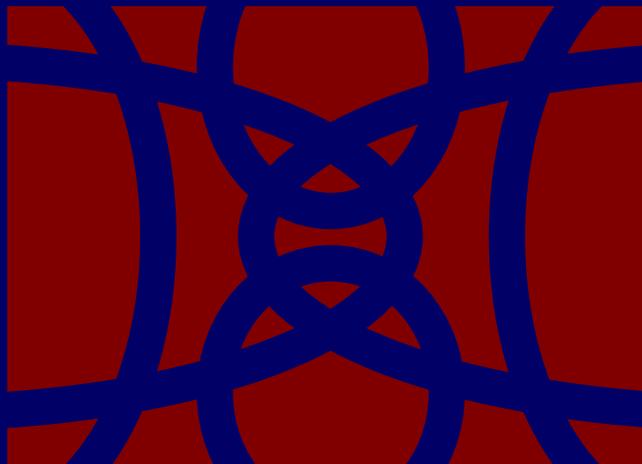


**HIGHER EDUCATION
REGULATIONS STUDY**

FINAL REPORT



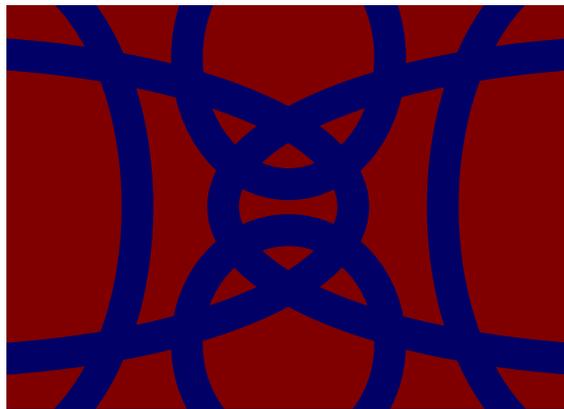
**ADVISORY COMMITTEE ON
STUDENT FINANCIAL ASSISTANCE**

WASHINGTON DC

NOVEMBER 2011

**HIGHER EDUCATION
REGULATIONS STUDY**

FINAL REPORT



**ADVISORY COMMITTEE ON
STUDENT FINANCIAL ASSISTANCE**

WASHINGTON DC

NOVEMBER 2011

**ADVISING CONGRESS AND THE
SECRETARY OF EDUCATION**

—Since 1988—

**Advisory Committee on
Student Financial Assistance**

**80 F Street NW, Suite 413
Washington DC 20202-7582**

Tel: 202/219-2099

Fax: 202/219-3032

**ACSFA@ed.gov
www.ed.gov/acsfa**

The Advisory Committee on Student Financial Assistance (Advisory Committee) is a Federal advisory committee chartered by Congress, operating under the Federal Advisory Committee Act (FACA); 5 U.S.C., App.2). The Advisory Committee provides advice to the Secretary of the U.S. Department of Education on student financial aid policy. The findings and recommendations of the Advisory Committee do not represent the views of the Agency, and this document does not represent information approved or disseminated by the Department of Education.

EXECUTIVE SUMMARY

In the *Higher Education Opportunity Act* of 2008, Congress charged the Advisory Committee on Student Financial Assistance with conducting a review and analysis of regulations affecting higher education to determine the extent to which regulations are overly burdensome and need to be streamlined, improved, or eliminated. Specifically, Congress suggested the Advisory Committee determine which regulations are “duplicative, no longer necessary, inconsistent with other federal regulations, or overly burdensome.” Pursuant to this legislative mandate, the Advisory Committee took the following steps:

- convened two review panels of individuals with relevant experience and knowledge to review the regulations under the *Higher Education Act* (HEA) and make recommendations for streamlining, improvement, or elimination
- developed and maintained a website to provide information on HEA regulations, including an area for the community to offer recommendations of regulations in need of streamlining
- held two public hearings designed to identify the most burdensome aspects of individual regulations and the overall regulatory system, as well as proposed improvements
- designed and conducted an anonymous and confidential web-based survey, which generated over 2,000 responses, to assess the higher education community’s perceptions of regulatory burden
- specified a set of community-driven perceived problems and proposed solutions for both the individual regulations cited in the study and the overall system of regulation
- validated the perceived problems and proposed solutions with over 100 volunteers from the higher education community.

In addition, the Committee conducted numerous meetings, conference calls, and presentations throughout the study to solicit feedback and suggestions on regulatory burden. While extensive, these approaches have limitations, which are outlined in the Conclusions and Recommendations section (pages 47-49).

The overarching finding is that the higher education community perceives the regulations under the HEA to be unnecessarily burdensome. More important, the majority view is that the specific regulations cited in the study can be improved without adverse effects on program integrity or student success. This view includes, as well, a strong sense that certain components of the overall, one-size-fits-all system of regulation under the HEA require improvement. Perhaps most important, the majority opinion is that improvements to individual regulations and the system will not only lower regulatory burden without adverse effects, but generate savings that can be used to expand student access and persistence.

Based on these findings, the following recommendations are made—one legislative and one regulatory:

- Congress should direct the Secretary of Education to convene at least two review panels of higher education representatives to provide advice and recommendations on the 15 regulations cited in this report and on the feasibility of alternative approaches to the current system of regulation, including the provision of regulatory relief based on performance indicators. Such panels should be incorporated as routine collaboration during retrospective reviews of regulations.
- The Secretary of Education should conduct an immediate review of the 15 regulations cited in this report, including an analysis of the feasibility of implementing the proposed solutions and identifying any adverse effects on program integrity, student success, and cost of compliance.

The Advisory Committee strongly supports Executive Order 13563 of January 18, 2011, which states that regulatory systems must be based on the best available science, allow for public participation, and use the most innovative and least burdensome tools for achieving regulatory ends. Applying this philosophy and approach to the regulations under the HEA promises rewards for both institutions and students.

PAGE INTENTIONALLY LEFT BLANK

ACKNOWLEDGEMENTS

The Advisory Committee thanks representatives from the higher education community who have provided support for our efforts to make recommendations to Congress and the Secretary of Education to simplify regulations under the Higher Education Act. Numerous individuals submitted suggestions in writing or through the web site, and during phone and in-person conversations. Over 2,000 campus senior executives and office administrators completed the anonymous and confidential survey of perceptions of regulatory burden. In addition to them, five groups assisted our efforts:

- 16 individuals who served on the study's two required review panels (Appendices D and E)
- 18 individuals who provided valuable testimony at two public hearings (Appendices F and G)
- 8 individuals, and one firm, who served as consultants on the design of the study and its components:

George Chin
JBL Associates, Inc.
John Larson
Susan Little
Sharan Merriam

Jennifer Nupp
Stephen Porter
Andrew Whitford
Theresa Wright

- 22 individuals who field tested the survey instrument:

Jacqueline Bell
Valerie Borge
Marcia Boyd
Paul Coscia
Susan Davidson
Fred Hardin
Richard Heath
John Higgins

Bonnie Joerschke
Kathy Kendall
Charles Mathies
Lisa McCleary
Stacey McCorison
Sharan Merriam
Dawn Mosisa
Rodney Parks

Laurie Pluck
Elaine Redwine
Marianne Reiff
Jenny Allen Ryan
Joseph Storch
Andrew Whitford

- More than 100 individuals who completed the survey of perceptions of regulatory burden and assisted in validating perceived problems and proposed solutions from the study.

We also wish to thank the higher education presidential and trade associations for their support in notifying their members about the study and survey.

Lastly, we thank our designated federal official (DFO), Dan Madzellan, for his expertise in the areas of regulations, statutes, and executive agency processes.

PAGE INTENTIONALLY LEFT BLANK

TABLE OF CONTENTS

Executive Summary	iii
Acknowledgements	v
Identifying Burdensome Regulations	
Legislative Charge.....	1
Prior Regulatory Reform Efforts.....	1
Required Components of the Higher Education Regulations Study.....	3
Research Questions.....	5
Survey and Other Study Protocols.....	6
Assessing Perceptions of the Higher Education Community	
Regulatory Burden.....	9
Regulatory Improvement.....	17
System of Regulation.....	19
Cost and Time Savings.....	22
Future Regulatory Reform Efforts	25
Lowering Regulatory Burden	
Individual Regulations.....	33
Regulatory System Components	42
Regulatory System Issues.....	44
Conclusions and Recommendations	
Methodological Approach and Limitations of the Study.....	47
Lessons Learned in Conducting the Study.....	48
Recommendations	49
Appendix A: Profile of Survey Respondents.....	51
Appendix B: Profile of Regulations Used In Study.....	55
Appendix C: Additional Suggestions of Burdensome Regulations by Survey Respondents.....	59
Appendix D: Review Panel #1.....	61
Appendix E: Review Panel #2.....	65
Appendix F: June 25, 2010 Hearing Panelists.....	69
Appendix G: September 30, 2011 Hearing Panelists.....	73
Appendix H: Letter from ACSFA Chair and Vice Chair.....	77
Appendix I: ACSFA Members.....	79
Appendix J: ACSFA Staff.....	81
Appendix K: ACSFA Authorizing Legislation	83

PAGE INTENTIONALLY LEFT BLANK

IDENTIFYING BURDENSOME REGULATIONS

The *Higher Education Opportunity Act* of 2008 (HEOA) charged the Advisory Committee on Student Financial Assistance with conducting a review and analysis of regulations affecting higher education to determine the extent to which regulations are overly burdensome and need to be streamlined, improved, or eliminated. Specifically, Congress suggested the Advisory Committee determine which regulations are duplicative, no longer necessary, inconsistent with other federal regulations, or overly burdensome. The charge was to assess regulations in effect at the time of the review and those that applied to the operations and activities of postsecondary institutions from all sectors. The authorizing language for the *Higher Education Regulations Study* (HERS) is contained in Appendix K, which reproduces the statutory language authorizing the Advisory Committee.

Legislative Charge

In conjunction with congressional staff, the Advisory Committee defined and clarified the terms and scope of the study, which addressed only federal regulations impacting higher education institutions—in particular, only those regulations stemming from the *Higher Education Act of 1965*, as amended (HEA). For instance, HERS did not address state-level autonomy or regulatory flexibility issues, nor was the study required to review or analyze regulations promulgated by federal agencies other than the U.S. Department of Education (ED). Furthermore, the Committee was allowed to consider changes to regulations that might require either regulatory or statutory fixes: any regulation deemed burdensome, duplicative, obsolete, or inconsistent with other regulations was part of the study, regardless of the source necessary for change.

In addition to delimiting the type and nature of the regulations to review and analyze, the type of institution covered by the study was also specified. The statutory requirement to include “institutions of higher education from all sectors” was defined as accredited institutions within the United States (public, private non-profit, and private for-profit) that offer degree or certificate programs at the four-year, two-year, graduate and professional, and certificate levels. Only accredited institutions are eligible to receive HEA funds, which means they are subject to the HEA regulations.

Prior Regulatory Reform Efforts

The assignment of HERS to the Advisory Committee was not the first time in recent decades that Congress or the executive branch sought to reduce regulatory burden in postsecondary education. Since 1995, there have been three large-scale reviews designed to reduce regulatory burden in postsecondary education. These were initiated in 1995, 1998, and 2001.

Regulatory Reinvention Initiative. In 1995, the President signed an executive order that established the *Regulatory Reinvention Initiative* directing every federal agency to “review its rules and procedures to reduce regulatory and paperwork burden,” and to eliminate or revise regulations deemed “outdated or otherwise in need of reform” (*Federal Register* Volume 60, Number 231, pages 61796 – 61817). The 1995 review was conducted by personnel in ED and resulted in modifications to more than 40 sections of the Title IV regulations.

Student Financial Assistance Regulatory Review. In the 1998 amendments to the HEA, Congress required ED to review the Title IV regulations to determine whether there are regulations that are duplicative or no longer necessary. ED carried out the *Student Financial Assistance Regulatory Review* in 1999 and 2000 through a report to Congress and negotiated rulemaking sessions. The

HERS was the fourth large-scale effort since 1995 designed to reduce regulatory burden for postsecondary institutions.

resulting report examined current Title IV regulations in order to eliminate unnecessary costs to institutions, eliminate duplication, and lessen burden on institutions.

Themes that emerged from the 1999 regulatory review were varied. The greatest number of suggestions focused on technology as it pertained to delivering student financial assistance programs. Final regulations were published in 2000 modifying approximately 40 sections of the Title IV regulations.

FED UP Initiative. *Upping the Effectiveness of Our Federal Student Aid Programs* (FED UP), introduced in 2001 by U.S. House of Representatives member and then Chairman of the House Committee on Education and the Workforce Howard P. “Buck” McKeon (R-CA), sought to simplify and streamline overly burdensome regulations in the HEA. Along with Representative Patsy Mink (D-HI), Representative McKeon went directly to college and university stakeholders in order to gather feedback on federal regulations considered burdensome for students, families, and institutions. A FED UP website was launched as part of the initiative so that a broad range of interested parties could provide recommendations for streamlining federal regulations.

In 2002, the *FED UP Higher Education Technical Amendments Act* (H.R. 4866) was introduced to reduce and streamline current regulations for colleges and universities based on information gathered from the initiative’s website. The bill was introduced in the Congressional Record as an effort “to make various technical revisions that incorporate the results of the FED UP initiative to remove unnecessary regulatory barriers to access to student aid programs.” The bill did not pass the House.

In response to the 2002 proposed legislation, ED created a special negotiated rulemaking session to review and implement many of the proposed regulatory changes submitted to the FED UP website by university and college administrators. These special negotiated rulemaking sessions focused on budget-neutral issues that did not require statutory changes. In 2003, the *FED UP Higher Education Technical Amendments Act* of 2003 (H.R. 12) was re-introduced in the House. The bill was referred to the House Committee on Education and the Workforce, but was never brought up for a vote in Committee. The final regulations published following the FED UP effort resulted in modifications to more than 50 sections of the Title IV regulations.

Each of these prior reviews—the *Regulatory Reinvention Initiative*, the *Student Financial Assistance Regulatory Review*, and the FED UP initiative—progressively included more members of the affected community through comments and negotiations. Building upon those efforts, the Advisory Committee’s current *Higher Education Regulations Study* has several required elements that engage the community more fully than past efforts.

The most significant difference between prior studies and HERS was that none of the prior studies used data collected at the institutional level. Although institutional representatives provided feedback to ED officials, higher education associations, and Congress, no evidence exists of an institutional-level analysis of either regulatory burden or a prioritization of regulations most in need of streamlining, improvement, or elimination. HERS was conducted by the Advisory Committee, an entity that neither promulgates the

The Student Financial Assistance Regulatory Review focused on technology issues in addition to burdensome and obsolete regulations.

The FED UP initiative focused on budget-neutral issues that did not require statutory changes.

regulations under review, nor is bound by those regulations. Therefore, HERS represented an opportunity for the higher education community to engage with an impartial entity to address which regulations should be considered for modification or elimination by Congress and ED.

It is also of note that in 2010 the National Association of Student Financial Aid Administrators (NASFAA) conducted a survey of its membership regarding administrative burden. According to NASFAA's report, the survey was initiated due to growth in the burden faced by institutions administering the federal student aid programs. A majority of respondents indicated increased regulatory or compliance workloads as the reason for resource shortages experienced in institutional offices. Based on the survey results, NASFAA recommended streamlining student aid programs and application processes, and eliminating non-germane and/or duplicative regulations in order to allow campus administrators to devote more time to counseling and outreach to students. A copy of NASFAA's report is available at <http://www.nasfaa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3903>.

Required Components of the Higher Education Regulations Study

Congress established the required elements of HERS to maximize community and institutional involvement. In conducting the study, the Advisory Committee was required to convene two review panels, develop and maintain a public website, consult with a broad range of entities and individuals, and deliver its recommendations to Congress and the Secretary of Education. As the Advisory Committee completed the required elements, the Committee was able to develop an appropriate study methodology, including an instrument for assessing institutional perceptions of regulatory burden and regulatory relief themes.

Review Panels. Congress required the Committee to convene at least two review panels of individuals who have experience with federal regulations affecting all sectors of higher education. Accordingly, the Committee formed two panels of experts representing the interests of community colleges, four-year private institutions, four-year public institutions, graduate and professional schools, private for-profit institutions, students, and state grant programs. A list of panelists for each review panel can be found in Appendices D and E.

The first review panel met on April 9, 2009, in Washington DC. The panel focused on Title IV regulations because these are the largest portion of regulations emanating from the HEA. In addition to suggesting areas of regulatory streamlining, the first review panel was helpful in terms of discussing the scope of the study, communication and outreach strategies, the role of the review panelists, and the design of the required website for the study. Website development and the suggested regulations collected from it comprised the first phase of HERS.

The second review panel met on December 15, 2010, in Washington DC. The panel analyzed the initial group of regulations suggested for consideration (received through all sources, including the public comment website), suggesting additional regulations under all titles of the HEA, and providing advice on the final phase of the study. Four main themes of regulatory burden emerged from the panel's meeting: individual burdensome regulations, the entire system of regulation, the structure of regulatory development and implementation processes, and legislators' disconnection from regulatory complexity in higher education.

Two review panels of experts representing all sectors of higher education advised and participated in the study.

The second group of review panelists also provided feedback on the feasibility of a survey instrument as part of the study's methodology.

Website. Another component of the authorizing legislation was to develop and maintain a website that allowed the public to recommend regulations in need of streamlining, and that provided links to the deregulation study conducted by the National Research Council of the National Academy of Sciences. This website, also known as the Community Suggestions Website, has been available to the public since May 2009 at <http://www2.ed.gov/about/bdscomm/list/acsfa/edlite-publicinput.html>. Care was taken during development to ensure that respondents could leave completely anonymous comments.

The Advisory Committee received more than 100 individual submissions from the website in combination with numerous suggestions from groups and agencies with which it consulted. Following a review and analysis by staff to combine multiple submissions on similar topics, the list of community suggestions yielded approximately 40 viable specific regulations or regulatory areas deemed burdensome, duplicative, obsolete, or in conflict with other regulations. This list became the initial basis of the study; however, the Committee recognized these submissions contained incomplete or insufficient information. Suggestions rarely included data on the level of burden associated with each regulation and, furthermore, these suggestions did not allow for prioritization nor assessment of disparate impacts among sectors.

Consultation. The study's authorizing language required the Advisory Committee to consult with the Secretary of Education, other federal agencies, representatives of higher education institutions, and individuals with expertise and experience in this field. The Committee held numerous group and personal meetings, including conference calls, public hearings, and conference presentations to collect feedback and advice related to HERS. In these meetings, individuals provided either direct recommendations of regulations in need of streamlining, improvement, or elimination; or indirect discussion of burden on institutions and/or means for assessing such issues.

The Advisory Committee was able to reach out to many organizations, individuals, and experts for advice, support, and recommendations. The Committee also worked on a consulting basis with individuals with expertise in higher education organization and governance, higher education administration, public administration and public policy, regulatory reform and regulatory quality, survey methodology and survey instrument design, and quantitative and qualitative research methodology.

Reports. The HEOA required the Advisory Committee to deliver this final report to Congress and the Secretary of Education by the end of November 2011. This report presents the higher education community's submissions of burdensome regulations, including perceived problems and proposed solutions for a set of regulations the community identified as among the most burdensome. This report also addresses perceived problems and proposed solutions for the system of regulation under the HEA. Finally, the report makes two recommendations to address these problems and to provide a way forward on continued regulatory reform efforts.

A website was created and maintained to provide information and to collect suggestions of burdensome regulations from the community.

ACSFA held numerous group and personal meetings, including conference calls, public hearings, and conference presentations.

Following closer analysis of the suggested regulations from the study's first phase, including those identified through consultation with review panelists and other experts, the Committee concluded that, although a good number of regulations were identified, the study likely needed to be refocused in order to:

- gather more quantifiable data on the level of burden for each of the regulations
- determine a way to prioritize the recommendations
- recognize the ways in which the suggested regulations impact different sectors of higher education in different ways.

To achieve these ends, the Committee chose to field a survey and conduct follow-up activities with campus officials, thereby ensuring an institutional-level analysis of perceptions of burden and the prioritization of regulations most in need of streamlining, improvement, or elimination—an analysis to bridge the gap between previous regulatory relief efforts and HERS.

Research Questions

Given that the congressional charge for carrying out HERS assumed a level of burden in the HEA regulations, the second and final phases of the study were framed by the following research questions:

- **Regulatory Burden:** How burdensome does the higher education community consider the regulations under the HEA? Which regulations are perceived as most burdensome?
- **Regulatory Improvement:** Can HEA regulations be streamlined or eliminated without adversely affecting program integrity, accountability, student access, and student success?
- **System of Regulation:** Are key components of the system of regulation under the HEA perceived as needing change?
- **Cost Savings:** Would streamlining or eliminating individual regulations reduce costs for institutions and students? Would modifications to the system of regulation reduce such costs?
- **Future Regulatory Reform:** What should be the focus of future regulatory reform efforts for higher education? How should such efforts proceed?

Five research questions guided the study and the development of the survey.

