

June 22, 2012

The Honorable Leon E. Panetta  
Secretary  
Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301-1400

The Honorable Arne Duncan  
Secretary  
Department of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

The Honorable Eric K. Shinseki  
Secretary  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

The Honorable Richard Cordray  
Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552



**Re: Executive Order 13607 -- Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses and Other Family Members**

Dear Secretaries Panetta, Duncan and Shinseki, and Director Cordray:

We write on behalf of the American Council on Education (ACE), the National Association of College and University Business Officers (NACUBO), and the other higher education associations listed below to express our strong belief in the fundamental tenets of the “Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses and Other Family Members”: Service members, veterans, their spouses and their family members should have the information, support and protections they deserve as they pursue their education. Every person—and particularly those who have made sacrifices to serve our nation—should have the opportunity to pursue a high-quality education. We embrace the opportunity to work with the Departments of Defense (DoD), Education (ED), Veterans Affairs (VA), and the Consumer Financial Protection Bureau (CFPB) (collectively, the “Agencies”) to improve the educational experiences of our nation’s service members and veterans. Although we understand and support the spirit of the Principles, this letter explains our concern that the practical meaning of the Principles remains unclear, the ways in which the Principles are unclear, and our suggestions for written guidance that may assist institutions as they consider compliance steps.

Many associations and education institutions have developed initiatives and campus programs that are a testament to the commitment of the higher education sector to foster service member- and veteran-friendly campuses. Colleges and universities have developed and implemented best practices with respect to disclosures to and counseling for service members and veterans as well as policies that recognize the particular circumstances of those individuals. ACE recently released a “Toolkit for Veteran Friendly Institutions” (<http://www.vetfriendlytoolkit.org/>) that highlights real world examples of promising practices and shares success stories from institutions across the country.

We are concerned that although the Principles are very broadly expressed, it is far from evident how the Agencies will construe them and what the practical ramifications will be. We respectfully ask the Agencies to clarify their intent regarding the Principles, to enable institutions to assess the ramifications of the Principles for their policies, procedures and practices and thereby to develop and implement compliance steps. We appreciated the Agencies’ jointly offered June webinars, but many aspects of the Principles remain ambiguous. Nevertheless, VA has asked institutions to provide notice of intent to comply with the Principles. We understand that the Agencies do not expect that institutions are in compliance with the Principles today and that the Agencies plan to construe the Principles during the months ahead. Colleges and universities want to know that if they commit to achieve a standard, they will be able to meet that standard. The Principles embody goals that can be achieved only if institutions understand the government’s expectations.

We urge VA to encourage institutions to notify it of their intent to make a good faith effort to comply with the Principles pending clarifying guidance from the Agencies. We also encourage VA to publicize that an institution has provided such notification regardless of when an institution does so. VA has asked institutions to provide notice by June 30 and warned that a response after that date may mean the institution is omitted from VA’s list of institutions that have indicated intent to comply with the Principles. Such an approach seems arbitrary and counterproductive. The deadline is based on no legal mandate. Institutions may be unable to provide the requested notice by June 30 for conscientious and sound reasons, notably concerns regarding whether they understand what certain Principles signify. Also, we understand that, at some education institutions, the appropriate official may not yet have received VA Deputy Under Secretary Coy’s letter through their relevant state approving agency. We assume that the Agencies’ goal is to promote universal support for the Principles and that the Agencies should want to welcome without penalty any institution that endorses the Principles at any reasonable time.

The attachment to this letter provides observations on aspects of the Principles that we believe require guidance from the Agencies. In brief, we ask the Agencies through written guidance to:

- *Principle (a)*:
  - o Confirm that Principle (a) is intended to require no more than institutional use of the model financial aid offer form that is still under development by ED and CFPB;
  - o Clarify the specific information institutions must disclose, including student outcomes data, and how the “personalized form” will address institutional information gaps, including steps the government will take to give institutions timely access to information regarding a student’s eligibility for service member or veteran benefits;
- *Principles (b), (c), (e), and (f)*: Confirm that these Principles simply replicate requirements—already in effect—of the Higher Education Act of 1965 (HEA), as amended, meaning institutions that comply with pertinent HEA requirements will be in compliance with those Principles;

- *Principle (d)*: Confirm that Principle (d) is intended only to require institutions to comply with their accreditors' policies and procedures;
- *Principle (g)*: Confirm that an institution that publishes in its catalog and other appropriate publications the requirements that a student must fulfill to obtain each program's credential (*i.e.*, degree or certificate) would be in compliance with Principle (g), or clarify the intended meaning of "educational plan"; and
- *Principle (h)*: Clarify how education institutions should access information that the government has that would facilitate sound advice to service members and veterans regarding debt and/or benefit eligibility.

