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**ABSTRACT**

This document is concerned with the question of deciding institutional eligibility for participation in Federal higher education programs. Part 1 of the hearings deals with accreditation. The contents include statements by the members of the house committee and various witnesses. Letters, prepared statements, and supplemental materials are also included concerning the accreditation issue. The extensive appendix includes articles, publications, background information, letters, and newspaper articles also concerning accreditation. The hearings were held in Washington D.C., July 18, 19, and 25, 1974. (PG)

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# FEDERAL HIGHER EDUCATION PROGRAMS INSTITUTIONAL ELIGIBILITY

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## HEARINGS BEFORE THE SPECIAL SUBCOMMITTEE ON EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES NINETY-THIRD CONGRESS

SECOND SESSION

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PART 1

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ACCREDITATION

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HEARINGS HELD IN WASHINGTON, D.C.,  
JULY 18, 19 AND 25, 1974

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Printed for the use of the Committee on Education and Labor  
CARL D. PERKINS, *Chairman*



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# FEDERAL HIGHER EDUCATION PROGRAMS INSTITUTIONAL ELIGIBILITY

THURSDAY, JULY 18, 1974

HOUSE OF REPRESENTATIVES,  
SPECIAL SUBCOMMITTEE ON EDUCATION OF THE  
COMMITTEE ON EDUCATION AND LABOR,  
*Washington, D.C.*

The subcommittee met at 9:15 A.M., pursuant to notice in room 2175, Rayburn House Office Building, Washington, D.C., Hon. James G. O'Hara presiding.

Present: Representatives O'Hara, Brademas, Dellenback and Bell.

Staff present: William F. Gaul, associate general counsel; Webb Buell, counsel; Robert Andringa, minority staff director; John Lee, minority staff; Elnora Teets, clerk.

Mr. O'HARA. The subcommittee will come to order.

We have been holding public hearings throughout this session of Congress with a view to the development of a new title IV of the Higher Education Act.

Today we turn to a question which crosses program lines. The basic question to be raised in these next few days is: "How do we decide when an institution of higher education and its students are qualified to participate in Federal education programs?"

I am not referring, of course, to the financial or intellectual qualifications of the individual students. I am looking at the kinds of education we are trying to provide to the American people and the kinds of institutions in which we want to see them get that education.

In statutory provision, and in regulation—and I have directed the staff to insert such statutory provisions and regulations in the record of this hearing at the conclusion of these remarks—institutions of higher education are defined as those which have been accredited by a nationally recognized accrediting organization, or which the Commissioner has reason to believe will be accredited.

The law and the regulations, then, provide significant leeway for the exercise of judgment by accrediting organizations and by the Commissioner of Education himself.

In the case of the guaranteed loan program, the Commissioner of Education has the authority under section 438 of the act to establish "reasonable standards of financial responsibility and appropriate institutional capability," and he is given further authority to limit, suspend, or terminate the eligibility of institutions which have violated or failed to carry out any regulation under the loan program.

(1)



That same section gives the Commissioner the duty of publishing a list of State agencies which he determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

The authority provided by law may be, and I am advised that some Federal officials so consider it, inadequate to deal with the question of deciding institutional eligibility for participation in these programs, or some of them at least.

One of the issues we will explore in these hearings is the adequacy of the law and regulations on that subject.

When we complete these hearings we will know more about accreditation, what it means, what it implies, what it does not mean and whether additional or alternative means of deciding upon the eligibility of institutions are required and should be provided for in the law.

[The documents referred to follow:]

HIGHER EDUCATION ACT OF 1965 AS AMENDED, TITLE IV, PART A

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS;  
APPLICATIONS

SEC. 411. (a) (1) The Commissioner shall, during the period beginning July 1, 1972, and ending June 30, 1975, pay to each student who has been accepted for enrollment in, or is in good standing at, an institution of higher education (according to the prescribed standards, regulations, and practices of that institution) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

*BEOG Regulations 45 C.F.R. 190.2*

(i) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of paragraph (1) (1), (2), (4), and (5) of this section, and any proprietary institution of higher education as defined in paragraph (j) of this section, which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the

school under this part has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(j) "Proprietary institution of higher education" means a school which (1) provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (3) is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) is not a public or other nonprofit institution, and (6) has been in existence for at least two years.

(k) "Nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

## SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

### SELECTION OF RECIPIENTS, AGREEMENTS WITH INSTITUTIONS

SEC. 413C. (a) (1) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which has made an agreement with the Commissioner pursuant to subsection (b), if the individual makes application at the time and in the manner prescribed by that institution, in accordance with regulations of the Commissioner.

(2) From among those who are eligible for supplemental grants through an institution which has an agreement with the Commissioner under subsection (b) for each fiscal year, the institution shall, in accordance with such agreement under subsection (b), and within the amount allocated to the institution for that purpose for that year under section 413D(b) select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them. An institution shall not award a supplemental grant to an individual unless it determines that—

(A) he has been accepted for enrollment as an undergraduate student at such institution or, in the case of a student already attending such institution, is in good standing there as an undergraduate;

(B) he shows evidence of academic or creative promise and capability of maintaining good standing in this course of study;

(C) he is of exceptional financial need; and

(D) he would not, but for a supplemental grant be financially able to pursue a course of study at such institution.

(1) who is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years, or

(ii) who is because of his particular circumstances determined by the institution to need an additional year to complete a course of study normally requiring four academic years, such period may be extended for not more than one additional academic year.

(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if—

(A) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution awarding the grant, and

(B) that student is devoting at least half-time to that course of study, during the academic year, in attendance at that institution.

Failure to be in attendance at the institution during vacation periods or periods of military service, or during other periods during which the Commissioner determines, in accordance with regulations, that there is good cause for his nonattendance, shall not render a student ineligible for a supplemental grant; but no payments may be made to a student during any such period of failure to be in attendance or period of nonattendance.

## SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

Sec. 413c. (a) (1) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which has made an agreement with the Commissioner pursuant to subsection (b), if the individual makes application at the time and in the manner prescribed by that institution, in accordance with regulations of the Commissioner.

(2) From among those who are eligible for supplemental grants through an institution which has an agreement with the Commissioner under subsection (b) for each fiscal year, the institution shall, in accordance with such agreement under subsection (b), and within the amount allocated to the institution for that purpose for that year under section 413D(b) select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them. An institution shall not award a supplemental grant to an individual unless it determines that—

(A) he has been accepted for enrollment as an undergraduate student at such institution or, in the case of a student already attending such institution, is in good standing there as an undergraduate;

(B) he shows evidence of academic or creative promise and capability of maintaining good standing in this course of study;

(C) he is of exceptional financial need; and

(D) he would not, but for a supplemental grant, be financially able to pursue a course of study at such institution.

**SEOG Regulations 45 C.F.R 176.2**

(n) "Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of paragraph (n) (1), (2), (4), and (5) of this section unless the school is a public institution in which case it may also be accredited by the State agency in that State which has been listed by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, and any proprietary institution of higher education, as defined in § 176.2, which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this title has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(20 U.S.C. 1087-1 (b), 1141 (a))

(q) "Proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which admits as regular students, only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (3)

which is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) which is not a public or other non profit institution, and (6) which has been in existence for at least two years.

### SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

#### PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students in attendance at institutions of higher education.

#### *SSIG Regulations 45 C.F.R. 192.2*

"Institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, or transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5) unless the school is a public institution in which case it may also be accredited by the State agency in that State which has been listed by the Commissioner as a reliable authority as to the quality of public postsecondary vocational education in that State, and any proprietary institution of higher education, as defined in § 192.2, which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this part has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

"Proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, (3) which is legally authorized by the State in which it is located to provide a program of education beyond secondary education, (4) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, (5) which is not a public or other nonprofit institution, and (6) which has been in existence for at least two years.

### SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

#### AUTHORIZED ACTIVITIES

SEC. 417B. (a) The Commissioner is authorized (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)) to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions, public and

private agencies and organizations (including professional and scholarly associations), and, in exceptional cases, secondary schools and secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in section 417(a).

**"TRIO" Regulations 45 C.F.R. 152.2**

(e) The term "Institution of Higher Education" means an educational institution in any State which meets the requirements set forth in section 1201(a) of the Act.

(f) The term "Post-Secondary School" means a public or private nonprofit institution which meets the requirements set forth in section 435(c) of the Act.

**VETERANS COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION**

SEC. 420. (a) (1) During the period beginning July 1, 1972 and ending June 30, 1975, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year, if the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year.

(2) During the period specified in paragraph (1), each institution which has qualified for a payment under this section for any year shall be entitled during the succeeding year, notwithstanding paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year.

**VCOI Regulations 45 C.F.R. 189.1**

"Institution of higher education," or "institution," means an educational institution in any State which: (a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (b) is legally authorized within such State to provide a program of education beyond secondary education, (c) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, (d) is a public or other nonprofit institution, and (e) is accredited by a nationally recognized accrediting agency or association as determined by the Commissioner or, if not so accredited, (1) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (2) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (a), (b), (d), and (e) of this definition.

**PART F—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION**

**DEFINITIONS FOR REDUCED-INTEREST STUDENT LOAN INSURANCE PROGRAM**

SEC. 435. As used in this part:

(a) The term "eligible institution" means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals

of the United States, an institution outside the States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part.

(b) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, (B) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause and (C) if the Commissioner determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(d) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(e) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(f) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(g) The term "eligible lender" means an eligible institution, an agency or instrumentality of a State, or a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Commissioner for this purpose.

(h) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(20 U.S.C. 1085) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 435, 79 Stat. 1247; as amended Oct. 29, 1963, P.L. 89-698, Title II, sec. 204, 80 Stat. 1072; amended Oct. 16, 1968, P.L. 90-575, Title I, secs. 116, 118, 82 Stat. 1023-26.

#### ***Regulations GSL/FISL 45 C.F.R. 177.1***

(e) The term "eligible institution" or "institution" means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part.

(f) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any school which provides not less than a 1 year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of subparagraphs (1), (2), (4), and (5) of this paragraph. If the Commissioner determines that a particular category of such schools does not meet the requirements of subparagraph (5) of this paragraph because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (a) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the

program pursuant to this part, and (b) determine whether particular schools not meeting the requirements of subparagraph (5) of this paragraph meet those standards. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(g) The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school in any State which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of post-secondary vocational or technical education designed to provide occupational skills more advanced than those generally provided at the high school level and which provides not less than 300 clock hours of classroom instruction or its equivalent, or in the case of a program offered by correspondence, requiring completion in not less than 6 months and designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for 2 years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this paragraph; and (4) is accredited (i) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph, (ii) if the Commissioner determines there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this paragraph, and (iii) if the Commissioner determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category which committee shall prescribe standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under the Act, and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(h) "Eligible lender" means an institution of higher education or vocational school, an agency or instrumentality of a State, a financial or credit institution (including banks, savings and loan associations, credit unions and insurance companies) which is subject to examination and supervision by an agency of the United States or any State, or a pension fund approved by the Commissioner for this purpose. A pension fund, institution of higher education or vocational school will not be approved by the Commissioner unless it can satisfactorily demonstrate that the procedures it has established for making or purchasing loans covered by this part are in accordance with generally accepted commercial lending practices and that it is able to carry out the duties and responsibilities required of it under this part.

#### ELIGIBILITY OF INSTITUTIONS

SEC. 438. (a) Notwithstanding any other provision of this part, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b);

(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b);

(3) the limitation, suspension, or termination of the eligibility under this part of any otherwise eligible institution, whenever the Commissioner has determined, after notice and affording an opportunity for hearing, that such insti-



tution has violated or failed to carry out any regulation prescribed under this part.

(b) The Commissioner shall publish a list of State agencies which he determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistant programs.

(20 U.S.C. 1087-1) Enacted June 23, 1972, P.L. 92-318, sec. 132E(a), 86 Stat. 264.

#### PART C WORK STUDY PROGRAMS

##### GRANTS FOR WORK-STUDY PROGRAMS

SEC. 443. (a) The Commissioner is authorized to enter into agreements with eligible institutions under which the Commissioner will make grants to such institutions to assist in the operation of work-study programs as hereinafter provided.

(b) For the purposes of this part of the term "eligible institution" means an institution of higher education (as defined in section 435(b) of this Act), an area vocational school (as defined in section 8(2) of the Vocational Education Act of 1963), or a proprietary institution of higher education (as defined in section 91 (b) of this Act).

(3) For the purposes of this subsection, the term "proprietary institution of higher education" means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1201 (a), (C) which does not meet the requirement of section clause (4) of section 1201 (a), (D) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (E) which has been in existence for at least two years. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

#### *CWS Regulations 45 C.F.R. 175.2*

(1) "Institution of higher education" means an educational institution in any State which meets the requirements of section 435(b) of the Higher Education Act of 1965. The term "educational institution" limits the scope of this definition to establishments where teaching is conducted and which have an identity of their own (42 U.S.C. 2753(b)).

(v) "Proprietary institution of higher education" means a private profit making educational institution in any State which (1) provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (3) is legally authorized within such State to provide a program of education beyond secondary school, (4) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (5) has been in existence for 2 years.

#### § 175.4 *Program eligibility*

(a) *General.* Work-Study Programs operated under an institutional agreement for the part-time employment of students may involve work for the institution itself (except in the case of a proprietary institution of higher education) or work for a public or private nonprofit organization in any State.

### TITLE XII—GENERAL PROVISIONS

#### DEFINITIONS

SEC. 1201. As used in this Act—

(a) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3)

provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). For purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

## GENERAL REGULATIONS

### PART 149—COMMISSIONER'S RECOGNITION PROCEDURES FOR NATIONAL ACCREDITING BODIES AND STATE AGENCIES

#### SUBPART A—CRITERIA FOR NATIONALLY RECOGNIZED ACCREDITING AGENCIES AND ASSOCIATIONS

Sec.

- 149.1 Scope.
- 149.2 Definitions.
- 149.3 Publication of list.
- 149.4 Inclusion on list.
- 149.5 Initial recognition; renewal of recognition.
- 149.6 Criteria.

**AUTHORITY:** (20 U.S.C. 403(b), 1085(b), 1141(a), 1248(11)); (42 U.S.C. 293a(b), 295f-3(b), 295h-4(1)(D), 298b(f)); (8 U.S.C. 1101(a)(15)(F)); (12 U.S.C. 1749c(b)); (38 U.S.C. 1775(a)).

#### SUBPART B—CRITERIA FOR STATE AGENCIES

Sec.

- 149.20 Scope.
- 149.21 Publication of list.
- 149.22 Inclusion on list.
- 149.23 Initial recognition; reevaluation.
- 149.24 Criteria.

**AUTHORITY:** Sec. 438(b) of the Higher Education Act of 1965, Pub. L. 89-329 as amended by Pub. L. 92-318, 86 Stat. 235, 264 (20 U.S.C. 1087-1(b)).

#### SUBPART A—CRITERIA FOR NATIONALLY RECOGNIZED ACCREDITING AGENCIES AND ASSOCIATIONS

##### § 149.1 Scope.

Accreditation of institutions or programs of institutions by agencies or associations nationally recognized by the U.S. Commissioner of Education is a prerequisite to the eligibility for Federal financial assistance of institutions and of the students attending such institutions under a wide variety of federally supported programs. The recognition of such agencies is reflected in lists published by the Commissioner in the FEDERAL REGISTER. Inclusion on such list is dependent upon the Commissioner's finding that any such recognized agency or association is reliable authority as to the quality of training offered. The Commissioner's recognition is granted and the agency or association is included on the list only when it meets the criteria established by the Commissioner and set forth in § 149.6 of this part.

§ 149.2 *Definitions.*

"Accrediting" means the process whereby an agency or association grants public recognition to a school, institute, college, university, or specialized program of study which meets certain established qualifications and educational standards, as determined through initial and periodic evaluations. The essential purpose of the accreditation process is to provide a professional judgment as to the quality of the educational institution or program(s) offered, and to encourage continual improvement thereof;

"Adverse accrediting action" means denial of accreditation or preaccreditation status or the withdrawal of accreditation or preaccreditation status;

"Agency or association" means a corporation, association, or other legal entity or unit thereof which has the principal responsibility for carrying out the accrediting function;

"Institutional accreditation" applies to the total institution and signifies that the Institution as a whole is achieving its educational objectives satisfactorily;

"Regional" means the conduct of institutional accreditation in three or more States;

"Representatives of the public" means representatives who are laymen in the sense that they are not educators in, or members of, the profession for which the students are being prepared, nor in any way are directly related to the institutions or programs being evaluated;

"States" includes the District of Columbia and territories and possessions of the United States.

(20 U.S.C. 1141(a))

§ 149.3 *Publication of list.*

Periodically the U.S. Commissioner of Education will publish a list in the FEDERAL REGISTER of the accrediting agencies and associations which he determines to be reliable authorities as to the quality of training offered by educational institutions or programs, either in a geographical area or in a specialized field. The general scope of the recognition granted to each of the listed accrediting bodies will also be listed.

(20 U.S.C. 1141(a))

§ 149.4 *Inclusion on list.*

Any accrediting agency or association which desires to be listed by the Commissioner as meeting the criteria set forth in § 149.6 should apply in writing to the Director, Accreditation and Institutional Eligibility Staff, Bureau of Postsecondary Education, Office of Education, Washington, D.C. 20202.

§ 149.5 *Initial recognition, and renewal of recognition.*

(a) For initial recognition and for renewal of recognition, the accrediting agency or association will furnish information establishing its compliance with the criteria set forth in § 149.6. This information may be supplemented by personal interviews or by review of the agency's facilities, records, personnel qualifications, and administrative management. Each agency listed will be reevaluated by the Commissioner at his discretion, but at least once every four years. No adverse decision will become final without affording opportunity for a hearing.

(b) In view of the criteria set forth in § 149.6, it is unlikely that more than one association or agency will qualify for recognition (1) in a defined geographical area of jurisdiction or (2) in a defined field of program specialization within secondary or postsecondary education. If two or more separate organizations in a defined field do seek recognition, they will both be expected to demonstrate need for their activities and show that they collaborate closely so that their accrediting activities do not unduly disrupt the affected institution or program.

(20 U.S.C. 1141(a))

§ 149.6 *Criteria.*

In requesting designation by the U.S. Commissioner of Education as a nationally recognized accrediting agency or association, an accrediting agency or association must show:

(a) *Functional aspects.* Its functional aspects will be demonstrated by:

(1) Its scope of operations:

(i) The agency or association is national or regional in its scope of operations.

(ii) The agency or association clearly defines in its character, by-laws or accrediting standards the scope of its activities, including the geographical area and the types, and levels of institutions or programs covered.

(2) Its organization:

(i) The agency or association has the administrative personnel and procedures to carry out its operations in a timely and effective manner.

(ii) The agency or association defines its fiscal needs, manages its expenditures, and has adequate financial resources to carry out its operations, as shown by an externally audited financial statement.

(iii) The agency's or association's fees, if any, for the accreditation process do not exceed the reasonable cost of sustaining and improving the process.

(iv) The agency or association uses competent and knowledgeable persons, qualified by experience and training, and selects such persons in accordance with nondiscriminatory practices: (A) to participate on visiting evaluation teams; (B) to engage in consultative services for the evaluation and accreditation process; and (C) to serve on policy and decision-making bodies.

(v) The agency or association includes on each visiting evaluation team at least one person who is not a member of its policy or decision-making body or its administrative staff.

(3) Its procedures:

(i) The agency or association maintains clear definitions of each level of accreditation status and has clearly written procedures for granting, denying, reaffirming, revoking, and reinstating such accredited statuses.

(ii) The agency or association, if it has developed a preaccreditation status, provides for the application of criteria and procedures that are related in an appropriate manner to those employed for accreditation.

(iii) The agency or association requires, as an integral part of its accrediting process, institutional or program self-analysis and an on-site review by a visiting team.

(A) The self-analysis shall be a qualitative assessment of the strengths and limitations of the institution or program, including the achievement of institutional or program objectives, and should involve a representative portion of the institution's administrative staff, teaching faculty, students, governing body, and other appropriate constituencies.

(B) The agency or association provides written and consultative guidance to the institution or program and to the visiting team.

(b) *Responsibility.* Its responsibility will be demonstrated by the way in which—

(1) Its accreditation in the field in which it operates serves clearly identified needs, as follows:

(i) The agency's or association's accreditation program takes into account the rights, responsibilities, and interests of students, the general public, the academic, professional, or occupational fields involved, and institutions.

(ii) The agency's or association's purposes and objectives are clearly defined in its charter, by-laws, or accrediting standards.

(2) It is responsive to the public interest, in that:

(i) The agency or association includes representatives of the public in its policy and decision-making bodies, or in an advisory or consultative capacity that assures attention by the policy and decision-making bodies.

(ii) The agency or association publishes or otherwise makes publicly available:

(A) The standards by which institutions or programs are evaluated;

(B) The procedures utilized in arriving at decisions regarding the accreditation status of an institution or program;

(C) The current accreditation status of institutions or programs and the date of the next currently scheduled review or reconsideration of accreditation;

(D) The names and affiliations of members of its policy and decision-making bodies, and the name(s) of its principal administrative personnel;

(E) A description of the ownership, control and type of legal organization of the agency or association.

(iii) The agency or association provides advance notice of proposed or revised standards to all persons, institutions, and organizations significantly

affected by its accrediting process, and provides such persons, institutions and organizations adequate opportunity to comment on such standards prior to their adoption.

(iv) The agency or association has written procedures for the review of complaints pertaining to institutional or program quality, as these relate to the agency's standards, and demonstrates that such procedures are adequate to provide timely treatment of such complaints in a manner that is fair and equitable to the complainant and to the institution or program.

(3) It assures due process in its accrediting procedures, as demonstrated in part by:

(i) Affording initial evaluation of the institutions or programs only when the chief executive officer of the institution applies for accreditation of the institution or any of its programs;

(ii) Providing for adequate discussion during an on-site visit between the visiting team and the faculty, administrative staff, students, and other appropriate persons;

(iii) Furnishing, as a result of an evaluation visit, a written report to the institution or program commenting on areas of strengths, areas needing improvement and, when appropriate, suggesting means of improvement and including specific areas, if any, where the institution or program may not be in compliance with the agency's standards;

(iv) Providing the chief executive officer of the institution or program with an opportunity to comment upon the written report and to file supplemental materials pertinent to the facts and conclusions in the written report of the visiting team before the accrediting agency or association takes action on the report;

(v) Evaluating, when appropriate, the report of the visiting team in the presence of a member of the team, preferably the chairman;

(vi) Providing for the withdrawal of accreditation only for cause, after review, or when the institution or program does not permit reevaluation, after due notice;

(vii) Providing the chief executive officer of the institution with a specific statement of reasons for any adverse accrediting action, and notice of the right to appeal such action;

(viii) Establishing and implementing published rules of procedure regarding appeals which will provide for:

(A) No change in the accreditation status of the institution or program pending disposition of an appeal;

(B) Right to a hearing before the appeal body;

(C) Supplying the chief executive officer of the institution with a written decision of the appeal body, including a statement of specifics.

(4) It has demonstrated capability and willingness to foster ethical practices among the institutions or programs which it accredits, including equitable student tuition refunds and nondiscriminatory practices in admissions and employment.

(5) It maintains a program of evaluation of its educational standards designed to assess their validity and reliability.

(6) It secures sufficient qualitative information regarding the institution or program which shows an on-going program evaluation of outputs consistent with the educational goals of the institution or program.

(7) It encourages experimental and innovative programs to the extent that these are conceived and implemented in a manner which ensures the quality and integrity of the institution or program.

(8) It accredits only those institutions or programs which meet its published standards, and demonstrates that its standards, policies, and procedures are fairly applied and that its evaluations are conducted and decisions rendered under conditions that assure an impartial and objective judgment.

(9) It reevaluates at reasonable intervals institutions or programs which it has accredited.

(10) It requires that any reference to its accreditation of accredited institutions and programs clearly specifies the areas and levels for which accreditation has been received.

(c) *Reliability*. Its reliability is demonstrated by—

(1) Acceptance throughout the United States of its policies, evaluation methods, and decisions by educators, educational institutions, licensing bodies, practitioners, and employers;

(2) Regular review of its standards, policies and procedures, in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the student;

(3) Not less than two years' experience as an accrediting agency or association;

(4) Reflection in the composition of its policy and decisionmaking bodies of the community of interests directly affected by the scope of its accreditation.

(d) *Autonomous*. Its autonomy is demonstrated by evidence that—

(1) It performs no function that would be inconsistent with the formation of an independent judgment of the quality of an educational program or institution;

(2) It provides in its operating procedures against conflict of interest in the rendering of its judgments and decisions.

(20 U.S.C. 1141(a))

#### SUBPART B—CRITERIA FOR STATE AGENCIES

##### § 149.20 *Scope.*

(a) Pursuant to section 438(b) of the Higher Education Act of 1965 as amended by Public Law 92-318, the United States Commissioner of Education is required to publish a list of State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for Federal student assistance programs administered by the Office of Education.

(b) Approval by a State agency included on the list will provide an alternative means of satisfying statutory standards as to the quality of public postsecondary vocational education to be undertaken by students receiving assistance under such programs.

(20 U.S.C. 1087-1(b))

##### § 149.21 *Publication of list.*

Periodically the U.S. Commissioner of Education will publish a list in the FEDERAL REGISTER of the State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States.

(20 U.S.C. 1087-1(b))

##### § 149.22 *Inclusion on list.*

Any State agency which desires to be listed by the Commissioner as meeting the criteria set forth in § 149.24 should apply in writing to the Director, Accreditation and Institutional Eligibility Staff, Bureau of Postsecondary Education, Office of Education, Washington, D.C. 20202.

(20 U.S.C. 1087-1(b))

##### § 149.23 *Initial recognition, and reevaluation.*

For initial recognition and for renewal of recognition, the State agency will furnish information establishing its compliance with the criteria set forth in § 149.24. This information may be supplemented by personal interviews or by review of the agency's facilities, records, personnel qualifications, and administrative management. Each agency listed will be reevaluated by the Commissioner at his discretion, but at least once every four years. No adverse decision will become final without affording an opportunity for a hearing.

(20 U.S.C. 1087-1(b))

##### § 149.24 *Criteria for State agencies.*

The following are the criteria which the Commissioner of Education will

utilize in designating a State agency as a reliable authority to assess the quality of public postsecondary vocational education in its respective State.

(a) *Functional aspects.* The functional aspects of the State agency must be shown by:

(1) *Its scope of operations.* The agency:

(i) Is statewide in the scope of its operations and is legally authorized to approve public postsecondary vocational institutions or programs;

(ii) Clearly sets forth the scope of its objectives and activities, both as to kinds and levels of public postsecondary vocational institutions or programs covered, and the kinds of operations performed;

(iii) Delineates the process by which it differentiates among and approves programs of varying levels.

(2) *Its organization.* The State agency:

(i) Employs qualified personnel and uses sound procedures to carry out its operations in a timely and effective manner;

(ii) Receives adequate and timely financial support, as shown by its appropriations, to carry out its operations;

(iii) Selects competent and knowledgeable persons, qualified by experience and training, and selects such persons in accordance with nondiscriminatory practices, (A) to participate on visiting teams, (B) to engage in consultative services for the evaluation and approval process, and (C) to serve on decision-making bodies.

(3) *Its procedures.* The State agency:

(i) Maintains clear definitions of approval status and has developed written procedures for granting, reaffirming, revoking, denying, and reinstating approval status;

(ii) Requires, as an integral part of the approval and reapproval process, institutional or program self-analysis and onsite reviews by visiting teams, and provides written and consultative guidance to institutions or programs and visiting teams.

(A) Self-analysis shall be a qualitative assessment of the strengths and limitations of the instructional program, including the achievement of institutional or program objectives, and should involve a representative portion of the institution's administrative staff, teaching faculty, students, governing body, and other appropriate constituencies.

(B) The visiting team, which includes qualified examiners other than agency staff, reviews instructional content, methods and resources, administrative management, student services, and facilities. It prepares written reports and recommendations for use by the State agency.

(iii) Reevaluates at reasonable and regularly scheduled intervals institutions or programs which it has approved.