These questions were also used to guide development of the survey instrument.

The Regulations. Fifteen regulations were selected for further study from the list suggested by the community. (The full list of suggested regulations can be found on the Advisory Committee's website at <http://www2.ed.gov/about/bdscomm/list/acsfa/prelimlistofburdenregsmay11.pdf>.) The 15 regulations were identified as a manageable representation of the full list following a review to exclude from further study those regulations that were expired or no longer in effect, had not yet gone into effect, were significantly modified within the last two years, were not regulations promulgated by ED, did not apply to the operations and activities of institutions of higher education from all sectors, or had received significant debate in preceding years with no substantive changes. These 15 regulations were also reviewed and supported by members of the second review panel and numerous other campus administrators who volunteered feedback.

The regulations are identified in the list below, arranged alphabetically by an abbreviated title in bold print. These abbreviations will be used throughout this report and refer to regulatory areas suggested for consideration under the study; Appendix B contains thorough descriptions of each regulation, including citations and examples of burden cited by the community. The text in Appendix B duplicates what was presented to survey respondents.

The review panels and website submissions identified 15 potentially burdensome regulations.

- **Conflicting Information**
- Entrance Counseling for Student Loan Borrowers (**Entrance Counseling**)
- FSEOG Priority Awarding Criteria (**FSEOG Priority Awarding**)
- Crediting Federal Student Aid to Non-Allowable Institutional Charges (**Non-Allowable Charges**)
- Written Authorization to Open a Bank Account on Behalf of a Student (**Opening Bank Account**)
- Prior Award Year Charges (**Prior Year Charges**)
- Proration of Annual Loan Limits (**Proration of Loan Limits**)
- Overlapping and Inconsistent Timeframes for Reporting and Consumer Disclosure Requirements (**Reporting Timeframes**)
- Volume and Scope of Reporting and Consumer Disclosure Requirements (**Reporting Volume and Scope**)
- **Return of Title IV Funds**
- Return of Uncashed Credit Balance Checks (**Return of Uncashed Checks**)
- Self-Certification of Non-Title IV Student Loans (**Self-Certification**)
- TEACH Grant Eligibility Rules (**TEACH Grant Eligibility**)
- Overaward and Overpayment Tolerances (**Tolerances**)
- Determining Student Eligibility for Two Federal Pell Grants in One Award Year (**Two Pell Grants**)

Survey and Other Study Protocols

The Advisory Committee designed an anonymous, confidential, web-based survey instrument in order to collect campus attitudes toward and perceptions of regulatory burden and the regulatory development process. The survey was originally conceived with a known sampling frame; in other words, the original plan included a log-in feature that created a unique identifier for each respondent in order to establish institutional type and control, as well as geographic location. However, based on community feedback, the Committee ultimately decided to abandon the log-in in favor of complete anonymity. Numerous discussions with campus officials, association representatives, consultants, and review panelists revealed significant concerns in the community over the sensitive nature of questions addressing campus-level perceptions of regulatory burden, especially regarding processes managed by the federal government. A substantial number of individuals refused to participate in a survey on such topics if they or their institutions were identifiable.

To further alleviate such concerns, ensure greater participation and candid feedback, and minimize selection bias, the survey was hosted and administered by an independent private contractor, and the instrument was developed with the input of numerous members of the higher education community, including members of the Advisory Committee's second review panel. All field testers felt strongly that the survey instrument was well constructed and clearly worded, and comprehensively addressed issues and concerns on current attitudes and perceptions regarding regulations, the system of regulation, and the way forward for future regulatory reform efforts.

The Advisory Committee staff collaborated with several organizations to request assistance in raising awareness of the survey and disseminating it to all institutions nationwide. Several higher education associations and numerous state organizations demonstrated strong support for the study and full cooperation in its distribution among their respective members. See Appendix H for the letter from the Advisory Committee’s Chair and Vice Chair announcing the survey, which was distributed by associations and organizations on the Committee’s behalf.

The survey instrument consisted of two separate and distinct tracks: one for senior executives on campus and the other for office administrators responsible for carrying out regulations under the HEA. Both groups provided distinct perspectives on the impact of regulations on higher education institutions. Because administering regulations often entails multiple offices, employees from all offices involved with administering HEA regulations were encouraged to complete the survey; these included admissions/enrollment management, bursar/student accounts, institutional research, financial aid, and registration. These offices were identified as the ones most often involved in administering regulations under the HEA, and, specifically, administering the 15 chosen for further study through the survey. Furthermore, gathering feedback from multiple individuals at an institution acknowledges that no individual official on campus can have the broad perspective and the capacity to determine all regulations that are burdensome and the reasons why.

A two-track survey was designed for senior executives and office administrators.

Senior Executives. For purposes of the survey, “senior executive” was defined as an individual with senior management responsibilities or executive authority over the institution. This category included positions such as President, Chancellor, Owner, Provost, Vice President, etc. Questions for senior executives addressed broad issues related to the regulatory development process, levels of regulatory burden affecting colleges and universities, alternative approaches to the current system, and preferred ways for continuing efforts to reduce regulatory burden on higher education institutions.

Office Administrators. “Office administrator” was defined as an individual who works in or has direct oversight of a campus office involved in administration of HEA regulations. This category included positions such as Associate or Assistant Vice President, Director, Associate or Assistant Director, Counselor, Specialist, etc. Questions for office administrators focused on rating burden level for a set of individual regulations already identified by the higher education community as burdensome. Office administrators were also asked to provide input on the regulatory development process and preferred ways to move forward on future efforts to reduce regulatory burden.

At the end of the survey, each respondent was given an opportunity to register as a volunteer who would, later, provide reactions to the survey results and offer feedback and perspective on the findings.

The survey instrument generated 2,098 responses from 425 senior executives and 1,673 office administrators. The survey utilized rating and scale questions, as well as numerous opportunities for written comment to supplement responses to specific questions or to provide reaction in general. Respondents came from all institutional sectors, enrollment sizes, and regions of the country, and represented all work roles within administrative offices. See Appendix A for a complete profile of the survey respondents. Survey questions are available upon request from the Advisory Committee.

Results from all study protocols—including review panels, website submissions, consultations, testimony from two public hearings, survey findings and comments, and feedback on the draft perceived problems and proposed solutions—form the basis of this final report on the *Higher Education Regulations Study*. A

public hearing, held on September 30, 2011, was utilized as one of these study protocols to garner reactions to the survey's preliminary findings. Further, more than 200 survey volunteers were contacted—and more than 100 individuals responded—following the release of the preliminary findings report to evaluate and assess a draft of the perceived problems and proposed solutions identified throughout the study.

ASSESSING PERCEPTIONS OF THE HIGHER EDUCATION COMMUNITY

Based on feedback from two review panels, the website, and interaction with the higher education community, the Advisory Committee identified for further study 15 regulations from those recommended by the community for streamlining, improvement, or elimination. The Committee designed an anonymous web-based survey to assess the attitudes of the higher education community toward these 15 specific regulations and the overall regulatory system. Development of the survey instrument was driven by five research questions that guided the design of the entire study:

- **Regulatory Burden:** How burdensome does the higher education community consider the regulations under the HEA? Which regulations are perceived as most burdensome?
- **Regulatory Improvement:** Can HEA regulations be streamlined or eliminated without adversely affecting program integrity, accountability, student access, and student success?
- **System of Regulation:** Are key components of the system of regulation under the HEA perceived as needing change?
- **Cost Savings:** Would streamlining or eliminating individual regulations reduce costs for institutions and students? Would modifications to the system of regulation reduce such costs?
- **Future Regulatory Reform:** What should be the focus of future regulatory reform efforts for higher education? How should such efforts proceed?

Findings from the study's survey are presented below. Because the survey design utilized skip logic, which presents only relevant questions to respondents based on previous answers, the number of responses per question varied. For senior executives, the respondent count (or *n*) ranged between 305 and 425. For office administrators, this range was between 1,239 and 1,675, except for one question. Because so few office administrators indicated familiarity with the regulatory burden calculations, only 380 were provided the question judging perceptions of the accuracy of those calculations.

Regulatory Burden

For purposes of this study, regulatory burden consisted of several dimensions: overall and relative burden, overlap with other regulations, and the burden for a specific regulation. Tables 1 through 5 address these dimensions.

Perceptions of Overall Burden. Both senior executives and office administrators were asked to rate their perception of the overall burden level associated with all regulations under the HEA. They rated burden using a five-point scale with the following options:

- *Overly Burdensome.* The overall burden level for the HEA regulations exceeds the value of protection the regulations provide.
- *Burdensome but Not Overly Burdensome.* The burden level for most of the HEA regulations exceeds the value of protection the regulations provide.

- *Neutral or About Right.* The burden level for the HEA regulations is balanced with the value of protection the regulations provide.
- *Need to Be Strengthened Further.* There is no burden. In fact, the burden level for the HEA regulations is insufficient to provide the value of protections necessary.
- *No Opinion.* I do not have sufficient knowledge of the HEA regulations to judge whether they are overly burdensome.

Table 1 on page 11 shows:

- Among senior executive respondents, 47 percent said they perceived HEA regulations as a whole as overly burdensome and 43 percent perceived them as burdensome. Therefore, 90 percent of senior executive respondents noted a level of burden in implementing and administering HEA regulations on their campuses.
- Among office administrators respondents, 41 percent indicated that HEA regulations were overly burdensome and 44 percent as burdensome. Thus, 85 percent of office administrator respondents perceived a level of burden in implementing and administering HEA regulations.

Only 8 percent of senior executives classified overall HEA regulatory burden as about right, and less than 0.5 percent said it needed further strengthening. Similarly, 9 percent of office administrators judged regulatory burden as about right, with less than 1 percent saying it needed strengthening. Among office administrators, 5 percent, compared to 2 percent of senior executives, said they were unable to judge the level of burden.

It was not surprising that a large percentage of responses judged HEA regulations as overly burdensome when the respondents targeted were senior executives and office administrators of higher education institutions bound by those regulations. However, unity between the two groups, especially in such large percentages, was an indicator of the strength of perceptions held about HEA regulations. A substantial portion of the written comments submitted by respondents expressed belief that regulation was necessary, but that the HEA regulations were unduly burdensome.

Perceptions of Regulatory Overlap. Senior executive and office administrator respondents were asked to rate the extent to which they believed there is overlap between HEA regulations and 1) regulations issued under other statutes or by federal agencies other than ED, 2) state government regulations, and 3) non-government regulations. Examples of non-government regulations provided for respondents included those issued by accrediting bodies, private organizations, professional associations, etc. Respondents were provided a four-point scale for each type of regulation indicating extensive overlap with HEA rules, some overlap, no overlap, and no opinion/don't know. **Table 2** on page 11 shows:

A large majority of respondents perceive the regulations under the HEA as a whole as burdensome or overly burdensome.

TABLE 1: PERCEIVED LEVEL OF OVERALL BURDEN FOR REGULATIONS UNDER THE HIGHER EDUCATION ACT

Respondent Group	Percent Who Perceive Regulations As:				
	Overly Burdensome	Burdensome	Neutral	Needing Strengthening	Unable to Judge
All Respondents	42%	44%	9%	< 0.5%	5%
Senior Executives	47%	43%	8%	< 0.5%	2%
Office Administrators	41%	44%	9%	< 1%	5%

Source: 2011 Higher Education Regulations Study Survey

TABLE 2: PERCEIVED LEVEL OF OVERLAP BETWEEN REGULATIONS UNDER THE HIGHER EDUCATION ACT AND OTHER TYPES OF REGULATIONS

Type of Regulation	Percent of Senior Executives Who Perceive:				Percent of Office Administrators Who Perceive:			
	Extensive Overlap	Some Overlap	No Overlap	No Opinion	Extensive Overlap	Some Overlap	No Overlap	No Opinion
State Regulations	9%	70%	6%	15%	9%	54%	9%	28%
Other Federal Regulations	17%	59%	4%	20%	19%	47%	3%	31%
Non-Governmental Regulations	7%	50%	16%	27%	3%	36%	17%	44%

Source: 2011 Higher Education Regulations Study Survey

Respondents perceived overlap between HEA regulations and other regulations, particularly with state regulations and other federal regulations.

The largest number of respondents recognized overlap between HEA and state regulations. A majority of senior executives (70 percent) and office administrators (54 percent) saw *some* overlap between HEA and state regulations, with 9 percent of each group perceiving *extensive* overlap. Minimal proportions of senior executives (6 percent) and office administrators (9 percent) saw no overlap. An appreciable percentage of respondents said they had no opinion regarding regulatory overlap with state regulations—15 percent of senior executives and 28 percent of office administrators.

- Other federal regulations were perceived as having some overlap with HEA regulations by 59 percent of senior executives and 47 percent of office administrators, while 17 percent of senior executives and 19 percent of office administrators saw extensive overlap. Among senior executives, 4 percent said there was no overlap, while 3 percent of office administrators said the same. As with other categories, considerable portions of each respondent group said they had no opinion on overlap with other federal regulations—20 percent of senior executives and 31 percent of office administrators.
- The smallest percentage of respondents felt HEA regulations overlapped with non-governmental rules and regulations, as follows: 50 percent of senior executives and 36 percent of office administrators saw non-governmental regulations as having some overlap with HEA regulations. In contrast, 7 percent of senior executives and 3 percent of office administrators found extensive overlap. On the other hand, 16 percent of senior executives and 17 percent of office administrators saw no overlap. As with the other regulations, a large number of respondents said they had no opinion about overlap with non-governmental regulations: 27 percent of senior executives and 44 percent of office administrators.

Although not demonstrated in the table, detailed analyses of survey responses showed similar patterns of perceptions across institutional type and control, geographical region, and enrollment size. However, it is of note, and worthy of further investigation, that substantial proportional differences existed between the senior executives and office administrators perceiving some overlap as well as those having no opinion.

Perceptions of Burden by Type of Regulation. Respondents were asked to rank HEA regulations among other types of regulations in order of greatest perceived burden on their institutions. The types were the same as those used in assessing overlap: federal regulations issued under the HEA, federal regulations issued under other statutes or by federal agencies other than ED, state government regulations, and non-government regulations. In addition, respondents had the option of selecting no opinion/don't know when ranking each type of regulation. **Table 3** on page 13 shows:

- Among senior executives, 68 percent ranked regulations under the HEA as most burdensome, with state regulations receiving the next highest percentage of most burdensome votes (13 percent), followed by other federal regulations (10 percent), and non-governmental regulations (8 percent).

TABLE 3: RANKING BY SENIOR EXECUTIVES OF THE PERCEIVED LEVEL OF BURDEN AMONG TYPES OF REGULATIONS

Type of Regulation	Percent of Senior Executives Who Rank the Regulations As:				
	Most Burdensome	Second Most Burdensome	Third Most Burdensome	Fourth Most Burdensome	Had No Opinion
HEA Regulations	68%	20%	6%	3%	3%
Other Federal Regulations	10%	47%	23%	11%	9%
State Regulations	13%	22%	39%	22%	4%
Non-Governmental Regulations	8%	13%	24%	49%	6%

Source: 2011 Higher Education Regulations Study Survey

TABLE 4: RANKING BY OFFICE ADMINISTRATORS OF THE PERCEIVED LEVEL OF BURDEN AMONG TYPES OF REGULATIONS

Type of Regulation	Percent of Office Administrators Who Rank the Regulations As:				
	Most Burdensome	Second Most Burdensome	Third Most Burdensome	Fourth Most Burdensome	Had No Opinion
HEA Regulations	75%	12%	3%	2%	8%
Other Federal Regulations	9%	44%	22%	7%	18%
State Regulations	5%	27%	43%	14%	11%
Non-Governmental Regulations	4%	8%	12%	56%	20%

Source: 2011 Higher Education Regulations Study Survey

Other federal regulations received the largest share of second-most burdensome responses at 47 percent, with state regulations (39 percent) highest in the third position, and non-governmental regulations (49 percent) receiving the greatest percentage of votes under fourth-most burdensome.

Less than 10 percent of senior executives had no opinion regarding the ranking of burden for each of the categories.

Using the same scale as senior executives, office administrators were asked to rank the perceived burden of HEA, other federal, state, and non-governmental regulations on their institutions. **Table 4** on page 13 shows:

- Like senior executives, office administrators ranked HEA regulations as most burdensome by a large percentage: 75 percent of administrative respondents ranked HEA regulations highest. Other federal regulations received the next highest percentage of most burdensome votes at 9 percent, followed by state regulations at 5 percent and non-governmental regulations at 4 percent. Ordering differed slightly between the two groups, with other federal regulations and state regulations switching second and third place rank order.
- Other federal regulations received the largest share of second-most burdensome votes at 44 percent, with state regulations (43 percent) highest in the third-most burdensome category, and non-governmental regulations (56 percent) garnering the greatest percentage of responses under fourth-most burdensome.

A majority of respondents ranked the regulations under the HEA as the most burdensome among all types of regulation.

Across the four types of regulations, between 8 and 20 percent of office administrators offered no opinion on ranking burden for that regulation type. When reviewing data in the first four tables, a clear picture emerged regarding strength of the perceptions of overall and relative burden for those surveyed.

Perceptions of Burden for Individual Regulations. Office administrator respondents were asked to rate individual regulations under the HEA as very burdensome, burdensome, and not burdensome. In this table, overall perceived burden was reported by combining the percentage of respondents indicating burdensome or very burdensome for each regulation. The table orders the regulations according to overall perceived burden. **Table 5** on page 15 shows:

- More than 50 percent of respondents classified 14 of the 15 individual regulations as burdensome or very burdensome. Eleven of the regulations were perceived to be in one of these two categories by at least 70 percent of the respondents, and seven exceed 75 percent.

TABLE 5: PERCEPTIONS OF OFFICE ADMINISTRATORS REGARDING THE LEVEL OF BURDEN FOR SPECIFIC REGULATIONS

Regulation	Percent Who Rank the Regulation As:			
	Very Burdensome	Burdensome	Very Burdensome or Burdensome	Not Burdensome
Two Pell Grants	70%	21%	91%	9%
Reporting Timeframes	29%	61%	90%	10%
Reporting Volume and Scope	47%	42%	89%	11%
Return of Title IV Funds	54%	33%	87%	13%
Non-Allowable Charges	28%	55%	83%	17%
TEACH Grant Eligibility	46%	37%	83%	17%
Proration of Loan Limits	23%	53%	76%	24%
Prior Year Charges	24%	50%	74%	26%
Conflicting Information	11%	63%	74%	26%
Self-Certification	30%	42%	72%	28%
Tolerances	20%	50%	70%	30%
Opening Bank Account	19%	46%	65%	35%
Return of Uncashed Checks	14%	46%	60%	40%
Entrance Counseling	15%	36%	51%	49%
FSEOG Priority Awarding	10%	29%	39%	61%

Source: 2011 Higher Education Regulations Study Survey

- The 7 regulations with more than 75 percent of respondents perceiving each as burdensome or very burdensome were as follows:
 - Two Pell Grants
 - Reporting Timeframes
 - Reporting Volume and Scope
 - Return of Title IV Funds
 - Non-Allowable Charges
 - TEACH Grant Eligibility
 - Proration of Loan Limits
- The regulation with the highest overall perceived level of burden—*Two Pell Grants*—was eliminated during the course of the HERS study. Respondents who indicated the regulation was burdensome or very burdensome were asked in a separate question to note the reasons why. Although not demonstrated in the table, the two reasons receiving the highest percentage of responses were “the time, effort, and costs necessary to administer this regulation exceed the intended protections” (65 percent) and “this regulation is overly prescriptive” (40 percent). Respondents were allowed to check multiple reasons.
- Respondents were relatively split on their perception of burden for the *Entrance Counseling* regulation, with 51 percent declaring it burdensome or very burdensome, and 49 percent perceiving it as not burdensome. This split among respondents warrants further investigation to understand the reasoning behind each perception. Data from additional survey questions yielded further insights as discussed later in this report.
- Only one regulation, the *FSEOG Priority Awarding*, was perceived by more than half the respondents (61 percent) as having a low level of regulatory burden. This program was consistently rated by respondents as having the lowest level of burden the 15 regulations studied.
- Although not demonstrated in the table, an average of 44 percent of respondents identified this set of 15 regulations as burdensome, 29 percent saw them as very burdensome, and 26 percent viewed them as not being burdensome at all. There was variation in the ranking of these regulations by office type; however, the variation is minimal when reviewing responses by institutional type and control, region, and enrollment size. Respondents who perceived their institution as having fully automated systems tended to rank burden higher than those who perceived lower levels of automation at their institutions.

The majority of office administrators responding to the survey perceived 14 of the 15 cited regulations as very burdensome or burdensome.

When reviewing the top three reasons given for each regulation, the same two reasons appeared for every regulation—“the time, effort, and costs necessary to administer the regulation exceed the intended protections,” and “this regulation is overly prescriptive.” For all but two regulations (*Opening Bank Account* and *Proration of Loan Limits*), the “time, effort, and costs” reason was the explanation indicated most often. Several regulations were also judged as hindering student access and success, or as unrelated to program integrity and accountability. The regulations most often cited by respondents as hindering student access or success were *Prior Year Charges*, *FSEOG Priority Awarding*, and *Proration of Loan Limits*.