Although the focus of this letter is the Principles themselves, not other sections of the Executive Order, we emphasize that the higher education community wants to work with the Agencies as they take steps to address Sections 3 and 4 of the Executive Order. We are committed to establishment of a complaint system that will swiftly and efficiently resolve any legitimate concerns service members or veterans raise regarding an institution. In addition, while we support development of appropriate student outcome measures, we are conscious of the care that must be taken to ensure the measures provide reliable, accurate and meaningful information for service members and veterans. We look forward to learning about the Agencies' expectations with respect to those and other aspects of the Executive Order.

Thank you for your consideration.

Sincerely,



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On behalf of:

American Association of State Colleges and Universities  
 American Council on Education  
 American Indian Higher Education Consortium  
 Association of American Universities  
 Association of Jesuit Colleges and Universities  
 Association of Public and Land-grant Universities  
 Council for Opportunity in Education  
 Hispanic Association of Colleges and Universities  
 National Association for Equal Opportunity in Higher Education  
 National Association of College and University Business Officers  
 National Association of Independent Colleges and Universities  
 National Association of Student Financial Aid Administrators  
 National Association of Veterans Program Administrators

## Comments on the Principles of Excellence

**Principle (a):** To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: prior to enrollment, provide prospective students who are eligible to receive Federal military and veterans educational benefits with a personalized and standardized form, as developed in a manner set forth by the Secretary of Education, working with the Secretaries of Defense and Veterans Affairs, to help those prospective students understand the total cost of the educational program, including tuition and fees; the amount of that cost that will be covered by Federal educational benefits; the type and amount of financial aid they may qualify for; their estimated student loan debt upon graduation; information about student outcomes; and other information to facilitate comparison of aid packages offered by different educational institutions.

We agree that service members, veterans, spouses and family members should have access to meaningful information about the financial cost of institutions to help those prospective students make choices about how to use their federal education benefits. However, as explained below, institutions currently do not receive much of the information that Principle (a) appears to contemplate an institution would supply to prospective students who are eligible to receive military or veterans education benefits.

First, students rarely indicate prior to enrollment that they are eligible for certain federal aid benefits. For example, at some institutions, enrollment occurs before students file the Free Application for Federal Student Aid or self-identify as eligible for veterans education benefits. For some benefits, service members and veterans actually must enroll at an education institution before they can apply for the benefit. Thus, procedures and actions that are largely outside an institution's control often prevent it from being able to predict accurately—prior to a student's enrollment—the amount and source of federal aid a student may receive. That also means that institutions do not know which prospective students should get the form for purposes of Principle (a), which focuses on prospective students who are eligible to receive military and veterans education benefits.

Second, institutions do not have access to an authoritative government resource to determine student eligibility for veterans' education benefits. We fully support ongoing efforts to foster open communication channels between VA and education institutions. Information exchanges between VA and education institutions will better enable institutions to obtain information about individuals who are eligible for veterans' education benefits, which in turn will foster more comprehensive and personalized counseling.

Furthermore, student outcomes that institutions are expected to disclose are unidentified. It is unclear whether institutions or the government already collect and disclose those outcomes or whether new outcomes are anticipated for purposes of Principle (a). We recognize the value of useful student outcome measures that can be a reliable and objective resource for service members and veterans as they make decisions about where to further their education. As experience has shown, development of student outcome measures that are readily collected and provide meaningful information can be challenging.