(b) *Responsibility and reliability.* The responsibility and reliability of the State agency will be demonstrated by:

(1) Its responsiveness to the public interest. The State agency:

(i) Has an advisory body which provides for representation from public employment services and employers, employees, postsecondary vocational educators, students, and the general public, including minority groups. Among its functions, this structure provides counsel to the State agency relating to the development of standards, operating procedures and policy, and interprets the educational needs and manpower projections of the State public postsecondary vocational education system;

(ii) Demonstrates that the advisory body makes a real and meaningful contribution to the approval process;

(iii) Provides advance public notice of proposed or revised standards or regulations through its regular channels of communications, supplemented, if necessary, with direct communication to inform interested members of the affected community. In addition, it provides such persons the opportunity to comment on the standards or regulations prior to their adoption;

(iv) Secures sufficient qualitative information regarding the applicant institution or program to enable the institution or program to demonstrate that it has an ongoing program of evaluation of outputs consistent with its educational goals;

(v) Encourages experimental and innovative programs to the extent that these are conceived and implemented in a manner which ensures the quality and integrity of the institution or program;

(vi) Demonstrates that it approves only those institutions or programs which meet its published standards; that its standards, policies, and procedures are fairly applied; and that its evaluations are conducted and decisions are rendered under conditions that assure an impartial and objective judgment;

(vii) Regularly reviews its standards, policies and procedures in order that the evaluative process shall support constructive analysis, emphasize factors of critical importance, and reflect the educational and training needs of the student;

(viii) Performs no function that would be inconsistent with the formation of an independent judgment of the quality of an educational institution or program;

(ix) Has written procedures for the review of complaints pertaining to institutional or program quality as these relate to the agency's standards, and demonstrates that such procedures are adequate to provide timely treatment of such complaints in a manner fair and equitable to the complainant and to the institution or program;

(x) Annually makes available to the public (A) its policies for approval, (B) reports of its operations, and (C) list of institutions or programs which it has approved;

(xi) Requires each approved school or program to report on changes instituted to determine continued compliance with standards or regulations;

(xii) Confers regularly with counterpart agencies that have similar responsibilities in other and neighboring States about methods and techniques that may be used to meet those responsibilities.

(2) Its assurances that due process is accorded to institutions or programs seeking approval. The State agency:

(i) Provides for adequate discussion during the on-site visit between the visiting team and the faculty, administrative staff, students, and other appropriate persons;

(ii) Furnishes as a result of the evaluation visit, a written report to the institution or program commenting on areas of strength, areas needing improvement, and, when appropriate, suggesting means of improvement and including specific areas, if any, where the institution or program may not be in compliance with the agency's standards;

(iii) Provides the chief executive officer of the institution or program with opportunity to comment upon the written report and to file supplemental materials pertinent to the facts and conclusions in the written report of the visiting team before the agency takes action on the report;

(iv) Provides the chief executive officer of the institution with a specific statement of reasons for any adverse action, and notice of the right to appeal such action before an appeal body designated for that purpose;

(v) Publishes rules of procedure regarding appeals;

(vi) Continues the approval status of the institution or program pending disposition of an appeal;

(vii) Furnishes the chief executive officer of the institution or program with a written decision of the appeal body, including a statement of its reasons therefor.

(c) *Capacity to foster ethical practices.* The State agency must demonstrate its capability and willingness to foster ethical practices by showing that it:

(i) Promotes a well-defined set of ethical standards governing institutional or programmatic practices, including recruitment, advertising, transcripts, fair and equitable student tuition refunds, and student placement services;

(ii) Maintains appropriate review in relation to the ethical practices of each approved institution or program.

(20 U.S.C. 1087-1(b))

[ER Doc. 74-19298 Filed 3-19-74;8:45 am]



### NATIONALLY RECOGNIZED ACCREDITING AGENCIES AND ASSOCIATIONS

The following accrediting bodies have been recognized by the U.S. Commissioner of Education as being reliable authorities concerning the quality of education or training offered by educational institutions or programs, February 1974. U.S. Department of Health, Education, and Welfare Office of Education, Bureau of Postsecondary Education, Accreditation and Institutional Eligibility Staff.

#### REGIONAL ACCREDITING COMMISSIONS

Middle States Association of Colleges and Secondary Schools, Harry W. Porter, Executive Secretary, Commission on Higher Education, Gateway One, Raymond Plaza West, Newark, N.J. 07102.

New England Association of Schools and Colleges, Robert R. Ramsey, Jr., Director of Evaluation, Commission on Institutions of Higher Education, 131 Middlesex Turnpike, Burlington, Mass. 01803. Ralph O. West, Director of Evaluation, Commission on Independent Secondary Schools, 131 Middlesex Turnpike, Burlington, Mass. 01803. Richard J. Bradley, Director of Evaluation, Commission on Public Secondary Schools, 131 Middlesex Turnpike, Burlington, Mass. 01803. Daniel S. Maloney, Director of Evaluation, Commission on Vocational Technical Institutions, 131 Middlesex Turnpike, Burlington, Mass. 08103.

North Central Association of Colleges and Secondary Schools, Joseph Semrow, Executive Secretary, Commission on Institutions of Higher Education, 5454 South Shore Dr., Chicago, Ill. 60615.

Northwest Association of Secondary and Higher Schools, James F. Bemis, Executive Director, Commission on Higher Schools, 3731 University Way, NE., #104, Seattle, Wash. 98105.

Southern Association of Colleges and Schools, Gordon W. Sweet, Executive Secretary, Commission on Colleges, 795 Peachtree St., NE., Atlanta, Ga. 30308. Bob E. Childers, Commission on Occupational Education Institutions, 795 Peachtree St., NE., Atlanta, Ga. 30308.

Western Association of Schools and Colleges, Kay J. Anderson, Executive Director, Accrediting Commission for Senior Colleges and Universities, c/o Mills College, Oakland, Calif. 95350. Harry D. Wisner, Secretary, Accrediting Commission for Junior Colleges, Post Office Box 4065, Modesto, Calif. 95350.

#### NATIONAL SPECIALIZED ACCREDITING ASSOCIATIONS AND AGENCIES

Accrediting Association of Bible Colleges, John Mostert, Executive Director, Box 543, Wheaton, Ill. 60187.

Accrediting Bureau of Medical Laboratory Schools, Hugh A. Woosley, Administrator, 3038 West Lexington Ave., Oak Manor Offices, Elkhart, Ind. 46154.

Accrediting Commission on Graduate Education for Hospital Administration, Gary L. Filerman, Executive Director, One Dupont Circle, NW., Washington, D.C. 20036.

American Assembly of Collegiate Schools of Business, Jesse M. Smith, Jr., Managing Director, 101 North Skinker Blvd., St. Louis, Mo. 63130.

American Association of Nurse Anesthetists, Bernice O. Baum, Executive Director, 111 East Wacker Dr., Chicago, Ill. 60601.

American Association of Theological Schools, Jesse H. Ziegler, Executive Director, 534 Third National Bldg., Dayton, Ohio 45402.

American Bar Association, Louis Potter, Assistant Director, Section of Legal Education and Admissions to the Bar, 1155 East 60th St., Chicago, Ill. 60637.

American Board of Funeral Service Education, William H. Ford, Administrator, 201 Columbia St., Fairmont W.Va. 26554.

American Chemical Society, J. H. Howard, Secretary, Committee on Professional Training, 343 State St., Rochester, N.Y. 14650.

American Council on Education for Journalism, Baskett Mosse, Executive Secretary, Accrediting Committee, Northwestern University, 215 Fisk Hall, Evanston, Ill. 60201.

American Council on Pharmaceutical Education, Fred T. Mahaffey, Secretary, 77 West Washington St., Chicago, Ill. 60602.

American Dental Association, Thomas J. Ginley, Secretary, Council on Dental Education, 211 East Chicago Ave., Chicago, Ill. 60611.

American Library Association, Agnes L. Reagan, Assistant Director for Education, Office of Library Education, 50 East Huron St., Chicago, Ill. 60611.

American Optometric Association, Ellis S. Smith, Jr., Executive Secretary, Council on Optometric Education, 7000 Chippewa St., St. Louis, Mo. 63119.

American Osteopathic Association, Albert E. O'Donnell, Director, Office of Education, 212 East Ohio St., Chicago, Ill. 60611.

American Podiatry Association, John L. Bennett, Director, Council on Podiatry Education, 20 Chevy Chase Circle, NW., Washington, D.C. 20015.

American Psychological Association, Ronald E. Kurz, Associate Educational Affairs Officer, 1200 17th St., NW., Washington, D.C. 20036.

American Public Health Association, Inc., Maggie Matthews, Staff Associate, Office of Health and Manpower, 1015 H St. NW., Washington, D.C. 20036.

American Society of Landscape Architects, Gary O. Robinette, Associate Executive Director, 1750 Old Meadow Rd., McLean, Va. 22101.

American Speech and Hearing Association, Claude S. Haynes, Chairman, Education and Training Board, 9030 Old Georgetown Rd., Washington, D.C. 20014.

American Veterinary Medical Association, W. M. Decker, Director of Scientific Activities, Department of Education and Licensure, 600 South Michigan Ave., Chicago, Ill. 60605.

Association for Clinical Pastoral Education, Charles E. Hall, Jr., Executive Director, Interchurch Center, Suite 450, 475 Riverside Dr., New York, N.Y. 10027.

Association of Independent Colleges and Schools, Dana R. Hart, Secretary, Accrediting Commission, 1730 M St., NW., Washington, D.C. 20036.

Cosmetology Accrediting Commission, James R. Taylor, Executive Director, 25775 Southfield Rd., Southfield, Mich. 48075.

Council on Medical Education. American Medical Association in Cooperation with: Accreditation Committee, American Occupational Therapy Association; Committee on Accreditation in Basic Education, American Physical Therapy Association; Curriculum Review Board, American Association of Medical Assistants; Education and Registration Committee, American Medical Record Association; Joint Review Committee for Inhalation Therapy Education; Joint Review Committee on Education for the Assistant to the Primary Care Physician; Joint Review Committee on Education in Radiologic Technology; Joint Review Committee on Education Programs in Nuclear Medicine Technology; National Accrediting Agency for Clinical Laboratory Sciences, C. H. William Ruhe, Secretary, Council on Medical Education, AMA, 535 North Dearborn St., Chicago, Ill. 60610.

Council on Social Work Education, Alfred Stamm, Director, Division of Educational Standards and Accreditation, 345 East 46th St., New York, N.Y. 10017.

Engineers' Council for Professional Development, David R. Reyes-Guerra, Executive Director, 345 East 46th St., New York, N.Y. 10017.

Liaison Committee on Medical Education, (In even numbered years), C. H. William Ruhe, Secretary, Council on Medical Education, American Medical Association, 535 North Dearborn St., Chicago, Ill. 60610.

(In odd numbered years), John A. D. Cooper, President, Association of American Medical Colleges, One Dupont Circle, NW., Suite 200, Washington, D.C. 20036.

National Accreditation Council for Agencies Serving the Blind and Visually Handicapped, Alexander F. Handel, Executive Director, 79 Madison Ave., New York, N.Y. 10016.

National Architectural Accrediting Board, Helen Steele, Executive Secretary, 1735 New York Ave., NW., Washington, D.C. 20006.

National Association for Practical Nurse Education and Service, Rose G. Martin, Executive Director, 122 East 42nd St., New York, N.Y. 10017.

National Association of Schools of Art, William Lewis, Director, Commission on Accrediting College of Architecture and Design, University of Michigan, Ann Arbor, Mich. 48104.

National Association of Schools of Music, Robert Glidden, Executive Secretary, One Dupont Circle, NW., Suite 650, Washington, D.C. 20036.

National Association of Trade and Technical Schools, William A. Goddard, Secretary, Accrediting Commission, 2021 L St., NW., Washington, D.C. 20036.

National Council for Accreditation of Teacher Education, Rolf W. Larson, Director, 1750 Pennsylvania Ave., NW., Washington, D.C. 20006.

National Home Study Council, William A. Fowler, Executive Secretary, Accrediting Commission, 1601 18th St., NW., Washington, D.C. 20009.

National League for Nursing, Margaret E. Walsh, General Director and Secretary, 10 Columbus Circle, New York, N.Y. 10019.

Society of American Foresters, Donald R. Theoe, Director of Professional Programs, 1010 16th St., NW., Washington, D.C. 20036.

#### OTHER

Board of Regents, Ewald Nyquist, Commissioner of Education, State Education Department, The University of the State of New York, Albany, N.Y. 12224.

Inquiries should be directed to: John R. Proffitt, Director, Accreditation and Institutional Eligibility Staff, Bureau of Postsecondary Education, U.S. Office of Education, Washington, D.C. 20202.

Mr. O'HARA. Our first witness today will be Hon. Peter Muirhead, Deputy Commissioner for Higher Education, who will introduce those accompanying him, and who will give us the information that we will need to start off these hearings.

Mr. Muirhead.

**STATEMENT OF PETER P. MUIRHEAD, DEPUTY COMMISSIONER, BUREAU OF POSTSECONDARY EDUCATION, U.S. OFFICE OF EDUCATION, ACCOMPANIED BY CHARLES M. COOKE, JR., DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (EDUCATION); JOHN R. PROFFITT, DIRECTOR, ACCREDITATION AND INSTITUTIONAL ELIGIBILITY STAFF, BUREAU OF POSTSECONDARY EDUCATION; AND JAMES W. MOORE, ACTING ASSOCIATE COMMISSIONER, OFFICE OF GUARANTEED STUDENT LOANS, OFFICE OF MANAGEMENT**

Mr. MUIRHEAD. Thank you, Mr. Chairman.

I am accompanied this morning by Mr. Charles Cooke, our deputy assistant secretary for legislation, and on my left, Mr. John Proffitt, the director of our accreditation and institutional eligibility staff, and on my right, the acting director of the guaranteed student loan program.

Mr. Chairman, I think you have provided what I consider to be a very succinct and excellent statement of the issues involved in accreditation and eligibility, and indeed, all of your hearings have been significant and important, but these hearings I think take on an even larger significance because as we move through the hearing it will become increasingly evident that this authority, accreditation and eligibility can be characterized almost as the powerhouse from which all the programs operate.

With your permission, Mr. Chairman, I should like to submit for the record a rather detailed statement. I would like to present a

briefer version of that statement and join with my colleagues in responding to your questions.

Mr. O'HARA. That would be an eminently satisfactory procedure. The full text of your statement will be entered at this point in the record.

[The document referred to follows:]

PREPARED STATEMENT OF PETER P. MUIRHEAD, DEPUTY COMMISSIONER, BUREAU OF POSTSECONDARY EDUCATION, U.S. OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### INTRODUCTION

Mr. Chairman, Members of the Committee, I want to thank you for the opportunity to present this statement to you.

My statement is divided into three major sections. First, I will sketch for you an overview of Institutional Eligibility determination by the Office of Education as it pertains to funding programs for postsecondary educational institutions.

Then, I will move to a discussion of accreditation as it relates to Institutional Eligibility for Federal funding programs.

And finally, I will review the strengths, weaknesses and problem areas which we perceive in the present system for Institutional Eligibility determination—a system which stipulates heavy reliance upon accreditation of educational institutions and programs by private organizations that have no legal responsibility to the Federal government.

Included as portions of my statement are several informational attachments. These include:

1. An eligibility checklist, or chart; and
2. A list of Governmental and Non-Governmental uses of accreditation;
3. List of accrediting agencies recognized by the Commissioner of Education.

#### OVERVIEW OF INSTITUTIONAL ELIGIBILITY DETERMINATION

Passage of the Higher Education Act and related statutes in 1965 that year launched the need for the Office of Education to determine, compile, and prepare lists of institutions eligible to participate in various Federal education programs established under the Act.

Culmination of the efforts may be seen in the list of over 8,300 institutions cited as eligible to participate in the largest and most broadly based Office of Education program of aid to students: the Guaranteed Student Loan Program, also called the Federal Insured Student Loan program. This program activity currently is providing Federal, State, or nonprofit guarantees to lenders in behalf of nearly seven million separate student loans for nearly seven billion dollars.

To assist with identifying and creating this list of more than 8,300 eligible institutions, the Accreditation and Institutional Eligibility Staff was formed in May of 1968 to produce eligibility determinations for some twenty U.S.O.E. programs. That Staff also provides assistance to other agencies within the Department of Health, Education, and Welfare, such as the Public Health Service in relation to health training programs, plus affording eligibility determinations to the Department of Justice, Federal Aviation Agency, Veterans Administration, Department of Housing and Urban Development and other Federal and State agencies. Furthermore, it engages in an extensive information dissemination program to institutions, students and the general public regarding eligibility and accreditation matters.

The universe of eligible institutions in the Guaranteed Student Loan Program, which is our largest single listing of eligible institutions, can be divided into seven main categories:

Foreign schools, 800; proprietary, 1,685; 4-year and higher, 1,730; junior

colleges and institutes, 1,300; hospital schools of nursing, 450; medical technology and related, 1,353; and public area vocational schools, 1,000.

Institutional eligibility based upon the 1965 Higher Education Act, and the series of amendments and statutes related thereto, is linked to two broad types of Federal program assistance: student financial aid, and direct institutional aid or support. Student financial assistance programs include the Basic and Supplemental Educational Opportunity Grants Program, the College Work-Study Program, the National Direct Student Loan Program and the aforementioned Guaranteed Student Loan Program. Institutional support programs include ones such as that for Strengthening Developing Institutions, the College Library Support Program, and Loans and Grants for Academic Facilities.

The term "Institutions of higher education" as defined in the statutory requirements, include public and nonprofit institutions which offer the traditional collegiate programs of study leading to a degree. The term also includes other public and nonprofit schools which offer one year programs of study that lead to gainful employment in recognized occupations such as hospital schools of nursing and other allied health schools, public area vocational schools and nonprofit business, trade and technical schools. Public and nonprofit institutions which meet all of the other specific requirements stated in the legislation, which I will discuss later, are eligible to participate in institutional support programs and programs that provide financial assistance to students attending these institutions. According to our latest figures, over 3,584 schools meet the statutory definition of "institution of higher education" and have been awarded eligibility status to participate in both institutional support and student financial aid programs.

Eligible proprietary schools may apply for participation in the Supplemental Educational Opportunity Grant Program, the National Direct Student Loan Program and the College Work-Study Program. Presently, 1,341 accredited proprietary institutions are eligible to participate in the Basic and Supplemental Educational Opportunity Grants Program, the National Direct Student Loan Program and the College Work-Study Program.

The Guaranteed Student Loan Program provides for the definition of a special category of schools, called "vocational schools," which include public, private non-profit and proprietary schools which offer postsecondary occupationally oriented programs to high school graduates and non-high school graduates. Over 3,000 of these vocational schools have been advised of their eligibility for this program. This figure includes 344 unaccredited proprietary vocational schools.

Before any school or institution may become eligible to participate in education programs administered by the Office of Education, it must meet certain minimum statutory requirements such as those indicated on the attached chart. These statutory eligibility elements fall into three categories. The first of these categories relate to factual information such as type of school, length of programs, and legal authorization. The second category involves special requirements established by program administrators under broader provisions of law, through regulation specifying provisions which participating schools must meet (such as "maintenance of efforts requirements" for library aid programs). The third category deals with the qualitative aspects of schools—or educational programs—in other words, accreditation, or one of the alternatives to accredited status.

It is in administering the Office of Education's responsibilities in relation to the qualitative factor of eligibility (i.e. that dealing with accreditation or its alternatives) that the greatest and most complex problems arise. Before mentioning some of these specific problems, however, we might first discuss accreditation and the Commissioner of Education's recognition of accrediting agencies.

# ELIGIBILITY CHECKLIST

INSTITUTIONS	YES	ELIGIBILITY INFORMATION SURVEY	NO
		1. ADMITS HIGH SCHOOL GRADS (or EQUIVALENT ONLY)	
		2. LEGALLY AUTHORIZED BY STATE OR POSTSECONDARY PROGRAM	
		3. OFFERS a BA DEGREE or a 2Yr PROGRAM Acceptable to such or offers a 2Yr ASSOCIATE DEGREE or offers 2Yr Vocational/Occupational Work or offers 1Yr General EMPLOYMENT	
		4. PUBLIC or NonProfit	
		or PROPRIETARY	
		ACCREDITATION	
		or PRE-ACCREDITED	
		or 3-INSTITUTIONAL CERTIFICATION	
		CIVIL RIGHTS COMPLIANCE	
		7. SECTARIAN	
		REGULAR CLASSES BEGAN/ ENROLLMENT	

### OVERVIEW OF ACCREDITATION AS IT RELATES TO INSTITUTIONAL ELIGIBILITY

Accreditation is a major factor in establishing the eligibility status of educational institutions and programs to participate in the various Federal funding programs of assistance to education. It also is a unique area in the eligibility determination process, because it is a process which takes place outside the jurisdiction of the Federal government, and it varies considerably in form and purpose, depending upon the organization conducting the process.

#### *Accreditation, a brief view of its history and functions*

The practice of accreditation arose around the turn of the century in response to the need to upgrade educational quality and to establish definitions and standards for general collegiate and professional education. It sought to execute a need that is fulfilled in many other countries of the world by ministries

of education or other centralized authorities, which exercise quality control functions over education. The philosophy of institutional autonomy in education, and the varying degree of control over institutions of higher education exercised by the States, also contributed to the need for this form of quality identification in education which is unique to the United States.

Private educational associations of regional and national scope have developed standards and procedures used in conducting peer evaluation aimed at determining whether or not educational institutions or programs are operating at basic levels of quality. The procedures of these accrediting commissions and associations usually involve five basic steps:

1. Establishment of educational standards in collaboration with educational institutions and other appropriate constituencies;
2. Conduct of institutional or program self-study by applicants for accreditation under the guidance of the accrediting body;
3. On-site evaluation by a team of peers, selected by the accrediting body, in order to determine first-hand if the institution's objectives and the accrediting body's standards are being met;
4. Publication of the accredited status of those institutions or programs which are determined by the accrediting body to have met its standards;
5. Periodic reevaluation of accredited institutions or programs to determine whether or not they continue to meet the established standards.

The nongovernmental accrediting agencies fall into two major categories—institutional and specialized. Institutional accreditation is conducted by agencies such as the commissions of the six regional accrediting associations. For example, the Southern Association of Colleges and Schools maintains four accrediting commissions—one for elementary schools, one for secondary schools, one for vocational schools, and one for degree-granting collegiate institutions.

Each regional association maintains at least one commission on higher education and one on secondary education. Two associations have established commissions for postsecondary occupational education and one has established a commission on elementary schools. Institutional accreditation applies to the total institution and signifies that the institution as a whole is achieving its objectives satisfactorily.

Specialized accreditation is conferred by a number of organizations which are national in scope, rather than regional, and each of which represent a specialized area, such as architecture, business, law, medicine, or teacher education. A primary purpose of specialized accreditation is to protect the public against professional or occupational incompetence. A majority of the programs evaluated by such agencies are located in regionally accredited institutions. However, most of the national specialized accrediting groups, in addition to accrediting programs within institutions, also accredit some specialized institutions which are not accredited by regional association commissions. Relatively recent newcomers to the accreditation scene are the specialized agencies dealing with the private (mostly for-profit) vocational sector of education, including business, cosmetology, home study education, and trade and technical education. These agencies deal with education located outside of the college and university sector, and, therefore, with varying emphases, evaluate both institutional and programmatic aspects of their educational universe.

#### *History of criteria for listing nationally recognized accrediting agencies and associations*

Although the Office of Education has dealt with accrediting agencies throughout much of its history, it was not until the enactment of the Veterans' Readjustment Assistance Act of 1952 (P.L. 82-550) that the U.S. Commissioner of Education was required, for the first time, to publish a list of nationally recognized accrediting agencies and associations which he determined to be reliable authority as to the quality of training offered by an educational institution. This statutory provision was subsequently restated in at least 14 major Federal aid-to-education legislative acts. In October 1952, subsequent to the passage of the Veterans' Readjustment Assistance Act, Criteria for the Recognition of National Accrediting Agencies and an initial list of 28 agencies so recognized were published. By 1967, there were 36 agencies listed by the Commissioner.

The 1952 Criteria remained in effect until January 16, 1969, when the current Criteria for determining nationally recognized accrediting agencies and associations were published in the *Federal Register*. By 1972, the Commissioner's list of recognized accrediting agencies had grown to 47, and by May of this year, 61 agencies were listed. Some ten additional accrediting agencies are in varying stages of petitioning the Commissioner for recognition and listing.

On March 1, 1974, revised Criteria for Nationally Recognized Accrediting Agencies and Associations were published under Notice of Proposed Rule Making in the *Federal Register*. The final version of these new criteria are currently in process of being published. We anticipate that they will become effective soon. A further revision of the criteria will be published by June 30, 1975.

Features of the proposed revised Criteria may be grouped into four broad categories which seek to insure the functionality, responsibility, reliability, and autonomy of nationally recognized accrediting agencies. More specifically, these elements include, in operation, the following:

a. *Functionality*.—An accrediting agency should be regional or national in its scope of operations and maintain a clear definition of its activities, both as to geographic area and nature and type of institutions or programs covered. It should have adequate administrative and financial support to carry out its accrediting programs, and should have access to a sufficient number of competent and knowledgeable personnel to participate on visiting teams, on its decision-making committee, and as consultants. The agency shall also have developed clearly written procedures for each level of accreditation status, including institutional or program self-analysis and on-site reviews by a visiting team.

b. *Responsibility*.—Considerations here include: a clearly identified need for accreditation by the agency in the field in which it operates; responsiveness to the public interest; adequate provisions for due process in accrediting procedures; demonstrated capability and willingness to foster ethical practices among the institutions or programs which it accredits; a program of evaluation of educational standards.

c. *Reliability*.—The agency demonstrates wide acceptance of its policies, procedures, and decisions: regular review of its standards and procedures; experience as an accrediting agency; and representation in its policy and decision-making bodies of the community of interests directly affected by the scope of its accreditation.

d. *Autonomy*.—The agency must demonstrate the autonomy and independence of its decisions from outside influences.

It is noteworthy that these revised Criteria place increased emphasis upon accrediting agencies' responsibility to the public interest and their reliability of operations.

Whereas the various versions of the Criteria for Nationally recognized Accrediting Agencies and Associations have been the Office's instrument for directly supporting constructive change in the area of accreditation as it relates to the eligibility process, the Office has funded or supported a number of projects over the past six years designed to improve indirectly the effectiveness of the eligibility determination process:

1. Study of Accreditation of Vocational-Technical Curricula in Postsecondary Institutions, conducted by the Center for Research and Development in Higher Education of the University of California under contract with the Office of Education;

2. National Study for Accreditation of Vocational/Technical Education, conducted by the American Vocational Association under contract with the Office of Education;

3. Study of Licensure and Related Health Personnel Credentialing, conducted by the Department of Health, Education, and Welfare;

4. Study of Accreditation of Selected Health Educational Programs, sponsored by the American Medical Association, the Association of Schools of Allied Health Professions, and the National Commission on Accrediting;

5. Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees, developed by the Education Commission of the States through funds supplied by the Office of Education, the Veterans Administration, and the Department of Defense; and

6. Study of Private Accrediting and Public Funding, prepared for the Office of Education under contract with the Brookings Institution and the National Academy of Public Administration Foundation.



*Review procedures for listing nationally recognized accrediting agencies*

Those accrediting agencies requesting recognition by the Commissioner of Education undergo intensive review by the Office's Accreditation and Institutional Eligibility Staff and by the Commissioner's Advisory Committee on Accreditation and Institutional Eligibility, in order to determine whether or not they comply with the Criteria for Nationally Recognized Accrediting Agencies and Associations.

The Accreditation and Institutional Eligibility Staff was established by the Commissioner of Education in 1968 in order to centralize matters within the Office of Education dealing with eligibility and accreditation and to provide support for the Commissioner of Education's Advisory Committee on Accreditation and Institutional Eligibility.