Regulatory Improvement

Under this study, regulatory improvement involved determining whether a regulation can be modified or eliminated without negatively impacting necessary protections. The findings from this second research question can be found in Table 6.

Perceptions of Whether to Eliminate, Modify, or Keep As Is. The survey asked office administrators to indicate, regardless of perceived levels of burden, whether the regulation in question needed to exist as currently written. Respondents chose among: eliminate, modify, or keep as is. However, the respondents were given the information that neither elimination nor modification could occur if doing so would jeopardize program integrity, accountability, student access, or student success. Although elimination and modification are two very different types of action, the table was ordered by the combined percentage of respondents selecting either of those actions. **Table 6** on page 18 shows:

- The regulations with the highest percentage of respondents who perceived elimination could occur without losing necessary protections are *Proration of Loan Limits* (59 percent), *Two Pell Grants* (57 percent), *Prior Year Charges* (49 percent), and *Non-Allowable Charges* (46 percent).
- Regulations that respondents deemed as modifiable without losing necessary protections were *Reporting Timeframes* (77 percent), *Return of Title IV Funds* (76 percent), *Tolerances* (72 percent), and *Reporting Volume and Scope* (70 percent).
- Four regulations in the study were judged by more than 25 percent of respondents as needing to be kept as is, that is, neither modified nor eliminated. The highest number of respondents (47 percent) supported keeping *Entrance Counseling* as it is currently written, and 40 percent of respondents wished to keep *FSEOG Priority Awarding* as is.

Although not demonstrated in the table, for the group of 15 individual regulations studied, an average of 28 percent of respondents favored elimination, 52 percent wanted modification, and 20 percent said to maintain these regulations currently as written.

The section of this report entitled “Lowering Regulatory Burden” expands on some of these findings by characterizing the perceived problems and proposed solutions. These perceptions and proposals were generated by the volume of comments and feedback received throughout the study, including the survey findings, written comments, and volunteer feedback during the survey’s follow-up activities.

The majority of office administrators perceived that many of the 15 regulations cited in the survey could be either eliminated or modified without losing necessary protections.

TABLE 6: PERCEPTIONS OF OFFICE ADMINISTRATORS REGARDING WHETHER SPECIFIC REGULATIONS CAN BE MODIFIED OR ELIMINATED WITHOUT LOSING NECESSARY PROTECTIONS

Regulation	Percent of Office Administrators Who Perceive That the Regulation Can Be:			
	Eliminated	Modified	Eliminated or Modified	Kept As Is
Reporting Timeframes	19%	77%	96%	4%
Reporting Volume and Scope	23%	70%	93%	7%
Two Pell Grants	57%	33%	90%	10%
Prior Year Charges	49%	40%	89%	11%
Non-Allowable Charges	46%	41%	87%	13%
Return of Title IV Funds	11%	76%	87%	13%
Proration of Loan Limits	59%	26%	85%	15%
TEACH Grant Eligibility	36%	49%	85%	15%
Self-Certification	43%	40%	83%	17%
Conflicting Information	18%	60%	78%	22%
Tolerances	6%	72%	78%	22%
Opening Bank Account	28%	45%	73%	27%
Return of Uncashed Checks	11%	54%	65%	35%
FSEOG Priority Awarding	15%	45%	60%	40%
Entrance Counseling	6%	47%	53%	47%

Source: 2011 Higher Education Regulations Study Survey

System of Regulation

The study's third research question addressed the effectiveness of the regulatory system under the HEA, which included institutional eligibility and compliance monitoring processes, the negotiated rulemaking process, and federal regulatory burden calculations. The findings for these dimensions are addressed in Tables 7 through 9.

Perceptions of Eligibility and Compliance Monitoring. Eligibility monitoring includes the process by which a postsecondary institution re-certifies its eligibility to participate in the federal student aid programs, as well as the national or regional accreditation processes. Compliance monitoring includes audits and program reviews. Senior executives and office administrators were asked to what extent they believed the results of these efforts were effective in identifying problem areas and informing changes to HEA regulations. Respondents used a five-point scale of: effective, marginally effective, marginally ineffective, ineffective, and no opinion/don't know.

Table 7 on page 20 shows:

- When responding to this question, 47 percent of senior executives and 42 percent of office administrators indicated they perceived the monitoring processes as marginally effective. Combined with each group's 22 percent share judging the processes as effective, the *overall* perception of effectiveness reached 69 percent for senior executives and 64 percent for office administrators.
- Combining the categories assessing perceptions of ineffectiveness, 23 percent of senior executives and 17 percent of office administrators found the monitoring processes either ineffective or marginally ineffective.

Among senior executives, 8 percent had no opinion or did not know enough about the processes to judge, whereas 19 percent of office administrators selected this neutral category.

Perceptions of the Negotiated Rulemaking Process. Negotiated rulemaking is a process in which representatives from the higher education community, known during the process as non-federal negotiators, are chosen by ED to participate in discussions on the development of a proposed regulation. Usually this includes changes to an existing regulation, but may also involve creation of a new one. The non-federal negotiators work with a federal negotiator to reach agreement on proposed regulatory language that is then published in the *Federal Register* for broad community comment before ED issues the final regulation.

Senior executives and office administrators were provided several opinion statements regarding how well they perceived the negotiated rulemaking process worked. These statements effectively delineated a four-point scale

The majority of respondents perceived monitoring processes to be effective at identifying problems and informing changes to the regulations, although a plurality judged them as only marginally effective.

TABLE 7: PERCEPTIONS REGARDING THE LEVEL OF EFFECTIVENESS OF INSTITUTIONAL ELIGIBILITY AND COMPLIANCE MONITORING PROCESSES IN INFORMING CHANGES TO REGULATIONS UNDER THE HIGHER EDUCATION ACT

Respondent Group	Percent Who Perceive the Processes As:				
	Effective	Marginally Effective	Marginally Ineffective	Ineffective	Had No Opinion
All Respondents	22%	43%	11%	7%	17%
Senior Executives	22%	47%	15%	8%	8%
Office Administrators	22%	42%	10%	7%	19%

Source: 2011 Higher Education Regulations Study Survey

TABLE 8: PERCEPTIONS REGARDING THE LEVEL OF EFFECTIVENESS OF THE FEDERAL NEGOTIATED RULEMAKING PROCESS

Respondent Group	Percent Who Regard the Process As:			
	Effective As Can Be	Effective But Needs Changes	Ineffective and Needs to Be Replaced	Unfamiliar
All Respondents	9%	56%	15%	20%
Senior Executives	5%	50%	20%	25%
Office Administrators	11%	57%	13%	19%

Source: 2011 Higher Education Regulations Study Survey

TABLE 9: FAMILIARITY OF OFFICE ADMINISTRATORS WITH FEDERAL REGULATORY BURDEN CALCULATIONS AND PERCEPTIONS OF THEIR ACCURACY

Familiarity with Calculations	Percent of Office Administrators Who Are:			
	Very Familiar	Somewhat Familiar	Somewhat Unfamiliar	Very Unfamiliar
	4%	26%	35%	35%

Perceived Accuracy of Calculations for Those Familiar with the Calculations	Percent Who Perceive the Calculations To Be:			
	Highly Accurate	Accurate	Inaccurate	Highly Inaccurate
	3%	26%	54%	17%

Source: 2011 Higher Education Regulations Study Survey

as follows: the process works exactly as it should; the process works overall, but select components need changing; the process does not work and needs to be replaced; and “I am unfamiliar with the negotiated rulemaking process.” **Table 8** on page 20 shows:

A majority of both senior executives and office administrators perceived the negotiated rulemaking process as effective but needing change.

- Although indicating they felt the negotiated rulemaking process worked overall, 50 percent of senior executives and 57 percent of office administrators still said that some improvements were needed in order for it to be more effective.
- Among senior executives, 20 percent felt the negotiated rulemaking process was ineffective and needed to be replaced with another means of developing proposed regulations under the HEA. Only 13 percent of office administrators answered similarly. Detailed analyses of responses by institutional type and control, regional location, and enrollment size showed differing strengths of opinion for each group regarding whether negotiated rulemaking was perceived as effective or needed replacing.

Overall, less than 10 percent of respondents perceived the negotiated rulemaking process to be as effective as it could be. Among senior executive respondents, 25 percent were unfamiliar with the negotiated rulemaking process, while 19 percent of office administrators said they were unfamiliar as well.

Although not demonstrated in the table, respondents provided feedback on options to improve the regulatory development and implementation processes, including negotiated rulemaking. Five options were presented, plus an opportunity to provide written comments on the topic. The five options below are ordered by the percentage of respondents selecting that option (multiple selections were allowed). The range was 50 percent to 23 percent.

- *Put Guidance on a Master Calendar.* Guidance issued by ED (such as Dear Colleague Letters and the Federal Student Aid Handbook) on how to implement and administer regulations should be put on a master calendar (i.e., the effective date of such guidance would depend on the date the guidance is published). For example, current law requires final regulations be published by November 1 in order for them to be effective by the following July 1.
- *Modify the Master Calendar.* Modify the master calendar for effective dates of final regulations to require a minimum timeframe of one year from publication date when implementation would require significant systems or procedural modifications.
- *Allow Majority Consensus.* Allow consensus to be granted on a proposed regulatory package by reaching majority consensus rather than a lack of dissent.
- *Expand the Minimum Timeframe for Response.* Expand the minimum timeframe for the public to respond to proposed regulatory packages.

- *Modify Selection of Non-Federal Negotiators.* Modify the process of how ED selects non-federal negotiators for the negotiated rulemaking process.

Among all respondents, 50 percent included “Put Guidance on a Master Calendar” among their choices for improving the regulatory development and implementation processes. The remaining four options were included as viable improvements by 38 percent, 35 percent, 28 percent, and 23 percent, respectively.

Perceptions of Federal Burden Calculations. Office administrators were asked about their awareness of regulatory burden calculations conducted by ED and published in the *Federal Register* when a regulation or process requires institutions to collect information or data. Respondents were given a four-point scale of: very familiar, somewhat familiar, somewhat unfamiliar, and very unfamiliar.

In a separate follow-up question, those who indicated they were familiar were asked to rate the accuracy of the calculations compared to the level of burden they experienced at their institution. This question had a five-point scale of: highly accurate, accurate, inaccurate, highly inaccurate, and “I am unable to rate the accuracy of burden calculations.” **Table 9** on page 20 shows:

- Among office administrators responding, only 4 percent said they were very familiar with ED’s regulatory burden calculations. An additional 26 percent said they were somewhat familiar.
- In contrast, 35 percent of office administrators said they were unfamiliar and an additional 35 percent said they were very unfamiliar with federal regulatory burden calculations—a total of 70 percent.
- Among those office administrators familiar or very familiar with ED’s burden calculations, 71 percent of respondents described them as inaccurate (54 percent) or highly inaccurate (17 percent).
- Furthermore, among office administrators, 26 percent viewed the burden calculations as accurate and 3 percent perceived them as highly accurate.

At a minimum, the aggregate data showed a need for better awareness of and more information on the regulatory burden calculations. One of the purposes of publishing these calculations is to provide a measure for institutional personnel to use in preparing for implementation and administration of the regulation.

Cost and Time Savings

Savings from regulatory reform consisted of two aspects under this study: savings from reform to the system of regulation, and savings from changes made to individual regulations. Findings on this topic are in Tables 10 and 11.

Less than one-third of the office administrators indicated familiarity with the federal regulatory burden calculations.

Of those office administrators who were familiar with the federal regulatory burden calculations, a large majority viewed them as inaccurate.

TABLE 10: PERCEPTIONS REGARDING WHETHER COST SAVINGS WOULD OCCUR FROM REGULATORY REFORM

Percent of Senior Executives Who Perceive That Savings Would Occur from Overall Regulatory Reform				
Yes		No		
82%		18%		
Regulation	Percent of Office Administrators Who Perceive That Savings Would Be:			
	Very Significant	Significant	Very Significant or Significant	Insignificant or None
Conflicting Information	6%	83%	89%	11%
Return of Title IV Funds	30%	52%	82%	18%
Opening Bank Account	17%	62%	79%	21%
Two Pell Grants	33%	46%	79%	21%
Reporting Timeframes	10%	68%	78%	22%
Reporting Volume and Scope	12%	62%	74%	26%
Prior Year Charges	12%	60%	72%	28%
Non-Allowable Charges	15%	54%	69%	31%
TEACH Grant Eligibility	20%	49%	69%	31%
Tolerances	9%	55%	64%	36%
Return of Uncashed Checks	8%	54%	62%	38%
Entrance Counseling	11%	48%	59%	41%
Self-Certification	13%	46%	59%	41%
Proration of Loan Limits	2%	38%	40%	60%
FSEOG Priority Awarding	7%	32%	39%	61%

Source: 2011 Higher Education Regulations Study Survey

Perceptions of Savings from Regulatory Reform. Both senior executives and office administrators were asked whether they perceived there would be savings at their institution as a result of reforms to regulations under the HEA; however, each group received a different question. Senior executives were asked whether they perceived cost savings would result from regulatory reform in general—through changes to individual regulations or the regulatory system. Office administrators received questions related to assessments of whether potential savings would be generated by modifications to or elimination of the 15 individual regulations. The cost savings question was not presented to office administrator respondents who answered that a particular regulation should be kept as is rather than being modified or eliminated. **Table 10** on page 23 shows:

The majority of office administrators perceived that modifying or eliminating 13 of the 15 regulations would yield significant or very significant savings.

- All types of respondents perceived with relative uniformity that cost savings could be achieved if regulations were reformed.
- A large majority of senior executives felt that cost savings could be achieved at their institution through reform of HEA regulations: 82 percent said that cost savings would accrue, while only 18 percent said they would not.
- For the individual regulations considered in the study, approximately one-third of office administrators perceived that two regulations—*Two Pell Grants* and *Return of Title IV Funds*—would likely yield very significant cost savings if modified or eliminated.
- For 9 of the 15 regulations, more than 50 percent of office administrators felt that significant cost savings could be achieved from changes to the regulation. Large numbers of respondents indicated that reforming the *Conflicting Information* (83 percent) and *Reporting Timeframes* (68 percent) regulations would achieve significant cost savings. The remaining seven regulations were *Reporting Volume and Scope* (62 percent), *Opening Bank Account* (62 percent), *Prior Year Charges* (60 percent), *Tolerances* (55 percent), *Non-Allowable Charges* (54 percent), *Return of Uncashed Checks* (54 percent), and *Return of Title IV Funds* (52 percent).

Survey results showed that office administrators were, overall, somewhat less inclined than senior executives to perceive very significant or significant cost savings from regulatory reform. Total response percentages for perceived cost savings (very significant plus significant) exceeded 80 percent for only two regulations, *Conflicting Information* and *Return of Title IV Funds*. For the other regulations, between 39 and 79 percent of office administrator respondents noted that some type of cost savings might be achieved. In addition, although not shown in this data, the study's findings also suggested that respondents from campus offices primarily responsible for administering the regulations were somewhat less likely to perceive cost savings from reform (an average of 66 percent) than were those from offices providing only supporting information (an average of 72 percent).

For *FSEOG Priority Awarding* and *Proration of Loan Limits*, about 60 percent of office administrators did not see any cost savings associated with reform. For 6

other regulations, more than 30 percent of office administrators said that insignificant or no cost savings would likely occur.

Several survey respondents submitted written comments suggesting that, in addition to cost savings, regulatory reform would likely generate significant time savings. Many commenters expressed support for focusing staff time on counseling and serving students and their families rather than administering overly-prescriptive and burdensome regulations.

Preferences for Use of Cost Savings. Senior executives were asked how they perceived any cost savings from HEA regulatory reform would most likely be used at their institution. Using a four-point scale, respondents were given the following options: capping future increases in tuition and fees, expansion of services such as counseling and customer services, expansion of student-focused programs (such as financial literacy), increasing institutional student aid programs based on financial need, and increasing institutional student aid programs *not* based on financial need. **Table 11** on page 26 shows:

- Senior executives indicated that the expansion of services such as counseling and customer services was the most likely result of cost savings generated through regulatory reform, receiving 63 percent of first (37 percent) and second (26 percent) place votes. This was followed by increasing need-based institutional student aid (51 percent of combined first and second place) and expanding student-focused programs (40 percent of first or second place votes).
- Senior executives suggested the least likely uses of cost savings would be capping future increases in tuition and fees, and increasing non-need-based institutional student aid programs.

Many of the written comments submitted by office administrators responding to cost savings estimates for individual regulation reform matched the notions of senior executives. That is, the majority of office administrators suggested that such savings, if realized, would most likely be used to enhance or expand counseling and customer services.

Future Regulatory Reform Efforts

The fifth research question addressed preferences for pursuing future regulatory reform efforts, which included alternative regulatory structures, particular performance measures that could be used as a threshold for regulatory relief, and methods for continued study of regulatory reform in higher education. These findings are represented in Tables 12 through 14.

Preferences Regarding Alternative Regulatory Structures. Senior executives and office administrators were presented with several alternatives to the current approach of issuing one set of HEA regulations applicable to all institutions (i.e., one size fits all), and asked whether they agreed that each alternative should be explored further.

Senior executives perceived that savings from regulatory reform would be used most likely for expanding counseling and customer services, as well as increasing need-based institutional aid.

TABLE 11: PERCEPTIONS OF SENIOR EXECUTIVES WHO EXPECT SAVINGS FROM REGULATORY REFORM REGARDING THE USE OF THOSE SAVINGS

Savings Use	Percent of Senior Executives Who Rank the Use:				
	First (Most Savings)	Second	Third	Fourth	Fifth (Least Savings)
Expanding Counseling and Customer Services	37%	26%	19%	12%	6%
Increasing Need-Based Institutional Aid	31%	20%	24%	17%	8%
Capping Future Increases in Tuition and Fees	14%	11%	19%	18%	38%
Expanding Student-Focused Programs	11%	29%	22%	22%	16%
Increasing Non-Need-Based Institutional Aid	7%	14%	16%	31%	32%

Source: 2011 Higher Education Regulations Study Survey

TABLE 12: PREFERENCES REGARDING THE PURSUIT OF ALTERNATIVE REGULATORY STRUCTURES

Type of Regulatory Reform	Percent of Senior Executives Who:			Percent of Office Administrators Who:		
	Agree (Strongly or Somewhat)	Disagree (Strongly or Somewhat)	Have No Opinion	Agree (Strongly or Somewhat)	Disagree (Strongly or Somewhat)	Have No Opinion
Sector-Specific Regulations	83%	13%	4%	73%	16%	11%
Performance-Based Regulations	82%	13%	5%	69%	21%	10%
Expansion of Research-Based Waivers	45%	22%	33%	41%	20%	39%
Maintain Current Approach	11%	82%	7%	14%	71%	15%

Source: 2011 Higher Education Regulations Study Survey

The three alternatives were:

- *Sector-specific regulations.* The development and promulgation of federal regulations under the HEA should be differentiated by institutional type or sector.
- *Sector-specific regulations. Performance-based regulations.* Institutions meeting established thresholds or standards on key indicators would be exempt from compliance with select regulations.
- *Expansion of research-based waivers.* Expansion or modification of the current Experimental Sites program in which institutions apply for an experimental waiver of existing regulations in exchange for heightened research, reporting and/or monitoring of data based on the experiment. Data and information would be used to inform broader application or changes to the regulations.

In addition, respondents were provided the option to select “maintain the current approach” to express the view that there should be no alternative approaches to the current system of regulating postsecondary institutions.

Respondents were asked to rate these alternative approaches on a five-point scale: strongly agree, somewhat agree, somewhat disagree, strongly disagree, or no opinion/don’t know.

In **Table 12** on page 26, figures for those who strongly or somewhat agreed have been aggregated into one column and figures for those who strongly or somewhat disagreed into another.

The majority of both senior executives and office administrators preferred pursuing sector-specific or performance-based regulatory structures.

- Maintaining the current approach was rejected by large percentages of both groups: 82 percent of senior executives disagreed with keeping the current one-size-fits-all approach and 71 percent of office administrators indicated disagreement.
- Both senior executives and office administrators preferred sector-specific regulations and performance-based regulations as possible alternatives to the current structure: 83 percent of senior executives and 73 percent of office administrators agreed with exploring the use of sector-specific regulations, and 82 percent and 69 percent, respectively, supported pursuing performance-based regulations.

Expansion of research-based waivers had the least support among the alternatives, but that may have been due to at least a third of each group indicating that they either did not know about these types of waivers or had no opinion. In written comments submitted as part of the survey, respondents most often mentioned they supported these waivers, but felt that years of data collection and reporting on the experiments rarely yielded any changes to regulations. Several commenters expressed support for use of such waivers if results from experiments were used to inform changes by Congress or during negotiated rulemaking sessions.

Although support for sector-specific regulations differed by institutional type and control, there was little variation regarding the need for a different approach and support of performance-based regulations.