We understand that the Agencies intend for institutions to comply with Principle (a) through use of the model financial aid offer form that ED and CFPB are currently developing. At this time, however, it remains a work in progress, with a final model not expected until the end of the summer at the earliest. While the higher education community broadly supports standardized terms and definitions for financial aid offers, we are concerned about many aspects of the pro-

posed model, including the possibility that the end product will take a one-size-fits-all approach that fails to account adequately for institutional diversity and as a result may lead to materially misleading disclosures. We are also concerned that approaches to “personalizing” the form will impose impracticable burdens on institutions that serve large numbers of service members and veterans. The higher education community has been engaged in ongoing discussions with ED and CFPB regarding the model financial aid offer form and will continue to provide constructive comments. In the meantime, institutions ask how they can commit to VA that they will use the model, the contents of which are unknown to them and to the Agencies.

We would welcome the opportunity to continue to work with the Agencies to establish common ground on the information institutions must disclose consistent with Principle (a). We submit that any approach to Principle (a) should permit some flexibility that reflects appropriately the information limitations that institutions may confront with respect to individual prospective students.

**Principle (b): To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: inform students who are eligible to receive Federal military and veterans educational benefits of the availability of Federal financial aid and have in place policies to alert those students of their potential eligibility for that aid before packaging or arranging private student loans or alternative financing programs.**

Principle (b) appears comparable to the HEA requirement that an institution that receives federal funding and provides information regarding private education loans must inform a prospective borrower that he or she may qualify for loans or other assistance under Title IV of the Higher Education Act, as amended (HEA). We ask the Agencies to confirm that Principle (b) is comparable to that HEA requirement or, if it is not, to provide guidance on Principle (b)’s requirements.

**Principle (c): To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: end fraudulent and unduly aggressive recruiting techniques on and off military installations, as well as misrepresentation, payment of incentive compensation, and failure to meet State authorization requirements, consistent with the regulations issued by the Department of Education (34 C.F.R. 668.71–668.75, 668.14, and 600.9).**

We understand that Principle (c) applies certain HEA requirements to institutions that receive funding pursuant to military and veterans education benefits programs. Most of our member institutions participate in the Title IV programs and are already subject to the requirements specified in Principle (c). We ask the Agencies to confirm that compliance with pertinent HEA requirements will constitute compliance with Principle (c).

**Principle (d): To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: obtain the approval of the institution’s accrediting agency for new course or program offerings before enrolling students in such courses or programs, provided that such approval is appropriate under the substantive change requirements of the accrediting agency.**

We understand that Principle (d) is intended to require institutions to comply with their accreditors’ policies and procedures regarding approval of new courses and programs, and not intended to require institutions to obtain accreditor approval of new courses or programs where the accreditor does not require such approval. We ask the Agencies to confirm such understanding or, if such understanding is incorrect, to provide guidance on what Principle (d) requires.

**Principle (e): To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: allow service members and reservists to be readmitted to a program if they are temporarily unable to attend class or have to suspend their studies due to service requirements, and take additional steps to accommodate short absences due to service obligations, provided that satisfactory academic progress is being made by the service members and reservists prior to suspending their studies.**

The HEA and ED regulations include requirements related to readmission of service members. It is unclear whether the Agencies will interpret and enforce Principle (e) consistent with HEA requirements, or whether Principle (e) entails new requirements, and if the latter, what the new requirements will be. For example, the meaning of “temporary” absence and how to proceed if circumstances change at the institution during a student’s temporary absence (such as elimination of the student’s program) need clarification, particularly if the Agencies intend the requirement to differ in any respect from pertinent HEA requirements.

**Principle (f): To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: agree to an institutional refund policy that is aligned with the refund of unearned student aid rules applicable to Federal student aid provided through the Department of Education under Title IV of the Higher Education Act of 1965, as required under section 484B of that Act when students withdraw prior to course completion.**

Principle (f) is susceptible to numerous interpretations, some of which could alter fundamentally how institutions manage enrollments, budget costs, and otherwise operate financially. ED’s refund rules apply only to Title IV funds; such rules require an institution to return to ED Title IV funds that a student, as a result of withdrawal, did not earn. The HEA and ED permit institutions to establish institutional refund policies, which address the circumstances under which a student may be eligible for a refund of tuition and fees. Many institutions have a policy that addresses return of unearned Title IV funds and a different policy that addresses refunds of tuition and fees. Indeed, ED’s Federal Student Aid Handbook explains that ED’s Title IV return rules do not dictate an institutional refund policy and do not forbid an institution to develop its own refund policy. With respect to students who withdraw from an institution, ED’s return-to-Title IV rules may require the institution to return unearned Title IV funds to ED, while the institution’s refund policy may provide for no refund of tuition and fees or for a refund in an amount that is less than the unearned Title IV funds owed to ED.