Accrediting agencies seeking recognition by the Commissioner, or those undergoing regular periodic review, file petitions with the Director of the Accreditation and Institutional Eligibility Staff. The Staff reviews the petition and may take various investigative steps in order to prepare a summary report to the Advisory Committee concerning the applicant's status with the Criteria for Nationally Recognized Accrediting Agencies and Associations. At the time of the Advisory Committee review, agency representatives and interested third parties are offered time for brief oral presentation before the Committee. The Advisory Committee recommendations regarding petitioning accrediting agencies are forwarded to the Commissioner of Education for his review. The Commissioner informs the applicants of his decision following his consideration of the Advisory Committee's recommendations.

Agencies listed, or recognized, by the Commissioner are normally reviewed every four years. Developing agencies may be given a shorter period of recognition, indicating the Commissioner's determination that such agencies have potential to eventually fulfill the Criteria. The Commissioner exercises the right to review at any time a recognized agency which has developed problems relevant to its compliance with the Criteria.

Appeals of the Commissioner's decisions are heard by specially constituted panels of knowledgeable nongovernmental persons who are not members of the Advisory Committee. These hearing panels report directly to the Commissioner, who acts upon their advice.

The Advisory Committee performs a key role in the process of recognizing accrediting agencies and associations for the purpose of determining institutional or program eligibility for Federal funding programs. The Committee was established by the Secretary of Health, Education, and Welfare in 1968 and was subsequently chartered under the Federal Advisory Committee Act (P.L. 92-463). It is composed of 15 members from various segments of the secondary and postsecondary education community, student/youth population, State departments of education, professional associations, and the general public. The Committee is advisory to the Secretary of Health, Education, and Welfare and the Commissioner of Education. Its functions include the authority to:

1. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and designation of accrediting agencies and associations wishing to be designated as nationally recognized accrediting agencies and associations, and recommend desirable changes in criteria and procedures.
2. Perform similar functions relevant to the Commissioner's authority to recognize State agencies for approval of public postsecondary education and nurse education;
3. Review and advise the Commissioner of Education in the formulation of all current and future policy relating to institutional eligibility;
4. Review legislation affecting the Office of Education's responsibility in the area of accreditation and institutional eligibility and recommend needed changes;
5. Review and recommend action to the Commissioner of Education regarding applicant national accrediting agencies and State vocational and nurse education approval agencies;
6. Develop standards and criteria for specific categories of vocational training institutions and institutions of higher education which have no alternative route by which to establish eligibility for Federal funding programs;

7. Advise the Commissioner regarding the award of degree-granting status to Federal agencies and institutions.

STRENGTHS, WEAKNESSES, AND PROBLEM AREAS IN THE PRESENT SYSTEM.

I turn now to several key observations about the dynamics of the present system, gleaned from the Office's six years' experience in monitoring the eligibility mechanism I have described above. These observations are offered in the spirit of enlisting your continued support for the improvement of the system.

1. *The relative autonomy of the accrediting agencies.*—Accreditation has been written into Federal legislation as a quality control device in order to help ensure the Government's investment in postsecondary education, and, even more importantly, as a means of aiding students and others in identifying institutions and programs deemed to be educationally worthy. We must constantly bear in mind, however, that the accrediting agencies are private, independent, voluntary agencies having discrete, albeit laudable, purposes which do not always coincide neatly with the objectives inherent in Federal aid to education. Accrediting agencies are committed philosophically to stimulation of institutional or programmatic uplift through a traditional pattern of expert peer review. They do not view themselves, nor do they function, as regulatory bodies. They have no legal authority to require compliance; they work instead by persuasion to maintain understanding and acceptance of their role and function by their constituents and the general public. All accrediting agencies are limited in funds and staffing, and rely heavily on volunteer labor from member organizations. All are now deeply aware of, and some have already experienced, a marked vulnerability to litigation, which they are ill-prepared to engage in successfully.

One aspect of the Office's relationship to accrediting agencies involves the processing of complaints against accredited schools and schools which are eligible for participation in Federally-funded programs of assistance to postsecondary education. Complaints about schools—whether accredited or non-accredited—are directed to the Accreditation and Institutional Eligibility Staff from many sources. These include parents, consumer organizations, students, USOE regional officers, other divisions within O.E., other Federal and State agencies, the Congress, and the White House. These complaints include such matters as misrepresentation by salesmen, inadequate or late refunds of tuition, poor quality of instruction or equipment, and enrollment of persons incapable of benefiting from the instruction.

Although the Office is not empowered to exercise direct control over educational institutions, it does seek to determine, in the case of accredited schools, whether or not a possible violation of the accrediting agency's standards has occurred in such complaint cases.

The Staff reviews each complaint and, if an accredited school is involved, directs a copy of the complaint to the appropriate accrediting agency with a request that the agency review the matter and report its findings to the Staff. The Staff, in turn, reviews the report of the accrediting agency and informs the complainant of the agency's findings. In the event that the Staff is not satisfied that the accrediting agency has investigated the matter thoroughly or if the complainant provides additional substantive information relating to the complaint, the Staff may ask the accrediting agency to review the matter further.

Although the Staff usually directs complaints against accredited schools to the appropriate agency for investigation, the Staff may, at times, correspond directly with schools regarding alleged educational malpractice. Such was the case in connection with a series of articles dealing with proprietary vocational schools which recently appeared in the *Boston Globe*.

The *Globe* accused several proprietary vocational schools operating in the Boston area of a variety of abuses ranging from misleading advertising to violation of State laws. Inasmuch as several of the schools named by the *Globe* are accredited by nationally recognized accrediting agencies, these abuses, if actually committed, would indicate serious violations of the agencies' accreditation standards. Accordingly, the Staff corresponded with the accrediting agencies and requested that they submit to O.E. a report of their investigation of the matter. Further, because several of the schools cited are eligible for Federal financial assistance programs administered by O.E., the Staff wrote to

each eligible institution and requested that it provide O.E. with its response to the *Globe* allegations. Presently, the Office of Education still is in the midst of an intensive review of the cases and issues revealed by the *Globe* articles. A report on this will be presented to the Commissioner's Advisory Committee sometime this fall.

Another timely series of articles regarding the trade school industry was published recently in the *Washington Post*. Entitled, "The Knowledge Hustlers," these articles provide another perspective on what, hopefully, is a national effort to rid the Nation of fraud, exploitation, and deceit wherever practiced on Americans seeking to further their education. The *Post* series gives greater visibility to important issues regarding which the Federal Government is working closely with State and private groups in an effort to fashion solutions.

The relevant statutes speak only to the Federal reliance on the *outputs* of the accrediting agencies for eligibility purposes, and those outputs are the lists of accredited institutions or programs maintained by every accrediting body. Because of the vast sums of Federal money which ultimately flow through reliance upon the accrediting mechanism, however, the Office has deemed it only prudent to establish, and gradually intensify, Federal oversight of the operations of those accrediting agencies recognized by the Commissioner. One of the pressing questions right now is just how far this oversight can and should go in order to achieve realistic assurance that both the students' educational rights and the taxpayer's dollars are protected while, at the same time, avoiding unwarranted Federal intrusion into the educational process.

2. *Problems of consistency with a heterogeneous universe.*—Because of the need for consistency in administration, there is a tendency to think of "post-secondary education" as a homogeneous entity. This frame of reference has been reinforced by an active Federal posture against discrimination of any sort against any of the various categories of schools. In reality, however, the post-secondary educational universe is a set of heterogeneous sub-systems.

With the establishment of each new funding program, O.E. has found the problems becoming more complex in sorting out the real from the imagined differences among institutional types, particularly as categorized by type of control: public, private non-profit, and proprietary, or profit-making. Though the educational funding statutes make some provision for stricter treatment and limited benefits for profit-making schools, they are silent on the extent to which the public should be protected from unethical school operators who are more interested in profits than in education. The Office of Education has been examining the problem of need and justification for valid, differentiated standards in this regard for some time now. From a practical standpoint, O.E. has determined that one feasible attack upon this problem can be made by shoring up educational consumer protection in general, a subject which shall be treated separately below.

3. *Increasing complexity of eligibility determination.*—We are all aware of the fast-paced change taking place all around us, and education is logically in as much ferment as is the rest of society. The basic philosophical framework for Federal reliance on the private mechanism of accreditation for eligibility purposes was developed initially for the 1952 Korean GI Bill (twenty-two years ago) and reinforced by adoption of the 1958 National Defense Education Act (sixteen years ago). It was essentially retained during the mid-sixties when landmark legislation in support of higher education was enacted (approximately ten years ago). We should not be surprised to find, then, strains and bruises as we attempt to resolve today's eligibility problems into statutes that were designed to suit another era. Almost twenty classes of students have enrolled, under Federal funding assistance programs, in the halls of ivy since the Korean GI Bill became law.

Some specific illustrations will convey my meaning better. Without elaboration, I shall merely cite nine eligibility dilemmas currently facing the Office, none of which is adequately addressed by statute, regulation, or guideline:

1. Open universities, or external degree and other non-traditional programs
2. Foreign institutions
3. Branch Campuses
4. Postsecondary occupational-technical education
5. Library institutions, organizations, and agencies
6. Combinations of institutions (consortia, etc.)

### 7. Partially eligible institutions

### 8. Small, free-standing, special purpose institutions

### 9. Part-time study and continuing education

Two other basic points should be made with regard to difficulties in eligibility determinations. First, the Office must deal sympathetically with the accrediting agencies' attempt to address what they see as their own goals, needs and purposes. The objectives of some of the accrediting organizations occasionally are not targeted fully on broader public or social goals. Under present regulations, there often is nothing that can be done when such unfavorable impact occurs. Second, informed and discerning administration of the existing eligibility machinery is not limited to declaring institutions and programs eligible, but also to declaring them ineligible when necessary in an appropriate and timely manner. Indeed, the ability to act swiftly and fairly on the termination of eligibility is extremely critical when an institution's quality situation is deteriorating rapidly.

The authority to develop regulations to limit, suspend or terminate eligibility for the Federally Insured Student Loan Program was obtained in the Higher Education Amendments of 1972, and procedures are presently being drafted under this authority.

4. *Educational consumer protection.*—Utilizing the concept of educational consumer protection, the Office has been moving strongly on this front during the past two years. Specifically, the Office of Education has supported, participated in or accomplished the following general remedies for unethical school practices in postsecondary education:

1. Information exchange with States, the Federal Trade Commission, and other Federal agencies concerning consumer complaints against educational institutions falling within the purview of these agencies;

2. Support and consultation regarding FTC's development of consumer education materials and Guides for Private Vocational and Home Study Schools;

3. Support and consultation with various States on special programs and improvement of legislation in the educational realm;

4. provision of contract funds, in conjunction with the Department of Defense and the Veterans Administration, for the development of a model State law governing the approval of private postsecondary schools by the Education Commission of the States;

5. Funding by the Office for a study of the interface between private accreditation and eligibility for participation in Federal education programs (in the final stages of completion by the Brookings Institution);

6. Creation and operation of the Federal Interagency Committee on Education's Subcommittee on Educational Consumer Protection. This Subcommittee, in which O.E. serves as the lead agency, presently is preparing a report outlining a proposed Federal strategy for dealing with the overall educational consumer protection problem. This report will be presented to the Interagency Committee at its September meeting.

7. Revision of the Criteria for Nationally Recognized Accrediting Agencies and Associations to provide both specific and general requirements for responsibility and accountability to the public interest on the part of accrediting agencies and associations listed by the Commissioner of Education;

8. Initiation of improved methods for reviewing accrediting agencies and associations having status with the Office;

9. Review by the Commissioner's Advisory Committee on Accreditation and Institutional Eligibility of matters pertaining to the ethical operation of eligible educational institutions; and

10. Tightening of the "three-institutional-certification" procedure a statutory alternative to accreditation by a nationally recognized accrediting agency by which an institution may demonstrate that its credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

I want now to elaborate briefly on two items in the realm of educational consumer protection. First, while considerable publicity has been given to the unethical practices of certain proprietary schools, there is growing evidence that similar problems exist at nonprofit vocational and collegiate institutions. As the competition for students becomes more acute, it is possible that many of these institutions are adopting practices previously ascribed only to the proprietary school industry.

Second, increased reliance on State agencies to provide added consumer protection in postsecondary education is a matter which deserves thorough exploration at this time. One salient advantage in using State agencies, when they are efficient and effective, is that they generally can provide closer surveillance and oversight, and can react more quickly, than can a regional or national organization or agency.

#### SUMMARY

I have tried above to sketch out for you our view of the real world of accreditation and institutional eligibility as we see it today from our particular vantage point. It is not an altogether gloomy picture. A true statistical perspective tells us that Federal aid to postsecondary education has been a phenomenal success: billions of dollars have flowed, millions of students have benefited, and thousands of institutions have been strengthened for service to the nation. There is a great deal to be proud of.

It is becoming increasingly evident, however, that the national concern for extending postsecondary education opportunities to all who desire and can benefit from them will require more diversification and flexibility in obtaining these opportunities than is now the case. This, of course, means that accreditation and eligibility procedures must be adapted to these changing conditions, while at the same time preserving institutional autonomy and protecting the educational consumer interest. With your continued good help, we shall try to hammer out eligibility standards that will facilitate needed changes and innovations in postsecondary education—standards that will be strict enough to protect the public interest but flexible enough to encourage rather than inhibit needed changes and innovations in postsecondary education.

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#### GOVERNMENTAL AND NONGOVERNMENTAL AGENCIES UTILIZING INFORMATION ABOUT THE ACCREDITED STATUS OF INSTITUTIONS AND PROGRAMS, JUNE 1971

(By the Accreditation and Institutional Eligibility Staff, Department of Health, Education, and Welfare, Office of Education, Bureau of Higher Education)

A number of organizations, both governmental and non-governmental are concerned with the accreditation status of institutions of higher education. The Accreditation and Institutional Eligibility Staff services these organizations on a continuing basis, providing current information about accreditation and the status of educational institutions. The organizations listed below are frequently concerned with information provided by the AIE staff:

#### GOVERNMENTAL AGENCIES

1. *Air Force*.—Student nursing programs are affiliated with Air Force Hospitals. Affiliated institutions must be accredited by an agency listed by the U.S. Commissioner of Education.

2. *Armed Forces Chaplains Board*.—Potential military chaplains must have earned degrees from institutions accredited by nationally recognized accrediting bodies.

3. *Army Nurse Corps*.—Supports medical education programs accredited by nationally recognized accrediting associations.

4. *Census Bureau*.—Collects basic research data from the AIE staff on the accreditation status of post-secondary educational institutions.

5. *Civil Service Commission*.—Candidates for Civil Service examinations must be graduates of accredited institutions in order to sit for certain examinations. The Civil Service Commission often needs historical information on the accreditation status of institutions for its credential evaluation work.

6. *Department of Defense*.—The Army, Navy, Marine Corps, and Coast Guard consult with the U.S. Office of Education to determine the accredited status of institutions for early release programs, for determining the eligibility of personnel for educational benefits, and for granting other benefits to military personnel and their dependents.

7. *Department of Housing and Urban Development*.—Grants are made to accredited institutions for the construction of college housing.

8. *Department of Labor, Bureau of Labor Statistics.*—AIE provides current information to BLS on the accredited status of institutions which the Bureau uses in the preparation of research documents.

9. *Department of State.*—Information on the nature and quality of U.S. institutions of higher education is provided to potential foreign students by the Department of State. AIE supplies this information by reporting on the accreditation status of institutions.

10. *Immigration and Naturalization Service.*—Before the Attorney General may approve a U.S. institution for the attendance of non-immigrant students, he is required by law to consult with the Office of Education to determine whether applicant institution is considered "an established institution of learning or other recognized place of study, is operating a bona fide school, and has the necessary facilities, personnel, and finances to instruct in recognized courses." The service required is performed by the AIES staff at elementary, secondary, higher, and vocational-technical levels.

11. *The Institute of International Education.*—In its quasi-official role as the agency facilitating study of students in countries other than their own, IIE utilizes the services provided by the AIES in its activities.

12. *Library of Congress.*—Staff members call on AIE for data necessary in LC research projects and to obtain information requested directly by Members of Congress.

13. *Members of Congress.*—Congressional offices continually contact the AIES for information about the academic and eligibility status of higher education and vocational-technical schools located in their respective districts or states.

14. *National Institutes of Health.*—NIH requires current information on the accreditation status of institutions in order to determine the eligibility of applicants for research grants.

15. *National Library of Medicine.*—Maintenance of current information on the accreditation status of educational institutions offering pre-medical curricula is a service performed by the NLM. This information is used across the country by medical schools evaluating credentials of potential students.

16. *Office of Education.*—USOE program staff requires information about the accreditation status of educational institutions for administration of post-secondary programs established under the Higher Education and Vocational Education statutes.

The AIES certifies to the National Center for Educational Statistics the eligibility of institutions of higher education on the basis of accreditation or an acceptable equivalent, for inclusion in the *Education Directory: Higher Education*, published annually by the Office of Education, and probably the most widely used publication issued by the Office.

17. *Public Health Service.*—AIES certifies to the Surgeon General, Public Health Service, the accredited or preaccredited status of medical, dental, osteopathic, pharmaceutical, podiatric, and veterinary schools, to facilitate the administration of The Public Health Service Act. It also certifies to the Division of Nursing, PHS, the accredited status (or acceptable equivalent) in the case of nursing schools or programs at the hospital, associate, baccalaureate and higher degree levels. This includes certification of nursing schools accredited by State nurse approval agencies.

18. *Social Security Administration.*—Students attending accredited institutions of higher education are eligible to receive survivors benefits under Social Security legislation and SSA sometimes requests AIES for this information.

19. *State Department of Education.*—Information on the accreditation status of institutions of higher education is requested by state teacher certification offices. Historical data are often needed by these offices.

20. *State Higher Education Assistance Agencies.*—Information about the accreditation and eligibility status of institutions is constantly requested by these agencies which administer loans to eligible students in eligible institutions under the provisions of Title IV(b) of the Higher Education Act of 1965, as amended.

21. *Veterans Administration.*—Information on the accreditation status of institutions is needed by the VA in their administration of the War Orphans Educational Assistance Act of 1956, Public Law 82-550, the Veterans Readjustment Assistance Act, first enunciated the responsibility of the U.S. Commissioner of Education for publishing a list of nationally recognized accrediting

agencies which he determined to be reliable authority as to the quality of education and training offered by educational institutions and programs. The AIES supplies the VA with information necessary for the performance of its functions under the provisions of this act.

#### NONGOVERNMENTAL AGENCIES

22. *American Association of University Professors.*—Information is frequently sought by the AAUP as membership in this organization is limited to faculty of accredited institutions of higher education.

23. *College Blue Book Corporation.*—Requests for information on the accreditation status of institutions is made by this company for use in their publications.

24. *Educational Testing Service.*—ETS requests information for their own internal research purposes.

25. *National Education Association.*—The NEA utilizes information on accreditation in its research efforts.

26. *International Association of Universities, Paris, France.*—This organization publishes a world directory every two years and requests a list from the AIE staff of accredited U.S. institutions of higher education.

27. *Peterson's Annual Guides to Graduate Study, Undergraduate Study.*—This corporation consults AIES for information used in compiling its guides.

28. *Press (magazines and newspapers).*—AIES receives requests from the press for information about institutions currently in the news including enterprises designated as degree mills or subject to such designation.

29. *The Public.*—Many citizens request current and historical information about the accreditation and eligibility status of institutions of higher education and vocational-technical schools.

**Mr. MUIRHEAD.** Thank you, Mr. Chairman.

A short word about the overview of how institutional eligibility is determined. The passage of the Higher Education Act and related statutes in 1965, launched the need for the Office of Education to prepare lists of institutions eligible to participate in various education programs established under the act.

The accreditation and institutional eligibility staff was formed in May of 1968 to carry on this work for some 20 Office of Education programs. In addition it provided eligibility determination to other HEW agencies, the Department of Justice, Federal Aviation Agency, Veterans' Administration, Department of Housing and Urban Development and other Federal and State agencies.

The number of institutions, Mr. Chairman, listed as eligible now under the provisions of that act totals more than 8,300, including the whole range of collegiate and noncollegiate institutions in the post-secondary education community.

Institutional eligibility is linked to two broad types of Federal program assistance: student financial aid and direct institutional aid or support.

Before any school or institution may become eligible to participate in education programs administered by the Office, it must meet certain minimum statutory requirements, such as those indicated in the chart which is attached to my statement.

The most pertinent of those statutory requirements deals with the qualitative aspects of schools or educational programs—in other words, accreditation, or, as the law provides, one of the alternatives to accredited status.

It is in administering the Office of Education's responsibilities in relation to the qualitative factor of eligibility—that is, dealing with

accreditation or its alternatives—that the greatest and most complex problems arise.

If we are mentioning some of these specific problems, it might be helpful for us to discuss briefly accreditation and the Commissioner's responsibility for recognizing accrediting agencies.

Accreditation is a major factor in establishing the eligibility status of educational institutions and programs to participate in the various Federal funding programs of assistance to education.

It is also a unique process because it takes place outside the jurisdiction of the Federal Government, and it varies considerably in form and purpose, depending upon the organization conducting the process.

Let me make a brief comment on the history and function of accreditation. The practice of accreditation arose around the turn of the century in response to the need to upgrade educational quality and to establish definitions and standards for general collegiate and professional education.

It sought to carry out a need that is fulfilled in many other countries of the world by ministries of education or other centralized authorities. Such authorities exercise quality control functions over education.

The philosophy of institutional autonomy in education, and the varying degree of control over institutions of higher education exercised by the States, also contributed to the need of this form of quality identification in education which is unique in the United States.

Private educational associations of regional and national scope have developed standards and procedures in conducting peer evaluation aimed at determining whether or not educational institutions or programs are operating at basic levels of quality.

The procedures of these accrediting commissions and associations usually involve five basic steps, and they are detailed in the full statement. The five steps are:

1. The establishment of educational standards.
2. The conduct of institutional or program self-study.
3. On-site evaluation by a team of peers.
4. Publication of the accredited status of these institutions or programs.
5. Periodic review of the accredited institution.

The nongovernmental accrediting agencies fall into two major categories—:institutional and specialized, or programmatic. Institutional accreditation is conducted by such agencies as the commissions of the six regional associations, for example, the Southern Association of Colleges and Universities.

Specialized accreditation is carried on by a number of organizations which are national in scope, rather than regional, and each of which represent a specialized area, such as architecture, business, law, medicine, or teacher education.

The primary purpose of specialized accreditation is to protect the public against professional or occupational incompetence.

Now a word about the Commissioner's statutory responsibility to list nationally recognized accrediting agencies. Although the Office of Education has dealt with accrediting agencies throughout much of its history, it was not until the enactment of the Veterans' Readjustment



Assistance Act of 1952 that the U.S. Commissioner of Education was required, for the first time, to publish a list of nationally recognized accrediting agencies and associations which he determined to be reliable authority as to the quality of training offered by an educational institution.

By 1972, the Commissioner's list of recognized accrediting agencies had grown to 47, and by May of this year, 61 agencies were listed. I should report that some 10 additional accrediting agencies are in varying stages of petitioning and Commissioner for recognition and listing.

Criteria for nationally recognized accrediting agencies and associations have been revised from time to time and the most recent revision appeared in the Federal Register on March 1, 1974.

I have provided a detail of those criteria in the statement which I have submitted for the record.<sup>1</sup> It is noteworthy, I think, Mr. Chairman, that the most recent set of criteria which now appear in the Federal Register place increased emphasis on the accrediting agencies' responsibility to the public interest and their reliability of operations.

Whereas the various versions of the criteria for nationally recognized accrediting agencies and associations have been the Office's instrument for directly supporting constructive change in the area of accreditation as it relates to the eligibility process, the Office has, in addition, funded or supported a number of projects over the past 6 years designed to improve indirectly the effectiveness of the eligibility determination process.

I have listed those studies in the statement for the record and I would like to particularly point out the study that has been carried on through the cooperation with the Brookings Institution. That is a study of private accrediting and public funding, and that has been prepared for the Office of Education under contract with the Brookings Institution and the National Academy of Public Administration Foundation.

We will be having considerable discussion and hearings on that report.

Let me now mention rather briefly the procedures that are followed in listing nationally recognized accrediting agencies. Those accrediting agencies requesting recognition by the Commissioner of Education undergo intensive review by the Office's accreditation staff and institutional eligibility staff and this is done in order to determine whether or not they comply with the criteria for nationally recognized accrediting agencies and associations.

Accrediting agencies seeking recognition by the Commissioner file petitions with the Commissioner and the staff. The staff reviews the petition and may take various steps in order to prepare a summary report to the Advisory Committee on Accreditation and Institutional Eligibility concerning the applicant's conformity with the criteria for nationally recognized accrediting agencies and associations.

At the time of the advisory committee review, agency representatives and interested third parties are offered time for brief oral presentation before the committee. The advisory committee recom-

<sup>1</sup> See p. 11.

mendations regarding petitioning accrediting agencies are forwarded to the Commissioner of Education for his review. The Commissioner informs the applicants of his decision following his consideration of the advisory committee's recommendations.

Appeals of the Commissioner's decisions are heard by specially constituted panels of knowledgeable nongovernmental persons who are not members of the advisory committee. As you must have noted, the advisory committee performs a key role in the process of recognizing accrediting agencies and associations for the purpose of determining institutional or program eligibility for Federal funding programs.

The advisory committee is composed of 15 members from various segments of the secondary and postsecondary education community, student/youth population, State departments of education, professional associations, and the general public.

The committee is advisory to the Secretary of Health, Education, and Welfare and the Commissioner of Education. Its functions, which I will be pleased to submit for the record, are listed in the complete statement.

I would also, with your permission, like to submit the names of the members of that advisory committee for the record.

Mr. O'HARA. Without objection, the submission will be included in the record.

[The document referred to follows:]

#### ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

##### MEMBER AND EXPIRATION DATE

Dr. John E. Barrows, Director of Institutional Studies, University of Kentucky, Lexington, Ky. 40506, June 30, 1975.

Mr. Thomas Bolton, President, Mills River Tomato Corp., P.O. Box 67, Horse Shoe, N.C. 28742, June 30, 1976.

Ms. Roma Brown, Council on Health Organizations, Association of Schools of Allied Health, 7720 "C" Stenton Avenue, Apt. No. 206, Philadelphia, Pa. 19118, June 30, 1975.

Hon. Lillian W. Burke, Judge, Cleveland Municipal Court, Cleveland City Hall, Cleveland, Ohio 44114, June 30, 1976.

Ms. Marie A. Chavez, 1005 Jenkins, University of Oklahoma, Norman, Okla. 95069, June 30, 1974.

Dr. Leadie M. Clark, Assistant Superintendent of Instruction, Los Rios Community College District, 2011 Arden Way, Sacramento, Calif. 95825, June 30, 1976.

Dr. George L. Grassmuck, Professor of Political Science, University of Michigan, Ann Arbor, Mich. 48104, No.

Mr. John F. X. Irving, Esq., Dean, Seton Hall University School of Law, 40 Clinton Street, Newark, N.J. 07102, June 30, 1974.

Mr. Abner V. McCall, Esq., President, Baylor University, Waco, Tex. 76703, June 30, 1975.

Mr. Wendall H. Pierce, Executive Director, Education Commission of the States, 300 Lincoln Tower Building, 1860 Lincoln Street, Denver, Colo. 80203, June 30, 1974.

Mr. George L. Ramey, Director, Mayo State Vocational School, Third Street, Paintsville, Ky. 41240, June 30, 1975.

Dr. James P. Steele, Vice President, American College of Radiology, Box 650, Yankton, S.D. 57078, June 30, 1974.

Dr. Walter D. Talbot, State Superintendent of Public Instruction, Utah State Board of Education, Salt Lake City, Utah 84111, June 30, 1976.

Mr. Vallean Wilkie, Jr., Executive Vice President, Sid Richardson Foundation, Fort Worth National Bank Building, Fort Worth, Tex. 76102, June 30, 1974.

Mr. Phillip H. Wye, Haven Junior High School, 2417 Prairie, Evanston, Ill. 60202, June 30, 1975.

Mr. MUIRHEAD. Having gone over that very briefly, and I am sure you will want to discuss it in more detail in our back and forth, let me share with you now some of the problems that we have identified concerning accreditation in relation to institutional, program and student eligibility.