TABLE 13: PREFERENCES OF SENIOR EXECUTIVES REGARDING THE USE OF PARTICULAR PERFORMANCE MEASURES AS TRIGGERS FOR REGULATORY RELIEF

Performance Measure	Regarding Use of the Measure as a Trigger for Regulatory Relief, the Percent of Senior Executives Who:		
	Agree (Strongly or Somewhat)	Disagree (Strongly or Somewhat)	Have No Opinion
Consecutive Clean Audits	81%	14%	5%
Annual Retention Rates	76%	21%	3%
Graduation Rates	72%	25%	3%
Retention-to-Graduation Rates	72%	25%	3%
Competency Based Learning Assessment Benchmarks	66%	27%	7%
Consecutive Low Cohort Default Rates	64%	30%	6%
Time to Degree	57%	39%	4%
Job Placement Rates	54%	42%	4%
Transfer Rates (from two-year to four-year programs)	50%	36%	14%
Cost per Full Time Equivalent Student	47%	47%	6%
Student Test Score Benchmarks	43%	51%	6%
Diversity of Graduating Classes	40%	54%	6%
Rates of Acceptance to Graduate/Professional Programs	32%	46%	22%

Source: 2011 Higher Education Regulations Study Survey

Perceptions Regarding Performance Indicators. Senior executives were asked to consider the possibility that regulatory relief might be provided to institutions if they were to meet an established threshold of performance. Respondents were asked to rate the suitability of 13 performance measures:

- consecutive years of audits with no material findings
- consecutive years below an established cohort default rate for federal student loans
- annual retention rates
- retention-to-graduation rates
- graduation rates
- cost per full time equivalent student
- time-to-degree
- job placement rates
- transfer rates from two-year to four-year programs
- rates of acceptance to graduate/professional programs
- diversity of graduating classes
- competency-based learning assessment benchmarks
- student test score benchmarks.

Respondents rated each item based on the following options: strongly agree, somewhat agree, somewhat disagree, strongly disagree, or no opinion/don't know. **Table 13** on page 28 shows how senior executives rated the efficacy of these alternatives for regulatory relief:

- Among senior executives, 81 percent either strongly agreed or somewhat agreed that consecutive clean audits were an effective measure for triggering regulatory relief.
- Other measures that received the highest scores for strongly and somewhat agree: annual retention rates (76 percent), graduation rates (72 percent), and retention-to-graduation rates (72 percent).

Measures that received the highest percentage of disagreement for such use were: diversity of graduating class (54 percent disagree somewhat or strongly), student test scores (51 percent), cost per full time equivalent student (47 percent), rates of acceptance to graduate or professional programs (46 percent), and job placement rates (42 percent).

Perceptions Regarding Advancing Regulatory Reform. Both senior executives and office administrators were asked how they would rate the helpfulness of six options for pursuing regulatory reform efforts in the future:

- further study of the HEA regulations
- thorough review of the HEA regulations by ED with the community
- comprehensive study of all regulations impacting higher education institutions
- congressional hearings on higher education regulatory reform

The majority of senior executives preferred 8 of the 13 triggers for regulatory relief that were cited in the survey.

TABLE 14: PREFERENCES REGARDING METHODS FOR FUTURE REGULATORY REFORM EFFORTS

Next Step in Regulatory Reform	Percent of Senior Executives Who Regard the Next Step:			Percent of Office Administrators Who Regard the Next Step:		
	As Very or Somewhat Helpful	As Very or Somewhat Unhelpful	Have No Opinion	As Very or Somewhat Helpful	As Very or Somewhat Unhelpful	Have No Opinion
Further Study of HEA Regulations	85%	11%	4%	77%	10%	13%
Comprehensive Regulations Study	84%	13%	3%	77%	9%	14%
ED Review of Regulations with Community	82%	15%	3%	81%	8%	11%
“Add One, Eliminate One” Policy	53%	33%	14%	50%	29%	21%
Congressional Hearings	37%	57%	6%	36%	50%	14%
No Further Reform Efforts	11%	72%	17%	10%	66%	24%

Source: 2011 Higher Education Regulations Study Survey

- creating an “add one, eliminate one” policy in which no new regulations could be created without eliminating an existing regulation, except when the HEA creates a new program or rule
- no further reform efforts.

Respondents were asked to rate each option as very helpful, somewhat helpful, somewhat unhelpful, very unhelpful, or no opinion/don’t know. **Table 14** on page 30 shows:

- A majority of senior executives (72 percent) and office administrators (66 percent) felt that pursuing no further reform efforts would be very or somewhat unhelpful.
- Both groups agreed on the top three methods that would be most helpful to advancing regulatory reform, even though they differed on the order of preference.
- Among all options, 85 percent of senior executives perceived a further study of the HEA regulations as most helpful, followed by a comprehensive study of all regulations impacting higher education institutions (84 percent), and a thorough review of the HEA regulations by ED with the community (82 percent).
- Office administrators found a thorough review of the regulations by ED and the community as the most helpful (81 percent), followed by the comprehensive study (77 percent), and further study of the HEA regulations (77 percent).

The majority of both senior executives and office administrators found further study of the HEA regulations, a comprehensive study, or an ED review of regulations with the community to be very or somewhat helpful.

Large percentages of the office administrators had no opinion as to whether each measure would be helpful for regulatory reform.

PAGE INTENTIONALLY LEFT BLANK

LOWERING REGULATORY BURDEN

Following a synthesis of feedback from all sources throughout the study, several problems and potential solutions have been identified and confirmed by the community. There were five research topics under HERS—regulatory burden, regulatory improvement, the system of regulation, cost savings, and future regulatory reform efforts. The “Regulation” items in this chapter correspond to regulatory burden and improvement concerns. Fifteen regulations were selected for further study from the initial list of regulations suggested by the community as burdensome and in need of streamlining, improvement, or elimination. Comments from panelists at the Advisory Committee’s September 30, 2011 hearing, as well as those from participants in survey follow-up activities, overwhelmingly confirmed these 15 as among the most burdensome, exemplifying regulatory burden experienced on campuses nationwide. These 15 regulations are described below with examples of problems the community perceived as contributing to each regulation’s burden, followed by proposals for improving the regulation. The regulations are presented in alphabetical order. All regulatory citations are to Title 34 of the Code of Federal Regulations. The “System Component” and “System Issue” items address the three remaining research topics—the system of regulation, cost savings, and future regulatory reform efforts. All content in this section reflects the culmination of community feedback on the perceived problems and proposed solutions received throughout the entire study.

Regulation: Conflicting Information

Current regulations require an institution to have a system in place to resolve discrepancies, or conflicts, among all sources of information related to a student’s application for federal student aid.

Members of the higher education community suggested that these regulations and related guidance are overly-prescriptive. As an example, most cited the guidance that requires campus administrators to judge the accuracy of Internal Revenue Service (IRS) filing requirements on tax forms that were accepted by the IRS. Others suggested a successful IRS data match as a viable source of information that should serve as a final arbiter of accurate tax data, such as allowing the matched data to supersede a tax transcript or paper copy of a tax return that may differ from the match.

The community suggested that ED consider improvements in one or both of the following ways:

- Modify the regulations and guidance to allow results from established data matches, recognized by ED, to serve as a source of resolution for conflicting information. Such matches would include the existing match with the IRS, but this suggested improvement should include other data matches as well.
- Modify the regulations and guidance to eliminate any requirement that a campus official must interpret and apply another federal agency’s rules, unless specifically required under the HEA.

**Proposed Improvement
to 668.16(b)(3), (f)**

Regulation: Crediting Federal Student Aid to Non-Allowable Institutional Charges

Current regulations require an institution to obtain written authorization from a student (or parent borrower for Parent PLUS Loans) to credit federal student aid to certain charges defined as “non-allowable” institutional charges, such as student health center charges.

Some have suggested that it is more efficient to replace the requirement to obtain a written authorization for this circumstance with an opt-out provision. In this case, the school would be authorized to automatically apply federal student aid funds to a student’s allowable and non-allowable charges unless the student notified the school in writing that he/she did not want federal student aid applied to non-allowable institutional charges. Members of the community noted that students usually assume all charges can be paid with federal student aid funds and can be confused about having to pay non-allowable charges out-of-pocket, especially when a credit balance from federal student aid funds exists. An additional example of complications under this rule is when students ignore a balance due thinking their student aid credit balance will cover the non-allowable charges. Such students may not be able to register for courses for subsequent periods of enrollment until the balance is paid. Other individuals suggested that ED should review the data from experiments conducted through the Experimental Sites Initiative and work with the community to agree on modifications to these regulations.

The community suggested that ED consider improvement in the following way:

**Proposed Improvement
to 668.164(d)**

- Modify the regulation to permit an opt-out system, whereby the institution would be authorized to automatically apply federal student aid funds to all charges a student incurs at the institution. However, should the institution choose to implement such a system, the institution would be required to notify the student at least annually of the right to opt-out. Legislative action may be necessary to accommodate this change.

Regulation: Entrance Counseling for Student Borrowers

Institutions must provide entrance counseling before delivering a disbursement to a first-time student loan borrower in order to inform the student of rights and responsibilities.

Members of the community strongly supported the need for entrance counseling, but expressed concern that its format and timing could be modified. Some members of the community suggested that the entrance counseling requirements applied one standard to all students and did not address the unique needs of different populations of students. Instead of mandated timeframes by which a student must receive entrance loan counseling, some felt that administrators should be allowed to determine when to fulfill this counseling requirement based on profiles of their student borrower population, and be able to require completion of financial literacy training. Others suggested that the entrance counseling does not seem to affect student loan cohort default rates. Additional individuals offered that ED should review the data from experiments conducted through the Experimental Sites Initiative and work with the community to agree on modifications to these regulations.

The community suggested that ED consider improvement in the following way:

**Proposed Improvement
to 674.16(a); 682.604(f);
685.304**

- Modify the regulations to incorporate entrance counseling as part of the master promissory note (MPN) process. This would likely streamline the entrance counseling process, reduce student confusion, and tie loan rights and responsibilities more closely to actions authorizing and securing a federal student loan. As part of this modification, the regulations should allow administrators to supplement the MPN entrance counseling at subsequent points in time, rather than only before the first disbursement of a first-time student borrower, based on the needs of the institution’s student borrowers.

Regulation: FSEOG Priority Awarding Criteria

Statutory language requires Federal Supplemental Educational Opportunity Grants (FSEOGs) be awarded to students with the lowest expected family contributions (EFCs).

Survey respondents perceived this regulation as having the lowest level of burden of the 15 regulations included in the study. Furthermore, respondents favored modifying certain criteria for the program, rather than eliminating it. Some suggested the FSEOG awarding priority include students with the highest unmet need, not just those with the lowest EFCs, because significant numbers of students with the lowest EFCs receive grant aid such that their unmet need is lower than students with higher EFCs. Several commenters requested priority awarding always go to Federal Pell Grant recipients.

The community suggested that ED consider improvement in the following way:

Proposed Improvement To 676.10

- Modify the regulation to require an institution to award its FSEOG funds first to its Federal Pell Grant recipients with the highest unmet need. The determination of unmet need should take into account the cost of attendance, EFC, and gift assistance, but not any self-help forms of student financial aid (such as loans or employment). A change to legislative language may be required to accommodate this change.

Regulation: Overaward and Overpayment Tolerances

An overaward occurs when a student receives aid in excess of demonstrated need or beyond an amount for which the student is otherwise eligible. Tolerances exist within different federal student aid programs to accommodate situations in which inadvertent overawards occur. Overpayments occur when resolution of an overaward is not feasible.

Overpayments can restrict a student's eligibility for further federal student aid until resolved or satisfactory repayment arrangements are made. Members of the community suggested there should be a standard overall tolerance that applies across all programs (except the Federal Pell Grant program, in which no overaward tolerance is allowed) to minimize multiple calculations to determine whether an overaward or overpayment exists. Others added that a consistent, single policy is easier for students to understand and is more equitable.

The community suggested that ED consider improvement in the following way:

Proposed Improvement to 673.5; 682.604(h); 685.303(e)

- Modify the regulations to allow a single, aggregate tolerance that applies across all federal student aid programs, except for the Federal Pell Grant program. A change to legislative language may be required to accommodate this change.

Regulation: Prior Award Year Charges

Current regulations provide authority for an institution to apply current award year federal student aid to allowable charges from a prior award year, up to a maximum of \$200.

Members of the community suggested that the \$200 cap be eliminated because a student's unpaid balance from a prior award year often prevents enrollment in current and future periods of enrollment. Alternatively, several individuals advocated for raising the cap, rather than eliminating it, recognizing the potential for creating a cycle of carrying over a deficit without ever resolving it. Commenters most often suggested amounts between \$500 and \$1,000 as revised maximums.

The community suggested that ED consider improvement in one of the following ways:

**Proposed Improvement
to 668.164(d)(2)**

- Modify the regulation to raise the maximum.
- Modify the regulation to eliminate the maximum. Legislative action may be necessary to pursue this option. In discussions with the higher education policy community, ED should address whether elimination of the provision should be replaced with a requirement of written authorization from the student to allow such charges to be paid with current year federal student aid funds once current year expenses have been satisfied. Alternatively, elimination of the maximum could be replaced with a means for the student to opt-out of the automatic application of current year funds to prior year charges once current year expenses have been satisfied.

Regulation: Proration of Annual Loan Limits

An institution must prorate the annual loan limits for a student borrower in a program longer than one academic year who is also in a final period of enrollment of less than an academic year.

Office administrators gave this regulation the highest percentage of votes (59 percent) for eliminating a provision without losing necessary protections. Members of the community expressed concern that this rule limits financial assistance, penalizes students who are closest to program completion, leads to unnecessary borrowing from programs with higher interest rates and less beneficial repayment terms, and is an administrative burden. Others noted that proration of loan limits under this provision often must be carried out manually as many systems are unable to automate this function. Others asserted the regulation is duplicative because annual and aggregate loan limits already restrict student borrowing. As an alternative to eliminating the regulation, some offered the idea of making it performance-based by exempting institutions with low cohort-default rates.

The community suggested that ED consider improvement in the following way:

**Proposed Improvement
to 682.204(a), (c), (d);
685.203(a), (b), (c)(2)**

- Eliminate the requirement to prorate the annual loan limit for a student borrower enrolled in a program longer than one academic year and in a final period of enrollment of less than an academic year. Legislative action may be necessary to pursue this option.

Regulation: Reporting and Consumer Disclosure Requirements

Current statutory and regulatory language requires institutions to report data or make disclosures of information for consumer awareness on such topics as campus crime, enrollments, fire safety, graduation rates, music downloading, placement rates, and textbook information, as well as a variety of reporting under the Integrated Postsecondary Education Data System (IPEDS) reports. There were two aspects of reporting and consumer disclosure requirements that framed the concerns of the community—the overlapping and inconsistent timeframes, and the volume and scope of the requirements. These were presented as two separate issues on the survey, but are combined for this section.

Regarding issues of overlapping and inconsistent timeframes, members of the community suggested that federal reporting and disclosure requirements often overlap and duplicate similar requirements from state agencies and non-government organizations. This includes differences in deadlines for submitting reports and disclosures, as well as timeframes for data collection (e.g., a state report requires calendar year data, yet a federal report on the same issue requires award year data). Others suggested that consumer disclosures from all sources, including federal and state sources, be combined and standardized in order to minimize overlap, inconsistency, and duplication.

Addressing another concern, many suggested that additions to and modifications of these requirements over the years have led to an unwieldy volume and expansive scope of reports and disclosures, with some requirements considered irrelevant to participation in federal student financial aid programs. Others in the community suggested that the volume and scope of information is overwhelming for students and families and contributes to confusion rather than awareness. Many felt that an overhaul of these requirements is necessary to ensure the most appropriate information and data are being shared as effectively as possible. Many asserted that the regulations do not provide useful information to students or prospective students and that accrediting bodies are covering much of the same ground as this federal regulation. Furthermore, there were recommendations that data definitions need to be revised to include non-traditional students and non-traditional program formats to ensure the data collected, and the resulting reports and consumer information, represent a complete picture of institutional enrollments.

The community suggested that ED consider improvements in one or more of the following ways:

➤ **Conduct an audit of:**

- all data collection timeframes for federal reporting and consumer disclosure requirements in order to assess the periods covered in the requirement. The audit results should be reviewed with the goal of aligning timeframes for as much consistency as practicable. If similar data are reported to other sources or disclosed at the behest of other agencies, the goal should be to minimize duplication and inconsistencies. An additional goal should be to ensure the timeframes for data collection result in information higher education consumers can easily understand and from which they could effectively benefit.
- all data submission and disclosure dates in order to ensure efficiency in the timing for when institutions must submit data or release information. To the extent practicable, the timing of submissions and disclosures should be appropriately distributed across the calendar or award year. There should be a discussion of all dates in which

**Proposed Improvement
to 668.41-.48**

reports or disclosures are required in order to find the most appropriate date for each type.

- all reporting and consumer disclosure requirements to reduce redundant or conflicting information requested and reported. Determine whether required data and information are available in other areas (e.g., state agencies). Strive to streamline so that institutions are reporting the same information in the same way to one entity.
- Synchronize and combine data reporting to one location to the maximum extent practicable. For example, IPEDS could serve as a central repository of information, since a significant portion of data and information is already reported through this system.
- Examine the feasibility of adjusting data collection definitions to include all types of students enrolled in all degree or certificate program types and formats.
- To inform the above-suggested improvements, conduct focus groups with students and families regarding what information they need and want in order to make college-going decisions, and how they identify and process information. The students and families participating should represent all levels of income and college preparedness.

Regulation: Return of Title IV Funds

When a student withdraws, the institution must determine the amount of Title IV aid (i.e., federal student aid) that must be returned, if any, to the federal student aid programs using a set of formulas and criteria established in the statute and regulations.

Members of the community have suggested that changes made to these regulations over the years have added significant overall complexity, burden, and confusion, especially related to recent changes for academic programs with modular structures. Nevertheless, comments received throughout the study recognized the need for these regulations to exist, but acknowledged a strong desire for simplification and modification. Furthermore, commenters felt the regulations needed to be simpler in order for students and parents to better understand the consequences upfront.

Members of the community specifically suggested the process for returning Title IV funds should rely less on prescriptive formulas, instead, allowing for certain opportunities of institutional discretion, such as flexibility in the order of return of funds by program. For example, several comments supported schools being allowed to return funds to the TEACH Grant program before other loan programs for students whom they know will not be meeting the post-enrollment requirements of the TEACH Grant award. Another commenter suggested Graduate PLUS loans should be returned before returning funds to Federal Direct Student Loans and Federal Perkins Loans because the Graduate PLUS Loans have less advantageous terms than the Direct or Perkins loans.

The community suggested that ED consider improvements in one or both of the following ways:

**Proposed Improvement
to 668.22**

- Conduct a focus group consisting of representatives of the higher education community from all sectors, as well as students, to review the entire set of requirements for the return of Title IV funds to identify and make recommendations of areas in which streamlining and simplification could occur.
- Modify the regulation to allow greater institutional discretion for the order in which certain funds must be returned in circumstances in which a different order of return would benefit the student.

Regulation: Return of Uncashed Credit Balance Checks

Current regulations require that a check written to a student or parent for a credit balance of federal student aid funds be negotiated within 240 days of the date of the check or the funds must be returned to the federal student financial aid programs (as opposed to being allowed to escheat, or revert, to the state).

Members of the community suggested this timeframe is too short and needs to be lengthened to at least 365 days to accommodate differing deadlines among states and financial institutions. Others expressed concern that 365 days was too long, but recognized that in certain circumstances, 240 could be insufficient.

The community suggested that ED consider improvements in one or both of the following ways:

**Proposed Improvement
to 668.164(h)**

- Modify the regulation to allow the deadline to be extended to meet the longer of 240 days or the state's or financial institution's deadline.
- Modify the regulation to allow the option for federal Title IV credit balances about to escheat to be used first to reduce the student's federal education loan debt, then any remaining amounts returned to the applicable federal student financial aid programs.

Regulation: Self-Certification of Non-Title IV Student Loans

An institution participating in any federal student aid program must provide an applicant for a non-Title IV student loan (i.e., loans other than those made under the Federal Direct Student Loan and Federal Perkins Loan programs) with the self-certification form required under the Truth in Lending Act, and the information needed to complete the form, to the extent the institution has that information.

Members of the community expressed concern that this requirement does not apply to all forms of student loans. This treatment creates redundancy, inconsistency, and confusion for groups of students utilizing non-Title IV education loans, especially for other types of federal student loans such as those accessed by students enrolled in health professions programs. Others suggest that all student loans, federal or otherwise, should be certified by a designated official at the institution rather than by the student, primarily to ensure proper counseling regarding the best available borrowing options.

