



Tuesday, February 24, 2015
United States Senate Committee on Health, Education, Labor, and Pensions
Report of the Task Force on Federal Regulation of Higher Education
“Recalibrating Regulation of Colleges and Universities”
Testimony of William E. “Brit” Kirwan, Chancellor,
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Good morning. I am Brit Kirwan, Chancellor of the University System of Maryland (USM). I want to thank Chairman Lamar Alexander and Ranking Member Patty Murray for the opportunity to speak to this committee about the need to streamline and refocus the federal regulations impacting higher education in America today.

As you know, just over a year ago a bipartisan group of U.S. Senators—including Chairman Alexander and HELP Committee members Senator Michael Bennet, Senator Richard Burr, and Senator Barbara Mikulski—charged a task force with studying and recommending ways to reduce the federal regulatory burden, while still maintaining important protections for students, families, and taxpayers. In short, we were asked to identify smarter regulations and improved processes. The task force was comprised of presidents and chancellors from across all sectors of higher education, and conducted visits and interviews with campus officials from more than 60 different institutions.

I am joined today by my task force co-chair, Vanderbilt University Chancellor Nicholas Zeppos. I would also like to acknowledge the excellent support that the American Council on Education (ACE) provided to our efforts.

My co-chair has asked me to lead off our joint testimony.

By way of background, the University System of Maryland comprises 12 institutions, including research I institutions, comprehensives, historically black institutions, one totally on-line university, and a specialized research institute. We are, in many ways, a microcosm of public higher education and—as such—have first-hand experience with the ramifications of the extensive variety and volume of federal regulations.

Let me begin my testimony by making a very important point: We in higher education fully understand—**and support**—the important role that federal regulations play. Students, colleges, and universities across this country benefit from the strong federal investment in higher education, including significant funding for student aid programs such as federal loans, Pell Grants for low-income students, the Federal Work-Study program, TRIO programs, funding targeted to historically black colleges, not to mention federal funding and grants for university-based research and development. I can’t let this point pass without thanking my senior senator from Maryland, Senator Mikulski, for her exceptional efforts with regard to these funding issues. We in higher education recognize with gratitude the extraordinary fiscal commitment the federal government makes to our enterprise. Therefore, we recognize and embrace our obligation to be transparent, responsible, and accountable stewards of taxpayer money.

Through the task force’s work, we have learned that many regulations are well developed, address critically important issues, and provide appropriate means of institutional accountability. On the other hand, we have also discovered that too many regulations are poorly framed,

confusing, overly complex, ill-conceived, or poorly executed. Some are even wholly unrelated to the mission of higher education. In addition, over time, requirements have been layered upon requirements resulting in a tangle of regulations that too often has a harmful effect on higher education's ability to serve students. Some regulations even restrict rather than contribute to student access to higher education, limit our ability to focus resources on student success, impede organizational efficiencies, and constrain innovation. And, quite frankly, the costs associated with compliance are one of the factors driving rising tuitions and harming affordability efforts.

This last point is very important. For the past several years, our nation has been engaged in a conversation on college affordability. Clearly, all universities and colleges—public and private—need to tighten their belts, reduce costs wherever possible, and emphasize efficiency in their operations. And this is precisely what has been happening at institutions across the country.

But, when it comes to costs associated with federal regulations, we are largely powerless. The increasing volume and velocity of federal regulation are captured by one simple metric: The U.S. Department of Education issues more than one document **per workday** providing official guidance to amend or clarify existing rules.

This is why this task force is so important and why I, once again, want to thank the Senators for creating it and supporting it. The pending reauthorization of the Higher Education Act (HEA) provides a propitious opportunity to not only identify the most costly, burdensome, and confusing federal regulations, but also develop clear recommendations on how Congress and the Department of Education can streamline and simplify regulatory policies and practices while maintaining—even strengthening—accountability.

The task force report contains broad process reforms ideas as well as recommendations to address 10 specific regulations that have proved particularly challenging. I will outline some of those specific recommendations and Nick will follow up with others.

The first I want to speak to is the much-maligned Free Application for Federal Student Aid, or FAFSA. Under existing FAFSA regulations, students are required to enter tax data from the previous year. But as many students and parents have repeatedly pointed out, their complete tax information isn't available until after the financial aid application deadline has passed. To address this problem, we recommend that FAFSA be revised to allow applicants to submit tax information from two years prior rather than the previous year. Moving to a so-called "prior-prior year" system would drastically simplify the current federal rules regarding verification of information, which happens to be one of the common compliance mistakes made by institutions. Prior-prior year would also help students and families, who can be frustrated and confused by the additional requests for information that come with the verification process.

The second recommendation I will highlight looks at the impact of inappropriate regulations that stifle innovations in distance education. Historically, federal requirements for state authorization of distance education programs were limited to the state where the institution was physically located. However, a few years ago, the Department of Education fundamentally altered that landscape by requiring institutions to meet the state authorization laws of every state in which a student—even just a single student—was physically located. As the ability of online education to cast aside geographical boundaries increases, it is counterproductive to erect walls of regulation. Congress should clarify a return to the long-standing interpretation of state authorization so that the resources that now go to attorneys, compliance officers, and tuition surety bonds to get authorization in state after state can be redirected to target access, affordability, and educational innovations. Institutions can and should be responsible for complying with state laws, certainly. But there is no need for the federal government to be involved with these matters.

The next item I want to highlight is the inordinate amount of information and data that colleges and universities are required to collect and disseminate. Some of this information is, of course, very useful for students and families to consider; but some of it is not. For example, higher ed institutions must report on the number of supervised fire drills they hold in a given year. They have to produce more than **30** “gainful employment disclosures” *for each covered program offered*. They are required to counsel departing student borrowers on every one of the seven different federal loan repayment programs applicable even though the vast majority use either the standard 10-year or the extended 30-year program. Providing all this data makes it difficult to separate the wheat from the chaff. To prevent an overload of information, we recommend that Congress and the Department of Education work together to winnow this list down to require only the information most useful to students and their families.

The final issue I will highlight before turning things over to Nick is the number of requirements placed upon higher education that have nothing to do with our mission. These include enforcing Selective Service registration, combating peer-to-peer file sharing, distributing voter registration forms in a *federally specified* timeframe and format, and other actions that divert time and resources. These may all be worthy goals, but using colleges and universities as the mechanism to achieve them is costly and inefficient. It is our task force’s hope that Congress will use the upcoming HEA reauthorization as an opportunity to review all of the Act’s provisions, identify the federal purpose behind their inclusion, and strike requirements that are not clearly related to the core mission and responsibilities of higher education.

Chancellor Zeppos will now share with the committee his experiences and perspectives and provide additional information on the Task Force Report. So, let me close by once again thanking the committee for this opportunity to testify and for the significant time and attention you have given to this important matter.