I turn now to what I consider to be several key observations about the dynamics of the present system. They have been gleaned from the Office's 6 years experience in monitoring the eligibility mechanism. These observations, as always, are offered in the spirit of enlisting your continued support for the improvement of the system.

Let me speak for a moment to the relative autonomy of the accrediting agencies. Accreditation has been written into Federal legislation as a quality control device in order to help insure the Government's investment in postsecondary education, and, even more importantly, as a means of aiding students and others in identifying institutions and programs deemed to be educationally worthy.

We must constantly bear in mind, however, that the accrediting agencies are private, independent, voluntary agencies having discrete, albeit laudable, purposes which do not always coincide neatly with the objectives inherent in Federal aid to education.

Accrediting agencies are committed philosophically to stimulation of institutional or programmatic uplift through a traditional pattern of expert peer review. They do not view themselves, nor do they function, as regulatory bodies.

They have no legal authority to require compliance; they work instead by persuasion to maintain understanding and acceptance of their role and function by their constituents and the general public.

All accrediting agencies are limited in funds and staffing, and rely heavily on volunteer labor from member organizations. All are now deeply aware of, and some have already experienced, a marked vulnerability to litigation, which they are ill-prepared to engage in successfully.

One aspect of the Office's relationship to accrediting agencies involves the processing of complaints against accredited schools and schools which are eligible for participation in federally funded programs of assistance to postsecondary education.

Complaints about schools—whether accredited or nonaccredited—come from many sources. These include parents, consumer organizations, students, the Office of Education regional offices, other divisions within the Office of Education, other Federal and State agencies, the Congress and the White House.

These complaints include such matters as misrepresentation by salesmen, inadequate or late refunds of tuition, poor quality of instruction or equipment, and enrollment of persons incapable of benefiting from the instruction.

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The Globe accused several proprietary vocational schools operating in the Boston area of a variety of abuses ranging from misleading advertising to violation of State laws. Inasmuch as several of the schools named by the Globe are accredited by nationally recognized accrediting agencies, these abuses, if actually committed, would indicate serious violations of the agencies' accreditation standards.

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Further, because several of the schools cited are eligible for Federal financial assistance programs administered by the Office, the staff wrote to each eligible institution and requested that it provide the Office with its response to the Globe allegations.

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One of the pressing questions right now is just how far this oversight can and should go in order to achieve realistic assurance that both the student's educational rights and the taxpayer's dollars are protected while, at the same time, avoiding unwarranted Federal intrusion into the educational process.

Let us make a few comments now about the complexity of eligibility determination. We are all aware of the fast-paced change taking

place all around us, and education is logically in as much ferment as is the rest of society.

The basic philosophical framework for Federal reliance on the private mechanism of accreditation for eligibility purposes was developed initially for the 1952 Korean GI bill—22 years ago—and reinforced by adoption of the 1958 National Defense Education Act—16 years ago.

It was essentially retained during the midsixties when landmark legislation in support of higher education was enacted—approximately 10 years ago. We should not be surprised to find, then, strains and stresses as we attempt to resolve today's eligibility problems into statutes that were designed to suit another era.

Almost 20 classes of students have enrolled in and passed through our colleges since the passage of the Korean GI bill 22 years ago.

Let me then make two other basic points with regard to difficulties in eligibility determinations. First, the Office must deal sympathetically with the accrediting agency's attempt to address what they see as their own goals and purposes.

The objectives of some of the accrediting organizations occasionally are not targeted fully on broader public or social goals. Second, informed and discerning administration of the existing eligibility machinery is not limited to declaring institutions and programs eligible, but also to declaring them ineligible when necessary in an appropriate and, I hope, timely manner.

Indeed, the ability to act swiftly and fairly on the termination of eligibility is extremely critical when an institution's quality situation is deteriorating rapidly.

The authority to develop regulations to limit, suspend or terminate eligibility for the federally insured student loan program was obtained in the Higher Education Amendments of 1972, and procedures are presently being drafted under this authority.

We will respond to your questions about that during our back and forth.

Let us speak then for a moment about the increased need for consumer protection. Utilizing the concept of educational consumer protection, the Office has been moving strongly on this front during the past 2 years. Specifically, the Office of Education has supported, participated in, or accomplished a number of general remedies for unethical school practices in postsecondary education.

For example, we have set up an information exchange with the States, the Federal Trade Commission and other Federal agencies concerning consumer complaints against educational institutions falling within the purview of these agencies.

We have provided, through contract funds in conjunction with the Department of Defense and the Veterans Administration: for the development of a model State law governing the approval of private postsecondary schools by the Education Commission of the States.

We have funded a study of the interface between private accreditation and eligibility for participation in Federal education programs. The study, which is in its final stages of completion, is being conducted by the Brookings Institution and the National Academy of Public Administration Foundation.

We have worked through the Federal Interagency Committee on Education's Subcommittee on Educational Consumer Protection. We expect that they will have a rather detailed report on Federal strategy for educational consumer protection at their September meeting.

Permit me now to mention two items in the realm of educational consumer protection. First, while considerable publicity has been given to the unethical practices of certain proprietary schools, there is growing evidence that similar problems exist at nonprofit vocational and collegiate institutions.

As the competition for students becomes more acute, it is possible that many of these institutions are adopting practices previously ascribed only to the proprietary school industry.

Second, it seems to me, increased reliance on State agencies to provide added consumer protection in postsecondary education is a matter which deserves thorough exploration at this time.

One salient advantage in using State agencies, when they are efficient and effective, is that they generally can provide closer surveillance and oversight, and can react more quickly, than can a regional or national organization or agency.

Summarizing, then, Mr. Chairman, I have tried above to sketch out for you our view of the real world of accreditation and institutional eligibility as we see it today from our particular vantage point.

It is not an altogether gloomy picture. A true statistical perspective tells us that Federal aid to postsecondary education has been a phenomenal success: billions of dollars have flowed, millions of students have benefited, and thousands of institutions have been strengthened for service to the nation. There is a great deal to be proud of.

It is becoming increasingly evident, however, that the national concern for extending postsecondary education opportunities to all who desire and can benefit from them will require more diversification and flexibility in obtaining these opportunities than is now the case.

This, of course, means that accreditation and eligibility procedures must be adapted to these changing conditions, while at the same time preserving institutional autonomy and protecting the educational consumer interest.

With your continued good help, we shall try to hammer out eligibility standards that will facilitate needed changes and innovations in postsecondary education—standards that will be strict enough to protect the public interest but flexible enough to encourage rather than inhibit needed changes and innovations in postsecondary education.

Now, Mr. Chairman, we will be pleased to respond to your questions.

Mr. O'HARA. Thank you very much, Mr. Muirhead.

The problem that the committee is immediately addressing is one of eligibility for participation of institutions and their students in Federal assistance programs. I agree with what I took to be the drift of your statement to the effect that the question is broader than that.

Your statement indicates that we must concern ourselves with not only protecting the student in whose education Federal funds are involved but protecting the educational consumer generally, even if no Federal funds are involved.

I certainly would agree with that, that the subcommittee should look into it and I pledge to you that we will work with you in that quest.

With respect to the immediate questions before us, the ways in which institutional eligibility might be revised, I, as you, like the system that we now use, using accrediting agencies.

I don't think I want to see the Federal Government in the business of deciding which institutions ought to be accredited and which ones not, and substituting governmental judgments for those of the accrediting agencies.

But, it is apparent, I think, to all of us that the accrediting process needs to be buttressed by certain federal requirements for participation in these programs. In other words, I think we are going to have to develop a system that says a school must be accredited and "one, two, three, four." It must have these other qualifications in addition to accreditation. Does that seem to you to be a feasible approach?

Mr. MUIRHEAD. I think you stated it very well, Mr. Chairman. I think the accreditation process needs to be adapted to the needs of today, and we probably should, first of all, try to work with the accrediting agencies to see if they will include these other criteria of accountability that you have referred to.

If that is not in harmony with the purposes of accrediting agencies, then I do think there is need for the federal government to then insist upon certain eligibility standards that would do the things you have indicated.

First of all, to protect the Federal resources and protect the consumer interest.

Mr. O'HARA. Mr. Muirhead, I have before me a copy of your letter to Senator Brooke dated May 8, in which you identify some of the particular problems involved in the *Globe's* series of articles. Do you have that before you?

[The letter referred to follows:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

OFFICE OF EDUCATION,  
BUREAU OF POSTSECONDARY EDUCATION,  
Washington, D.C., May 8, 1974.

HON. EDWARD W. BROOKE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR BROOKE: This is in further response to your letter of April 4 concerning the *Boston Globe's* series of articles on proprietary schools. In my judgment, the *Boston Globe* has performed a real public service in uncovering unacceptable patterns of recruitment and educational training at certain proprietary residential and correspondence vocational schools in the Boston area.

The functions of the Office of Education with respect to institutions of higher education (including proprietary vocational education schools) must relate to the basic role of the Office in providing assistance, either in the form of categorical institutional assistance or student financial aid. The eligibility of an institution of higher education to participate in such Federal programs is determined on the basis of criteria contained in the statutory definition of such institutions. See 20 U.S.C. 1085, 1088, 1141. With respect to the quality of training offered in an institution or its pattern of recruitment, the Federal statutes appear to contemplate that such controls as are exercised will be exercised by private accrediting agencies or otherwise through the process of accredita-

tion. That is, if an institution is accredited, it is generally eligible for participation in Federal programs, and the accrediting process is normally carried out by private accrediting agencies. The role of the Commissioner of Education is essentially to approve the accrediting agencies rather than to accredit the individual institutions directly. In this connection he is authorized to publish a list of nationally recognized accrediting agencies which he determines to be reliable authorities as to the quality of education or training offered by the institutions to be accredited. Higher Education Act, sections 435, 491, 1201, 20 U.S.C. 1085, 1088, 1141.

A determination of whether an accrediting agency may be included in the list is made on the basis of published criteria against which the activities of the accrediting agencies are judged. The Office of Education has recently developed revised criteria for Nationally Recognized Accrediting Agencies and Associations, which should increase Office flexibility in ascertaining the reliability and responsibility of the nationally recognized accrediting agencies and associations, including those which operate in the private proprietary sector. Enclosed is a copy of the proposed revised Criteria.

As appears from the foregoing discussion, under the prevailing statutory scheme, monitoring with respect to recruitment and educational training policies of proprietary vocational schools is not directly carried out by the Office of Education. Such monitoring is properly a function of nationally recognized accrediting agencies, identified through the listing procedures described above. While the Commissioner possesses some authority with respect to eligibility status, it should be noted that statutory language in the General Education Provisions Act precludes the use of certain education laws, including the Higher Education Act, as a basis for exercising Federal control over curriculum, program of instruction, or administration of educational institutions. 20 U.S.C. 1232a.

Within the parameters of the above-described statutory scheme, it may be possible to enhance the degree to which individual accrediting agencies will exercise an increasing level of monitoring responsibility. This is a matter to which we are giving careful consideration.

In the interest of further strengthening the Federal Government's hand in the matter of education consumer protection, the Office of Education is serving as lead agency in the Federal Interagency Committee on Education's Subcommittee on Educational Consumer Protection. Recently the Federal Interagency Committee has stated its support of the Education Commission of the State's Model State Legislation for approval of Postsecondary Institutions and Authorizations to Grant Degrees. Along with RCS, the Office and other members of the FICE Subcommittee sponsored a National Invitation Conference on Consumer Protection in Postsecondary Education which was held in Denver, Colorado, on March 18-19, 1974. Through the Subcommittee, the Office also worked with the Federal Trade Commission in developing the FTC's recently published consumer education materials relevant to private, proprietary education.

The Office also has entered into a contract with the Brookings Institution and the National Academy of Public Administration Foundation to prepare a report on the function of institutional and eligibility process and on the consequences of this use of accreditation for Federal policy and funding for postsecondary education. The report will review the Federal Government's role in protecting the interests of students against the abuses of unscrupulous schools. We expect publication in June.

As the *Globe's* articles on the vocational education industry effectively highlight, five kinds of educational malpractice have arisen. These are: misleading advertising, indiscriminate recruiting, poor course completion, false job-placement promises, and insufficient tuition refunds. The Office relies upon the resources of Federal and State regulatory bodies, and recognized accrediting agencies to review complaints pertaining to consumer abuses in the proprietary field of education. The actual and potential scope and magnitude of these abuses, however, clearly indicate that additional Federal statutory action is required if educational consumers are to be protected properly. Following are remedial steps which the Congress might consider in revising current eligibility requirements for proprietary schools to participate in Federal financial aid programs:



Requiring a Federal tuition refund policy as a condition of receiving institutional eligibility to participate in specific Federal funding programs, such as the Guaranteed/Insured Student Loan Program, through amendment of existing statutes. Currently, the Office recommends that tuition refunds for all students receiving Federal benefits approximate a general pro-rata model.

Requiring, as a mandatory condition of institutional eligibility, that all salesmen be compensated on a salaried (non-commission) basis.

Broadening the scope of section 438(b) of the Higher Education Act of 1965 to enable the Commissioner to recognize State agencies for purposes of monitoring private vocational education. Currently, the scope of the Commissioner's recognition of State agencies is restricted solely to public postsecondary vocational education.

Requiring participating proprietary schools to provide the Office of Education, on a regular basis, with validated information regarding student drop-out, course completion, and job placement rates.

Broadening the existing authority of the Commissioner to limit, suspend, and terminate the eligibility of a participating school in the Guaranteed Student Loan Program to encompass other Federal aid programs.

Defining appropriate revisions to current eligibility requirements—revisions relating to protecting students enrolled in proprietary institutions—is a complex matter, involving deeper ramifications than might superficially appear. Throughout our review of this question, these primary issues emerge: (1) broad societal implications, (2) national administrative flexibility, (3) concerns of program administration and practicality and, (4) protecting the interests of the educational consumer. The complex intricacies of these issues are highlighted by the *Globe's* series on private vocational schools.

In further response to the specific queries posed by your letter of April 4, we believe that clear and evident deficiencies exist in present monitoring devices used to assure the quality and capability of schools whose students now receive Federal funds. The present statutory system that requires using private non-governmental agencies for purposes of educational evaluation and setting minimum standards of educational quality, by definition, lacks direct government controls or regulatory authority.

The advisability of establishing a Federal system of controls, or of individual school approvals or registrations, is now under review in the Brookings Institute-NAPAF study referred to above. However, we should not lose sight of the fact that careful consideration is required in defining the appropriate Federal role and the extent of direct government intervention that is permissible and compatible with our traditionally independent, diverse, pluralistic and autonomous educational system.

Parenthetically, the reference to the GAO report cited in part seven of the *Globe's* series refers to a study undertaken of the Veterans Administration, and its programs which lies outside the immediate province of this agency.

While the *Globe's* articles concentrate on proprietary schools, there is growing evidence that similar problems exist at nonprofit vocational and collegiate institutions. As the competition for students becomes more acute, it is possible that many of these institutions may adopt similar techniques.

An intensive review is now underway within the Office of Education regarding the abuses cited in the *Globe's* series, and as soon as our staff research is completed, be assured that I will transmit our further findings to you.

Sincerely,

PETER P. MUIRHEAD,  
Acting U.S. Commissioner of Education.

Mr. MUIRHEAD, I do now, sir.

Mr. O'HARA, You indicate on page 3 of the letter: "Following are remedial steps which the Congress might consider in revising current eligibility requirements for proprietary schools to participate in federal financial aid programs."

And I might emphasize a point you made in your statement, Mr. Muirhead, and that is, that this problem is certainly broader than proprietary schools. Some proprietary schools have very excellent

records, others do not, and some nonproprietary schools are getting into problems.

And, of course, the nonprofit corporation sometimes permits, under various State laws, very profit-minded individuals to operate under the guise of a nonprofit organization.

The organization itself might make no profit but it might pay a six-figure salary plus bonuses to the founder and president of the corporation. It is not unknown that these devices have been used and abused.

But your first suggestion I think is one that I think is a very important point, the tuition refund policy. It has been pointed out in the Globe and elsewhere that under the tuition refund policies that are actually operative, it is sometimes to the school's advantage to have the student drop out. They make more money if he drops out than if he completes the course.

We have to get straightened out with respect to tuition refund policies and that must be a condition, whether it be a condition under the accrediting process or a condition that we impose in addition to the accrediting process I don't know.

Do you have any observations on that first point?

Mr. MUIRHEAD. We have, of course, been thinking very seriously about that problem, and you are quite right in indicating, Mr. Chairman, that it is not a problem that is peculiar to proprietary institutions. It is a problem that applies to all our tuition-charging institutions.

We believe that, under the authority that you have invested us with to develop regulations for determining limitation, suspension and termination of institutions, we can include in those regulations a viable refund policy that an institution would be required to follow in order to be eligible for federal participation.

We would ideally wish that we could see this included in the criteria published by accrediting agencies so that all institutions, whether they are eligible or participating in Federal funding, would provide for a fair refund policy with regard to students.

I can report to you that, in the working drafts that we have of the proposed new regulations on limitation, suspension and termination, we will include a provision for a viable refund policy, and hopefully, we will find more of the accrediting agencies including that in their criteria.

We will include it as the regulations provide, for institutions participating in the guaranteed loan program.

I should report to you, Mr. Chairman, that part of our legislative request to you this year will be to ask your authority to permit us to extend that regulatory language on limitation, suspension and termination to all other programs, rather than having it limited to the guaranteed loan program.

Mr. O'HARA. Yes, I think that is an excellent idea, but I do think that the Congress, in the exercise of its responsibilities, ought to tell you just what kind of regulations it expects, rather than simply giving a grant of power to regulate.

We do want to get into the particulars of the kind of regulations we would expect to be promulgated.

The second point has to do with the manner of compensating salesmen, and I think that is a good point. That point, however, along with point—if I can assign numbers to them—4, a truth-in-advertising sort of thing.

Someone once said one of the most deceptive documents in the world is a college catalog. I am not sure that is a fair indictment, but they aren't always the most informative publications that you can find.

We ought to be concerned with the kinds of materials that are provided to prospective students. We ought to perhaps be concerned that the kind of information you point to in item 4, requiring certain schools to provide the OE on a regular basis with validated information regarding dropout, course completion rates, signup.

Perhaps schools which wish to participate could be required to furnish such information to the prospective student and not just the Office of Education. I think that would be very helpful way of dealing with the problem. Do you have any reaction to that?

Mr. MUIRHEAD. I think your ideas are very worthwhile. We would hope that the Office of Education could possibly take a little more initiative in this area, particularly in those areas where students have been enrolled at institutions and their costs are paid through the guaranteed student loan.

We are now proposing to put into the hands of all such student borrowers a sort of truth-in-lending statement, so that they know just what obligation they are accepting. We have some evidence to indicate that sometimes students sign up for such loans and don't fully realize what their obligations are.

We feel that at least we have the responsibility to see to it that before they contract for a loan they understand fully what their obligations are.

Mr. O'HARA. Yes, and I am concerned—it is another aspect of the guaranteed loan program and the institutionally based programs—about the salesman that shows up on the doorstep and attached to his clipboard are two or three sheets of paper, and he says, "Sign here."

One of the things you are signing is your application for a guaranteed loan. It sometimes isn't clear to the student what he is getting into. I am not so sure that we can't approach that as a subspect of not permitting that one-stop kind of service, where you sign up for school and for your loan and waive your rights, all at the same time.

Mr. MUIRHEAD. I think that is a very good suggestion. That particular situation, of course, is not peculiar to education. I support, and I am sure you are advocating, that the recipient have an opportunity to think it over before signing on the dotted line and having it become legally binding.

I would hope that our regulations might provide for some opportunity for the prospective student to seek additional counsel.

Mr. O'HARA. I have a case right now of a young gentleman who enlisted in the Marine Corps and immediately started thinking it over. I think he may have some problems getting out of the contract, but I

am going to suggest to the Armed Services Committee that they might provide a few opportunities like that too, at least a few days in which you can think it over and change your mind.

I think there ought to be the same sort of thing here. I am not going to take any more time except to say this; that the committee is determined to end, to the extent it is possible to do so by statutory enactment, the abuses of these programs.

We do hope to have legislation before the end of the session and we will be working with you. I don't want to come down hard on any notion of what we are going to do until we have heard some of the other witnesses on this subject, but we are very interested in your recommendations and we do hope to work with you and get something done shortly.

Mr. Dellenback, do you have any questions?

Mr. DELLENBACK. Thank you very much, Mr. Chairman.

Dr. Muirhead, as always, your contributions are helpful. We are grateful for your being here again. You have outlined this issue well so we can go forth into the problem areas on a good sound basis, Peter, and we are very thankful for that.

In terms of our essential responsibility—not the running of the show or the administering of it—but the making of policies under which the Federal Government operates, I am interested in some of the delays that have been involved with these regulations.

In the 1972 amendments, we gave you authority, as you pointed out in your testimony, to limit, suspend, or terminate, an institution's eligibility under the GSL program. It was my understanding quite some time ago that regulations were about ready to be published, and we are now a long way past the 1972 amendments. I am wondering if you have anything you could contribute to us on this. I mention this not to attack and criticize you, but is the law too complex? Is the issue too complex? Don't you have enough people? Why has it taken this length of time and the regulations still aren't out?

Mr. MUIRHEAD. I think the question you ask is a perfectly fair one, and on the face of it it would appear as though we should have been responding at a much earlier date. I first of all must acknowledge that we are running behind in carrying out this particular provision in the amendments of 1972.

But, as I can say to you, and you probably as much as anyone would understand all the complexities of the Education Amendments of 1972, there were a host of other provisions that we were required to carry out, particularly the provisions having to do with the establishment of regulations for new programs. We have moved as rapidly as we could and still maintained the quality of the regulations.

It was a matter of priorities, Mr. Dellenback, that we have moved, first of all, to produce the regulations that were needed to have the programs continue to operate as the law required.

This particular provision of limitation, suspension, and termination cut across all the regulations. We, at one time, thought we would include it in the guaranteed student loan program regulations and have it solely reside there.

We thought better of that, and now we are seeking to have special regulations that are separate from the programmatic regulations,

looking forward to the time when regulations of this kind will be available for all other programs.

The shorthand answer to your question, Mr. Dellenback, is that in the order of priorities we had to put our staff, time, and resources on some higher priorities.

Mr. DELLENBACK. Have you attempted to do anything under section 438(a) without waiting for the regulations, or have the authorities we sought to create by statute just lain quiescent?

Mr. MUIRHEAD. I am not sure I understand that.

Mr. DELLENBACK. The section we are talking about gave the Commissioner authority to limit, suspend, or terminate an institution's thereto.

Since we gave you the authority, have you actually used that authority at all? Or, because you don't have the regulations formulated, have we done nothing by what we enacted into law 2 years ago so far as this problem is concerned?

Mr. MUIRHEAD. We have taken steps that we felt we were permitted to do under the programed legislation, but we have not been able to eligibility. I was asking about the regulations that would be pertinent clothe them with the authority of regulation. In instances where there have been abuses in schools, we have counseled the school.

We have taken them to the point of telling them that their eligibility was threatened, but we did not have the ultimate authority that resides in regulations.

Mr. DELLENBACK. Under section 438(a) of the law it says:

The limitation, suspension or termination of eligibility under this part of any otherwise eligible institution, whenever the Commissioner has determined that, the notice of affording the opportunity for a hearing, that such institution has violated or failed to carry out any regulation prescribed under this part.

Have you used that at all?

Mr. MUIRHEAD. Let me ask Mr. Proffitt to respond to that.

Mr. PROFFITT. No, sir, we have not used it in the formal sense because, again, the wording of the law ties it back to the regulations of the program and one of the things we toy around with in terms of possibilities for change in the statute would be to provide some elements whereby the Commissioner could act on a broader basis but which would not be tied to the regulations of any specific program while keeping that as one of the elements which would trigger limit, suspension or termination.

We have, for some time, since 1968 I believe, terminated schools in terms of the eligibility status. We have also limited them in terms of their participation in various programs, and from time to time, we have engaged in a form of suspension.

But that has been utilizing other elements of our authority and has not been in a formal sense such as this.

Mr. DELLENBACK. What you have said, Dr. Muirhead, about 22 years having gone by and all of these changes have been taking place—I am with you on this. On page 20 you outline 8—really 9—eligibility dilemmas. Again, I understand.

But it frankly is frustrating from our standpoint when 2 years ago, recognizing some of these problems, we passed a law and said you

need certain additional legal tools to accomplish certain things, and we tried to give you some of those additional authorities that were necessary to deal with these problems.

On this one particular point it is my recollection that about a year ago the quotation was the USOE would "soon publish" regulations to implement this section. That was a year ago. If you weren't going to publish the regulations, I don't think you should have said that.

I am frustrated by the fact that having been apprised of the problem we enacted legislation which, for 2 years now, has not been used. I can understand that we may have loaded you with so many problems that you couldn't do them all, but I would much rather a year ago you had come before the Congress and said, "We can't do all these things at once. You have given us a host of tools. We have the responsibility to come out with regulations but we aren't going to be able to do it for a while."

I am tempted to ask you another question at this stage of the game. What other sections have you not yet been able to implement which we just don't happen to be focusing on in our inquiry?

We recognize how fully complex that law is. But I would suppose, or at least hope, that somewhere in OE there is someone who said there are 172 things that law calls on us to do, and we have now done  $x$  number of them. We haven't even gotten to the remaining  $y$  number. Further, I hope that person is also keeping tab on what isn't being done so that when this law is going to have to be revised—we are getting close to that time again—we know what in heck we are supposed to be concentrating on.

I mean this analytically—you know that. I don't mean to be climbing on you, and yet I pose the question: "Have you failed to measure up to the responsibilities we gave you?" What do we do from here?

Mr. MURHEAD. I think your comments are perfectly justified, Mr. Congressman. I have no other explanation for you other than that, when we did appear before you a year ago we were more optimistic than we had any right to be, as our subsequent actions have shown.

We have made decisions in the Office of Education to carry out the provisions of the education amendments of 1972 at a priority level. We are now moving much more vigorously on this particular item and I can share with you that we now have a draft of the proposed procedures for limitation, suspension, and termination.

It is our present plan to circulate that to the interested parties and to move for its publication in the Federal Register. Our present schedule for publishing it for rulemaking purposes in the Federal Register is about the first of November.

I would be pleased to respond to questions concerning what some of the provisions are that we would include in the proposed regulations. The regulations will deal with the problem of refund policy. They will deal with the problem of whether or not the school is relying too heavily upon Federal funds for its operating costs. They will deal with the job placement practices of the school. They will deal with the dropout problem in the school.

It has been a very complex assignment. I just have no better explanation for you than the fact that it has not been on our front burner

because we felt that there were other activities that had to be done first.

Mr. DELLENBACK. So with the estimated November publication date for that, Dr. Muirhead, it will not really be pertinent to this year's entering classes at all. We really will have no impact until next year's classes?

Mr. MUIRHEAD. That is right, Mr. Dellenback.

Mr. DELLENBACK. One other specific question that we get to when we look at 1201. In section 1201, we lead off by saying that the term "institution of higher education" means an educational institution in any State which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate.

That is the basic beginning. What about vocational schools, community colleges, etc., which admit students which don't meet that requirement? Do they qualify?

Mr. PROFFITT. No, sir; they would not qualify. The schools would not qualify if the students do not qualify. However, we have, in many cases, found that such institutions provide at least one or more programs which do require high school graduation or the equivalent.

Therefore, we have extended eligibility to the school for those particular programs and to the students within those programs, but make it very clear to the institution that there is a limitation of the eligibility status on those programs.

Mr. DELLENBACK. At the risk of treading on the toes of my good friend and colleague from California, Mr. Bell, it is my recollection that the California community colleges have almost an open door. Anybody who is 18 is admitted, but no such requirement as section A-1 of 1201.

Do those community colleges qualify? Do the students in those colleges qualify for the kind of help we are talking about.

Mr. PROFFITT. Yes, they do.

Mr. DELLENBACK. Even though the student doesn't meet that particular requirement? Even though you may have 50 percent of the student body that doesn't qualify, the school still qualifies?

Mr. PROFFITT. That is correct.