The community suggested that ED consider improvements in one or more of the following ways:

**Proposed Improvement
to 601.11**

- Modify the regulation to exclude all federal student loans, not just Title IV student loans, from disclosures required under the regulation.
- Modify the regulation to require certification of non-Title IV student loans by an institution’s designated official for administering student financial aid programs. This modification may require legislative action.
- Modify the regulation to exempt institutional loans from the student self-certification requirement as long as the modification stipulates that the institution’s designated official for administering student financial aid programs is part of the institutional loan certification process. This modification may require legislative action.

Regulation: TEACH Grant Eligibility Rules

The Teacher Education Assistance for College and Higher Education (TEACH) Grant program provides grant assistance to students in exchange for agreeing to teach in a high-need field in an elementary or secondary school serving low-income students. If the student is not able to fulfill all terms of the agreement, the grant converts to an unsubsidized loan, with capitalized interest.

Several federal student aid programs provide benefits to teachers, and many members of the community asserted the benefits of those other programs are significantly more advantageous for students. Some suggested that the inconsistency of means through which TEACH Grant benefits can be realized makes it difficult to determine whether it is an appropriate award for a particular student. Others have asserted that the intensive counseling and research necessary to administer the program make it burdensome. Finally, the terms of the benefits are complex and often misunderstood by students even after intensive counseling.

The community suggested that ED consider improvements in one or both of the following ways:

- To minimize the complexity and confusion, modify the TEACH program so it is identified as a loan initially with the possibility of the loan being forgiven or cancelled if the student fulfills the terms of teaching service. This may require legislative action.
- Modify the regulations to extend the term of qualifying service for exceptional circumstances due to no fault of the student, such as closing of an eligible school.

**Proposed Improvement
to 686.21-.25; 686.31-.32**

Regulation: Written Authorization to Open a Bank Account on Behalf of the Student

For an institution with a policy of delivering federal student aid credit balances through electronic means only, current regulations require the institution to obtain written authorization from a student in order to open a bank account on the student’s behalf if the student does not designate a bank account within an established timeframe.

Some members of the community offered that when written authorization is not received, this requirement is costly and burdensome because of check printing and mailing costs, and that electronic

payments are delivered more promptly and accurately than paper checks. A few individuals suggested the regulation or guidance needed modification to allow a student to provide bank account information, or the written authorization, earlier in the financial aid application process, although the current regulatory language appears to allow this. The majority of comments received from survey respondents and others in the community indicated this regulation needs to remain in place to insure against a bank account being opened on behalf of a student without his/her knowledge.

The community suggested that ED consider improvement in the following way:

**Proposed Improvement
to 668.164(c)(3)(i)**

- Conduct a focus group of representatives from all sectors within the higher education community, including students, to discuss the perceived burden for these requirements and the need for changes.

Regulation: Year Round Pell Grants--Determining Student Eligibility for Two Federal Pell Grants in One Award Year

Until recently, institutions have been authorized to award up to two Federal Pell Grants in a single award year for students accelerating their programs of study. This provision has been eliminated. However, the Advisory Committee has been persuaded to keep these regulations in the final report so that the community's comments can be recorded should the provisions, or similar ones, be reinstated and receive funding in the future.

Some members of the community expressed concern over the prescriptive nature of the regulatory definition of acceleration and over how eligibility for a second award was determined, especially during payment periods that crossed over award years. Others noted, for example, that requiring the student to attempt at least a 25th credit and be enrolled for at least six credits was punitive and undermined completion—all credits attempted during an enrollment period for a given award year should be recognized as advancing the student toward completion of the program of study. An additional concern related to the requirement to use the highest Pell Grant amount during cross over periods, often rendering students ineligible for other aid.

The community suggested that ED consider improvements in one or both of the following ways, should similar regulatory provisions exist:

**Proposed Improvement
to 690.67**

- Make these provisions less prescriptive. For example, allow acceleration to be determined by percentage of Federal Pell Grant funds used during the current award year. Once a student exceeds 100 percent of his/her Pell Grant eligibility, current or subsequent enrollment would begin using a second portion of Pell eligibility.
- Revise these regulations to allow institutions to establish a policy for defining to which award year a cross over enrollment period is attributed for all federal student aid purposes as long as the policy is applied consistently.

System Component: Eligibility and Compliance Monitoring

Eligibility monitoring includes the process by which a postsecondary institution recertifies its eligibility to participate in the federal student aid programs, as well as the national or regional accreditation processes. Compliance monitoring includes audits and program reviews. Members of the higher education community were asked to what extent they believed the results of these monitoring efforts were effective in identifying problem areas and informing changes to the HEA regulations.

A majority of survey respondents judged the monitoring processes as effective or marginally effective. Several individuals commented that ED could better incorporate the results of findings from the monitoring processes into discussions of proposed changes to the regulations.

The community suggested that ED consider improvement in the following ways:

- Consider utilizing the monitoring processes, such as program reviews, to better emphasize the institution-wide responsibility for regulatory compliance, rather than a single office's responsibility for all compliance. ED should routinely send communications to individuals listed on an institution's application to participate in the federal student aid programs describing the institution-wide responsibility for compliance.
- Incorporate problem areas identified in the monitoring processes into the development of proposed changes to regulations, especially during negotiated rulemaking sessions.

Proposed Improvement to Eligibility and Compliance Monitoring Processes

System Component: Negotiated Rulemaking

Survey results, as well as comments submitted during the survey, indicated the perception of negotiated rulemaking as beneficial and effective, largely because this process allows individuals administering and impacted by the regulations to provide input during the development of proposed regulatory language.

Many survey respondents and participants in the survey's follow-up activities expressed concern regarding three aspects of the regulatory development and implementation processes, which included negotiated rulemaking and the subsequent guidance issued by ED interpreting the regulations and directing implementation and administration: 1) how consensus is reached on proposed regulatory packages during negotiated rulemaking sessions, 2) participation and feedback during such sessions, and 3) issues related to the master calendar.

The community suggested that ED consider improvements in one or more of the following ways:

- **Allow Majority Consensus.** Reaching consensus on proposed regulatory language during negotiated rulemaking has become rare and increasingly difficult. Allow consensus to be granted on a proposed regulatory package by reaching majority consensus rather than lack of dissent from any single negotiator, federal or non-federal. Some alternatives include considering consensus reached once a super majority (e.g., at least 67 percent of negotiators) agrees to proposed language.

Proposed Improvement to Regulatory Development and Implementation Processes, Including Negotiated Rulemaking

- **Limit Number of Topics per Committee.** Limit the number of topics assigned to negotiations in order to ensure the topics are manageable and sufficient time can be devoted to analysis, discussion, and negotiation.
- **Modify Selection of Non-Federal Negotiators.** Modify the process of how ED selects non-federal negotiators. Some have suggested requiring a minimum percentage of practitioners at the table. Also, considerations for the complexity of implementation should bear on the proposed language.
- **Consider Alternative Observation/Participation.** Consider alternative ways for the public and stakeholders to observe proceedings and provide feedback during negotiations. One example is to provide streaming video of the sessions.
- **Put Guidance on a Master Calendar.** Guidance issued by ED (such as Dear Colleague Letters and the Federal Student Aid Handbook) on how to implement and administer the regulations should be put on a master calendar (i.e., the effective date of such guidance would depend on the date the guidance is published).
- **Modify the Master Calendar.** Modify the master calendar for effective dates of final regulations to require a minimum timeframe of one year from publication date when implementation would require significant systems or procedural modifications.
- **Expand the Minimum Timeframe for Public Response.** Expand the minimum timeframe from 30 to 60 days for the public to respond to proposed regulatory packages.

System Component: Federal Burden Calculations

Office administrators were asked about their familiarity with regulatory burden calculations conducted by ED, and published in the *Federal Register*, when assessing the impact of new or modified regulations, or when a regulation requires institutions to collect information or data. In a separate follow-up question, those who indicated they were familiar were asked to rate the accuracy of the calculations compared to the level of burden they experience at their institution.

A large majority of office administrators participating in the survey said they were unfamiliar with the regulatory burden calculations—35 percent had heard of the calculations but had never reviewed them or used them to guide campus decisions on implementation or administration of the regulations. An additional 35 percent were unaware such burden calculations even existed. Of the portion who noted they were familiar with the calculations, more than 70 percent found them inaccurate or highly inaccurate, indicating that the calculations either seldom or never matched the level of burden encountered by offices on their respective campuses. Written comments from the survey, and comments from those participating in the follow-up activities, strengthened these findings and perceptions.

The community suggested that ED consider improvement in the following way:

Proposed Improvement to Federal Burden Calculations

- Develop and carry out an awareness campaign to educate the higher education community as to when and where federal regulatory burden calculations are published, and how the calculations are derived. This should be followed by a mechanism to test the accuracy of the calculations with a representative sample of affected parties.

System Issue: Use of Savings

Savings from regulatory reform consist of two aspects under this study: savings from reform to the system of regulation, and savings from changes made to individual regulations.

With relative uniformity, all survey respondents perceived that cost and time savings could be achieved if regulations and the regulatory system were reformed. Based on feedback received during the scope of the study, the most likely use of savings generated through regulatory reform would be expansion of counseling and customer services, as well as expansion of student-focused programs. Respondents also expressed strong support for using cost savings to increase institutional need-based student financial aid programs.

The community suggested that ED consider improvement in the following way:

Proposed Improvement to the Generation and Use of Cost and Time Savings

- Engage the higher education policy community in discussions on the significance of cost and time savings, and potential uses of those savings, following regulatory reform. These discussions should include how changes to the regulations could be made without negatively impacting program integrity, accountability, student access, and student success.

System Issue: Alternative Regulatory Structures

The community perceived the current approach of issuing one set of HEA regulations applicable to all institutions (i.e., one-size-fits-all) as significant in the HEA regulations being considered, overall, overly-burdensome. Based on the survey results, written comments in the survey, and feedback during the follow-up activities, the community expressed the most enthusiasm for performance-based regulations, and there were strong differences of opinion regarding the use of sector-specific regulations. Research-based waivers received positive comments, but concerns were expressed that the existing Experimental Sites Initiative has existed for many years with little regulatory action taken on results of the experiments.

The community suggested that ED consider improving the regulatory system in the following way:

Proposed Improvement for Future Regulatory Reform

- Explore the feasibility of using alternative regulatory structures beyond the current one-size-fits-all approach, primarily performance-based regulations. Other alternatives could include expanding the use of regulatory compliance waivers based on data-driven research and experiments, and creating sector-specific regulations. To the extent legislative action is necessary to pursue alternative regulatory structures, Congress should be prepared to provide ED with the necessary statutory authority.

System Issue: Performance Indicators

Considering the possibility that relief from regulatory burden would be provided to institutions based upon meeting an established threshold of performance, the community commented upon the viability of several measures. Among senior executives responding to the survey and the study's follow-up activities, a large majority agreed with consecutive clean audits as an effective measure for triggering regulatory relief. Other measures that received support were annual retention rates, graduation rates, and retention-to-graduation rates. The measures receiving the least support were diversity of graduating class, student test scores, cost per full time equivalent student, rates of acceptance to graduate or professional programs, and job placement rates.

Some caution was urged in implementing performance-based measures. Comments submitted by respondents indicated a concern regarding the use of certain data definitions as measures for performance-based regulations. As an example, one commenter explained a potential problem with using graduation rates from IPEDS when such data only track first-time college students. At the commenter's institution, this reflects less than 5 percent of the student population, and the commenter expressed concern over such a small portion driving a performance measure that could provide regulatory relief.

The community suggested that ED consider improvement in the following way:

- Engage in discussions with the higher education community to determine which performance-based measures may be appropriate thresholds for triggering regulatory relief, and to which regulation a measure (or multiple measures) should apply. Performance-based regulations currently exist, although to a limited extent.

Proposed Improvement for the Use of Performance Indicators

System Issue: Advancing Regulatory Reform

Several members of the higher education community, either panelists at the Advisory Committee's hearing on September 30, 2011, or volunteers participating in the survey follow-up activities, expressed strong support for the findings, perceived problems, and proposed solutions under the *Higher Education Regulations Study*. They felt that the study serves as an excellent starting point for identifying many areas in which regulations could be improved, and that further detailed study is needed through systematic review of the regulations.

The higher education community agreed strongly on two points regarding future regulatory reform: doing nothing is the most unhelpful option, and the most preferred reform method is further study or review of regulations impacting higher education institutions. The community offered three methods of further study or review: 1) comprehensive study of all regulations impacting higher education institutions, 2) further study of the HEA regulations, and 3) thorough review of the HEA regulations by ED in partnership with the higher education community. Regarding the thorough review, it should be noted that ED has published a plan for biennially conducting retrospective reviews of all regulations under the HEA. Several survey respondents submitted written comments suggesting that the thorough review include community input on the regulations in need of review as well as the revisions necessary. Congress has authorized a comprehensive study of all regulations impacting higher education institutions to be carried out by the National Research Council of the National Academy of Sciences.

**Proposed Improvement
for Advancing Regulatory
Reform**

- Based on the community's suggestions, ED, or an independent entity, should conduct a comprehensive, scientific review and analysis of all regulations affecting higher education institutions with the full participation of the higher education community. The existing retrospective review plan should incorporate such a review and analysis, become routine, and be carried out no less frequently than biennially.

CONCLUSIONS AND RECOMMENDATIONS

The overarching conclusion to be drawn from the study is that the higher education community perceives regulations under the HEA to be unnecessarily burdensome. More important, the majority view is that most of the 15 specific regulations cited in this report can be improved without adverse effects on accountability, program integrity, student access, or student success. This also includes a strong sense that certain components of the overall, one-size-fits-all system of regulation under the HEA require improvement as well. Perhaps most important, the majority opinion is that improvements to individual regulations and the system will not only lower regulatory burden without adverse effects, but also generate savings that can be used to expand student access and success.

Developing sound legislative and/or regulatory recommendations based on the study findings requires careful consideration of two factors:

- limitations of the study, in particular the methods used
- broad lessons learned about assessing regulatory burden.

These two factors determine the nature and specificity of the recommendations that can be made and, in particular, whether the recommendations are legislative or regulatory.

Methodological Approach and Limitations of the Study

Pursuant to the legislative mandate, the Advisory Committee took the following steps:

- convened two review panels of individuals with relevant experience and knowledge to review the regulations and make recommendations for streamlining, improvement, or elimination
- developed and maintained a website to provide information on HEA regulations, including an area for the community to offer recommendations of regulations in need of streamlining
- held two public hearings to identify the most burdensome aspects of individual regulations and the overall regulatory system, as well as proposed improvements
- designed and conducted an anonymous and confidential web-based survey, which generated over 2,000 responses, to assess the higher education community's perceptions of regulatory burden
- specified a set of community-driven perceived problems and proposed solutions for both the individual regulations cited in the study and the overall system of regulation
- validated the perceived problems and proposed solutions with over 100 volunteers from the higher education community.

Study Approach, Methodology, and Limitations

In addition to these formal protocols, the Advisory Committee conducted numerous meetings, conference calls, and presentations to solicit feedback and suggestions on regulatory burden.

However, the Advisory Committee was unable to collect the data necessary to conduct detailed calculations of burden hours and costs. Furthermore, the Committee could not assess whether the perceptions from the survey are representative or bear relation to detailed calculations of burden. Stated another way, the study was unable to determine the exact extent to which regulations are quantifiably burdensome, or need to be modified; rather, the survey revealed perceptions of burden within the higher education community regarding these factors. However, these perceptions were validated by a significant and diverse group of individuals from the higher education community.

To determine, with statistical certainty, whether a regulation or set of regulations is burdensome and the specific changes necessary to either reduce or eliminate that burden would require significant resources. Determining the level of burden, cost and time savings, and potential adverse effects would require, at a minimum, the following steps:

The Ideal Approach and Methodology

- develop a detailed and accurate model of how regulations impact institutions by type and control, and other critical characteristics
- derive from the model the data required to measure burden, savings, and adverse effects
- choose an adequately large and representative sample of institutions from which the data will be collected
- design case study protocols necessary to collect the data from institutions
- design and implement a data analysis plan consistent with the detailed model of how regulations impact institutions.

Such an ambitious study would require considerable resources, involve several years of effort, and the cooperation of the institutions involved in the case studies. Given the constraints the Advisory Committee encountered related to concerns over confidentiality and anonymity and the potential impact of those two factors on the community's participation, the Committee chose to meet the study's charge by adding to the required elements the design and administration of a perceptions survey, along with a follow-up to validate the survey results and gain a deeper understanding of the perceived problems and proposed solutions.

These methodological limitations rule out any immediate legislative recommendations regarding the modification or elimination of specific regulations.

Lessons Learned in Conducting the Study

Four broad lessons or criteria were revealed by the study:

Lessons Learned in Conducting the Study

- **Perceptions of Burden.** Regulatory agency management and staff often have a very different view of regulatory burden and overall system weaknesses than those who are regulated.
- **Assessing Burden.** Basing the assessment of regulatory burden and cost estimates, and evaluation of overall system effectiveness, on internal regulatory agency surveys will significantly underestimate burden and cost, and will overestimate system efficiency. Regulated entities must be involved

in providing data regarding perceptions, if not detailed calculations, of regulatory burden.

- **Eliminating Bias.** Assessing burden must begin with a survey of those being regulated that is anonymous and confidential to avoid serious selection bias. Review panels assembled by a regulating authority are also susceptible to selection bias unless participants and institutions are provided with hold-harmless guarantees.
- **Need for Case Studies.** Identifying and measuring regulatory burden, savings, and adverse effects requires independent, in-depth case studies at institutions of higher education that are held harmless against adverse effects.

The Department’s plan to conduct retrospective regulatory reviews must be carefully evaluated against these criteria.

Recommendations

Taking into account the limitations of the study and lessons learned, the following recommendations are made—one legislative and one regulatory:

Legislative and Regulatory Recommendations

- **Legislative.** Congress should direct the Secretary of Education to convene, with input from the higher education community, at least two review panels of higher education representatives to provide advice and recommendations on the 15 individual regulations cited in this report and on the feasibility of preferred alternative approaches to the current system of regulation, including the provision of regulatory relief based on appropriate performance indicators. Such panels should be incorporated as a routine collaboration during future retrospective reviews of regulations conducted by the Secretary.
- **Regulatory.** The Secretary of Education should conduct an immediate review of the 15 individual regulations cited in this report, including an analysis of the feasibility of implementing the proposed solutions and any potential adverse effects on accountability, program integrity, student access, student success, and cost of compliance. ED’s existing plan for retrospective review of regulations should incorporate comprehensive, scientific reviews and analyses, become routine, and be carried out no less frequently than biennially.

The Advisory Committee strongly supports Executive Order 13563 of January 18, 2011, which states that regulatory systems must be based on the best available science, allow for public participation, and use the most innovative and least burdensome tools for achieving regulatory ends. Applying this philosophy and approach to the regulations under HEA promises great rewards for both students and institutions.

PAGE INTENTIONALLY LEFT BLANK

APPENDIX A: PROFILE OF SURVEY RESPONDENTS

TABLE A-1: PROFILE OF SURVEY RESPONDENTS: SELF-REPORTED OFFICES OF ADMINISTRATORS		
Offices	Count (n)	Percentage
Admissions	22	1%
Bursar/Student Accounts	83	5%
Financial Aid	1,284	77%
Institutional Research	154	9%
Registrar	25	2%
Other	82	5%
Combined Functions	23	1%

Source: 2011 Higher Education Regulations Study Survey

TABLE A-2: PROFILE OF SURVEY RESPONDENTS: SELF-REPORTED WORK ROLE OF OFFICE ADMINISTRATORS		
Work Role	Count (n)	Percentage
Assistant or Associate Vice President	95	6%
Director	1,051	63%
Assistant or Associate Director	331	20%
Counselor	124	7%
Clerical/Administrative/Support	31	2%
Other	41	2%

Source: 2011 Higher Education Regulations Study Survey

**TABLE A-3: PROFILE OF SURVEY RESPONDENTS:
SELF-REPORTED OFFICES OF ADMINISTRATORS**

Region	Senior Executives		Office Administrators		Total	
	Count (n)	Percentage	Count (n)	Percentage	Count (n)	Percentage
Far West	38	9%	219	13%	257	12%
Great Lakes	60	14%	267	16%	327	16%
Plains and Rocky Mountains	51	12%	252	15%	303	15%
Northeast and Mideast	60	14%	357	21%	417	20%
Southeast	174	41%	410	25%	584	28%
Southwest	38	9%	161	10%	199	9%
Other	4	< 1%	7	< 0.5%	11	< 0.5%

Source: 2011 Higher Education Regulations Study Survey

The regional designations largely follow those utilized by the Integrated Postsecondary Education Data System's Data Center under the National Center for Education Statistics.

- The *Far West* region was defined as including Alaska, California, Hawaii, Nevada, Oregon, and Washington.
- The *Great Lakes* region includes Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- The *Plains and Rocky Mountains* region was defined as including Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.
- The *Northeast and Mideast* region was defined as including Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.
- The *Southeast* region was defined as including Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.
- The *Southwest* region was defined as including Arizona, New Mexico, Oklahoma, and Texas.
- The *Other* jurisdictions were defined as including American Samoa, Federated States of Micronesia, Guam, Marshall Islands, Northern Marianas, Palau, Puerto Rico, and Virgin Islands.

