerned that this “substantive” regulation could lead to politicizing institutions of higher learning and restricting their First Amendment rights.

- 2) Mandating that institutions of higher learning have approval “from the states where they operate” could lead to requiring online universities to be accredited in every state in which the institutions have students, thus creating an unnecessary burden on private institutions (§600.9).

Richard J. Bishirjian, president of Yorktown University, has expressed concern regarding the vague language in the proposed rules that could require institutions of higher learning to be accredited in every state in which a student resides, even if the student is completing coursework through an online institution. Such requirements will create an unnecessary burden for private institutions. According to Yorktown University, they will not be able to operate should the proposed regulations come into effect.

Finally, I am disappointed that the public comment period on these highly controversial regulations lasted only six weeks, for I believe that more time for comments would have brought out many other compelling arguments against the proposed rules. However, I believe that the strongest reason for opposition to the proposed rules is that the ambiguous language in the rules will create much uncertainty regarding academic freedom for institutions of higher learning.

Thank you for your time and attention in this matter. I look forward to your timely response.

Sincerely,



Doug Lamborn  
Member of Congress

Cc: Ms. Jessica Finkel