Mr. DELLENBACK. What is the percentage minimum, 10 percent?

Mr. PROFFITT. We have no percentage minimum. There is a vocational school that has a program for 5 students out of 500. We extend eligibility to the school for that program.

Mr. DELLENBACK. For those students that qualify?

Mr. PROFFITT. Yes, sir.

Mr. DELLENBACK. What about all of the others at the school, the 495 in your example—is it correct they would not qualify for any special help under the definition?

Mr. PROFFITT. That is correct. We have already suggested that consideration be given to revising this language and we have some specific language to propose for that which essentially would be that they admit as regular students persons who have completed or left high school or who have the ability to benefit from the training offered by the institution.

Mr. DELLENBACK. Is there any difference on this particular point in the way you treat community colleges and private vocational schools?

Mr. PROFFITT. There may be in the way we treat community colleges and private vocational schools.

Mr. DELLENBACK. I am thinking particularly of that.

Mr. PROFFITT. There is very definitely.

Mr. DELLENBACK. I recall that there was a problem with vocational schools in Kentucky which didn't qualify because they were missing something. I am wondering exactly where the line of demarcation is. However, I don't think we need follow that at this particular time. We will talk about that further.

I do hope that you will be coming forth, Dr. Muirhead, with specific proposals that you have for changes in statute. You have just said there may be a recommendation to us, Dr. Muirhead, relative to this particular one and whether we ought to change it.

That is the kind of specific input which we would like to have, where you say, because of this particular problem we would urge you to do so and so relative to this section of the statute.

I hope these will be forthcoming soon.

Thank you, Mr. Chairman.

Mr. MUIRHEAD. Thank you, Mr. Dellenback.

Mr. O'HARA. The gentleman from California, Mr. Bell, has been very interested in this subject because of certain abuses that have occurred in his State and elsewhere. Although he is not a member of the subcommittee, he is very interested in these hearing and the chairman has invited him to participate in the hearings.

Mr. Bell.

Mr. BELL. Thank you, Mr. Chairman.

Mr. Muirhead, I am delighted, from the California standpoint, that the junior college institutions have been able to benefit from this law, but I am wondering why you did not point up the changes needed in the law to include it.

You went around the statute. I am wondering why you didn't come to the Congress and make the suggestion that the law be changed so that it would clearly provide for postsecondary schools, such as we have in California, to be eligible.

Mr. MUIRHEAD. Congressman Bell, we intend to take full advantage of Mr. Dellenback's invitation to submit suggested legislative changes. I had already volunteered one that we would ask for an extension of the limitation, suspension, and termination provision to all programs and will pursue Mr. Dellenback's invitation to submit additional legislative remedies.

Mr. BELL. Mr. Muirhead, the articles in the Boston Globe, and other newspapers report tremendous abuses that have been occurring in Boston, Los Angeles, and other areas. As you know, when a student takes out an insured loan, he assumes that the Federal Government has certified the school, and, therefore, the school is reliable and educationally sound.

The students go ahead and get sucked in by virtue of the fact that the Federal Government appears to be behind these institutions.



Regardless of your other priorities, Mr. Muirhead, I think when you talk about a \$6 million loss, in the West Coast Trade Schools alone, you are talking about a tremendous amount of money that the Federal Government and students are in trouble over.

Beyond that, you are going into the philosophy of the very foundations of our educational system. We are trying very hard. For the last 2 years this Nation has been trying to get young people in poverty areas into educational institutions, so that they can get a job that will keep them out of trouble, poverty, and many other things.

Then, to have the Federal Government appear to be part and parcel of this problem, I can't think of many priorities that would be higher than that. I am wondering what steps you believe we should take and will be taking immediately to solve this problem.

Mr. MUIRHEAD. Mr. Bell, you are quite right in pointing that out. That is indeed an overriding priority. But I think it is fair for me to point out that the West Coast School situation is in the present status because we did take action and we did move vigorously to protect the consumer interest.

Really, it is a very good example of using the authority we do have. We do plan, and I think it is fair to share this with you, Mr. Bell, to look into that case and to see to it that in every way possible we will protect the interest of student.

We have notified our regional office to consult with the students and if, as a result of the closing of the school, the student has not completed his instructional program, then we will have a procedure for adjusting the amount of money that he owes under that loan.

It would be a tragic thing, just as you have indicated, if, as a result of a school finding itself in such a financial condition, that it closed, and the student was then left with a loan to repay without finishing his instructional program.

Mr. BELL. I appreciate your moving on the matter of the West Coast Trade Schools. What do you have planned regarding the accredited institutions that are involved, the ones holding the loan paper? It isn't just the West Coast Trade Schools.

The West Coast Trade Schools involve a \$6 million loss in the Los Angeles area alone, but you also have the problems mentioned by the Globe in Boston. These problems are coming to the surface and there may be others. The entire problem is what I am concerned about, however, not just this one Los Angeles incident.

Mr. MUIRHEAD. And I think it is why we should surface that problem. I am going to ask Mr. Moore, the director of the guaranteed loan program, if he would share with you what steps we plan to take.

Mr. MOORE. Mr. Bell, we have identified slightly under \$7 million worth of paper which represents loans taken by students who went to West Coast Trade Schools or West Coast Schools, the predecessor.

There was a change of ownership in 1969 or 1970. This paper is held by 29 credit institutions, virtually all of them in California. It includes a large number of credit unions, several banks and, if my memory serves me correctly, a couple of savings and loan institutions.

These 7,000 accounts this summer are to be examined under a contract which we are negotiating with a C.P.A. firm to handle for us to

find out exactly what the situation is with respect to every one of these loans.

As Dr. Muirhead pointed out earlier, obviously some of them were taken out by students who were in school at the time the school closed, and it might be proper and appropriate for the Commissioner, in those instances, to exercise his authority to waive, compromise or settle on the claims that have arisen.

In other instances we are afraid we may find that the loan had been made to a student who never enrolled at all, in which case a question is then raised as to whether or not we can, in fact, insure the loan.

In some instances the agency which owns the paper at the moment may have to take a loss. It is going to take us, because of the volume involved here, probably most of the summer to settle this because, as I say, it has to be done on an account-by-account basis.

But we do know where every single one of these loans is. It has taken us since February to identify the makeup of the portfolios of these lenders. That is where we are operationally on that one.

Mr. BELL. It would certainly be a necessity to follow up on this situation.

I am considering an amendment to my own bill, to the bill that Mr. Pettis and I have introduced, which would require that proprietary schools, at least those that are direct lenders, be bonded as a condition of eligibility. I wonder if you would comment on that.

Mr. MUIRHEAD. Again, referring back to our present exercise, Congressman Bell, in drafting regulations for limitation, suspension and termination, one of the factors that we are considering is a situation where a school has become much too dependent upon Federal funds for its operating costs--so much so that there is some question as to its financial stability.

One of the factors we are considering for inclusion in these regulations is to require a bonding of Federal guaranteed loan funds when they have reached a certain percentage of the operating costs.

Mr. BELL. You are considering the bonding?

Mr. MUIRHEAD. We are considering that.

Mr. BELL. I would certainly think that would be important. Some schools are completely going under shortly after they get started, and I have had many complaints about such institutions. Students are just up in arms about it.

You mentioned you were going to make some proposals for changes in the regulations and suggestions for changes in statute. How soon are you going to come up with these?

Mr. MUIRHEAD. We expect to have the draft of the proposed regulatory changes on limitation, suspension and termination ready for circulation within the next month and to distribute them to a wide range of interested parties. Then, following their input, we will seek to publish the regulations in the Federal Register for rulemaking purposes about November 1.

Mr. BELL. In what areas are you proposing changes, Mr. Muirhead? Accreditation, as we have discussed, doesn't seem to be the sole answer, although it is a partial answer. What other areas of eligibility are you considering? Can you give me some idea as to the combination

of plans that might work so that the Federal Government will not completely dominate the situation?

Can you explain the plan and give us an idea of how you think it would work?

Mr. MUIRHEAD. We are considering a number of items, one I have already shared with you, and that is a broadening of the LST authority. We are also looking at whether or not it might be advisable to broaden the statutory authority that now permits States to accredit public vocational schools, including private as well as public vocational schools, if the State can meet the standards as a recognized approval agency.

We are looking at and giving some consideration to seeking legislative authority for requiring a uniform refund policy that would apply, as I fully indicated, not just to private proprietary schools but to all schools.

We are hoping that the regulations might also include some public disclosure of what the school's dropout rate is, and what the job placement is. These are some of the things we are considering, as I indicated.

We are very eager to get the type of input that will come from this committee hearing and from other interested parties.

Mr. BELL. Mr. Muirhead, with pardonable pride, I would like to point out that some of the things you are suggesting are already in the Bell and Pettis bill, so I am pleased to hear you are taking this action.

Mr. O'HARA. Thank you, Mr. Bell.

We have another witness and a full committee meeting at 11:00, but, with respect to the eight that became nine eligibility dilemmas that you refer to on page 20 of your statement, we haven't really had an opportunity to go into those to the extent that we would like to go into them today.

We concentrated instead on the abuse problem. We would like to talk to you and your people at a future hearing with respect to those eight or nine problems because they are problems we have been concerned with. Problems that have been brought to us on the committee from institutions, branch campuses and so forth, and particularly the open university question.

We would like to discuss those with you at another time and we will give you warning.

Mr. MUIRHEAD. I am very glad that you are wrapping it up on that note, Mr. Chairman. It is important for us to deal with the problems of accreditation and eligibility in terms of regulations.

I am so pleased to have you end it on a note of having us look at eligibility and accreditation in terms of our identifying new changes and innovations in postsecondary education that should be recognized.

Mr. O'HARA. The ranking minority member and myself have frequently expressed ourselves during these hearings as being extremely interested in nontraditional education, broadening opportunities for all age groups in our population to attain further education of many different varieties and we think we have to explore these possibilities and make sure our eligibility criteria are not so rigid as to exclude some of those very promising new openings in higher education.

I yield to the gentleman.

Mr. DELLENBACK. Briefly, I want to say that while I strongly support what the chairman has indicated as to further followup hearings, there are a few questions that I would like to ask in connection with the area that we have dealt with.

I would like permission when I write to Dr. Muirhead and get the answers back to have these questions and the answers made a part of the hearing record.

Mr. O'HARA. Without objection, it is so ordered.

Thank you very much.

Mr. O'HARA. Our final witness today will be Mr. Joseph Clark, who is Commissioner of the Indiana Private School Accrediting Commission.

**STATEMENT OF JOSEPH CLARK, PRESIDENT, NATIONAL ASSOCIATION OF STATE ADMINISTRATORS AND SUPERVISORS OF PRIVATE SCHOOLS, AND COMMISSIONER OF THE INDIANA PRIVATE SCHOOL ACCREDITING COMMISSION**

Mr. CLARK. Mr. Chairman, for the record, I am the president of the National Association of State Administrators and Supervisors of Private Schools. This is a national association made up of some 36 States in the country who have laws regulating proprietary school industry. So, part of my remarks would be in connection with our National Association.

And, for the record, I am the commissioner of the Indiana Private School Accrediting Commission, which is a State government agency.

I think one of the first things is we are normally held up in a problem of semantics when we talk about problems affecting this area of education so, if I may, Mr. Chairman, I would like to offer to you the fact that perhaps if we would use the term postsecondary education and postsecondary educational institutions we might better zero in on the kinds of problems we have.

Basically, that would be the noncollegiate sector, which we would commonly consider to be the proprietary profits and proprietary non-profits; and secondly, the collegiate sector, which would be your public higher colleges and universities and your private higher colleges and universities.

We have basically three kinds of accrediting organizations. We have those which are national in scope. We have those which are regional in scope, and we have those which give academic accreditations, as you know, such as the schools of law and the MBA programs.

It is quite possible to use our own North Central Association to say that it could accredit a university or college but not necessarily have it within that university and college. The course is accredited by the academic accrediting commission.

I think we should say what accreditation is and perhaps what it isn't. Accreditation is an attempt to establish minimum standards, have those met and, hopefully, through peer pressure and evaluation, to have the institution reach higher.

It is not necessarily accountability, and I think, Mr. Chairman, that is the thing we are interested in in this whole area, accountability and who can help determine what accountability is and how it is maintained.

I think the question, therefore, has two parts: how do we attain accountability and how do we protect the students, and also, how do we protect the government when it gives government money to these institutions.

I would say here, gentlemen, that no college, no university, no school should be a lending institution. It should be what it is, hopefully, a college, university, or school.

It is important, therefore, that we get our citizens to the classrooms, whether that citizen wants to become a poet or lathe operator or a secretary or a Ph. D. in psychology. The question is, how do we do it and we have found that we cannot do it by accreditation alone.

As you might imagine, we in the national association are States' rightists and we believe that the brunt of the operation should be maintained by the States since the Constitution did give to us the responsibility of education.

The fact that we have not responded as States to this responsibility is a well-documented fact, but there are changes coming which look good. We have some States with extremely fine laws now to regulate proprietary schools. We have some States, of course, who have no laws.

I would submit therefore to this committee that perhaps as you look at what you want to do in terms of eradicating the problem that perhaps if the Congress of the United States would make a mandate to each individual State that if that State would enter into some kind of a regulatory function that that coupled with the accreditation could be used as a safeguard on institutions, because, as you well know, gentlemen, we are talking about a small sector of a larger sector of education in this country and the number of accredited institutions and the number of institutions which are looked at by AICS, by NATTS, is a very small number in comparison to the total number of schools we have.

Quite frankly, I can't tell you how many schools we have in this country. We used a figure of between 7,000 and 8,000 in the proprietary sector because we are talking about trade, technical, business, barber, and beauty schools.

But we have had a figure as high as 37,000, and that would be all kinds of persons teaching dancing, karate, judo, sky-diving, or whatever. So, if we look at the 7,000 we have a very small percentage who are actually accredited.

One of the crimes that has been committed in this country by those of us in State government, Federal Government and education has been the fact that we have forced institutions into accreditation so that those institutions could be recipients of Federal funds.

This has created problems which you gentlemen already know about. I think it is unconscionable that an institution would be allowed to function with almost 100 percent of its financial basis coming from either guaranteed student loan programs or from veterans moneys.

This only leads to disaster as we can prove in case after case across the country. The Federal Government should not accredit, should not list institutions as to whether they are eligible or not. This must be done by the States in cooperation with the accrediting bodies.

There are safeguards that the Federal Government must have and must insist upon. I think these things which you have determined to be needed can be best carried out by a different kind of accountability concept within the States and the accrediting bodies.

Finally, we do believe in our national association in what we call the "triangle of assistance." That is, that the State governments do the thing they can do well, that the peer associations do the thing they can do well and that the Federal Government, so that we each work together on the point of the triangle, each going for the one thing that we must all go for, and that is accountability.

Very briefly, I would be remiss as commissioner if I didn't throw out a couple of things in terms of what we have done in Indiana. Since 1971, we have had 558 trade and technical schools doing business in our State or domiciled in our State.

Of that number, we have been responsible for 276 no longer doing business because they did not measure up. We use, in the title of our commission "accredit." I argue with John Proffitt, and Bill Fowler and Bill Goddard about the use of the word "accredit" by a State agency.

If someone can give me a better term I will use it, but what we are looking for is accountability. We do send teams in, gentlemen, from business, industry, and education doing onsite evaluations of these institutions.

Every 5 years the institution is reevaluated and every year in between they submit to us financial statements, course changes, graduate drop outs, all the kinds of pertinent information necessary to the life of an institution.

We also do this out of the State of Indiana. We have gone to Pennsylvania. We have gone to Florida. We have gone to Kentucky doing these kinds of evaluations on these proprietary profit and non-profit institutions.

We look at every facet of the institution; financial, instructors, text books, courses, degree programs. We are proud of what we have done. We have talked to other States through our national association in comparing.

If at some point, gentlemen, all 50 States in this country would take their responsibility and have some kind of an accountable system for these schools, this would be an invaluable assistance to you in seeing that the kinds of moneys we are talking about do the job they are supposed to do.

One final point. The National Association will be coming out later this year—hopefully at the end of August or September—with six position papers, two of which would have interest for you.

One is on financial stability of institutions, what we perceive in State governments as being a good basis for financial stability. And one is dealing with the abuses that we have seen in State governments with the guaranteed student loan program.

That, Mr. Chairman, is basically my observations.

Mr. O'HARA. Thank you very much, Mr. Clark.

Did you say that 36 States—

Mr. CLARK. Yes, approximately 36 States have some kind of regulation right now and there are 6 States in the wings at various levels. I think two more States have used the model ECS legislation; I believe Tennessee and one of the Western States. Washington State is about ready to come in with theirs.

We have approximately 42 States with one kind of an approval or another over these institutions.

Mr. O'HARA. You speak of model ECS legislation.

Mr. CLARK. There was model legislation developed by the education commission of the States in cooperation with the U.S. Office of Education. This is being used by States not having legislation.

They will adapt this model to meet the needs of the State. Our own national association is working on model legislation because we happen to feel that those others who are State administrators and work day to day might have some kinds of information which should be included in legislation at the State level, which might be good.

The ECS model legislation is good.

Mr. O'HARA. With respect to that, I imagine a number of States had legislation before the ECS model came along.

Mr. CLARK. Yes, they do.

Mr. O'HARA. Using the ECS model as a standard, what would be your estimate of the number of States that are equal to or exceed the standards in terms of their regulatory authority?

Mr. CLARK. I would think, Mr. Chairman, maybe seven would be comparable or exceed it. Some States, unfortunately, have laws which are almost comical. I know I shouldn't say that, but it is the truth.

In NASASPS we have seen a good cooperation between the States. We have been together, those States in the national association, and talked about our laws and what we do and what we can't do.

We began to see these people then going back to their respective States and talking with the people. As you gentlemen know, in our State we are victims of our own legislatures and political forces within the State.

It saddens me that those of you in Congress have not taken the incentive to talk with State officials in terms of your assistance, which is needed, to try and give these States which need legislation to get better legislation.

I think, in terms of the national dilemma, considering all post-secondary education that the Members of Congress, in talking with their State officials or educational people, can impress upon them the importance of what must be needed, not only for the proprietary sector, which is only part of postsecondary, but because of the abuses we see now in the other side of postsecondary.

I do not say that as an alarmist to do the thing I do not like people to do considering proprietary, which is to raise a cry that all post-secondary is bad, but there are abuses.

It becomes necessary then that the dialog between your offices and our offices is extremely necessary at this point.

Mr. O'HARA. I would certainly agree with that assessment. I think there is no disagreement between the gentlemen from Oregon and myself that we do not necessarily prefer regulation by the Federal Government.

Mr. DELLENBACK. You are stating it very calmly.

Mr. O'HARA. You see, we are in agreement.

But we have to find out just what the State or Federal regulation is and how we can make certain that certain standards are followed, certain minimal standards.

Mr. CLARK. I think, if I may, Mr. Chairman, one of the problems might be that the very rules and regulations which you have given these agencies to follow in the sense of stifling them, I think the Office of Education has had problems because certainly the Veterans' Administration has and the work of the State approving agencies.

Mr. O'HARA. You speak of your State agency, for instance, as regulating profit and nonprofit proprietary institutions.

Mr. CLARK. We make no distinction, Mr. Chairman.

Mr. O'HARA. I am interested in the concept of a nonprofit proprietary institution, that would be an institution which may be organized under the laws of Indiana as a nonprofit organization but which you would classify as proprietary.

On the other hand, I doubt it would include the traditional private liberal arts college, which is also on a nonprofit basis.

Mr. CLARK. No, it does not and I should clarify that point for you. Our commission is responsible for trade, technical, business, mechanical, professional, and correspondence schools.

The commission for higher education in our State is a State-supported institution and the private colleges, such as Notre Dame, Butler, Hanover, and Franklin come under what we call the independent colleges and universities, which is an amalgamation in our State of these colleges.

We do not have any control over those and do not wish it. But, there are problems in those sectors which need to be looked at. Again, the States sometimes do not look at those. They will tend to accept accreditation given by North Central or Western or Middle States and inherent in those accrediting agencies are serious problems.

Mr. O'HARA. We have appreciated your testimony. We want to work with your association as we go down the road because we think the States ought to be involved in this, if there is some prompt and reasonable way of involving them.

I yield now to the gentleman from Oregon.

Mr. DELLENBACK. Thank you very much, Mr. Chairman.

Mr. Clark, this has been good testimony that has served to broaden our understanding. We are grateful for your having taken the time to come and be with us.

I would ask several questions. So far as your own procedures are concerned, do you have financial requirements which you attach to accreditation in addition to educational requirements per se?

Mr. CLARK. Yes, we do look at the financial stability of the institution. We do request audit and financial statements, which we have professionals look at. We also require bonding of all institutions and bonding of all agents.



One of the first lines of defense is if the school cannot qualify for the bond itself, this is an indication of a danger in its financial stability because, as you know, Mr. Congressman, the bonding companies will not do this. After they have made a check, if the school does not measure up they will not grant the bond.

Without the bond they cannot do business in our State. That is the first step. The same thing with the agents. Sometimes we head off agent problems by doing investigations of the agents or the bonding. If they can't get bonded, they can't function as an agent.

Mr. DELLENBACK. The bonding process is used as a partial measure of what: the financial integrity of the individuals who are involved, or the guarantee of the completion of the educational idea?

Mr. CLARK. The last. Basically, it is if the school says we are going to provide educational services and you will receive these services and you will be able to be placed or have a job, or whatever, then the school must do that, so that the bond is a different kind of bond than we are normally used to.

The bond is paid, not to the State, but to the student directly if that student is deceived or a fraud has been committed or if the school goes out of business and therefore the basic contract is not fulfilled, which is for the school to provide an education to the student.

Mr. DELLENBACK. You mentioned another thing in your response which intrigued me. You indicated something about placement. Do they actually bond regarding job placement, or is it merely to insure that they offer the student those courses which they claim they are going to have the capacity to offer?

Mr. CLARK. The only problem with the placement, I would say, would be if they promised the placement and do not provide it. As you know, no school is supposed to promise placement.

Part of that, Mr. Congressman, is to cover any deceptive practices or fraud which may later come out. But to say they are bonded for placement, no, sir, that is not accurate.

Mr. DELLENBACK. But there is a bonding requirement that you have as one of your essential requirements for accreditation.

Mr. CLARK. Yes.

Mr. DELLENBACK. What about the percentage of applicants for accreditation with you under your State law?

Mr. CLARK. This is why we have an argument over the terms. No one has a choice, whether you are getting it or not getting it.

Mr. DELLENBACK. They must get it or what?

Mr. CLARK. They cannot do business in the State. They must measure up to the standards or they cannot operate.

Mr. DELLENBACK. Is yours one of the most stringent laws in the United States?

Mr. CLARK. Yes, it is. We are the only State in the United States that has a felony. It is 1 to 10 years and a \$5,000 fine for fraud or conspiracy. We have already invoked that in the last week on a school that we just exposed as fraudulent and we had already presented it to the grand jury.

We were also responsible last year, as you may recall, sir, regarding the big truck driver training school fraud, Worldwide Systems, Inc., which was in the Midwest and our State.

This was about a \$2.3 million fraud and our agency is the one which broke the case after a year and a half. We prosecuted and turned our findings over to the postal authority and U.S. Attorney. They were subsequently convicted.

I would add quickly though that this was a fraud. It would not matter what kind of rules we had in our States. It was a fraud. They had no intention of complying.

Mr. DELLENBACK. Most of the States don't measure up to the stringent requirements of your State law?

Mr. CLARK. No, sir.

Mr. DELLENBACK. Is your State one of the handful that our chairman asked about that are tighter, more stringent or more superior to the model State law?

Mr. CLARK. I would not need the model State law in our State, sir.

Mr. DELLENBACK. It adds nothing to what you already have in your State law?

Mr. CLARK. No, sir.

I would say though that in the beginning one of the first meetings of the ECS I was involved in here in Washington at a meeting with Mr. Proffitt from OE and some other people at Brookings Institution.

At least they looked at ours from the very beginning.

Mr. DELLENBACK. Does the model State law require mandatory accreditation or application for accreditation?

Mr. CLARK. It would not be accreditation as such. It would be a regulation which we probably would categorize as an approval. If I may, the three levels are licensure, approval, and accreditation; licensure and approval being relatively simple things.

A license can be nothing more than going into the Secretary of State's office and paying \$15. Approval connotes a little higher kind of look at the institution. Of course, the accreditation is supposed to be the optimum, which is a peer evaluation.

But, you see, we use the term "accredit." If you can give me a better term in the State, I will use it, but we actually do the same thing as any recognized accrediting body does.

Our teams go there from 3 to 5 days. The teams are made up of from two to six individuals. We have a team chairman who reports. We have a recurrence in looking at the institution, plus the fact that the important thing, which I think the Congress is aware of and should remember, we are there all the time.

We do not look at them today and come back 4 years later having not looked at them in between.

Mr. DELLENBACK. Compared to your situation, however, from what you said, most of the States just aren't in the same ball park.

Mr. CLARK. No, they are not, but the States of Ohio, Michigan, Wisconsin, Minnesota, Illinois do exceptionally good jobs—Arizona. There isn't that much difference. The difference is we do have the felony.

Some of the other States would love to have it. I was in the attorney general's office in Frankfurt, Ky., last week. They would give anything to have a felony. Ohio does an exceptionally good job. Michigan does a good job.

Mr. DELLENBACK. But their "teeth" in their laws are not sharp as you would like?

Mr. CLARK. Most of them have misdemeanors and they can't even do that.

Mr. DELLENBACK. Under the model State law that you indicate some States have adopted, is the middle classification the one that is specified—not licensure but approval, as you refer to it?

Mr. CLARK. Yes, sir. The ECS would be an approval. It would be a little higher than what is normally done but it would be not as high as what we do in Indiana. It has in it the ability for the State to decide whether or not it wishes to have a felony or a misdemeanor.

Mr. DELLENBACK. But, in addition to the sanction provisions of a felony or a misdemeanor, I am interested in understanding what happens if an institution doesn't measure up.

Under the model State law, if an institution that wanted to be involved in that State wasn't able to qualify for approval, would it be forbidden to do business?

Mr. CLARK. I believe yes, without looking at the legislation. There would be that provision. If they didn't measure up they couldn't do business.

Mr. DELLENBACK. But the hurdle is not a particularly high one compared to the Indiana law.

Mr. CLARK. I wouldn't think so. It is very hard to make a proper determination unless you are there on-site, talking to the students and faculty and looking at the finances. I think that the basis of ECS, in all fairness, is it is a beginning and therefore it is up to the State to adjust in terms of what has happened in that State to either strengthen or accept as written the model ECS.

In Indiana we spent some 8 years in perfecting our law. Our law has been used now as a basis for some of the other States to look at. But we do have some things in our law in Indiana which make it very, very good, if I may say so myself.

It has, in the last couple of years, this accrediting process, shown marked results in the attitude within our State of business and industry, education consultants, counsellors, school principals, and the general public.

And the fact that we have broken two rather large frauds in Indiana I think make the citizenry aware of the fact that the State is, in fact, trying to protect them. But, by the same token, sir, we do all that we can do to enhance the proprietary school because we have within our State, as in all States, some premier institutions who, for many years, have done outstanding jobs in teaching the young people.

Mr. DELLENBACK. How about the intertie between what your State does and the three other accreditation or approval processes I can think of: (1) regional organization of some sort or another; (2) some special national associations like NATS or the like; and (3) the kind of thing to which Dr. Muirhead was testifying to earlier where the question is do you qualify for Federal participation in a program?

Do all schools which do business in Indiana and which meet the stringent requirements of your law automatically qualify under the Federal program?

Mr. CLARK. No, sir, they do not. The only way is a school that is accredited by a State agency who undergoes a very in-depth tough kind of evaluation. The only way they can become able to get the money is to become accredited nationally.

We have a school in our State that is a premier school that does not want to become accredited but they would like to have veterans come in there and they would like to have a guaranteed student loan program, but they do not want accreditation per se because they feel it won't do them any good.

Mr. DELLENBACK. Accreditation from any other source?

Mr. CLARK. Yes.