**TABLE A-4: PROFILE OF SURVEY RESPONDENTS:
SELF-REPORTED INSTITUTIONAL TYPE AND CONTROL**

Type and Control	Senior Executives		Office Administrators		Total	
	Count (n)	Percentage	Count (n)	Percentage	Count (n)	Percentage
Four-Year Private Non-Profit	123	29%	552	33%	675	32%
Four-Year Public	115	27%	485	29%	600	28%
Two-Year Public and Private	136	32%	452	27%	588	28%
Private For-Profit	42	10%	117	7%	159	8%
Graduate/ Professional Only	9	2%	67	4%	76	4%

Source: 2011 Higher Education Regulations Study Survey

**TABLE A-5: PROFILE OF SURVEY RESPONDENTS:
SELF-REPORTED LEVEL OF ENROLLMENT**

Enrollment	Senior Executives		Office Administrators		Total	
	Count (n)	Percentage	Count (n)	Percentage	Count (n)	Percentage
Very Small (< 1,000)	93	22%	268	16%	361	17%
Small (1,000 – 5,000)	145	34%	602	36%	747	36%
Medium (5,001 – 10,000)	38	9%	301	18%	339	16%
Large (10,001 – 20,000)	68	16%	268	16%	336	16%
Very Large (> 20,000)	81	19%	234	14%	315	15%

Source: 2011 Higher Education Regulations Study Survey

**TABLE A-6: PROFILE OF SURVEY RESPONDENTS:
SELF-REPORTED LEVEL OF INSTITUTION-WIDE AUTOMATION**

Level of Automation	Senior Executives		Office Administrators		Total	
	Count (n)	Percentage	Count (n)	Percentage	Count (n)	Percentage
Entire Campus Automated	221	52%	636	38%	857	41%
Groups of Offices Automated	153	36%	669	40%	822	39%
Individual Offices Automated	38	9%	234	14%	272	13%
Predominantly Manual	13	3%	134	8%	147	7%

Source: 2011 Higher Education Regulations Study Survey

**TABLE A-7 : PROFILE OF SURVEY RESPONDENTS: OPTIONAL
SELF-REPORTED INSTITUTIONAL CHARACTERISTICS**

Institutional Characteristic	Senior Executives		Office Administrators		Total	
	Count (n)	Percentage	Count (n)	Percentage	Count (n)	Percentage
Online Programs	303	71%	782	47%	1085	52%
Designated as Minority- Serving	87	20%	187	11%	274	13%

Source: 2011 Higher Education Regulations Study Survey

APPENDIX B: PROFILE OF INDIVIDUAL REGULATIONS USED IN THE HIGHER EDUCATION REGULATIONS STUDY SURVEY

Fifteen regulations were selected from the list suggested by the community as burdensome and in need of streamlining, improvement, or elimination. These 15 regulations are described below with a brief description and an example of why the community found each burdensome. Parenthetical titles are the abbreviated titles used throughout the report and in the data tables. All regulatory citations are to Title 34 under the Code of Federal Regulations.

1. Conflicting Information – 668.16(b)(3), (f)

Description: Current regulations require an institution to have a system in place to resolve discrepancies among sources of information related to a student’s application for federal student aid.

Example(s) of Burden: Some suggested the regulations and guidance are overly-prescriptive in what is considered a source of information related to a student’s application, such as requiring campus administrators to judge accuracy of Internal Revenue Service filing requirements.

2. Crediting Federal Student Aid to Non-Allowable Institutional Charges (Non-Allowable Charges) – 668.164(d)

Description: Current regulations require an institution to obtain written authorization from a student (or parent borrower for Parent PLUS Loans) to credit federal student aid to certain charges defined as “non-allowable” institutional charges, such as student health center charges.

Example(s) of Burden: Members of the community suggested it is more efficient to replace the requirement to obtain a written authorization for this circumstance with an opt-out provision. In this case, the school would be authorized to automatically apply federal student aid funds to a student’s allowable and non-allowable charges unless the student notified the school in writing that he or she did not want federal student aid applied to non-allowable institutional charges.

3. Determining Student Eligibility for Two Federal Pell Grants in One Award Year (Two Pell Grants) – 690.67

Description: Institutions are currently authorized to award up to two Federal Pell Grants in a single award year for students accelerating their programs of study. Although there will be no funding for these provisions for the 2011-12 award year, they are still funded and in effect at the time of this survey. Members of the community indicated an interest in commenting on their perceptions of its regulatory burden.

Example(s) of Burden: Some members of the community expressed concern over the prescriptive nature of the regulatory definition of acceleration and how eligibility for a second award is determined, especially during payment periods that cross over award years.

4. Entrance Counseling for Student Loan Borrowers (Entrance Counseling) 674.16(a); 682.604(f); 685.304

Description: Institutions must provide entrance counseling before delivering a disbursement to a first-time student loan borrower in order to inform the student of rights and responsibilities.

Example(s) of Burden: Some members of the community suggested that this requirement applies one standard to all students and does not address the unique needs of different populations of students; instead of mandated timeframes by which a student must receive entrance loan counseling, administrators should be allowed to determine when to fulfill this counseling requirement based on profiles of their student borrower population. Others have suggested that entrance counseling for Federal Direct Loan borrowers should become part of the master promissory note process, thus creating standard information all applicants receive and allowing schools to supplement the counseling according to the needs of their student borrower population.

5. FSEOG Priority Awarding Criteria (FSEOG Priority Awarding) – 676.10

Description: Statutory language requires Federal Supplemental Educational Opportunity Grants (FSEOGs) be awarded to students with the lowest expected family contributions (EFCs).

Example(s) of Burden: Members of the community suggested the FSEOG awarding priority include students with the highest unmet need, not just those with the lowest EFCs, because significant numbers of students with the lowest EFCs receive grant aid such that their unmet need is lower than students with higher EFCs.

6. Overaward and Overpayment Tolerances (Tolerances) – 673.5; 682.604(h); 685.303(e)

Description: An overaward occurs when a student receives aid in excess of demonstrated need or beyond an amount for which the student is otherwise eligible. Tolerances exist within different federal student aid programs to accommodate situations in which inadvertent overawards occur. Overpayments occur when resolution of an overaward is not feasible. Overpayments can restrict further Title IV eligibility until resolved or satisfactory repayment arrangements are made.

Example(s) of Burden: Members of the community suggested there should be a standard overall tolerance that applies across all programs (except the Federal Pell Grant Program) to minimize multiple calculations to determine whether an overaward or overpayment exists.

7. Prior Award Year Charges (Prior Year Charges) – 668.164(d)(2)

Description: Current regulations provide authority for an institution to apply current award year federal student aid to allowable charges from a prior award year, up to a maximum of \$200.

Example(s) of Burden: Members of the community suggested that the \$200 cap should be eliminated because a student's unpaid balance from a prior award year often prevents enrollment in current and future periods of enrollment.

**8. Proration of Annual Loan Limits (Proration of Loan Limits)
682.204(a), (c), (d); 685.203(a), (b), (c)(2)**

Description: An institution must prorate the annual loan limits for a student borrower in a program longer than one academic year who is also in a final period of enrollment of less than an academic year.

Example(s) of Burden: Several members of the community believed this rule limits financial assistance, penalizes students who are closest to program completion, leads to unnecessary borrowing from programs with less-beneficial terms, and is an administrative burden.

9. Reporting and Consumer Disclosure Requirements: Overlapping and Inconsistent Timeframes (Reporting Timeframes) – 668.41-.48

Description: Current statutory and regulatory language requires institutions to report data or make disclosures of information for consumer awareness on such topics as campus crime, enrollments, fire safety, graduation rates, music downloading, placement rates, and textbook information, as well as a variety of reporting under the Integrated Postsecondary Education Data System (IPEDS) reports.

Example(s) of Burden: Members of the community suggested that federal reporting and disclosure requirements often overlap and duplicate similar requirements from state agencies and non-government organizations. This includes differences in deadlines for submitting reports and disclosures, as well as timeframes for data collection (e.g., a state report requires calendar year data, yet a federal report on the same issue requires award year data). Others suggested that all consumer disclosure requirements from all sources (including federal and state sources) be combined and standardized in order to minimize overlap, inconsistency, and duplication.

10. Reporting and Consumer Disclosure Requirements: Volume and Scope (Reporting Volume and Scope) – 668.41-.48

Description: Current statutory and regulatory language requires institutions to report data or make disclosures of information for consumer awareness on such topics as campus crime, enrollments, fire safety, graduation rates, music downloading, placement rates, and textbook information, as well as a variety of reporting under the Integrated Postsecondary Education Data System (IPEDS) reports.

Example(s) of Burden: Some suggested that additions to and modification of these requirements over the years have led to an unwieldy volume of reports and disclosures, with some requirements considered irrelevant to participation in federal programs. Others suggested that this volume is overwhelming for students and families, and contributes to confusion in the application processes. Many have suggested that an overhaul of these requirements is necessary to ensure the most appropriate information and data are being shared as effectively as possible.

11. Return of Title IV Funds – 668.22

Description: When a student withdraws, the institution must determine the amount of Title IV aid (i.e., federal student aid) that must be returned, if any, to the federal student aid programs using a set of formulas and criteria established in the statute and regulations.

Example(s) of Burden: Members of the community suggested that changes made to these regulations over the years have added significant overall complexity and burden. Others suggested the process for returning Title IV funds needs to rely less on prescriptive formulas and more on institutional discretion, such as flexibility in the order of return of funds by program. For example, a commenter believed schools should be allowed to return funds to the TEACH Grant (which can become an unsubsidized loan with retroactive capitalization of interest) before other loan programs for students whom they know will not be meeting the post-enrollment requirements of the TEACH Grant award.

12. Return of Uncashed Credit Balance Checks (Return of Uncashed Checks) – 668.164(h)

Description: Current regulations require that a check written to a student or parent for a credit balance of federal student aid funds be negotiated within 240 days of the date of the check or the funds must be returned to the federal programs (as opposed to being allowed to escheat, or revert, to the state).

Example(s) of Burden: Members of the community suggested this timeframe is too short and needs to be lengthened to at least 365 days to accommodate differing deadlines among states and financial institutions.

13. Self-Certification of Non-Title IV Student Loans (Self-Certification) – 601.11

Description: An institution participating in any federal student aid program must provide an applicant for a non-Title IV student loan (i.e., loans other than those made under the Federal Direct Student Loan and Federal Perkins Loan programs) with the self-certification form required under the Truth in Lending Act, and the information needed to complete the form, to the extent the institution has that information.

Example(s) of Burden: Members of the community expressed concern that this requirement does not apply to all forms of student loans and this treatment creates redundancy, inconsistency, and confusion for groups of students utilizing non-Title IV education loans. Others suggested these loans should be certified by a designated official at the institution rather than by the student.

14. TEACH Grant Eligibility Rules (TEACH Grant Eligibility) – 686.21-.25; 686.31-.32

Description: The Teacher Education Assistance for College and Higher Education (TEACH) Grant program provides grant assistance to students in exchange for agreeing to teach in a high-need field in an elementary or secondary school serving low-income students. If the student is not able to fulfill all terms of the agreement, the grant converts to an unsubsidized loan, with capitalized interest.

Example(s) of Burden: Several federal student aid programs provide benefits to teachers and some members of the community suggested that the inconsistency of means through which TEACH Grant benefits can be realized make it difficult to determine whether it is an appropriate award for a particular student. Others asserted that the intensive counseling and research necessary to administer the program make it burdensome.

15. Written Authorization to Open a Bank Account on Behalf of a Student (Opening Bank Account) – 668.164(c)(3)(i)

Description: For an institution with a policy of delivering federal student aid credit balances through electronic means only, current regulations require the institution to obtain written authorization from a student in order to open a bank account on the student's behalf if the student does not designate a bank account within an established timeframe.

Example(s) of Burden: Members of the community suggested this requirement is costly and burdensome when written authorization is not received because of check printing and mailing costs, and that electronic payments are delivered more promptly and accurately than paper checks. Others suggested that the institution should be allowed to issue automatically a cost-free electronic financial instrument if the student does not designate an account, with students and parents being able to opt out of this provision.

**APPENDIX C: ADDITIONAL SUGGESTIONS OF BURDENSOME
REQUIREMENTS BY SURVEY RESPONDENTS**

Office administrators responding to the *Higher Education Regulations Study* (HERS) survey were provided the opportunity to suggest additional regulations or requirements they perceived as burdensome and in need of streamlining, improvement, or elimination. Several of those suggestions duplicated those already received (see <http://www2.ed.gov/about/bdscomm/list/acsfa/prelimlistofburdenregsmay11.pdf>). The following table lists several of the most frequently cited requirements that had not been considered previously under HERS and were submitted by survey respondents in their written comments.

**TABLE C-1: OFFICE ADMINISTRATORS' SUGGESTIONS OF ADDITIONAL BURDENSOME
REGULATIONS IN NEED OF STREAMLINING, IMPROVEMENT, OR ELIMINATION**

Regulation or Requirement	Citation(s)
Gainful Employment	34 CFR 600.2; 600.4; 600.5; 600.6; 668.6-.7; 668.8
State Authorization	34 CFR 600.9
Net Price Calculator	<i>Higher Education Opportunity Act, Section 111 (made changes to Section 132 of Higher Education Act)</i>
Selective Service Registration	34 CFR 668.37
Post Withdrawal Disbursement under the Return of Title IV Funds rules	34 CFR 668.22(a)(6)

Source: 2011 Higher Education Regulations Study Survey

PAGE INTENTIONALLY LEFT BLANK

APPENDIX D: TITLE IV REVIEW PANELISTS
HIGHER EDUCATION REGULATIONS STUDY REVIEW PANEL #1

Ms. Sarah Bauder
Director of Student Financial Aid
University of Maryland, College Park

Sarah Bauder has worked in financial aid for 17 years, beginning her career at St. Mary's College of Maryland, and moving to the University of Maryland in 1996. Since 2005 she has been the Director of Student Financial Aid at the University of Maryland, where she has been instrumental in the development and implementation of the Maryland Pathways Programs, which provides a debt free education for needy students. Sarah has testified before Congress on two occasions, is a member of NASFAA's Executive Board, and has served on a negotiated rulemaking committee.

Ms. Bauder holds a master's degree in education policy and planning with a focus on higher education administration and leadership from the University of Maryland.

Mr. Richard (Rick) Jerue
President
Art Institute of Charleston

Rick Jerue is President of the Art Institute of Charleston. Prior to assuming that role in November 2006, Mr. Jerue served as Vice President, Government Relations and Corporate Development, for Education Management Corporation (EDMC). He had been with EDMC since 1995, serving in a number of capacities, including President of the Art Institute of Washington and the New England Institute of Art, as well as corporate positions at EDMC headquarters such as Assistant to the CEO and Vice President of Governmental Relations.

Prior to joining EDMC, Mr. Jerue held a number of positions at the federal and state government levels, including Staff Director and Counsel, Subcommittee on Postsecondary Education, U.S. House of Representatives; Executive Director, National Commission on Student Financial Assistance; Staff Director and Counsel, Subcommittee on Education, Arts and Humanities, U.S. Senate; and Legislative Director, Office of the Governor, State of Rhode Island.

Mr. Jerue holds a BA from Bowdoin College and a JD from Suffolk University Law School.

Ms. Linda Michalowski
Vice Chancellor of Student Services and Special Programs
California Community Colleges Systems Office

Linda Michalowski is Vice Chancellor for Student Services and Special Programs for the California Community Colleges System. In that capacity she is responsible for policy and programs to help students achieve their educational goals, including outreach, admissions, assessment, orientation, financial aid, counseling, transfer and articulation, student government, child care, disabled student services, and special services for single parents and other disadvantaged and underprepared students. She was with the Governmental Relations and External Affairs division from 1998 to 2003, serving as Interim Vice Chancellor as well as Director of Strategic Communications and Federal Relations.

Ms. Michalowski was the Chancellor's Office Coordinator for Student Financial Assistance Programs until 1998, during which time she led student aid policy development, represented community colleges in state and national forums, provided guidance to campus financial aid offices, and administered

community college financial aid programs. She came to the Chancellor's Office in 1983 as an independent consultant to work with the Extended Opportunity Programs and Services (EOPS) program for disadvantaged students and, the following year, was named the Board Financial Assistance Program Coordinator.

Throughout her more than 25-year career at the Chancellor's Office, Ms. Michalowski has been an advocate for the system's colleges and students in the state and federal legislative and policy arenas. She has served on the American Association of Community Colleges and Association of Community College Trustees Joint Commission on Federal Relations and was the 1997 recipient of the Community College Governmental Relations Award. She led the development and implementation of the system-wide *California Community Colleges: The Way California Works* and *I Can Afford College* public awareness campaigns.

Ms. Angela Peoples
Legislative Director
United States Students Association

Angela Peoples recently joined USSA as its Legislative Director. As Legislative Director, she is committed to work tirelessly to ensure the continuation of USSA's legacy of winning legislative victories on the issues that are most important to students. Ms. Peoples was introduced to the work of USSA in 2007 at a statewide rally of 500 students in Lansing Michigan and again at USSA's 39th Annual Legislative Conference. As a student at Western Michigan University, she worked diligently for change on issues that affect students, including defeating anti-affirmative action legislation and promoting sexual assault policies and preventions. She was also instrumental in collaborating with universities across the State of Michigan to develop and institutionalize the Student Association of Michigan.

Ms. Peoples graduated from Western Michigan with a degree in political science and African studies.

Dr. Terri Standish-Kuon
Vice President, Communications and Administration
Commission on Independent Colleges and Universities

Terri Standish-Kuon is Vice President for the Commission on Independent Colleges and Universities in New York (cIcu). She coordinates federal relations, manages the communications program, and supervises the finance and human resources operations for the association, which represents the presidents of 111 private, not-for-profit colleges and universities in the state. She worked with cIcu's member campuses and the New York congressional delegation throughout the most recent Higher Education Act reauthorization cycle. cIcu is actively engaged in the efforts of the National Association of Independent Colleges and Universities (NAICU) and its affiliated state associations (NAICUSE).

Dr. Standish-Kuon holds a PhD from Rensselaer Polytechnic Institute, master's degrees from The Sage Colleges and the University at Albany, and a bachelor's degree from Rochester Institute of Technology.

Ms. Christine Zuzack
Vice President for State and Special Grant Programs
Pennsylvania Higher Education Assistance Agency

Christine Zuzack currently serves as Vice President for State Grant and Special Programs at the Pennsylvania Higher Education Assistance Agency (PHEAA). In this role she oversees the grant, scholarship, and employment programs administered by PHEAA. Her professional career in higher education began at the Community College of Allegheny County in Pittsburgh, Pennsylvania where she

worked in various roles with admissions, financial aid and veterans affairs for five years. The next twenty-two years were dedicated to financial aid administration at Indiana University of Pennsylvania.

Ms. Zuzack served as President of the Eastern Association of Student Financial Aid Administrators (EASFAA) from 2003-2004 and as President of the Pennsylvania Association of Student Financial Aid Administrators (PASFAA) from 1994-1995. Additionally, she was a member of the Board of Directors of the National Association of Student Financial Aid Administrators (NASFAA) from 2003-2005.

Ms. Zuzack holds a bachelor's degree in psychology from Grove City College and master's degrees in clinical psychology and student personnel services in higher education from Indiana University of Pennsylvania. She has completed her coursework for a doctorate in adult education at the Pennsylvania State University.

PAGE INTENTIONALLY LEFT BLANK

**APPENDIX E: HIGHER EDUCATION ACT REVIEW PANELISTS
HIGHER EDUCATION REGULATIONS STUDY REVIEW PANEL # 2**

Ms. Marcia Boyd
Associate Vice President, Student Affairs
Florida A&M University

Marcia Boyd currently serves as the Associate Vice President for Student Affairs at Florida A&M University. Prior to her work at FAMU, she held positions in financial aid at Hampton University, Christopher Newport University, Greensboro College, and the College of William and Mary.

Ms. Boyd has served on the NCAA Division I academics/eligibility/compliance cabinet and as a representative at large for the Virginia Association of Student Financial Aid Administrators. She has also created and facilitated training sessions on customer service and the difference between the William D. Ford (Direct Lending) and the Federal Family Education Loan programs.

Ms. Boyd holds a baccalaureate degree in business administration from Bernard M. Baruch College and an MA in education and human resource development from The George Washington University. She is currently pursuing a doctoral degree in higher education administration from The George Washington University.

Ms. Youlonda Copeland-Morgan
Associate Vice President for Enrollment Management & Director of Scholarships and Student Aid
Syracuse University

Youlonda Copeland-Morgan has served as Associate Vice President for Enrollment Management and Director of Scholarships and Student Aid at Syracuse University since 2008. Previously, she held several positions, including Vice President and Dean of Admission and Financial Aid at Harvey Mudd College in Claremont, California.

Ms. Copeland-Morgan is past chair of the board of trustees of The College Board, an association that connects students to services and programs that support college success. She has been recognized many times by regional and national organizations for her accomplishments and leadership.