The Principles do not disclose whether institutions must revise institutional refund policies and establish new policies that would require all refunds—whether related to Title IV funds or not—to follow the return-of-Title IV-funds refund formula. Such an approach would be costly, would fail to recognize that institutions structure refund policies to account for fixed costs, and would entail federal intrusion in an area long understood to be a matter of institutional discretion. Even if the Principles aim only to require institutions to administer their refund policy for service members’ and veterans education benefits in the same way institutions administer Title IV refunds, such a requirement would burden institutions by adding a needless and excessive layer to an already complex process. Many institutions already complete two certifications for service members and veterans (one for housing and one for tuition and fees) and navigate non-standardized billing procedures across the various service branches. Another possible interpretation of Principle (f) is an institution must comply with the HEA’s return-of-Title IV-funds rules with respect to Title IV, meaning institutions that participate in Title IV programs are in compliance with Principle (f) if they comply with the HEA’s return-of-Title-IV-fund rules.

Principle (f) poses a substantial challenge for institutions that support the spirit of the Principles but are concerned that the meaning and scope of Principle (f) is not well understood at this time and may substantially affect an institution's fiscal operations. We would welcome the opportunity to work with the Agencies to develop clearer guidance on their expectations with respect to compliance with Principle (f). In the alternative, we ask the Agencies to confirm that compliance with the HEA's return-of-Title-IV-fund rules will constitute compliance with Principle (f).

**Principle (g): To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: provide educational plans for all individuals using Federal military and veterans educational benefits that detail how they will fulfill all the requirements necessary to graduate and the expected timeline of completion.**

We agree that service members, veterans, spouses and other family members should have access to high-quality academic support services at institutions. Our hope is that the Agencies will interpret and enforce Principle (g) to achieve that goal through requirements that are practicable and not unduly burdensome. In particular, we ask the Agencies to confirm that the term "educational plans" refers to what many institutions call "degree requirements," and that an institution that publishes in its catalog and other appropriate publications the requirements that a student must fulfill to obtain each program's credential (i.e., degree or certificate) would be in compliance with Principle (g).

If, on the other hand, Principle (g)'s reference to "educational plans" has the same meaning as it does in the context of DoD's forthcoming revised Voluntary Education Partnership Memorandum of Understanding (MOU), we request reconsideration and further clarification. The term caused much confusion when it appeared in DoD's draft MOU and required months of discussions among higher education representatives and DoD officials to clarify. Although DoD and stakeholders eventually reached agreement on a definition, we understood during those discussions that the definition would be unique to the MOU and not applied more broadly in other contexts. If Principle (g) anticipates expansion of the "educational plan" requirement beyond the MOU, we have concerns pertinent to administrative burden and feasibility. By the same token, if the Agencies intend to develop another "educational plans" definition for purposes of the Principles, we ask the Agencies to clarify what "educational plans" is intended to signify. If either of these approaches is contemplated in the Principles, we request the opportunity to develop a workable approach through discussions with the Agencies.

**Principle (h): To the extent permitted by law, the Principles . . . require educational institutions receiving funding pursuant to Federal military and veterans educational benefits to: designate a point of contact for academic and financial advising (including access to disability counseling) to assist service member and veteran students and their families with the successful completion of their studies and with their job searches.**

Our member institutions are deeply committed to providing sound academic and financial advice to all students, including those who are service members or veterans. As noted above, institutions are often handicapped in their efforts to advise students because the institutions do not have access to government information on service members' or veterans' current debt or benefit eligibility. We fully support efforts to foster open communication channels between VA and institutions; improved access to key information will enable education institutions to better serve service members and veterans with respect to counseling.