Mr. DELLENBACK. In other words, you must qualify under the Indiana law? What you are saying is this particular school doesn't want to do whatever else the Federal Government requires and it doesn't want to do whatever else a national association requires. Is this what you are saying?

Mr. CLARK. This is what I am saying, the point being what the schools do should qualify them. We do not, in Indiana, want to become a national accrediting body. Our constituency is Indiana and any young person from other States who comes into our State to take education. Our constituency is also the good private schools.

It is unfortunate if we would be forced as a State to seek from OF national accreditation in order to make it worthwhile for the schools to get Federal moneys. So, as a suggestion to you I am saying there should be some kind of a joint venture between the States and the Federal Government so that part of the requirement can be met by the States without the State having to become a national accrediting body.

If that happened and we had 50 accrediting bodies we would have all kinds of problems.

Mr. DELLENBACK. I think this matter of intertie is an important one. I personally happen to favor the deep involvement of States. I don't want to see the Federal Government doing the whole thing as I don't think it will do it well.

I think the very kind of complexity that you heard referred to by the prior witnesses, when we talked about the 1972 law and the terrible difficulty of trying to reach the lowest common denominator on a Federal level, just illustrates how difficult it is to run this kind of a show from Washington.

I want to see some intertie—some interworking—of the kind you are talking about. I am not quite sure how best we achieve this. What about in addition to the kind of law that Indiana has, and I now take that as one of the top ones, what if we also consider in this situation where NATTS is going to be involved and the Veterans' Administration is going to be involved, and the role of the regional association in the area? We look to the Federal involvement and say unless you somehow are on that list of approved institutions or agencies you can't qualify.

Assume Indiana is not on that list of agencies that the Federal Government says can qualify for Federal participation?

Mr. CLARK. No, sir, we aren't.

Mr. DELLENBACK. Therefore we have a different kind of involvement with them. You also, in the Federal Government, might look to something like NATTS--the National Association of Trade and Technical Schools--to qualify and to accredit.

If NATTS should move into Indiana and look at a given institution and say, "This qualifies; we accredit this," it could go on the list that would participate under the Federal programs. But, if it didn't get the approval, then they wouldn't do business in Indiana.

Mr. CLARK. Yes.

Mr. DELLENBACK. So we would have at least a double overlap. We have Indiana's requirements and we have some additional requirements which lead to the third one, which is the Federal approval.

Mr. CLARK. Perhaps, Mr. Congressman, the State has the right to protect its citizens, so it is important that the schools be right with the State, whereas, the NATTS accreditation is a peer evaluation of a different kind.

Perhaps we can work this out. First we do it for the States. Whatever we do there, if we do it strong, it would be a good basis for what you are looking for.

I brought this to leave with you. This is our intermediate report which might fill you in on some of the things we have done and give you a better idea.

Mr. DELLENBACK. We appreciate receiving that very much. We are grateful for your testimony. I think you have given us some valuable insights. We very much appreciate your being with us this morning.

Mr. BRADEMAS. Thank you very much, Mr. Clark.

Coming from Indiana I am, of course, especially pleased to see you here and regret I was not able to be here for your entire statement. I just have one question to put to you.

To what extent do the schools with which you work communicate with institutions of learning in Indiana that are in the nonproprietary sector of education, particularly about student assistance and accreditation problems?

Mr. CLARK. You are speaking now of proprietary schools talking with the State-supported institutions?

Mr. BRADEMAS. I am talking of State-supported institutions of this kind for starters.

Mr. CLARK. It varies in the State. We have some programs where proprietary schools have transfer-credit programs with other institutions within our State. There are some very good one-on-one relationships.

There is work being done between State associations and advisory groups, Mr. Brademas, to get a better kind of rapport established between the institutions and, as you recall, this Project 21 that we had recently in the State did a great deal to bring together the various segments of education and to establish better dialogue.

Mr. BRADEMAS. One other question on which, because I came in late, you may have answered earlier. It has to do with your attitude toward requirements of the Federal Government that schools like the ones you represent be accredited in order for the students to qualify for Federal student-assistance programs.

You were, I thought, indicating that a number of your schools are not appropriately accredited in that respect. Am I correct in my first two sentences?

Mr. CLARK. That is true.

Mr. BRADEMAS. What is it you are proposing? Are you saying you want, to put the matter bluntly, some kind of way that would allow your students to participate though the institution is not accredited? What is it you are saying?

Mr. CLARK. I am saying that the State of Indiana has one of the strongest functions in the country. This has been acknowledged by others, not just myself. The kind of accrediting process that we put the schools through is very detailed and very in depth.

I think it would be most appropriate if once a school having gone through what our State does could qualify for Federal funds without the State of Indiana becoming recognized as a national accrediting body.

Somehow we must set in here dual responsibilities so that perhaps to become an eligible receiver, a student going to an institution, perhaps it will take a status such as we give a school by our State plus a status by an accrediting body.

I do not think that accreditation per se is the only way to look at an institution's eligibility.

Mr. BRADEMAS. I hear you saying that we ought to get back to the pre-Civil War period and leave matters wherein if a State says you are right it doesn't make any difference whether the national Government agrees.

Would not the policy you are suggesting mean that in one State you could have lower standards than in an adjoining State and the students in one State would be attending an institution and participating in Federal student-assistance programs at an institution which was subjected to lower standards of quality than would be the case in the other State?

Mr. CLARK. First of all, I say that does exist right now. Secondly, I would say, no, I wouldn't go back that far. What I said this morning before you were here, which might answer part of your concern, is we believe in our State and in the national association that I represent in what we call our "triangle assistance."

That is, the States do what they can do, the peer associations do what they can do, and the Federal Government does what it can do, so that each, working together, can see to it that the kinds of abuses we now have and problems can, hopefully, be eradicated.

I think it would be incumbent upon Congress to more or less go to these States in some fashion or make a regulation that would kind of push the States to increase so that we would not have a high State and a low State, and a high State and a medium State, so that somehow or another we could unite the States in an almost standard kind of regulatory process.

It could be of invaluable assistance because, as we know now, sir, accreditation itself does not provide necessarily the one thing you are after, and that is accountability, and we must make the institutions accountable.

Mr. BRADEMAS. But you are not then suggesting, or are you—I am not clear on this. I think what you just suggested makes a lot of sense. Are you suggesting that in the final analysis each State ought to be judged in respect of accreditation of the institutions within that State, at least so far as the eligibility of students for participation in Federal assistance is concerned?

Mr. CLARK. I think the States should have a great deal in this decision as to whether or not an institution is viable and therefore should qualify. How this is done would have to be worked out jointly, I think, between standards which would be worked out by you and correspondingly, new kinds of standards in the States.

As you know, the model ECS legislation which was introduced was supposedly to bring about a standardization so that all State laws are about the same. Obviously, we cannot do it until all the State laws have the same kind of teeth in them.

Mr. BRADEMAS. I must tell you in all candor I don't understand what you are trying to tell me. My question is this, put in the most simple English possible: Do you believe that at least with respect to qualification of students at schools of the kind you represent for participation in Federal student-assistance programs, that approval by the State, accreditation by the State suffices?

Mr. CLARK. I would say, yes, if the State has the right kind of laws. You must standardize—

Mr. BRADEMAS. You should be a candidate for Congress. What do you mean, if the State has the right kind of laws? It is the whole point of the discussion, Mr. Clark. I am not trying to badger you.

Mr. CLARK. I know what you are saying. First of all, in the simplest terms, the Government should butt out. I think the States should have the responsibility of regulating these schools within their States, but in order to do that we must have a standardization so that each State has the same kind of requirements.

Somehow or another we must do away with the difference which have extremely strong laws and States which have no laws. That would have to be reached by a joint working in this triangle of assistance.

We would have to draw from the people, the Congress, and the people from the accrediting bodies and people from other States to sit down and develop the kind of model law which could be pushed for acceptance in each State.

If that happened and we had the standardization of the kind of regulations necessary, then the States could be the ones to say that this or this school should or should not, based on the evaluation of that State.

Mr. BRADEMAS. In other words, are you saying that we ought to have a minimum, a floor of standards which every State must require in terms of accrediting its institutions?

Mr. CLARK. Correct.

Mr. BRADEMAS. That relieves me because the concern of some of us, at least my concern, is that if you did not have such a floor then you could have a pattern in the country of 50 States wherein some States did not require standards of sufficient quality to prevent fly-by-night

institutions from bilking the Federal taxpayer in terms of student assistance programs.

Mr. CLARK. We do not want that.

Mr. BRADEMAS. That is very helpful. I think I am clear on your position and I thank you for a very useful statement.

Mr. O'HARA. Thank you very much.

Thank you very much, Mr. Clark, for appearing before us. We would like to stay in touch with your association and with you, as the president of the association, as I indicated because we are as interested as you are in finding a constructive and helpful role for the States in this whole problem.

We think the States can make a contribution and we want to see to it that they do.

Without objection, the materials you have supplied will be included in the record of these hearings.

The subcommittee will now stand in adjournment until tomorrow morning, when we continue our hearings on this general subject of accreditation and institutional eligibility. We will meet at 10 o'clock in room 2261.

[Whereupon, at 11:17 a.m. the subcommittee recessed, to reconvene at 10 a.m. Friday, July 19, 1974.]



## FEDERAL HIGHER EDUCATION PROGRAMS INSTITUTIONAL ELIGIBILITY

FRIDAY, JULY 19, 1974

HOUSE OF REPRESENTATIVES,  
SPECIAL SUBCOMMITTEE ON EDUCATION OF THE  
COMMITTEE ON EDUCATION AND LABOR,  
*Washington, D.C.*

The subcommittee met at 10 A.M., pursuant to adjournment, in Cannon House Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Quie and Lehman.

Also present: Webb Buell, counsel, Jim Harrison, staff director; Elnora Teets, clerk; Robert Andringa, minority staff director; and John B. Lee, minority research assistant.

Mr. O'HARA. The Special Subcommittee on Education will come to order. Pursuant to our mission of reviewing and perhaps rewriting title IV of the Higher Education Act with respect to student assistance, we have been looking into the question of qualifications of institutions that will be permitted to enroll students receiving Federal assistance. We have, of course, been looking into the accreditation issue in connection with that, and with the general question of how we can assure that those students who are receiving assistance under various Federal programs funded under title IV will be protected in that they will be protected in terms of the kinds of education and training they receive, in terms of the financial responsibilities of the institutions they attend.

We had witnesses yesterday on this subject. Today we are looking forward to hearing from others who will give us the benefit of their views on entire problem.

Our first witness today will be Mr. Richard Fulton who is the executive director and general counsel of the Association of Independent Colleges and Schools. As I understand, Mr. Fulton is accompanied by Mr. Dana R. Hart, who is executive secretary of the Accrediting Commission of the Association of Independent Colleges and Schools.

Gentlemen, please take your places at the witness table and let us have the benefit of your experience in these matters.

Mr. LEHMAN. Mr. Chairman, I was hoping to be here today at these meetings, but I have an appointment over at the Senate Office Building. I will try to get back from there as quickly as I can. If you will pardon me, I will try to be back to hear the summation of your testimony.

Mr. O'HARA. The chairman thanks the gentleman from Florida who made a special effort to be here.

Mr. FULTON. Thank you, Mr. Chairman. For the completeness of the record, I wonder if I might file a formal statement and then

attempt to summarize it in preparation for questions by the members.

Mr. O'HARA. Mr. Fulton, without objection, your full statement will be entered in the record.

[The statement referred to follows:]

JOINT STATEMENT OF RICHARD A. FULTON, EXECUTIVE DIRECTOR AND GENERAL COUNSEL, ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS, WASHINGTON, D.C.; AND DANA R. HART, EXECUTIVE SECRETARY, THE ACCREDITING COMMISSION, ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS, WASHINGTON, D.C.

Mr. Chairman, and the members of the Subcommittee: My colleague Mr. Dana R. Hart and I wish to acknowledge the serious responsibility accorded to us by you in responding to your invitation to give testimony to the committee "with regard to institutional eligibility for participation in student financial aid programs, generally."

Briefly, by way of background, I am Richard A. Fulton, Executive Director and General Counsel of the Association of Independent Colleges and Schools (AICS). Mr. Dana R. Hart is the Executive Secretary of the Accrediting Commission of AICS which, under our corporate charter and Bylaws and The Criteria of the U.S. Office of Education, is the body endowed with independence of judgment with regard to accreditation of institutions within our scope of authority. Incidentally, I might underscore the fact that while the bulk of our membership is institutions which are proprietary in form, we are not the Accrediting Commission for proprietary schools, rather we are the Accrediting Commission for institutions other than public tax-consuming institutions, both proprietary and non-profit, which offer programs of education in business and business-related programs, both at the collegiate level and at the post-high school level. Further, several members of AICS are accredited by regional accrediting agencies.

Of the some 500 institutions holding membership in AICS, the bulk of these institutions is proprietary in their form of governance. Some people would call them "profit making institutions" others might refer to them as "tax-paying institutions" rather than tax-consuming or tax-avoiding institutions. About 15% of the institutions are tax exempt or, in the layman's term, "non-profit" institutions. Some of these are church-related, such as LDS Business College in Salt Lake City, Utah, or the Aquinas Junior College in Milton, Massachusetts.

Although many people are prone to classify proprietary education as a level of complexity or a particular program of study, it is our position that proprietary is merely indicative of one of the three forms of institutional governance, that is public tax-supported, private, tax-exempt; and proprietary, tax paying institutions. The form of governance is unrelated to whether or not the institution is degree-granting or "collegiate." Within our organization there are proprietary, collegiate, baccalaureate degree-granting institutions such as Stayer College here in the District of Columbia, and tax-exempt 501(c)(3) institutions such as the American Institute of Business in Des Moines, Iowa which is accredited as a business school instead of a collegiate institution. To those who persist in referring to "proprietary and other vocational institutions", we must respond that this has the same logic as those who refer to "nurses and other female health personnel" or "secretaries and other female clerical employees."

Mr. Hart and I respond in our individual capacities. The views and opinions which we present to the Committee are our own and not the policy positions of either AICS or its Accrediting Commission. Nonetheless, we hope that our views may be of utility to the Subcommittee with regard to institutional eligibility or participation in student financial aid programs.

#### ACCREDITATION IS ONLY AN ELEMENT OF ELIGIBILITY

Most respectfully we draw attention to the second paragraph of the Chairman's letter of invitation of July 8, 1974. The statement therein is most helpful in setting the stage to express our views and why we feel it to be of great importance that in discussing terms such as accreditation and eligibility, great precision should be observed. For example, the invitation states "accreditation is one device currently used to determine eligibility." We suggest that a review

of the statutory definitions of eligibility for purposes of U.S.O.E. administered programs of student financial aid as contained in Sections 435(b)(2) or Section 435(c)(2) or Section 1201(a)(2) or Section 419(b). All define eligibility as a bundle of elements, *only one of which is accreditation*. Unfortunately many people, in our opinion, tend to equate accreditation with eligibility. This, for example, ignores the essential and vital role and responsibility of state government as a co-equal, but independent element in that bundle all of which go together to make "eligibility."

In other words, we think Congress, in enacting these various sections of the Higher Education Act defining "eligibility" or allied terms, made it abundantly clear that accreditation was only one of several elements. Whether or not in the *administration* of the law equal concern for the responsibility of the state has been observed is, I suppose, a matter of judgment and observation. We wish to clearly establish our respect for the responsibilities of the states and to acknowledge the important role that has been played by imaginative and innovating administrators in some of the states. We wish such an attitude could be found in all fifty states, but such has not been the case.

#### THE MONDALE EXEMPTION

Just as some states have been reluctant to accept their respective responsibilities, so too the same can be said for some accrediting agencies. The denial of access to public area vocational schools to accreditation fully justified the exemption from accreditation achieved by an amendment to the Higher Education Act in 1972 by the distinguished Senator from Minnesota, Walter W. Mondale, which can be found in Section 435(b)(2). Unfortunately, there is a great deal of confusion and misunderstanding about the Mondale exemption; what it does and what it does not do.

The Mondale exemption is just that; it exempts a certain class of schools from the requirement of being accredited because those schools had no access to accreditation. It does not, in our opinion, exempt any class of schools from the authority of the state government from which the institution pursuant to Section 435(b)(2) or 435(c)(2) or Section 1201(a)(2) which states that the institution "is legally authorized within such state to provide a program of education beyond secondary education." We presently think there is ample authority for the administrators of these programs of student financial aid to require as a condition of "eligibility" of an institution to have two concurrent but independent judgments; one from the states and one from the accrediting agencies. Lacking either, an institution does not satisfy the definition of eligibility.

However, if the administrators of the program feel that the statutory language cited gives them insufficient authority, then we most vigorously suggest that the solutions by which the authority of the state to oversee and supervise in their capacity to regulate and license educational institutions both proprietary and tax-exempt, should be enhanced, embellished and reinforced, by additional language to Sections 435, 1201, and 491.

To further expand the Mondale exemption of 435(b) to include private vocational schools as well as public vocational schools would deny the USOE and the Congress the benefits of the system of dual, concurrent and independent judgments, indeed it would repose entirely the decision for eligibility solely in the hands of the State Agencies.

It may be the judgment of this Subcommittee that accreditation itself should be eliminated as one of the elements of eligibility. We suggest that that is a separate issue from what we perceive to be the need for a continuation of the system of two separate, but concurrent, independent judgments.

#### NECESSITY FOR TWO CONCURRENT BUT INDEPENDENT JUDGMENTS

Although we have only limited access to information or statistical data concerning the problems in the administration of the Guaranteed Student Loan Program, we do suggest that a qualitative analysis on a state by state basis indicates the efficacy of having this dual judgment system. With regard to proprietary schools, where either element has been lacking, there have been more serious problems. We repeat, where *either* element (state authority or accreditation) has been lacking, there have been problems.

We believe that the USOE can confirm the following analysis with their data. For example, in New York and in California, proprietary institutions with a student population manifesting a high default ratio under the Guaranteed Student Loan Program, had a number of "eligible institutions" which, while licensed or regulated under well-administered state laws, were institutions that were *accepted* from the accreditation requirement, because at the time the institutions allegedly had no access to an accrediting agency. Conversely, there have been a number of examples of institutions in such states as Texas, Louisiana, Mississippi, Georgia, and Alabama, which although the institutions were accredited, there was no state law authorizing the institutions to offer the program of education. Here again were institutions having student bodies with extremely unfavorable default ratios under the Guaranteed Student Loan Program. We suggest this supports our argument in favor of the necessity for state regulation as well as some other independent judgment. Currently, that judgment under the statutes has been by the accrediting agencies. There is of course the three letters of transfer rule which is applicable only to public and tax-exempt colleges. It may be appropriate to establish some alternative to accreditation but if that is the decision of the Subcommittee, we urge that it clearly be that and no more. The system of two concurrent but independent judgments should be preserved.

#### ACCREDITATION AS IT IS PRESENTLY PRACTICED

My colleague Mr. Hart, Executive Secretary of the AICS Accrediting Commission stands ready to particular questions that members and staff of the Subcommittee may have with regard to our accreditation procedures. In summary, those procedures have been published and are available to the public, pursuant to the Criteria issued by the Commissioner of the USOE. They have been periodically reviewed by the USOE and the Commissioner's Advisory Committee on Accreditation. We have been informed by the Commissioner that they are in conformity with the Criteria as they previously existed, and we look forward to having them measured by the newly established Criteria which were only recently published governing the recognition of Accrediting Agencies.

The Accrediting Commission for AICS was established in 1952. In 1956 it was designated by the Commissioner of the USOE as a "nationally recognized accrediting agency" pursuant to PL 82-550 in subsequent legislation. From its outset, the judgmental body, and by that I mean the commissioners themselves and not the staff, has included "public members."

One of the criticisms leveled against accreditation by critics is the allegation that such a body is self-serving and self-accrediting. Although the older and more established accrediting agencies are in the process of flirting with the idea of non-peer members of an accrediting commission, we have more than twenty years of successful experience with outsiders serving in an equal judgmental capacity. Another innovation of our Accrediting Commission is the adoption of a policy of proration of refunds when students withdraw from school. The minimum standards of the formula are explicitly set forth in this *Supplement to the Criteria*.

The problem of refund is often discussed as only one involving proprietary institutions. Actually, there are many non-proprietary colleges and universities that have very simple refund policies. Those policies are of "no refunds." While our policy may not be perfect, and our suggested minimum formula may be subject to disputation, at least we have adopted both a policy and a formula, which is more than can be said for the so-called "traditional" educational community.

Accreditation is a complex mosaic of continuing judgments and relationships. It is not a "hallmark" stamped upon an institution for all time. It is a privately administered system of privately adopted standards and procedures. There are well-intentioned persons who in their endeavor to achieve worthwhile purposes would preserve the form of accreditation while denying its substance and dynamism. Such an example is H.R. 11927 introduced by Representatives Bell and Pettis. This is a well motivated measure which in our opinion uses the wrong agency at the wrong point in time to find out things which either the state or federal government probably should rightly know if it is to continue

to fund programs of student financial aid. Most of the very worthwhile suggestions that H.R. 11927 would insert into the criteria of an accrediting agency, more properly are a function of either state licensure of institutions or the federal program post-audit authority of 438(a). Our position is that if the Congress wishes to continue to utilize accreditation as one of the elements of eligibility, then let it remain accreditation. Of course refunds and advertising are already a part of our Criteria.

Implementation of program post-audit authority requires a candid recognition of the function of a particular program. We suggest that there is a general lack of candor in identifying the purposes of the several programs of student financial aid, which in our opinion, are not all identical in thrust or support. Title IV contains a number of programs generically styled as student aid. However, there are programs in which the institution is but an incident of the student's discretion such as the BOG or the GSL. On the other hand, there are programs such as the NDSL, CWS, and SEOG in which the student is but an incident of the institution's discretion to dispense its government subsidized largess. Further, there are programs of obscure intent such as the State Scholar Incentive Grants which, while democratically administered in some states to provide assistance to all students to attend any institution meeting the definition of eligibility under Title IV of the Higher Education Act, offers the possibility that in one or more states they may be used in a particular state to preserve some sort of elitism or perpetuate little enclaves of privilege. Then there are the Veterans Cost of Instruction Grants as well as the other institutional increments authorized by Title IV. Supposedly, these are paid by the Federal Government to the institution because of the institution's estimated increased cost of instruction by obligating itself to enroll certain classes of students who allegedly would cost more to educate than others. Certainly if these payments are justified, they should be dominated for what they are and their cost effectiveness should be established on a post-audit basis. These should be payments under a contract.

The principle for such a post-audit system was established in 1972, when Congress amended the Guaranteed Student Loan Program to provide the USOE with authority pursuant to Section 438(a) to fiscally audit an institution, to establish standards of administrative capability, and to suspend, condition, or terminate the eligibility of an otherwise eligible institution. It is at this point in time, and through such a federal system in conjunction with utilization of state authority, that we feel the intentions of the Bell-Pettis legislation are best implemented.

#### LOSS OF ELIGIBILITY

Theoretically, the instant that any element of eligibility, be it state authority or private accreditation, ceases to obtain, eligibility should terminate. Additionally, though unimplemented, Congress gave to the Commissioner of the USOE at its request in 1972 the authority to condition, suspend or terminate the eligibility of an otherwise eligible institution. This authority is found in Section 438(a) of Title IV. Hopefully, the regulations implementing this two year old authority will be issued soon. As a legislative recommendation, we would hope that this authority would be expanded to include at least all programs of student financial aid, and not limited merely to that of the Guaranteed Student Loan Program.

Quite reasonably one might ask, if eligibility contains at least two concurrent but independent judgments, one from the state and one generally from the private accrediting agency; if both judgmental bodies are doing their job effectively and responsibly, what need be there for this post-audit authority reposed in the USOE to condition, suspend or terminate the eligibility of an otherwise eligible institution? The answer lies in the fact that neither the state nor the private accrediting agency is the disbursing agent or the administrator of any of the programs of student financial aid under Title IV. Only the USOE has available to it the facts concerning a particular program, whether that program be GSL, BOG, SEOG, CWS, or NDSL. We do not administer the program, and we can only rely upon the facts as disclosed to us by the USOE. For example, during 1973, particularly, there were a number of news stories which attributed just about all of the problems under the Guaranteed Student Loan Program to defaults by students enrolled in proprietary schools. Since we do

not administer the program, we have no evidence as to the source of these stories or the authority for such disclosures. Happily, since approximately the first of the year, statistical information has been made available to the public by the Division of Insured Loans of the USOE with regard to defaults under the Guaranteed Student Loan Program. The facts are rather interesting. They have also destroyed some assumptions of those who would criticize education in proprietary institutions.

For example, many people confuse the Federally Insured Student Loan Program (FISL) with the Guaranteed Student Loan Program (GSL). As we know, FISL is but one increment of GSL, the other increment is that which is administered by the State Guarantee Agencies. Statistics released by the Division of Insured Loans show that the total number of loans in default and the total dollar volume of loans in default is greater for the loans administered by the State Guarantee Agency than the total number of loans in default and the total dollar volume of loans in default under FISL. That statistical data, peculiarly within the knowledge of the USOE, must be read with testimony given before this Subcommittee last year by Dr. Donald Payton, then President of the National Council of State Loan Guarantee Agencies. Dr. Payton testified on July 26, 1973 before this Subcommittee (page 100) that only between 5 and 8% of the funds administered by the State Guarantee Agencies go to students in vocational schools. If the funds do not go to students in vocational schools, then obviously they are going to students in the traditional public and private collegiate institutions. One need not belabor the obvious, or quantitate the unnecessary, to conclude on the basis of these two sets of facts, that not all of the problems of defaults under the Guaranteed Student Loan Program can be attributed to students enrolled in proprietary schools, or the decisions of either state regulatory agencies or the private accrediting agencies. These are facts peculiarly reposed in the USOE and are appropriate for action by the USOE pursuant to the authority given to the USOE more than two years ago pursuant to Section 438(a). We hope that before too long, the regulations implementing this authority will be announced. We do not seek to abdicate our responsibilities, but rather we seek the necessary support to contribute to the success of the administration of the program.

#### ACCREDITATION WITHDRAWAL BY AICS

Often, the critics of accrediting agencies equate due process with undue delay. We suggest that the activities of AICS in the fifteen months immediately after the passage of the Education Amendments of 1972, illustrate that an accrediting agency, when provided with definitive data by the USOE, justifying concerns about the GSLP at any particular institution, can act responsibly, with alacrity, and with efficacy. During the period marked by the enactment of the Education Amendments of 1972 in June of that year through September of 1973, accreditation was withdrawn from twenty one institutions by AICS. These were final decisions, with all rights of appeal having been made fully available and publication of the action, including communication to the USOE and concerned state officials. In all but a few schools, these withdrawal actions were related directly to the financial stability of the institution, and the administration of the Guaranteed Student Loan Program. Accreditation has been withdrawn for cause from an additional 16 schools since September of 1973, or a total of 37 in the past two years.

This does not include a number of other institutions which during the same period were issued as *show cause* letters resulting in hearings about that institution's financial stability and its administration of the Guaranteed Student Loan Program. In some cases, initial orders of suspension or revocation were issued, but subsequently vacated, either on appeal or upon showing substantial remediation of the previous situation. In most cases, this has resulted in substantial amounts of refunds of tuition, to either students or lending institutions which has substantially reduced the amount of delinquency or default claims subject to the Federal Insurance of the program.

To accomplish these decisive actions, expeditiously but with full observance of "due process", we found it necessary to amend the Bylaws of the Corporation, provide for the establishment of a Review Board, amend the *Criteria of the Accrediting Commission*, send teams of field auditors to visit the institu-

tions, hold formal hearings before the full commission with an opportunity for the institution to appear, establish a review board, appoint members to serve on it, and to hold timely hearings for the appeals. All of this was accomplished in approximately fifteen months. It began with information about the loan program, brought to our attention by officials of the USOE. We think our activities illustrate that when provided with definitive data, an accrediting agency can respond with alacrity and efficacy to the situation.

Parenthetically, I would note that for our activities during that period, and for those schools from which accreditation was withdrawn, there was no court action brought against us by reason of any claim of lack of due process with the procedures which we instituted and under which the withdrawal was accomplished. Since this initial activity during 1972 and 1973, we have continued to take negative actions resulting in the withdrawal of accreditation from institutions.