Ms. Copeland-Morgan holds a bachelor's degree from Loyola Marymount University and an MBA from the University of La Verne in California.

Mr. John Higgins
Bursar
Purdue University

John Higgins has worked in the higher education industry for over 16 years in multiple business service roles, and currently serves as the University Bursar at Purdue University in West Lafayette, Indiana. Mr. Higgins is an active member of several organizations, including the National Association for College and University Business Officers, the Association of American Universities Bursars, and served on a negotiated rulemaking committee for the *Higher Education Opportunity Act* in 2009. In his role as bursar at Purdue, he has had responsibility for several strategic system implementations, and has a strong interest in advocating on behalf of students, as policies and technology drive business decision-making in higher education.

Mr. Higgins holds a BA in classics from the University of Iowa.

Dr. Patricia Hurley
Associate Dean/ Financial Aid Director
Glendale Community College

Patricia Hurley has worked as a financial aid administrator for 40 years at institutions that include Boston College, College of Marin, and, currently, Glendale Community College in California. She has worked for over 25 years in the California Community College system. Dr. Hurley has been actively involved in financial aid on both state and national levels, having served in the California Association of Student Financial Aid Administrators as vice president for state issues, vice president for federal issues, site committee, and conference co-chair, and, currently serves on the state issues committee. In addition, she has served in several positions in the California Community Colleges Student Financial Aid Administrators Association, as a member of the board of directors for EdFund, on the California Student Aid Commission loan advisory committee, and as a chair of the financial aid council for the western region of The College Board.

On the national level, Dr. Hurley currently serves as a member of the National Association of Student Financial Aid Administrators' board of directors, having also been appointed to the organization's national conversation initiative committee and served on the reauthorization task force and federal issues committees. She was appointed by the U.S. Department of Education as a non-federal negotiator on negotiated rulemaking committees in 1999, 2002, 2006, and 2009 and has been invited to participate in several policy workshops as a field representative.

Dr. Hurley has a master's degree in counseling from Suffolk University and a doctorate in education from UCLA.

Ms. Stacey R. McCorison
Associate Dean, Medical Education Administration/
Director of Financial Aid and Registrar
Duke University School of Medicine

Stacey McCorison is responsible for the administration of fair and equitable policies and practices in regard to student financial aid, course management, curricular needs, data collection, and grade and record retention. She also directs and oversees the fiscal operations for all undergraduate and continuing medical education departments. Prior to joining the School of Medicine as Director of Financial Aid in 1996, she was Senior Associate Director of Undergraduate Financial Aid at Duke.

Ms. McCorison has held offices on National Association of Student Financial Aid Administrators' committees such as research, need analysis, access and choice, graduate and professional student issues, and the editorial board for the student aid transcript. A frequent presenter at national professional meetings, her expertise has broadened to include not only financial aid management but also registrarial areas.

Ms. McCorison holds a bachelor of arts degree in psychology from Anna Maria College and a master's degree in business administration from Duke's Fuqua School of Business.

Dr. Thomas (Tom) Melecki
Director of Student Financial Services
The University of Texas, Austin

Tom Melecki serves as Director of Student Financial Services at The University of Texas at Austin, a position he has held since 2008. He oversees all operations of the Office of Student Financial Services, the university's on-campus financial aid resource. Prior to his current position, Dr. Melecki served 17 years with the National Student Loan Program, the nation's sixth largest student loan guaranty agency, as the company's chief compliance officer. Prior to working for NSLP, he served eight years, from 1982-1990, at the Texas Guaranteed Student Loan Corporation in Austin, Texas, as an Executive Staff Member. And from 1978 to 1982 he worked as a Student Development Specialist in the Office of Student Financial Services at The University of Texas at Austin.

Dr. Melecki has co-authored "A Primer on the Federal Budget Process" and has served on the research committee of the National Association of Student Financial Aid Administrators. He also served on the private loans committee of the National Council of Higher Education Loan Programs and the communications committee of the Nebraska Association of Student Financial Aid Administrators. Dr. Melecki is a member of the American Society for Training and Development.

In addition to his PhD in educational administration from The University of Texas at Austin, Dr. Melecki earned a master's degree in college student personnel and a bachelor's degree in political science from Bowling Green State University in Ohio.

Ms. Jenny Allen Ryan
Director of Financial Aid
Western Governors University

Jenny Allen Ryan has over 31 years of work experience related to higher education administration. Her current position is Director of Financial Aid at Western Governors University. She has experience as a Director of Graduate Admissions at Regis University and Manager of Student Loans at Emory University. Coupled with her higher education experience, Ms. Ryan has worked for a guarantor, USA Funds, and with lender services for Sallie Mae. She coordinated a nationwide public service outreach to teach high school students money management skills through the College for Financial Planning, and her real passion is financial literacy.

Ms. Ryan has a bachelor's degree in psychology from Ohio State University and a master of education in guidance and counseling from Xavier University.

Mr. David Smedley
Associate Director, Compliance and Training
Office of Student Financial Assistance
The George Washington University

David Smedley currently serves as the Associate Director for Compliance and Training in the Office of Student Financial Assistance at The George Washington University. In this role, he is primary contact for statutory, regulatory and political analysis relating to issues impacting OSFA. His previous experience includes seven and a half years as director of financial aid at Valley Forge Military Academy and College, along with experience at The Institute of World Politics, Gwynedd-Mercy College, Temple University, and the Pennsylvania Higher Education Assistance Agency.

Mr. Smedley has been active in state, regional, and national professional higher education associations. He currently serves on the Federal Relations Committee of the Delaware-District of Columbia-Maryland Financial Aid Administrators (Tri-State), the Access, Diversity, and Excellence Committee of The National Association of Student Financial Aid Administrators, and a working group on veterans' education benefits/Post 9/11 issues coordinated by the National Association of College and University Business Officers. He has also presented at state, regional, and national conferences. His most recent publications have appeared in the *North County News* and the *Journal of Lutheran Ethics*.

Mr. Smedley earned bachelor of arts and master of public administration degrees from Temple University. He is currently enrolled in the master of education/higher education administration program at The George Washington University with future plans to enroll in a master of divinity program.

Mr. Joseph Storch
Associate Counsel, Office of University Counsel
State University of New York System Administration

Joseph Storch is an Associate Counsel at the State University of New York Office of University Counsel. In addition to comprehensive legal representation for SUNY Oswego, SUNY Cortland, and the SUNY Institute of Technology, he concentrates on domestic and workplace violence policies, campus safety, admissions and financial aid, FERPA, and the legal issues created by the use and development of emerging technologies. Mr. Storch is a graduate of SUNY Oswego, where he first worked as an Admissions Counselor. He then attended Cornell Law School, during which he spent two summers working in higher education law, first for the Cornell University Counsel's Office and then for the SUNY Office of University Counsel. After graduating, he clerked for the New York State Appellate Division, 3rd Department.

Mr. Storch's writing has appeared in the *Chronicle of Higher Education*, *Inside Higher Ed*, the *Orlando Sentinel*, the *Albany Law Review*, the *Medical Trial Techniques Quarterly*, *Court Review: the Journal of the American Judges Association*, and as a NACUA Note. He is licensed to practice law in the State of New York.

Mr. Storch graduated summa cum laude from SUNY Oswego with degrees in political science and rhetorical communications. He completed his law degree at Cornell Law School and is currently pursuing a master's degree in public policy with a higher education policy concentration at SUNY Albany.

Mr. Richard Them
Senior Vice President, Student Finance and Compliance
Education Management Corporation (EDMC)

Richard Them has been EDMC's Senior Vice President of Student Finance and Compliance since March of 2009. From January 1994 to February 2009, he served in various managerial roles including Senior Vice President of Student Financial Services. Primary responsibilities include financial aid policy development, compliance, institutional eligibility, coordination and preparation of yearly independent financial aid compliance audits and federal program reviews if needed.

Mr. Them has over 30 years of experience in private, postsecondary education where he has held a number of leadership positions in the area of financial aid. He earned a BS in business administration from Manhattan College in 1974, where he graduated cum laude.

**APPENDIX F: HIGHER EDUCATION REGULATIONS STUDY PANELISTS
FOR THE JUNE 25, 2010 ADVISORY COMMITTEE HEARING**

Mr. Lee Andes
Assistant Director for Financial Aid
State Council of Higher Education for Virginia

Mr. Lee Andes has been serving the Commonwealth of Virginia at the State Council of Higher Education for Virginia (SCHEV) for thirteen years. Mr. Andes' primary responsibility is for the state's financial aid programs, which total in excess of \$200 million annually. He also provides oversight for the Domicile Guidelines, which are used by state institutions to determine eligibility for in-state tuition. Mr. Andes also serves on a number of professional organizations. Currently, he is chairman of the NASSGAP Federal Relations Committee, vice president of Virginia College Access Network (VirginiaCAN), and the Advisory Board for Virginia Education Wizard. In the past, he has served as president and treasurer of NASSGAP, and president of VirginiaCAN. He is also a founding member of VirginiaCAN. Mr. Andes received a master's degree from Lynchburg College in 1993.

Mr. Mark Bandré
Vice President for Enrollment Management & Student Development
Baker University

Mark Bandré has worked as a higher education administrator for 21 years, primarily in admission and financial aid. Currently, he serves as Vice President for Enrollment Management and Student Development at Baker University in Baldwin City, Kansas. Previously, he has worked at Hendrix College, Arkansas; Ohio Wesleyan University; Tabor College, Kansas; and Bethany College, Kansas. Mr. Bandré has been consistently active in state, regional, and national professional associations for financial aid administrators and is a past president of the Ohio association. Currently, he is serving on the Federal Issues Committee for NASFAA. He holds bachelor of science degrees in business and psychology from Baker University, a master of science in management from Friends University in Wichita, Kansas, and is currently a doctor of education student in the George Fox University higher education administration program, located in Newberg, Oregon.

Mr. Justin Draeger
Vice President of Public Policy and Incoming President
National Association of Student Financial Aid Administrators

Justin Draeger is Vice President of Public Policy for the National Association of Student Financial Aid Administrators (NASFAA). He begins his tenure as president of NASFAA on July 1. For several years, Mr. Draeger has acted as a senior association spokesperson to the media and policymakers, with responsibility for developing and advancing NASFAA's public policy goals. In that role, he has acted as a primary, non-federal negotiator representing student financial aid administrators during negotiated rulemaking with the Department of Education.

Mr. Draeger has been featured on NBC's Today Show, National Public Radio, CNBC, ABC World News, and Fox Business News. He has been quoted in publications such as *The New York Times*, *The Wall Street Journal*, the *San Francisco Chronicle*, and *Kiplinger* and has written columns for *Inside Higher Ed* and the *Greentree Gazette*. Mr. Draeger began his career as a financial aid administrator at the Douglas J. Aveda Institute where one of his proudest accomplishments was lowering the institution's cohort default rate to zero percent within three years. He has also worked as a lead analyst for the Michigan Guaranty Agency and as an associate director of communications for NASFAA. He earned a BS in resource

management and planning from Brigham Young University and an MBA in finance from Baker College. While still in college, Mr. Draeger spent two years working with Latino populations in the California Ventura Mission, participating in barrio rehabilitation and community service projects, English as Second Language programs, and ultimately coordinating the efforts of 200 full-time volunteers.

Ms. Bonnie Joerschke
Director of Student Financial Aid
University of Georgia

Bonnie Joerschke is Director of Student Financial Aid at the University of Georgia in Athens, Georgia. Prior to her latest position, she was Senior Associate Director of Financial Aid and Associate Director of Policy Analysis and Quality Assurance, both at Purdue University. Ms. Joerschke has held positions in financial aid at a variety of colleges and universities, including Oklahoma State University, the University of Tennessee at Knoxville, and Colorado Northwestern Community College. She has also taught anthropology at Colorado Northwestern and the University of Tennessee.

Ms. Joerschke has also held numerous positions in professional organizations, such as NASFAA and its regional divisions, including the Georgia Association of Student Financial Aid Administrators, the Midwest Association of Student Financial Aid Administrators, the Southwest Association of Student Financial Aid Administrators, and the Oklahoma Association of Student Financial Aid Administrators. In addition, she has served on several committees that provide advice and counsel to the U.S. Department of Education on regulatory issues, including the Common Origination and Disbursement Users Steering Committee, the School Portal Steering Committee, and the Institutional Quality Assurance Program.

Ms. Joerschke holds an AS from Colorado Northwestern Community College, a BA in anthropology from the University of Wyoming at Laramie, and an MA, also in anthropology, from the University of Tennessee at Knoxville.

Ms. Christine Lindstrom
Higher Education Program Director
U.S. PIRG

Christine Lindstrom is the Higher Education Program Director for U.S. PIRG student chapters. A 14-year veteran of Student PIRGs, she now works with the U.S. PIRG network around the country to develop and execute campaigns to secure affordable and accessible higher education. Over the past three years, she helped students win the biggest federal investment in higher education since the GI bill—the *College Cost Reduction and Access Act*. She helped launch a campaign to control marketing of credit cards on college campuses. Current priorities for the project include tackling the increasing reliance on private loan financing to pay for college and controlling textbook costs.

Ms. Lindstrom received a BA in Latin American studies from the University of Miami in 1992.

Ms. Elaine Neely
Senior Vice President of Regulatory Affairs & Compliance
Kaplan Higher Education, Inc.

Elaine Neely is Senior Vice President of Regulatory Affairs & Compliance for Kaplan Higher Education (KHE). In this role, she oversees all aspects of Federal Regulatory Affairs and Compliance for more than 70 postsecondary, career-oriented campuses and KHE's online university. Previously Ms. Neely worked with Education Management Corporation in Financial Aid and Admissions.

Ms. Neely has more than 35 years experience in the private sector higher education field. She has worked at both the campus and corporate level, and her experience includes financial aid, admissions, accreditation, and compliance. Ms. Neely served as the lead negotiator and the sole private career sector representative on the most recent U.S. Department of Education Program Integrity Negotiated Rulemaking session. Ms. Neely has served as a representative of private career education on four previous negotiated rulemaking panels.

She has worked with a number of organizations, including the Career College Association, the U.S. Department of Education, the Accrediting Commission of Career Schools and Colleges of Technology, the Accrediting Council for Independent Colleges and Schools, and the National Association of Student Financial Aid Administrators. She currently serves as chair of the Region IV, Private and Career Colleges and Schools, in association with the U.S. Department of Education. She also serves on the Regulatory Affairs, Legislative, Accountability, Student Loan, and WIA committees with the Career College Association.

Mr. David Page
Director of Financial Aid
Philander Smith College

David DeMear Page is currently the Director of Financial Aid and Chair of Enrollment Management at Philander Smith College in Little Rock, Arkansas. For more than sixteen years, David has worked in the financial aid arena in multiple capacities. He received his bachelor of science in business administration from Oklahoma State University and his master of arts in higher education (college student affairs) from the University of Arkansas at Little Rock.

Prior to his current position, he served as the associate director of financial aid at Dillard University in New Orleans, Louisiana. He has also worked at the University of Tulsa. In 2006, Page was elected the 2008 president of the Southwest Association of Student Financial Aid Administrators, representing over 1600 members. As president of the regional association, Page serves a three-year term on the Board of Directors for the National Association of Student Financial Aid Administrators (NASFAA). From 2004 to 2006, Page was a member of the Sallie Mae HBCU Initiative Board. In 2009, he was selected as one of 12 individuals responsible for selecting the next CEO and president of NASFAA, an opportunity he holds as one of the highlights of his professional career.

Committed to mentoring and community service, David has been a mentor to several African American males attending college. He is also an active volunteer at eStem Elementary Public Charter School. In the community, he is a member of the Pi Lambda chapter of Alpha Phi Alpha Fraternity, Incorporated and he serves the fraternity as the Deputy Executive Director for the Southwest Region.

Dr. Barry W. Simmons Sr.
Director of University Scholarships & Financial Aid
Virginia Polytechnic Institute & State University

Barry Simmons, a native of Southside Virginia, graduated from Elon University. His master's and doctoral degrees in higher education and public policy are both from UNC Greensboro. As Director of University Scholarships and Financial Aid at Virginia Tech, the Virginia Polytechnic Institute, and State University, Simmons oversees \$346 million in assistance to more than 21,000 students and serves on the University Council on International Programs, Enrollment Management Committee, Undergraduate Admissions Advisory Group, McNair Scholars Advisory Committee, the Computer Requirements Steering Committee. He also serves as an academic coach for the local chapter of the Pi Kappa Phi Fraternity and was a charter member of the Multicultural Affairs Committee.

Mr. Simmons has held various enrollment management positions at Elon University, the University of North Carolina at Greensboro, St. Paul's College, and Virginia Commonwealth University. Mr. Simmons has also been a private consultant and is recognized as an advocate of access to post-high school educational opportunities and educational diversity.

In July of 2009, Mr. Simmons began his term as national chair of the National Association of Student Financial Aid Administrators (NASFAA), representing nearly 3,000 member institutions and approximately 20,000 financial aid administrators across the nation. Dr. Simmons was a member of the Virginia College Access Network Founding Steering Committee, served as its second president, and continues to serve on the board of directors. He has also served on the board of Project Discovery, a state-wide high school dropout prevention program. He is a frequent speaker at state, regional, and national conferences, has co-authored several NASFAA Monographs, and has published in the *Journal of Student Financial Aid*. He has served on the NASFAA Institutional Program Management, Research, Association Governance and Membership, Diversity Committees, and currently holds a seat on the Executive Committee of the Association of Public and Land Grant Universities' Commission on Access, Diversity and Excellence. He serves as an institutional representative on the U.S. Department of Education's FAFSA Design Team and in an advisory capacity to several Virginia state agencies.

Dr. Laurie Wolf
Executive Dean of Student Services
Des Moines Area Community College

Laurie Wolf is currently the Executive Dean of Student Services at Des Moines Area Community College (DMACC) in Ankeny, Iowa. In this position, she is responsible for district-wide student services, overseeing 18 different departments. She is also responsible for the interpretation and implementation of federal and state legislation, regulations, and other policies which affect students enrolled at DMACC.

Prior to joining DMACC, Dr. Wolf was on staff at the Iowa College Student Aid Commission (Iowa's grant, scholarship, and guarantee agency), and was the Director of Admissions at Iowa Wesleyan College. Dr. Wolf holds a BA in English from Iowa Wesleyan College, an MA in student development from The University of Iowa, and a PhD in educational leadership and policy studies from Iowa State University.

Throughout her higher education career, Dr. Wolf has been active in advancing student access and choice to higher education. She has been active in the National Association of Student Financial Aid Administrators (NASFAA), currently serving as chair-elect. She has also served as the chair of the most recent NASFAA HEA Reauthorization Task Force, committee member for student access, finance, needs analysis, and leadership. She is a past president of the Iowa Association and has served on the Midwest Association Board. In addition, Dr. Wolf was a member of the GAO/DE Task Force on Market Mechanisms (1999-2001), has been a student financial aid trainer for the U.S. Department of Education, has served on the Nation Council for Higher Education Loan Programs regulatory committee, and has assisted in developing financial aid policy positions for the American Association of Community Colleges.

**APPENDIX G: HIGHER EDUCATION REGULATIONS STUDY PANELISTS
FOR THE SEPTEMBER 30, 2011 ADVISORY COMMITTEE HEARING**

SENIOR EXECUTIVE PANEL

**Dr. Troy Johnson
Vice Provost for Enrollment
University of North Texas**

Troy Johnson is Vice Provost for Enrollment at the University of North Texas. Dr. Johnson is a leader both on- and off-campus through his work building access to success pathways in higher education: he has overseen multiple successful TRIO and other targeted grant programs, and he is Texas' only three-time author-recipient of the Star Award for Closing the Gaps, given to programs ensuring that more students enroll and complete college degrees. As recent chair of the state's Enrollment Services Efficiency Committee, he led the state's move to unify financial aid application dates among universities. He has also helped guide successful state efforts to reduce redundant reporting and regulatory burdens.

Dr. Johnson has served on state and national committees, including as a member of the latest federal Negotiated Rulemaking Committee for discretionary grants. His research and papers are published in periodicals such as the nation's *Enrollment Management Journal*, covering topics ranging from higher education economics and workplace sexual harassment to transfer student success.

Dr. Johnson holds a bachelor's degree in finance, a master's degree in economics, and a doctorate in higher education from Texas Tech University.

**Ms. Sarah M. Phelps (on behalf of Ms. Patricia McGuire, President)
General Counsel
Trinity Washington University**

Sarah Phelps is the General Counsel at Trinity Washington University. She is the first in-house counsel to the University, and was charged with creating an Office of General Counsel to serve the University's growing and dynamic institutional needs. Prior to accepting this position, Ms. Phelps worked in the Office of General Counsel for Catholic University, holding the subsequent positions of Associate General Counsel, Interim General Counsel, and General Counsel. She has also held the office of Associate General Counsel at The George Washington University.