#### SUED—\$4.5 MILLION LAWSUIT

As the result of the refusal of AICS to continue the accreditation of five institutions which underwent a change of ownership control in 1973, we have now been subjected to a Temporary Restraining Order by the U.S. District Court in San Antonio, Texas, vacating our judgment of suspension, and reinstating the accreditation of the five institutions. We are also defendants in a damage claim for four and a half million dollars. By reason of the TRO reinstating the accreditation of the five institutions, the USOE has reinstated the eligibility of the institutions. The present status of the suit is that trial on the preliminary injunction has been delayed by stipulation of the parties, and the plaintiff schools have agreed to file the requisite financial statements whereby the Accrediting Commission may have a basis for expressing a judgment on the financial stability of the institutions and the degree to which payment of tuition refunds due students have been made. The defense of this lawsuit has cost our Accrediting Commission thousands of dollars in legal fees, with no expectation of a reimbursement from a private foundation, the USOE or the Congress. Nonetheless, it is our intention to vigorously defend this suit, and to attempt to maintain our published *Criteria* which have had the approval of the USOE. We do look forward to the day that the USOE will have published regulations permitting it to do directly what it is now doing indirectly through our accrediting agency and at our expense.

#### WHERE DOES THE BUCK STOP?

The determination of eligibility, whether it includes the element of accreditation or some other "council of wise men" requires courage to make decisions and the will to defend those decisions publicly, be it in the courts, in the political arena, or in the news media. Obviously, a private accrediting agency, with limited resources, cannot defend a series of lawsuits without courting bankruptcy. Similarly, however emotionally tinged the efforts of the institution may be, there are times when hard decisions must be made denying accreditation, if accreditation is to be a viable element of eligibility.

The critics of the accrediting agencies claim that the agencies' insistence upon due process necessarily involves "undue delay". It requires more than a modicum of self-discipline to endure the innuendos of the investigative media who somehow feel privileged to have detailed knowledge of the confidential internal procedures which we understand to be an inherent part of due process. However, it is interesting to note that in two situations the media refused to underwrite our possible legal liability in return for public disclosure of our internal procedures which could lead to withdrawal of accreditation.

The cry that the public has a right to know is not unique to accreditation. From international diplomacy, to rule making by the federal regulatory agencies, the reformers have, from time to time demanded "open decisions openly arrived at". Such has even been suggested, and sometimes attempted by the committees of the Congress. We do not have the fiscal resources to pioneer jurisprudence in this area. However, if the Committee feels there is a statutory solution which can conserve the rights of the institution, protect the accrediting agency from legal liability, and yet provide information to the public at some stage earlier in the proceedings than that of a "final decisions", we would welcome such legislation. We do not have the resources to establish it by a litigation.

ALTERNATIVES TO ACCREDITATION OR ADDITIONAL CRITERIA WITH RESPECT  
TO ELIGIBILITY

Whether or not accreditation should remain as one of the elements of eligibility is a political decision beyond our capability. We do suggest that at all costs the Committee retain the tri-partite system of at least two concurrent, but independent judgments to *establish* eligibility with a *post-audit*, watch-dog authority, reposed in a third body to condition, suspend or terminate the eligibility of an otherwise eligible institution if it is not measuring up to the purposes of these particular programs for which it has been made eligible. We would urge both the implementation of the present authority of the USOE to "de-eligibilize" institutions pursuant to Section 438(a) and expand such authority to embrace at least all programs of student financial aid.

With regard to the necessary element of state authority to an institution to offer a program of education, we suggest that the present language is sufficiently explicit. If further encouragement is necessary to the states to assume their respective responsibilities with regard to the regulation and licensure of all educational institutions, we suggest that it best be accomplished by enhancing and embellishing the language of Section 435(b)(2); Section 435(c)(2); or Section 1201(a)(2). The language of 438(b) is an exemption rather than an authorization.

With all due respect to the sincerity and the dedication of the authors of the second Newman Report, "National Policy and Higher Education," we suggest they too misunderstand that accreditation is only one of the elements of eligibility, rather than the determinant of eligibility (see page 63 and recommendation number 7 at page 108). At the risk of being too charitable, we suggest that the proposal for a "national procedure for determining eligibility based primarily on an institutional disclosure statement" begs the question. The determination of eligibility and its withdrawal, necessitates definitive judgments which do in fact discriminate. The important thing is that the discrimination be solidly founded and not capricious. The vague standard suggested by the well-intentioned authors of the second Newman Report at page 108 ignore the fact that some group of people must make definitive decisions defensible to third parties under our system.

We look forward with interest, to the proposal which we understand will be suggested in Dr. Harold Orlans' final report on "Private Accreditation and Public Eligibility". Although we have seen an advance draft of this report, we are under a stricture not to quote or discuss its content publicly.

We wish to restate our understanding and our position that accreditation is only one of a number of elements of eligibility. Possibly perhaps, within that element of eligibility, the Committee may come up with some alternative such as the three letters of transfer system which is presently utilized as an alternative to accreditation for colleges and universities. Such a proposal in no way diminishes the responsibility of the states to license or regulate or authorize institutions to offer programs of education.

If the Committee entertains fears that accrediting agencies have neither the financial resources nor the will to defend litigation brought against them as the result of denials of accreditation or withdrawals of accreditation, it might wish to consider reposing in some other body, possibly, perhaps, the USOE, a sort of supra-equity power, to permit an institution which claims to have been unfairly denied access to accreditation, or to have been wrongly stripped of accreditation, a means to satisfy the accreditation element by an external decision in lieu of the accreditation which the institution has either lost or been denied. Again, this would not be an alternative to eligibility, but merely an alternative to that element of eligibility which is accreditation, and it would only be available after the institution has either been denied accreditation or has been stripped of it.

While there is a super abundance of the critics of accreditation as an element of eligibility, we suggest there would be a paucity of volunteers to serve on this equity supra-body who would be ready to stand in judgment and personally be responsible for the decisions with regard to institutions which have either been denied accreditation or have been stripped of accreditation. Nonetheless, such proposal could relieve accrediting commissions of threats of personal liability and the accrediting agencies of serious legal expenses. It



might, but we doubt it, open the door to innovation so dear to the hearts of accreditation's critics.

Whatever alternative may be suggested, we reiterate our suggestion that the Committee maintain the tripartite system of two independent and concurrent judgments leading to eligibility with the post-audit authority of de-eligibilizing when it is evident that an institution lacks the capacity to perform its stated mission within the terms of the particular federal program.

#### CONCLUSION

No matter how sophisticated new assessment techniques may be, at the bottom line there still remains the fact that some group of persons must make decisions which will contribute to the denial of, the granting of, or the withdrawal of institutional eligibility. We suggest that no one group of people or particular individuals is especially endowed with the capability of always making the correct decision. That is why we have a Review Board. We do suggest that the statutes contemplate a synergistic result in reliance upon state authority, accrediting agencies and the USOE's post-audit authority. Rather than eliminating accreditation as an element of eligibility, we would suggest that if necessary, the authority of the states be enhanced and embellished, and the authority of the USOE be implemented.

We urge that it is inadvisable to establish any single system of controls, be it federal, state or privately administered. We hope that this Subcommittee will not lose sight of the fact that careful consideration is required in defining the appropriate federal role, and the extent of direct government intervention that is permissible and compatible with our traditionally independent, diverse, pluralistic, and autonomous educational system. Whether it be accreditation or some other "national procedure for determining eligibility" which may use "new assessment techniques", we suggest that decision still must be made by fallible men. In substituting one aggregation of fallible men for another, we are reminded of the observation by Milton writing "On the New Forcees of Conscience": "The new presbyter is but an old priest writ large".

#### JOINT STATEMENT OF RICHARD A. FULTON, EXECUTIVE DIRECTOR AND GENERAL COUNSEL FOR THE ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS, WASHINGTON, D.C., AND DANA R. HART, EXECUTIVE SECRETARY OF THE ACCREDITING COMMISSION, ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS, WASHINGTON, D.C.

Mr. FULTON. Mr. Chairman and members of the subcommittee, we wish to acknowledge the serious responsibility of responding to your invitation to give testimony with regard to institutional eligibility for the participation in student financial aid programs.

By way of background, I am Dick Fulton, executive director of AICS. With me is Mr. Dana Hart who is the administrative officer, executive secretary of the accrediting commission, a body endowed with independence of judgment—not necessarily always wisdom, but at least independence of judgment—with regard to accreditation.

I would add that while the bulk of our membership is institutions which are proprietary in form, we are not the accrediting commission for proprietary schools nor are we the spokesman for the proprietary schools. We are merely the accrediting commission and the association for institutions other than public, tax-consuming institutions which offer programs of education in business and business-related programs.

Incidentally, some of our member institutions also hold either joint accreditation or separate accreditation with one or more of the

regional accrediting bodies. There are four such institutions in our association, Lakawanna Junior College, Graham Junior College, Robert Morris and New Hampshire College of Accounting. About 15-percent of the institutions in our membership are so-called non-profit institutions.

We would like to emphasize that although there is a tendency to classify proprietary institutions as a level of complexity or a particular program of study, usually vocational education, it is our view that proprietary is merely one of the three forms of institutional governance. That is, tax-supported, tax-exempt or tax-paying institutions.

Mr. Hart and I are here in our individual capacities. We certainly realize that we have some experience in this field. But, our views are those of our own and have not had the benefit of any policy review by either the board of directors or of the accrediting commission. I think it is particularly significant in the invitation to appear that under review is the view that accreditation is one device currently used to determine eligibility.

It is our firm conviction that accreditation, as we appreciate the statutes defining eligibility, is only one of a bundle of elements which comprise eligibility.

We think that it is unfortunate that too many people tend to equate accreditation with eligibility. We suggest that a review of the statutes 435(b)(2), 435(c)(2), section 1201(a)(2) and section 419(b). All possess a coequal responsibility in the State government to assure that the institution has authority and to offer the program of education.

Now, whether or not in the administration of the law over the years there has been a recognition of this responsibility by program administrators or such an assumption in all States, that, of course, is a factual matter of which this committee may wish to examine. One item which has come up for discussion from time to time is the well-founded and fully justified exemptions from accreditation which was accorded public vocational schools in 1972 through an amendment offered by the distinguished Senator from Minnesota, Senator Mondale. At that time, and possibly even today, the north central association would not make available to the public vocational schools of Minnesota an accreditation. Therefore, these schools were precluded from satisfying one of the essential elements of eligibility, and that was accreditation. Therefore, as I view the Mondale exemption, it relieved a class of school from the necessity of being accredited. It said instead, all you need is State authority.

I think this is an exemption that was well founded as an ad hoc solution. But, I think the tendency of some people to claim that the States need additional authority to supervise, regulate, license other institutions or institutions other than a public vocational school is hasty evaluation of the true statutory situation. I maintain, again, that any reading of the statutes plainly requires as a condition to eligibility that the institution must also have authority from the State to offer the program of education.

If you will compare the language of 435(b)(2) with 435(c)(2) you will find there is a difference in the language there. Congress just wasn't reciting another droll, dull litany of responsibilities because

with regard to vocational schools there is a specific additional charge that these schools should offer realistic programs to fit individuals for useful employment and that is to be determined by the State.

I say this, that if people feel that the present statutory charge to the State is insufficient, then let us enhance it, let us embellish it, let us enrich it by going to those sections that deal with eligibility rather than dealing with an exception. As I understand the theory of eligibility, it is a tri-partite arrangement, it is a troika, it is a triangle, or what have you, involving two concurrent, independent judgments. One of them is by the State and one of them currently and generally is by the accrediting agencies. Now, there may be some exceptions on that.

Then combined with that is a post-audit, after the fact, authority of the U.S. Office of Education to deeligibilize, to suspend, terminate, condition the eligibility of an institution which they find is not measuring up to the thrust, purpose of design of the program. While hopefully the U.S. Office of Education will some day implement the authority that they have had for some 2 years. Now, whether or not accreditation should remain of one of those two elements to establish eligibility is a policy matter of political decision. We are not here to say we have an inherent right to insist that accreditation be made to do this or that for all time we should.

But, we do urge the committee to maintain some system of twin, independent, concurrent judgments that in a sense, one can keep the other honest. The reason I say that is that I think experience under the guaranteed loan program will illustrate this. I don't have the statistics. The U.S. Office of Education is the only one that has the statistics. But my qualitative analysis is this. That where either element is lacking or deficient, either accreditation or State authority, you have had a significant set of problems under the insured loan program, particularly in proprietary schools.

Let us take California or New York. Now, here are two States with sophisticated State licensing and regulatory authority. Yet, you will find under statistics released by the New York Higher Education Authority—and certainly some of us are familiar with, although AICS didn't accredit this set of trade schools, West Coast Trade Schools had a situation where there were excessive delinquencies and high-default rates. Those schools, although State licensed, were not accredited. They were admitted to eligibility under a temporary exception.

Now, conversely—and I don't want to straddle this at all; I want to forcefully come down on it—you have situations in Texas, Louisiana, Alabama, and Georgia where until recently there was no statutory authority for proprietary schools to offer programs of education. We had a situation in which I think the committee is well aware of where there were serious problems of high-default ratios among students in proprietary schools, which illustrates that it is not any one person's job and not any one person can do the whole task. Where either element is lacking in the establishment of eligibility, I think you will have serious problems.

Now, Mr. Hart is here to talk about the actual accreditation as it is practiced. But, I would like to pass on the fact that our accrediting

agency has pioneered at least two things. We have been in business now for over 20 years and while a lot of the more established agencies are flirting with the idea of having public members, we have from our own inception, people making the judgments who are not part of our peer group. It has been a mixture. It has been nonpeers participating in the program.

Similarly, we are one of the accrediting agencies that sets certain minimums of refunds that institutions must make when students leave school. Now I think there is a lot of rhetoric about pro rata and what it means. All I would say at this point is that pro rata is a policy that may be one or more formulas. We have no argument with anyone who is interested in the pro ration of refunds. We may dispute the economic basis for their particular formula, but we hope at least a realistic formula can be achieved to discuss that and have it economically justified.

One misconception is that accreditation is hallmarks, such as it is, stamped on a piece of silver. It is not. It is a mosaic of judgments that measure an institution over a period in time and it is an ongoing relationship. It is not this business of once saved, always saved. You have to stay with it. It is not a simplistic getting of a driver's license. Combined with the establishment of eligibility based upon State authority and accreditation as concurrent independent elements, there is the interesting principle of postaudit review authority by the U.S. Office of Education [USOE].

I hope that this authority of section 438A will be implemented, because when it is, maybe USOE can do directly what it has been doing for some time indirectly through the accrediting agencies. I think it is reasonable to ask that if the States are doing their job and if the accrediting agencies are doing their jobs and both elements are satisfied and operative, have we not the best of all possible worlds? Then, what need be there for postaudit authority of USOE or any disbursing agency, whether it is Social Security, Veterans or so on, to terminate the eligibility of an otherwise eligible institution?

My response to that is that in program administration there are facts about the program which are peculiarly within the knowledge of the particular agency. After all, we don't administer the insured-loan program, we don't administer the VA program. We do suggest, therefore, that when an agency has data or is charged with having data, it should then have the responsibility to act on institutions that were not measuring up to the thrust and responsibilities of the program.

For example, there has been a lot of charges about malefaction among proprietary schools and claims that excessive defaults are their responsibility. Unfortunately, nobody is interested in the facts. For example, under the releases that are now coming out in the last few months from the U.S. Office of Education, Division of Insured Loans, I think you will find by checking Mrs. Hansen's disclosures that the number of defaulted loans and the dollar volume of defaulted loans under the administration of the State guarantee agencies exceed the number of defaulted loans, and the dollar volume of defaulted loans under the FISL increment of the guaranteed student loan program.

Now, if you read that information with the testimony of Dr. Donald Payton who testified last year here on July 26, 1973, when he said that less than 10 percent and probably only 6 to 8 percent of the money under the State guarantee agency goes to vocational students, I don't think it takes a statistician to come to a qualitative analysis that some of those loans must be among what is called higher education. Statistically, it just can't work out under the entire guaranteed student loan program that all the defaults are among proprietary school students.

Now then, we open up an interesting area. There are those who would, say, prove how good you are by telling us how many bandits you have hung recently. Then if we prove that, they say, why did you let them in in the first place?

So, it is a very difficult question to which we have to respond. But we will attempt to. We would say this. I think it is a fair comparative period to take, about the same time that USOE got the deeligibilization authority for which they asked in June of 1972, to examine what has our accrediting agency done in a comparable period? In the first 15 months following, through September of 1973, we revised our bylaws, we established a review board, we rewrote our whole procedures governing negative actions, we sent field-audit teams into certain institutions which USOE indicated had problems. We issued show-cause letters, we had hearings, we gave initial judgments. We accorded people with what we understand to be due process. That is, notice, hearing, and an opportunity for 1 more group to say, hey, what did you do, and issued final negative decisions withdrawing for cause the accreditation of 21 institutions in 15 months. Subsequent to that time, we have issued negative decisions for cause on an additional 16 schools, totaling 37.

Now, this has resulted in a number of schools making substantial payments of refunds due. It has also resulted in the second set of efforts to our accrediting commission being made defendant to a \$4.5 million lawsuit. Now, there are a lot of critics of accreditation and there is a lot of high-flown theories on establishing new councils of wise men to make decisions about institutions which will determine eligibility and accreditation and things like that.

I would submit to the committee that you know Harry Truman said "The buck stops here." Somebody has got to decide whether they are willing to put their personal fortune on the line and make hard judgments telling somebody we deny your accreditation or we revoke your accreditation and we are prepared to defend that judgment to the Congress, to the press, or to public opinion. It is not easy.

I suggest there is a lot of volunteers who criticize accreditation, but there is a paucity of volunteers who will participate in some alternative system where they might be personally liable for such a negative judgment. We do not expect the Congress to reimburse us for the thousands of dollars of legal fees that we have already expended. But we suggest that if you feel that the public has a right to know what is going on internally about an accrediting agency prior to what we would call a final decision then some sort of an appellate process has been exhausted, I suppose it will take some sort of statu-

tory exemption to say, for example, go public, when there has been an initial negative decision, but which is subject to review.

I don't have a ready answer, but I think this will take analysis by legal scholars. But I can tell you this, it is not easy to endure the harassment and innuendo of the press when they are seeking to find out what is going on about an institution before you are prepared to go public.

I would add this. That in two instances I have suggested to the press that if they would be glad to pledge the assets of their respective newspaper empires, to underwrite our potential legal liability for premature disclosure and to make public the privacy of our procedures, we will consider such disclosure. They have not accepted that offer. But you know it is another one of those cases, put your money where your mouth is.

There are those who would establish alternatives to accreditation. Sometimes they are saying alternatives to eligibility. All I would say again is that if the committee concludes that accreditation is not the vehicle, excise it. But unless the committee preserves a system of two concurrent independent judgments to establish eligibility, you open the door to a one-judgment system where nobody is checking on the other. For example, if you want to turn over the determination of eligibility of proprietary schools solely to the State agencies, you would open the door in some cases to one-man judgment which would permit the possible participation of some 10,000 proprietary schools. At least according to the FTC, there are 10,000 proprietary schools. We only speak for less than 500. I suspect the educational establishment just isn't ready to accept an open-ended participation by all schools.

With regard to the well-intentioned suggestions of the people who participated in the Newman report—I realize that one of them is present today—I really suggest that you read the recommendation, No. 7, at page 108 of the second Newman report. It really begs the question. There is always talk about let's have new procedures to do something, but it doesn't say how. As far as Dr. Orleans' report, "Private Accreditation and Public Eligibility," I am under a stricture not to discuss its contents, and therefore I can only say I wait with interest when he goes public with it.

I hope that his analysis of public eligibility is there, too, in addition to whatever voyeuristic trips he has taken on private accreditation. There may be the necessity within the element of eligibility that is accreditation to establish some alternative to that element known as accreditation. It may be that this committee may want to establish some sort of Supra Equity Board where an institution either having been denied accreditation or having been stripped of it could then go and say, you know, this is a bum rap. We should be eligible. Maybe this additional council of wise men can see the wisdom in it.

But this would not be an alternative to eligibility. It would be an alternative to but one of the elements of eligibility and would preserve the dual concurrent responsibility of establishing eligibility. As I have said before, there are an abundance of critics of accreditation, but I suggest there would be a paucity of volunteers who are willing

to serve and put their personal fortunes on the line and subject their property to litigation and lawsuits.

I think that for the concept of eligibility I think the Congress had in mind a sort of synergistic result of State authority, with accreditation and USOE postaudit authority. I am concerned that as accrediting agencies continue to respond to statutory needs, there can be a possible incompatibility with the traditional independent diverse pluralistic and autonomous elements of our education system. But if determinations are to be made rather than open entitlements without the accountability, those decisions can't be made by computers. They have to be made by fallible men and whatever new bodies of judgment somebody would propose, I would just say again in the words of Milton who said, "The new presbyter is but an old priest writ large."

If you have any questions for me or my colleague, Mr. Hart, we will do our best to respond.

Mr. O'HARA. Thank you very much, Mr. Fulton. We would like to ask some questions. We think that you gentlemen are uniquely qualified to give us some notion of the kinds of problems that are sometimes encountered in connection with the accreditation of proprietary schools. You have indeed been active in the field of withdrawal of accreditation. You cited some figures in here that show that over the last several years from June 2 to September of 1973, accreditation was withdrawn from 21 institutions and an additional 16 schools since September of 1973, for a total of 37 in the past 2 years. You mentioned that most of those involve the administration of the guaranteed loan program and financial responsibility.

Mr. FULTON. That is correct, sir.

Mr. O'HARA. What sort of standards do you apply in those two areas, taking them one at a time, and what kinds of problems did you encounter for these particular schools from which you withdrew accreditation?

Mr. HART. May I hear that again?

Mr. O'HARA. What standards do you apply in connection with the guaranteed student loan, and in connection with the financial responsibility of the institution, and what sort of problems did you encounter in these 37 schools?

Mr. HART. I believe that the 37 schools would have been withdrawn for various reasons, although it probably could be said that the majority of them were for reasons of either financial instability of the institution itself, or problems with the guaranteed loan program, or failure to make adequate refunds timely and promptly.

Mr. O'HARA. You have some criteria of the accreditation commission. What sort of criteria do you use for financial stability?

Mr. FULTON. That an institution should have sufficient resources to carry out the promises it has made to the people it has enrolled.

Mr. O'HARA. Do your criteria set forth any rule of thumb or any formula by which that determination is to be made?

Mr. HART. There is none, and there are no quantitative factors in the criteria.

Mr. O'HARA. Do you try to make an independent judgment based on the particular situation of each case?

Mr. HART. That is true.

Mr. FULTON. We are fearful of getting into a numbers game which people can either hide behind or utilize to the disadvantage of the program. One of the inherent problems with regard to proprietary schools and the guaranteed loan program is that they came into students' financial aid by the back door, i.e., students in the proprietary schools.

As you remember, the insured loan program was the first program to which students in proprietary schools had open access to USOE-administered programs. They always had access to the other programs, but the insured loan program was passed in 1965. There were two programs. One was the higher education loan program which, in my opinion, was passed as political answer to what appeared to be the possibility of the Ribicoff-Dominick tax credit for tuition. It was sold as loans of convenience for middle-class students. But as a footnote with little notice, the national vocational student loan program was passed, which gave proprietary school students access to a U.S. Office of Education administered program for the first time.

Generally speaking, these students, according to Dr. Hoyt who is now over at the U.S. Office of Education, come from a lower socio-economic strata. Now, these were loans of need to these students. This was the only program to which they had access, and this was the only program that the schools began to administer. So, they didn't come into the program in the normal sequence of the rest of the higher educational programs, the NDEA in 1958 and then the college work student and supplemental opportunity grants [SOG] in the normal progression. Now, the NDEA, as I understand the statistics, that may not be in such good shape either. But they had their inception in 1965 and they came in the backdoor and the schools and the students relied, in our opinion sometimes to heavily, only on these programs.

I think we have now seen the watershed. I think that by reason of our action over the past 2 years, we have pretty well gotten a fix on the problem. I don't think that any set of rules or laws are going to preclude new problems. Like new speeding laws don't preclude speeders. But I do think everybody is pretty well apprised that you better get your student aid programs in balance. You better get an administrator and you better work on the basic opportunity grants [BOG], supplemental educational opportunity grants [SEOG], and college work student and get a better package.

One of the problems that I think is really over with is how we dealt with what we call a change in ownership control, which is one of the elements of an institution. Frankly, we were pioneering new ground. We had not dealt with this in detail. Accreditation didn't start out as an expeditious process. Although Dr. Orleans thinks an agency takes a year or two to act, I think we can show we have taken far less time. But originally, we had a concept that we had to go and take accreditation away with show cause and evidence when an institution changed ownership control.

As a result of our experience, we rewrote our criteria to the point that when there is a change in ownership control of an institution without any decision on our part, because it was not our decision to



change the ownership control, there is an automatic self-executing, absolute discontinuation of accreditation, with which we don't have to do anything. The burden is on the institution to come forward, and the burden of proof is on them to come to us and say, "here we are, there has been a change in ownership control and here is a certified balance sheet. Will you reinstate our accreditation?"

While this isn't a panacea, I think Mr. Hart will agree that it is more than a Muirhead large step. That is one of Mr. Muirhead's favorite expressions. This has truly been a giant step. It has truly, I think, almost all but completely removed the possibility of trafficking in accreditation. I think it has made people seriously realize what is involved in administering our standards. It always leads for some heart-tugging decisions about institutions, one of which we are faced with right now. The institution is in Ohio, Whiting College, which has undergone some serious difficulties. There is now a change of ownership and what appears to be a set of new trustees that in consultation with the Office of Education and in trying to keep in touch with us are making every effort to supply us with audited financial statements so we can make a judgment. We hope we can come up with a solution that will help the institution continue its responsibilities to the public and the students.

But again, you have to make definitive judgments. It isn't easy. We think the biggest achievement we have done is to change of ownership control concept and throw the burden to the institution. The second one is that we hope someday the OE will do directly what they should do rather asking us to do it indirectly by giving us data on these institutions and telling us to go look at the institutions, which we have done. Because after all it is sort of an offer we can't afford to turn down.

Mr. O'HARA. Financial stability has been one of the real problems in this area. How frequently do you go back and check? In other words, let's say there is no change in ownership or control. When you went out and accredited a particular school, its financial stability picture was good and its programs were good and its facilities were adequate and so forth. Refund policies were at least as good as the minimum required, and so you accredited it.

How frequently do you review those applications? Do you review the financial and academic conditions?

Mr. HART. We require an annual report from the institutions in which the financial information is included as well as the academic information. Each of these items is reviewed each year. Additionally, we reaccredit on a 6-year basis. They are responsible for filing with us each year their financial statements including a balance sheet and profit-and-loss statement.

Mr. PIERSON. But I think this does bring into play in this area, particularly the control and responsibilities of the State for license and regulation of institutions. After all, accreditation under the statutes started off as certifying the quality of education. That is what the law says. I think that is within the police and public welfare power of the States to begin from the approach, does the institution comply with the health laws, are there enough windows, does it have enough money.

Mr. O'HARA. I think so, too. I think accreditation is being called on really to do more than it was ever really designed to do. My notion of accreditation is scholastic accreditation. Is the institution providing a level of education that is commensurate with the standards of the accrediting agency? Does it have enough faculty, is its student-faculty ratio good enough, does it have a good library, does it have adequate teaching facilities and so forth and so on?

It seems to me that accreditation, really the financial policies of the institutions, are somewhat different. That is why I am thinking we may need a dual system. You say it is up to the States to do it. We had a gentleman in yesterday who was president of the National Association of State Administrators and Supervisors of Private Schools. We asked him the number of States that met or exceeded the standards set in the State commissions model statute. I think he said seven.

Mr. FULTON. He is a better judge than I am. But it is the old story if there is no one else to do it we either unwittingly walked in to fill a void or it wouldn't have been done at all. You are right, it should be done. One wonders why didn't somebody who is in the business of determining eligibility ask and say, well, where is your State authority?