In addition to her work at the university level, Ms. Phelps was the Founder and Executive Director of Great and Small, Inc., which provided therapeutic horseback riding lessons to children and adults with a variety of physical, cognitive, and emotional disabilities. Ms. Phelps has also served as staff attorney for Neighborhood Legal Services Program and has been an attorney in private practice.

Ms. Phelps received a BA from Wellesley College, an MPhil from Cambridge University, and a JD from Benjamin N. Cardozo School of Law. In 2007, she was a recipient of a Washington ABC News Working Woman Award, given annually to seven women from the DC region for outstanding public service.

Mr. Sanford J. Ungar
President
Goucher College

Sanford J. Ungar became the tenth President of Goucher College on July 1, 2001. Prior to assuming his position at Goucher, Mr. Ungar was Director of the Voice of America for two years. From 1986 until 1999, he was Dean of the School of Communication at American University in Washington DC. He serves on the boards of the Institute for Christian and Jewish Studies and the Association of American Colleges and Universities, and is past chair of the Maryland Independent College and University Association. Mr. Ungar is also a member of the Council on Foreign Relations, and he is an appointed member of the U.S. Public Interest Declassification Board.

Mr. Ungar's experience in print and broadcast journalism spans four decades. Between 1980 and 1983, he was the host of several programs on National Public Radio. He has been Washington editor of *The Atlantic*, managing editor of *Foreign Policy* magazine, and a staff writer for *The Washington Post*. He was a correspondent for United Press International in Paris and for *Newsweek* in Nairobi, and for many years contributed to *The Economist*, as well as *The New York Times Magazine*. He is the author, most recently, of *Fresh Blood: The New American Immigrants*, which was the result of more than four years of research among immigrant groups around the United States.

Mr. Ungar obtained his BA in government magna cum laude from Harvard College and a master's degree in international history from the London School of Economics and Political Science. In May 1999 he was awarded an honorary Doctorate of Humane Letters by Wilkes University.

OFFICE ADMINISTRATOR PANEL

Ms. Brenda M. Brown
Director of Financial Aid
University of Miami School of Law

Brenda Brown, Director of Financial Aid, has worked for just over twenty-seven years at the University of Miami. In 2002, she joined the Law School's financial aid office as the associate director, and was promoted to director in 2005. Prior to the School of Law, she worked fourteen and a half years at the Office of Financial Assistance Services, where she held many positions including financial aid advisor, delivery and scholarship coordinator, systems manager, and various assistant director positions. Prior to the financial aid positions, she worked in the School of Business, Undergraduate Studies Office.

Ms. Brown has been an active volunteer in student financial aid administrator associations at the national, regional, and state levels. She most recently received a Special Recognition Award for her leadership as the 2010-11 National Association of Student Financial Aid Administrators Association Graduate and Professional Issues Committee Chair. In 2010-11 she served as Conference Committee Chair for the Florida Association of Student Financial Aid Administrators. In 2009-10 she received a FASFAA's Certificate of Appreciation for Outstanding Service to the financial aid community. Ms. Brown also served as the 2009-10 Conference Chair for the Southern Association of Student Financial Aid Administrators Association. In 2008-09 she served as the SASFAA Management Institute Chair. In 2000-2001 she served as the President of the National Association of Sigma Users. Ms. Brown has also held leadership positions as a member of the Executive Board and/or served on several committees at the national, regional, and state levels. In addition, she has served on the College Goal Sunday Florida Task Force Committee for the last three years and has volunteered at the annual event.

Ms. Brown holds a BBA from the University of Miami.

**Mr. John Higgins
University Bursar
Purdue University**

John Higgins has worked in the higher education industry for over 16 years in multiple business service roles, and currently serves as the University Bursar at Purdue University in West Lafayette, Indiana. Mr. Higgins is an active member of several organizations, including the National Association for College and University Business Officers, the Association of American Universities Bursars, and he served on a negotiated rulemaking committee for the *Higher Education Opportunity Act* in 2009. In his role as bursar at Purdue, he has had responsibility for several strategic system implementations and has a strong interest in advocating on behalf of students, as policies and technology drive business decision-making in higher education. Mr. Higgins holds a BA in Classics from the University of Iowa.

**Dr. Patricia Hurley
Associate Dean/Financial Aid Director
Glendale Community College**

Patricia Hurley has served as a financial aid administrator since 1970 at colleges that include Boston College, College of Marin, and, currently Glendale Community College in California. Dr. Hurley has been actively involved in financial aid on both state and national levels, having served in several positions for the California Association of Student Financial Aid Administrators and the California Community Colleges Student Financial Aid Administrators Association. She was appointed to both the EdFund Board of Directors and the California Student Aid Commission loan advisory committee, and has served as a chair of the financial aid council for the western region of The College Board.

Dr. Hurley currently serves as a member of the National Association of Student Financial Aid Administrators' board of directors. Prior to that, she was appointed to the association's national conversation initiative committee and served on the reauthorization task force and federal issues committees. She was appointed as a non-federal negotiator on the U.S. Department of Education's negotiated rulemaking committees in 1999, 2002, 2006, and 2009 and has been invited to participate in several policy workshops as a field representative.

Dr. Hurley holds a bachelor's degree from Nazareth College of Rochester, a master's degree in counseling from Suffolk University, and a doctorate in education from UCLA.

**Ms. Jessica Ickes
Director of Institutional Research and Assessment
Saint Mary's College**

Jessica Ickes has served as Director of Institutional Research and Assessment at Saint Mary's College in Notre Dame, Indiana, for the past four years. She has previously held positions in Institutional Research at Dickinson College in Carlisle, Pennsylvania, and at Temple University, Philadelphia. Additionally, Ms. Ickes is beginning her fourth year as an IPEDS trainer for the Association of Institutional Research and the National Center for Education Statistics. Her work focuses on reporting, disclosure, and compliance issues for higher education.

Ms. Ickes earned a bachelor of science in psychology and French from Juniata College and an MA in higher education administration from Andrews University.

Ms. Bonnie Joerschke
Director of Student Financial Aid
University of Georgia

Bonnie Joerschke is Director of Student Financial Aid at the University of Georgia in Athens, Georgia. Prior to her latest position, she was Senior Associate Director of Financial Aid and Associate Director of Policy Analysis and Quality Assurance, both at Purdue University. Ms. Joerschke has held positions in financial aid at a variety of colleges and universities, including Oklahoma State University, the University of Tennessee at Knoxville, and Colorado Northwestern Community College. She has also taught anthropology at Colorado Northwestern and the University of Tennessee.

Ms. Joerschke has held numerous positions in professional organizations such as NASFAA and its regional and state divisions, including the Midwest, Southern, and Southwest associations, as well as the Georgia and Oklahoma associations. She currently serves as the 2011-12 Federal Chair of the GASFAA Legislative Affairs Committee and is also serving on the SASFAA Legislative Relations Committee. In addition, she has served on several committees that provide advice and counsel to the U.S. Department of Education on regulatory issues, including the Common Origination and Disbursement Users Steering Committee, the School Portal Steering Committee, and the Institutional Quality Assurance Program.

Ms. Joerschke holds an AS from Colorado Northwestern Community College, a BA in anthropology from the University of Wyoming at Laramie, and an MA, also in anthropology, from the University of Tennessee at Knoxville.

Mr. Marcus D. Szymanoski
Manager of Training and Communications, Regulatory Affairs
DeVry Inc.

Marcus Szymanoski has worked in postsecondary education and student financial aid for more than seven years. In 2009, he joined DeVry Inc., where he currently serves as Manager of Training and Communications, Regulatory Affairs. His primary responsibility is to provide communication and employee training on a broad range of laws, regulations, and institutional policies that govern DeVry Inc. educational institutions. His team also assists with institutional policy development and regulatory interpretation, with a focus on student financial aid and Title IV programs. Active in several organizations, he currently serves on two committees (National Association of Student Financial Aid Administrators and the Illinois Association of Student Financial Aid Administrators). Mr. Szymanoski is deeply interested in public policy and improving student outcomes in higher education.

Mr. Szymanoski holds a BA in political science from DePaul University.

**APPENDIX H: LETTER FROM ADVISORY COMMITTEE
CHAIR AND VICE CHAIR ANNOUNCING SURVEY**

May 2011

Dear Colleague,

I write to request your participation in a short survey designed to investigate duplicative, obsolete, redundant, or overly burdensome higher education regulations. The survey is a key element in fulfilling the charge given to the Advisory Committee on Student Financial Assistance by Congress in 2008 to conduct a review and analysis of federal regulations affecting higher education.

The survey is hosted and administered by an independent private contractor, and it was designed with input from members of the higher education community with the goal of collecting attitudes toward and perceptions of regulatory burden and the regulatory development process.

We seek feedback from senior executives on campus and administrators of campus offices; therefore, the survey consists of two separate and distinct tracks:

- **For Senior Executives**—12 questions to be completed by presidents, provosts, vice presidents, etc.
- **For Campus Administrators**—10 questions, in addition to rating a set of 15 regulations, to be completed by assistant vice presidents, directors, assistant directors, counselors, etc.

The survey questions address issues related to the regulatory development process, the level of regulatory burden, alternative approaches to the current regulatory system, methods to reduce burden, and ways to continue regulatory reform efforts.

The survey's success will depend on institutional response rate. To help promote a robust response, this letter is being sent by higher education associations to senior executives and administrators of campus offices typically involved with implementing regulations under the *Higher Education Act*—primarily admissions, enrollment management, financial aid, institutional research, registrar, and student accounts and bursar.

The final report on the regulations study will be delivered to Congress by December 31, 2011. It has the potential to encourage regulatory reform to benefit your institution. A successful study will enlighten Congress and the Department of Education as to the next steps that should be taken to streamline and eliminate regulations wherever possible. We thank you, in advance, for your participation.

**Please complete the survey between May 20 and June 6, 2011,
by visiting: <http://www.studentaidsurvey.org>**

We estimate that completing this survey will take approximately 15 minutes for executives and approximately 25 minutes for administrators. If you have concerns or questions, please contact the study director, Anthony Jones at 202-219-2246 or Anthony.Jones@ed.gov.

Sincerely,
Allison Jones, Chair
Norm Bedford, Vice Chair

PAGE INTENTIONALLY LEFT BLANK

**APPENDIX I: ADVISORY COMMITTEE ON
STUDENT FINANCIAL ASSISTANCE MEMBERS**

Norm Bedford, Chair

Director, Financial Aid and Scholarships
University of Nevada, Las Vegas
Box 452016
4505 S. Maryland Parkway
Las Vegas, Nevada 89154-2016
Appointed: 10/01/2008
U.S. Senate appointee

Helen Benjamin, Vice Chair

Chancellor
Contra Costa Community College District
500 Court Street
Martinez, California 94553
Appointed: 10/02/2008
U.S. House of Representatives appointee

David L. Gruen

Past National Chair
National Association of Student Financial Aid
Administrators
Retired
41519 N. Tangle Ridge Court
Phoenix, Arizona 85086
Appointed: 10/02/2009
U.S. Senate appointee

Anthony J. Guida, Jr.

Senior Vice President of Strategic Development
and Regulatory Affairs
Education Management Corporation
210 Sixth Avenue, Suite 3300
Pittsburgh, Pennsylvania 15222
Appointed: 10/02/2008
U.S. House of Representatives appointee

Kathleen Hoyer

Student Member
The University of Maryland--College Park
2110 Benjamin Building
College Park, Maryland 20742-1165
Appointed: 04/16/2010
U.S. Secretary of Education appointee

William T. Luckey

President
Lindsey Wilson College
L.R. McDonald Administration Building
President's Office
210 Lindsey Wilson Blvd.
Columbia, Kentucky 42728
Appointed: 10/02/2009
U.S. Senate appointee

John F. McNamara

Vice President for College Development
Rockford College
5050 E. State Street
Rockford, Illinois 61108
Appointed: 08/07/2009
U.S. Secretary of Education appointee

Deborah Stanley

Director of Financial Aid
Bowie State University
14000 Jericho Park Road
Bowie, Maryland 20715
Appointed: 12/22/2010
U.S. House of Representatives appointee

Sharon Wurm

Director of Financial Aid, Scholarships, Student
Employment and Veterans Services
Truckee Meadows Community College
7000 Dandini Blvd, RDMT 315C
Reno, Nevada 89512
Appointed: 10/05/2010
U.S. Senate appointee

PAGE INTENTIONALLY LEFT BLANK

**APPENDIX J: ADVISORY COMMITTEE
ON STUDENT FINANCIAL ASSISTANCE STAFF**

William J. Goggin
Executive Director

Janet L. Chen
Director of Government Relations

Anthony P. Jones
Director of Policy Research
Director of the Higher Education Regulations Study

Tracy D. Jones
Senior Administrative Officer

Jennifer R. Nupp
Associate Director of Policy Research
Deputy Director of the Higher Education Regulations Study

Jeneva E. Stone
Senior Writer

PAGE INTENTIONALLY LEFT BLANK

APPENDIX K: ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE AUTHORIZING LEGISLATION

The Advisory Committee was established by an act of Congress in 1986. Section 491 of the Higher Education Act as amended contains the Committee's Congressional mandate. A copy of this section as it appears in the law follows:

SEC. 491. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

(a) ESTABLISHMENT AND PURPOSE.--(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the authorizing committees and to the Secretary on student financial aid matters. (2) The purpose of the Advisory Committee is-- (A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance; (B) to provide technical expertise with regard to systems of needs analysis and application forms; (C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students; (D) to provide knowledge and understanding of early intervention programs and to make recommendations that will result in early awareness by low- and moderate-income students and families— (i) of their eligibility for assistance under this title (ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance; (E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and (F) to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary education, and to make recommendations to help streamline the regulations of higher education from all sectors.

(b) INDEPENDENCE OF ADVISORY COMMITTEE.--In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the authorizing committees in accordance with subsection (f). The Secretary's authority to terminate advisory committees of the Department pursuant to section 448(b) of the General Education Provisions Act ceased to be effective on June 23, 1983.

(c) MEMBERSHIP.--(1) The Advisory Committee shall consist of 11 members appointed as follows: (A) Four members shall be appointed by the President pro tempore of the Senate, of whom two members shall be appointed from recommendations by the Majority Leader of the Senate, and two members shall be appointed from recommendations by the Minority Leader of the Senate. (B) Four members shall be appointed by the Speaker of the House of Representatives, of whom two members shall be appointed from recommendations by the Majority Leader of the House of Representatives, and two members shall

be appointed from recommendations by the Minority Leader of the House of Representatives. (C) Three members shall be appointed by the Secretary, of whom at least one member shall be a student. (2) Each member of the Advisory Committee, with the exception of the student member, shall be appointed on the basis of technical qualifications, professional experience, and demonstrated knowledge in the fields of higher education, student financial aid, financing post-secondary education, and the operations and financing of student loan guarantee agencies. (3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon publication of such appointment in the Congressional Record.

(d) FUNCTIONS OF THE COMMITTEE.--The Advisory Committee shall--(1) develop, review, and comment annually upon the system of needs analysis established under part F of this title; (2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements; (3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid; (4) assess the impact of legislative and administrative policy proposals; (5) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations; (6) recommend to the authorizing committees and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met; (7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; (8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs; (9) provide an annual report to the authorizing committees that provides analyses and policy recommendations regarding— (A) the adequacy of need-based grant aid for low- and moderate-income students; and (B) the postsecondary enrollment and graduation rates of low- and moderate-income students; (10) develop and maintain an information clearinghouse to help students of higher education understand the regulatory impact of the Federal Government on institutions of higher education from all sectors, in order to raise awareness of institutional legal obligations and provide information to improve compliance with, and to reduce the duplication and inefficiency of, Federal regulations; and (11) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) OPERATIONS OF THE COMMITTEE.--(1) Each member of the Advisory Committee shall be appointed for a term of 4 years, except that, of the members first appointed-- (A) 4 shall be appointed for a term of 1 year; (B) 4 shall be appointed for a term of 2 years; and (C) 3 shall be appointed for a term of 3 years, as designated at the time of appointment by the Secretary. (2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee serving on the date of enactment of the Higher Education Amendments and College Opportunity Act of 2008 shall be permitted to serve the duration of the member's term, regardless of whether that member was previously appointed to more than one term. (3) No officers or full time employees of the Federal Government shall serve as members of the Advisory Committee. (4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members. (5) Six members of the Advisory Committee shall constitute a quorum. (6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) SUBMISSION TO DEPARTMENT FOR COMMENT.--The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) COMPENSATION AND EXPENSES.-- Members of the Advisory Committee may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per

diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(h) PERSONNEL AND RESOURCES.--(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5, United States Code. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals. (2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible. (3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman. (B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section. (4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5, United States Code and to set pay in accordance with such section. (5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section. (6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) AVAILABILITY OF FUNDS.--In each fiscal year not less than \$800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) SPECIAL ANALYSES AND ACTIVITIES.--The Advisory Committee shall-- (1) monitor and evaluate the modernization of student financial aid systems and delivery processes and simplifications, including recommendations for improvement; (2) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students; (3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this title, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation; (4) conduct a review and analysis of regulations in accordance with subsection (l); and (5) conduct a study in accordance with subsection (m).

(k) TERM OF THE COMMITTEE.--Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2014.

(l) REVIEW AND ANALYSIS OF REGULATIONS. --(1) RECOMMENDATIONS.—The Advisory Committee shall make recommendations to the Secretary and the authorizing committees for consideration of future legislative action regarding redundant or outdated regulations consistent with the Secretary's requirements under section 498B. (2) REVIEW AND ANALYSIS OF REGULATIONS.—

(A) REVIEW OF CURRENT REGULATIONS.—To meet the requirements of subsection (d)(10), the Advisory Committee shall conduct a review and analysis of the regulations issued by Federal agencies that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this title affecting institutions of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the two most recent award years prior to the date of enactment of Higher Education Amendments and College Opportunity Act of 2008 less than \$200,000 in funds through this title, may be improved, streamlined, or eliminated. (B) REVIEW AND COLLECTION OF FUTURE REGULATIONS.—The Advisory Committee shall— (i) monitor all Federal regulations, including notices of proposed rulemaking, for their impact or potential impact on higher education; and (ii) provide a succinct description of each regulation or proposed regulation that is generally relevant to institutions of higher education from all sectors. (C) MAINTENANCE OF PUBLIC WEBSITE.—The Advisory Committee shall develop and maintain an easy to use, searchable, and regularly updated website that—(i) provides information collected in subparagraph (B); (ii) provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and (iii) publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 of the Higher Education Amendments and College Opportunity Act of 2008. (3) CONSULTATION.— (A) IN GENERAL.—In carrying out the review, analysis, and development of the website required under paragraph (2), the Advisory Committee shall consult with the Secretary, other Federal agencies, relevant representatives of institutions of higher education, individuals who have expertise and experience with Federal regulations, and the review panels described in subparagraph (B). (B) REVIEW PANELS.—The Advisory Committee shall convene not less than two review panels of representatives of the groups involved in higher education, including individuals involved in student financial assistance programs under this title, who have experience and expertise in the regulations issued by the Federal Government that affect all sectors of higher education, in order to review the regulations and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs. (4) PERIODIC UPDATES TO THE AUTHORIZING COMMITTEES.—The Advisory Committee shall— (A) submit, not later than two years after the completion of the negotiated rulemaking process required under section 492 resulting from the amendments to this Act made by the Higher Education Amendments and College Opportunity Act of 2008, a report to the authorizing committees and the Secretary detailing the review panels’ findings and recommendations with respect to the review of regulations; and (B) provide periodic updates to the authorizing committees regarding— (i) the impact of all Federal regulations on all sectors of higher education; and (ii) suggestions provided through the website for streamlining or eliminating duplicative regulations. (5) ADDITIONAL SUPPORT.—The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review and analysis required by this subsection.

(m) STUDY OF INNOVATIVE PATHWAYS TO BACCALAUREATE DEGREE ATTAINMENT.
--(1) STUDY REQUIRED.—The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs. (2) SCOPE OF STUDY.—The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant

program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow two-year institutions of higher education to offer baccalaureate degrees. (3) **REQUIRED ASPECTS OF THE STUDY.**—In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs: (A) The impact of such programs on baccalaureate attainment rates. (B) The degree to which a student’s total cost of attaining a baccalaureate degree can be reduced by such programs. (C) The ways in which low- and moderate-income students can be specifically targeted by such programs. (D) The ways in which nontraditional students can be specifically targeted by such programs. (E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs. (4) **CONSULTATION.**— (A) **IN GENERAL.**—In performing the study described in this subsection, the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual or concurrent enrollment programs, and appropriate Department officials. (B) **CONSULTATION WITH THE AUTHORIZING COMMITTEES.**—The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this subsection. (5) **REPORTS TO AUTHORIZING COMMITTEES.**— (A) **INTERIM REPORT.**—The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary an interim report, not later than one year after the date of enactment of the Higher Education Amendments and College Opportunity Act of 2008, describing the progress made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2). (B) **FINAL REPORT.**—The Advisory Committee shall, not later than three years after the date of enactment of the Higher Education Amendments and College Opportunity Act of 2008, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).