Mr. O'HARA. It seems to me that we are going to have to call upon the accrediting institutions to do their job, and then the Federal Government directly, or wherever possible, through the State, is going to have to look into the rest of this.

Mr. HART. I have one point, and it concerns the financial stability, or financial status of an institution. I would not like for you to go away thinking that we totally agree with the concept that we should not be interested in financial stability, because I think that permeates all these other factors which you enumerate. So I think the accrediting agencies must also assure themselves that the institution is a viable institution and will provide continuity of service.

Mr. O'HARA. In other words, you are suggesting that you continue to make those kinds of determinations, but that the State or Federal agency also be involved in making such determinations?

Mr. HART. Yes.

Mr. FULTON. To question is a matter of perspective and what is primary and what is secondary. I think our point of departure should be the quality of education. I think the State should start with the stability, the ethics and then these all converge. I mean, it is a triangle. Federal, State, and some other judgment, possibly accreditation. We are inside the triangle. Where the lines do actually overlap I don't think is necessary to define. I think each of the corners should have some identity. I think there is unfortunate confusion on the part of some State people that they are accrediting. I know Mr. Clark. He is an articulate and energetic gentleman, and dedicated. But he is not accrediting, despite the name of his agencies. There is no peer participation in the judgment.

Mr. O'HARA. He really doesn't pretend to be accrediting.

Mr. FULTON. It depends in which forum he appears. But he does not use a system of peer judgment. I suggest that one read very carefully

the position of his national association in that I am not sure whether or not they really agree with my concept of twin judgments. I suspect that there are those within his organization that prefer to see the States have total control.

Mr. O'HARA. I frequently feel that I have been denied the ability to operate effectively in this area, because I didn't go to one of your schools and learn accounting. But it seems to me that the accounting practices of your schools ought to be fairly clear cut and straightforward. That is to say that you could set up over here your accrued instructional liabilities and you could set up your funds on hand to meet those accrued instructional liabilities. It shouldn't be too much of a problem.

I would imagine that you have seen a lot of financial reports and balance sheets from proprietary institutions. It shouldn't be too much of a problem to set up some kind of rule of thumb for judging the financial stability of an institution in those terms. Would you discuss that with us a little bit? What sorts of criteria do you use? What do you look for?

Mr. HARR. Well, first of all, neither Mr. Fulton nor I went to one of these schools either. We are equally deficient. But the greater variance among our schools, various types of schools, various levels of institutions I think prohibits a rule of thumb in any of our criteria. Additionally, we, of course, have certified accountants on the accrediting commission, and they themselves can disagree over a certified statement.

Mr. FULTON. One of the ironies of this is although there is nothing in the law that authorizes the prohibition against what some people called compensating balances, dedicated balances or whatever the prohibition against discounting incentives; that had the schools been permitted to establish a system of escrowing tuition receipts, there would have been the basis for financial stability. There would have been the funds to pay the refunds when the students leave school. But somewhere in their zeal—and it is really very perplexing how on the one hand the OE can prohibit that which isn't prohibited in the statute, but at the same time can't implement that which is mandated in the statute—it is very puzzling. But I would say it is really ironic the prohibition against so-called compensating, committed or dedicated balances paved the way for so many problems.

The problem is one of the most serious factors contributing to the lack of financial stability. I say if there could be some sort of draw-down system for disbursement of these moneys or of BOG money for any educational institution. In fact, I have serious qualms about shifting over to BOG, whether or not it might have been a mistake to make institutions the disbursing agents for BOG's because as I understand that program, it is the institution that was to be an incident of the student's decision as opposed to college-based programs where the student is an incident of the institution's discretion to dispense federally subsidized largess.

Making the institution the disbursing agent establishes the institution as an authority figure. Whereas I don't know why the regional offices of OE couldn't have been made the disbursing agents. However, I think there is a draw-down system on BOG.

Mr. O'HARA. All the checks are de ayed?

Mr. FULTON. Of course you get into the bankers. I don't know what the bankers' position on that is. Anytime you seem to want to do anything, the bankers say it costs too much money. But I would say if you could establish an escrow system, a draw-down system, it could go a long way toward solving these problems.

Mr. O'HARA. Let me ask a few more questions. What are your minimum criteria for a refund policy?

Mr. HART. The policy requires that an institution must not retain more than \$100 if a student does not enter school. If a student drops out in the first week, an institution may retain no more than 10 percent of the tuition up to 1 year. If he drops out during the second, third, or fourth week, the institution may not retain more than 20 percent of the tuition. If the student drops out subsequent to that date and prior to 25 percent of the course, the institution may retain 45 percent of the tuition. If a student drops out prior to the halfway mark in the course, the institution may retain 75 percent. After that, the institution may retain the full tuition.

Mr. O'HARA. Let me ask another question. Do you and your criteria look at the advertising policies of the institutions seeking accreditation?

Mr. HART. Yes.

Mr. O'HARA. What sort of standards do you have?

Mr. HART. Again, they are general standards. They must not be misleading.

Mr. O'HARA. In other words, just a general standard of truthfulness and accuracy?

Mr. HART. That is right.

Mr. FULTON. But I think entrepreneurial zeal is not limited to proprietary schools.

Mr. O'HARA. We have some other witnesses today, but let me ask you for some assistance first. I would appreciate it if you could furnish us with copies of the criteria you do use. I will include them in the record. Do you have them there?

Mr. HART. Yes.

Mr. O'HARA. Without objection, a copy of the criteria will be included in the record.

Mr. FULTON. There is a supplement also, and within the supplement you will find the refund policy.

Mr. O'HARA. And the supplement of the Association of Independent Colleges and Schools will be entered in the record.

[The information referred to appears at p. 347.]

Mr. O'HARA. I have looked at the Newman recommendation. It seems to me that the kind of thing recommended in their seven points in connection with accrediting could be a useful system. Not as a separate matter. I mean, not as a replacement. I think you do have to have some sort of a dual-track system either involving the States and Federal Government and the accrediting agencies. If you have any further thoughts on how that could best be done, we would appreciate receiving them. We are going to be in touch with you. You have been very helpful to us.

I want to make it clear that I don't think the proprietary schools are the problem. I think that many of the proprietary schools are doing as excellent job as any business, excluding unfortunately my own occupation. You are going to find some people who will cut corners and use unethical tactics, and sometimes it will take a while to catch up with them. But I don't think that is a problem that the proprietary schools invented. I think you and all of us have those kinds of problems, each in our own profession. I think the vast majority of schools in your association, from what I have learned of them, are doing a good job, and I want to make that clear. So we want to work with you in trying to find out ways we can prevent the fly-by-night operator, the sharp customer.

I like your system of requiring them to reaccredit whenever the control changes or the ownership changes. I think that is a good idea. We'd want to work with you to see what can be done.

Mr. FULTON. Thank you very much, Mr. Chairman.

Mr. O'HARA. Thank you.

Our next witness will be Dr. Frank Dickey, who is the executive director of the National Commission on Accreditation.

#### **STATEMENT OF DR. FRANK DICKEY, EXECUTIVE DIRECTOR, NATIONAL COMMISSION ON ACCREDITING**

Dr. DICKEY. Mr. Chairman, members of the subcommittee: I am Frank G. Dickey, executive director of the National Commission on Accrediting, a position which I have held since 1965. Thank you for the opportunity to appear. The testimony I shall give represents generally the viewpoint of the National Commission on Accrediting but does not necessarily represent the individual viewpoint of each executive officer of the nearly 1,300 colleges and universities which comprise the membership of the national commission. The rigid time schedule for preparing this testimony precluded the opportunity to contact the institutions making up the National Commission on Accrediting.

The National Commission on Accrediting has been in existence for 25 years now. It was established for the purpose of supervising and coordinating the agencies on behalf of the institutions which make up the membership of and support the National Commission on Accrediting. I think it is important at the outset to indicate that the National Commission on Accrediting is not an accrediting body per se. Rather, we recognize and coordinate for the benefit of the institutions and the public agencies that actually do the accrediting.

Let me emphasize at the outset that the National Commission on Accrediting does not believe that relying solely on accreditation of institutions or programs of postsecondary education in this country is the appropriate mechanism for determining, to the extent required by the Federal Government, the eligibility of institutions or individuals to receive public funds dispensed or guaranteed through the Federal mechanism. Nor should the accrediting process be expected, as more and more it is, to perform such a commonweal purpose.

It is here, Mr. Chairman, that we would agree completely with the position that you have already stated on this matter. Accredita-

tion can and does perform a common welfare purpose—that of assuring to consumers—students, parents, employers, the general public—that institutions and professional programs meet minimum standards of quality, and it also lists these institutions and programs so that consumers may decide for themselves whereof they shall partake. Accreditation cannot, philosophically, procedurally or financially serve the general welfare purpose of formulae making for the reallocation of public tax dollars for educational purposes. This society's laudable move in recent years toward greater educational opportunity for all its citizens by its very direction imposes too many human variables for which accreditation, which is by and large and academic evaluation process, can or should be accountable.

Yet, steadily but surely the U.S. Government—if not the lawmakers, certainly the administrators—has insisted that accreditation serve this larger general welfare purpose. I shall attempt to substantiate this observation before I have finished.

But, again, let me say at this point: Accreditation and determination of eligibility for funding, particularly in the area of student assistance, are not concomitant concepts. They may be corollary but the correlation is not significant. The two, from my point of view, functions should be separated.

This is not a new nor shocking statement. Many in the accrediting community have been so declaring for a number of years. And one of the most publicized government-sponsored reports in many years, the first so-called Newman report, said the same thing, if, perhaps, for different reasons. Despite that report's criticism of accrediting in general, some of which was justified but much of which was misstated, said, and I quote:

Federal and State governments should reduce their reliance on these established (accrediting) organizations for determining eligibility for Federal support.<sup>1</sup> (p. 66)

There is another area for which accreditation is being criticized which may be tangential to this committee's purpose but which I feel is related to the student assistant investigations. That is in the area of federally guaranteed student loans and what we all know is an exponentially increasing default on payments. Accrediting agencies are being blamed to a disproportionate degree for the repayment defaults because an initial criterion for eligibility to receive the loan is its verification through an accredited institution or program or one otherwise approved by the Commissioner of Education or a State approval agency.

Admittedly, there have been some fraudulent enticements to students by accredited institutions because of the potential of income to the institution via the loans. When such practices are discovered and reported the appropriate accrediting body can and should make an investigation. But, action to impose accrediting sanction against such an institution must follow a due process course, just as the action to grant accreditation takes a slow and deliberate approval route.

<sup>1</sup> Frank Newman, Report on Higher Education, U.S. Department of Health, Education, and Welfare, 1971.

The point here emphasized is that accreditation is a voluntary, self-regulating, peer-oriented concept and process and no accrediting agency has sanction except via the process. Another point almost totally overlooked by the critics is that accreditation is a quality screening process primarily at the institutional or programmatic level—not at the consumer level. If universal opportunity and open access in education is to apply in a society, then the society must be prepared to withstand a relatively high failure rate. Such an open system prohibits qualitative screening of all desiring to participate. On the other hand, if some assessment of the individual capabilities is desired perhaps a system of licensure or certification is the answer, and it should be pointed out that this is quite different from accreditation.

The National Commission on Accrediting does not deny that many accrediting bodies within the past decade needed to be made more aware of their social responsibility if, indeed, accreditation is to retain its social value. The leadership of the National Commission on Accrediting has been saying as much and helping to achieve it long before the dollar sign of the Federal agencies was superimposed as a carrot in the process. We further believe that such social awareness is prevalent throughout the accrediting community and will be maintained through the cooperative activities of the profession itself—without further intrusion into those activities by the governmental sector.

We do not believe, however, that social awareness and responsibility can encompass the policing and fiscal accounting for every subsidized dollar directed toward every student. Only governmental machinery can effect such monitoring and should do so within constitutional limits if the government sector feels, as does this association, that such specificity goes far beyond the capability of accreditation to perform.

The key phrase in what I have just said is "within constitutional limits" because it is here that the Federal Government cannot much further intrude into higher education, including accreditation, without rewriting the basic intent of this country's founders.

Let me illustrate a general concern of this association by inserting into this testimony a portion of what was prepared by a colleague and me, and published in November 1972 by the American Association for Higher Education, a book entitled, "A Current Perspective on Accreditation," by Frank G. Dickey and Jerry W. Miller.

The situation during the 18 months since the document was prepared has only intensified in the direction of greater governmental jurisdiction of accreditation—an intensification under the guise of what we are talking about today, eligibility for allocation of so-called Federal funds.

Recent sensitivity to governmental involvement in accreditation is demonstrated by the content of a letter dated July 3, 1968 to Hon. Harold Howe, II, then U.S. Commissioner of Education, who was at that time in the process of establishing the Accreditation and Institutional Eligibility Staff in the Office of Education. The letter, signed by the 13 chief executive officers of the major higher education organizations in Washington, suggests that accreditation be eliminated from the title.

We understand that "accreditation" refers primarily to the process of "recognizing" accrediting organizations, and under present circumstances there would seem to be no reason to believe that the Office of Education would use the breadth of the title to become engaged in actual accrediting activities. However, the presence of the word "accreditation" in the titles for the staff unit might be misunderstood by both the academic community and those outside the educational institutions, and might conceivably present difficulties for the Office of Education in the future.

The following chronology indicates a virtual geometric increase in the governmental interest in accreditation since 1968:

In 1968: Establishment of the Accreditation and Institutional Eligibility Staff (AIIES) at the Office of Education to administer the Commissioner's recognition and review process for accrediting agencies.

In 1969: Publication of new criteria by which the Commissioner evaluates agencies for recognition or recognition through inclusion on the list.

In 1970: Administrative indication that the recognized list of the Commissioner should no longer be identified solely with establishing eligibility for Federal funds, signaling a broader interest in accreditation by Federal officials.

In 1971: Publication of the Newman report with the approval of the Secretary of Health, Education, and Welfare, calling for revision in the roles of accrediting agencies and charging them with domination by the "guilds of each discipline."

In 1971: Transmittal of a report to Congress by the Secretary of HEW, mandating a study of accreditation by the Office of Education: to include an analysis of all alternatives that may have potential in maximizing the public accountability of those accrediting agencies that enjoy nationally recognized status conferred by the Commissioner.

In 1971: Notification to the recognized agencies by the acting Commissioner that they should ensure that unacceptable discrimination or arbitrary exclusion is not practiced by accredited schools or programs—this is an example of governmental policing through nongovernmental means.

In 1971: First recognition of an agency that has responsibility for the accreditation of educational programs at the secondary school level.

In 1971: Indications that the Newman task force would recommend: (1) tighter Federal control of nongovernmental accrediting groups, if not abolition of specialized accreditation; (2) separation of the establishment of eligibility for Federal funds from accredited status; and (3) new Federal legislation to deal with the restrictive practices of nonprofit organization which would give power to a Federal agency to investigate and act upon violations involving specialized accrediting agencies.

In 1974: Publication of another and more stringent set of criteria by HEW under which accrediting agencies must operate if the institutions or programs which they accredit are to be included on the Commissioner of Education's list for eligibility to receive Federal funds—Criteria by now not only emphasize the reliance upon accreditation to determine eligibility but virtually dictate how ac-



crediting agencies must be structured and how they must operate to achieve or maintain recognition by the Commissioner.

These actions, particularly the Newman reports and the report of the HEW Secretary to Congress, imply extensive Federal involvement in accreditation. The rationale for this involvement appears to be based on three theses: (1) accrediting agencies are engaged in processes that have a substantial bearing on the public interest; (2) there is evidence that these agencies do not give primary consideration to the public interest, but favor the interest of their members or member institutions; and (3) therefore, the Federal government should become more involved to assure that accrediting groups operate in the public interest—The NCA membership concurs in only the first thesis.

It is significant that, with the exception of the HEW Secretary's report to Congress on credentialing in the health fields, nearly all the increased Federal activity concerning accreditation has been initiated by Federal administrators, not by legislators in the halls of Congress. Furthermore, congressional authorization for Federal involvement with nongovernmental accreditation is limited to: (1) establishment of eligibility for the distribution of Federal funds in several legislative acts for postsecondary education, and (2) maintenance of a recognized list of accrediting agencies by the Commissioner of Education solely to implement the provisions of the legislation.

Additional Federal involvement with nongovernmental accreditation appears to be based entirely on administrative decisions.

Here, I would like to suggest it would be helpful to refer to a very completely documented article by Mathew Finkin, an article that will be referred to by the testimony of a colleague of mine from the Federation of Regional Accrediting Commission of Higher Education.

The inclusion of a considerable number of accrediting agencies on the U.S. Commissioner of Education's list of recognized agencies which have no role to play in determining eligibility for Federal funds is another indication of unneeded and unwarranted involvement of the USOE in accreditation affairs.

The major theme unrelying increased Federal activity in accreditation is that accrediting agencies themselves are unlikely to change or reform; therefore, it must be imposed upon them. Little credit is given to the accrediting community for the change currently under way and the broadening concern of accrediting agencies for the social responsibility of accreditation.

Implicit in the reports and activities of the Federal government is the assumption that broader involvement by Federal agencies will make accreditation more socially responsible, as well as provide answers to educational problems.

Admittedly, accrediting agencies have gained from their relationships with both State and Federal Governments. Federal utilization of accredited status has resulted in additional pressures for programs and institutions to be accredited; in some cases it has made accreditation virtually mandatory. Some accrediting agencies have been eager to or have sought to serve government agencies; others have done so willingly. Few have resisted and, as a result, the Fed-

eral use of accreditation continues to grow. The AIES in 1971 listed 21 Federal agencies that utilize accredited status granted by non-governmental agencies.

Apparently, some accrediting agencies have applied for recognition by the Commissioner of Education solely to obtain the status that goes with inclusion on the list. Many agencies presently have no functional responsibility for establishing eligibility for Federal assistance. Perhaps they are hopeful that future educational legislation will specify their accredited status for eligibility purposes and they will have the advantage of already being on the list. At any rate, their inclusion increases the significance of the Commissioner's list and results in an accretion of power in his office over accrediting agencies.

Effective and penetrating discussion among accreditation leaders and others has caused accrediting agencies to become more firmly committed to serving societal needs first and foremost. However, not enough discussion has focused on the increasing dependence of government upon accreditation and the tendency of some accrediting agencies under pressure from their constituencies to seek government recognition and to utilize the status it grants.

Federal Government and accrediting agency relationships as they have evolved have long-term implications for accreditation, not to mention for postsecondary education in general.

The use of accreditation status by government is so extensive that there exists virtually no possibility of a complete pullback, even if such were desirable. Therein lies a major dilemma for accreditation.

If accrediting agencies seek recognition by USOE or willfully serve governmental purposes and functions, they can expect increased governmental control and direction. On the other hand, public disavowal of any responsibility to serve government could be declared socially irresponsible for agencies that purport to serve the public interest.

Yet, many believe accreditation can best serve society if it is totally free of domination or control by governmental interests. The basic problem is to determine the degree and kind of influence to be exercised by the government.

The implication that accreditation can best serve the public interest when it is free of governmental control is paradoxical to some. To others, it is a recognition of several logical assumptions:

1. Accreditation is a principal component of the governance of postsecondary education in the United States.
2. Postsecondary education inevitably must and should respond to long-term interests and needs of society as manifested in governmental programs and elsewhere. To serve society well, however, postsecondary education must be afforded a measure of stability; otherwise, it can be buffeted by State or Federal administrations seeking to accomplish various objectives, not all necessarily educational.
3. Nongovernmental accreditation is an extension of the balance-of-power concept on which the Federal Government and society are founded. To prevent the development of a monolithic postsecondary educational structure susceptible to control by narrow interests, ac-

creditation should remain a diversified nongovernmental activity that can balance short-term governmental interests with long-term societal objectives.

4. Growing Federal control over accreditation carries with it the potential for considerable control over educational practices and standards. This violates the traditional role of the Federal Government in education, if not its constitutional authority.

Some will argue that it would be irresponsible for the Federal Government to utilize the accreditation status granted by nongovernmental accrediting agencies without assessing their competence and activities in light of governmental objectives.

If this were true, over a period of time the Federal Government could be expected to exert increasing control and influence over accreditation and, consequently, over postsecondary education. Developments since 1968 seem to validate this assumption.

The dilemma grows when one considers the alternative of the Federal Government substituting its own procedures for those of nongovernmental agencies. Such an alternative multiplies the potential for exerting direct control over institutions and their programs and creating a monolithic system of postsecondary education. Such a route, in our opinion, cannot be traveled further without constitutional authority to do so.

Not only is the current situation perplexing, but it also grows more complicated with every new Federal use of accreditation. It is urgent that parameters for relationships between government and nongovernmental accrediting agencies be clarified and soon.

In considering the issues, the following questions appear basic:

1. Will continuing on the present course result in the Federal Government in the future exercising an unacceptable degree of control and influence in the accreditation of postsecondary education? The National Commission on Accrediting strongly believes it will.

2. If so, should accrediting agencies continue to accept responsibility for serving governmental purposes and objectives but under well-defined parameters to guide the relationship?

3. Or, should accrediting agencies disavow any responsibility for serving governmental purposes and functions and refuse to submit to review and recognition procedures by the Federal Government?

4. Or, could accrediting agencies adopt a policy of affirmative disclosure relative to their policies, procedures and decisions, thereby requiring the Federal Government to take the initiative in determining the acceptability of accrediting activities for governmental purposes instead of placing the burden of proof on accrediting agencies? Clearly, our association so believes.

In fact, may I suggest to the committee that for the purpose here under discussion—eligibility for financial assistance—there already exists within the Department of Health, Education, and Welfare and its Office of Education the existing capability to determine such eligibility for every institution of postsecondary education in the United States. I refer to the annual higher education general information survey, the so-called HEGIS report. This annual report form, now required of all nonprofit educational institutions, contains enough quantitative data from which quality could be inter-

polated to satisfy the Federal requirement for eligibility for Federal funding. I dare say that it contains more data on which to make a determination than do the periodic reports required of institutions by bona fide accrediting bodies.

Probably with only little modification, the same HEGIS-type report could be made available to the proprietary sector of postsecondary education. Through this method, even though accreditation might be assigned a weighted factor in the eligibility determination, the institutions would be relieved of establishing eligibility solely through the accrediting mechanism. It would, at the same time, relieve the accrediting bodies of institutional pressure and pressure from various professional bodies to attest to qualitative indices which perhaps should only be decided over a longer period of time.

It certainly would, we feel, reinstitute among institutions and programs the desired atmosphere of competing for excellence within parameters other than those to which dollars are attached. Hopefully, accrediting agencies, for which assuredly there would be decreased activity under such a plan, could then engage in a more cooperative surveillance of postsecondary education with the Federal Government than now exists. To be sure, such a plan forces institutions to pursue a dual route—toward eligibility for Federal funds in one land and accreditation in the other—but they will have the option of traveling in either lane independent of the other. They do not now have this option.

If what I have proposed would be construed as a threat to some accrediting groups because without the absolute necessity of accreditation for funding many institutions might not seek their services, then so be it. Such a condition would reduce the degree of "mandatism" and reestablish a "voluntarism" on which the concept of accreditation was established. Those institutions voluntarily seeking accreditation would then be doing so at an educationally higher level of desire.

In the opinion of the National Commission on Accrediting, the U.S. Commissioner of Education does not need a multimillion-dollar add-on of staff and funds to accomplish what has been proposed. What is needed is greater and better utilization of the equipment, funds, and personnel within HEW and OE now to accomplish this determination for eligibility.

There is no conceivable reason why, with the electronic data processing capability now inherent with HEW and OE, that the necessary data output from the HEGIS-modified forms cannot be utilized with the rapidity and the concurrency on which to base eligibility decisions. Use of the HEGIS forms for eligibility determination would help to mollify the antagonism to such a massive reporting job by the institutions—a mandated requirement with which they now must comply but the total results of which they may be 2 to 3 years seeing, if ever, under the present arrangement.

The National Commission on Accrediting does not agree with the recommendation of a yet-to-be-published national study of the accreditation-eligibility dilemma—a proposal that a public corporation type of body be established for a 5-year period and handsomely subsidized with Federal funds to perform this function on an experimental basis. It is unnecessary, in our opinion, to establish yet

another bureaucracy and expend additional funds when the goal can be achieved with existing Federal machinery simply by separating the accreditation and eligibility function.

The role of the States in this picture is more fully described in a statement submitted to this committee on behalf of the Federation of Regional Accrediting Commissions of Higher Education. It might be easier for Federal disbursers to monitor activities of 50 State-approving authorities than individually to assess the eligibility of several thousand institutions. With the stipulation of being guarantor of all misused or defaulted funds as the price for State involvement, the chances are that we would have much stronger State-approving agencies than we now have in this country.

The National Commission on Accrediting, ever since its establishment in 1949, has endeavored to be a constructive force for the improvement of accreditation of institutions of higher education and of programs within these institutions.

During its existence, the National Commission on Accrediting has stunted the mushrooming of accrediting agencies. It has helped to reduce and to solve jurisdictional conflicts. It has encouraged an approach in accreditation which places more emphasis on the broader aspects of an institution or program of study than on merely meeting a set of specific and detailed requirements or standards. Despite these accomplishments, much more needs to be done to improve the evaluation of quality in postsecondary education.

The Commission's methods of accomplishing its objective have changed as it has matured. In its early days, because of the then unchallenged authority of some accrediting agencies, the National Commission had little choice but to rely on power and threats in order to force attention to needed changes in the policies and practices employed in accrediting. As revisions and improvements were made by the accrediting agencies and as concern over accrediting issues on the part of the college and university administrators became less constant, the influence of the commission was expressed more effectively through persuasion and consultation. An atmosphere now exists which is conducive to forming relationships which can improve accreditation and its ability to serve education and society. The Council on Postsecondary Accreditation which assumes the functions of the national commission and FRACHE on January 1, 1975, is a manifest of this new climate.

But let me state for one last time: accreditation and the processes, philosophies, and procedures inherent in it, should not be asked to serve either as procurer of nor collateral for postsecondary educational moneys distributed by the Federal Government. The commitment of nongovernmental accrediting agencies to the improvement of educational quality through the postsecondary level is at once their best and major means of serving the American people.

I should be glad, Mr. Chairman, to respond to any questions that might have been prompted by these statements.

Mr. O'HARA. Mr. Dickey, in essence, you have suggested the substitution of an alternative method of determining eligibility in participation for Federal grants. You said that accrediting might play a role in that only in the sense that the fact of accreditation or non-

accreditation might be a weighted factor in the determination of eligibility?

Dr. DICKEY. Correct.

Mr. O'HARA. It seems to me that I wouldn't want to send one of my children to a nonaccredited institution. The consumers of education have long relied on accreditation, and although it hasn't been a perfect index, it is something and it has been a fairly effective one. I am not at all sure I want to see some system where an unaccredited institution would be considered an eligible institution. I think we might get into a new set of problems.

In other words, I can conceive of an institution that might have financial stability, excellent refund policies, and meet all the other criteria, perhaps, but not provide an adequate level of instruction. I certainly wouldn't want to encourage, directly or indirectly, young people to attend such an institution. What about saying that an institution shall be an accredited institution and leave out that which sets criteria with respect to these other kinds of things?

Dr. DICKEY. I think that is a very possible kind of alternative, Mr. Chairman. I suppose one of the major reasons that I have insisted that eligibility and accreditation should be separated is the growing feeling among the institutions for higher education and the accrediting agencies themselves that the eligibility factor is presenting an amount of control over the accrediting agencies by the Office of Education and other Federal offices that will soon eventuate in the erosion of the independence and autonomy of the accrediting agencies.

So, if the combination that you spoke of, of eligibility on the one hand through some means whether it be through the HEGIS report or some others, could be combined with the accreditation without the accrediting agencies being placed under increasing controls, I think this could be a very, very logical and wise route to follow.

Mr. O'HARA. Let me make clear, Dr. Dickey, I share your concern. If you have to be on the approved list of accrediting agencies in order to have your accreditation accepted and if the Office of Education is going to decide who is on the approved list and who isn't, certainly they are going to start imposing a pattern on these accreditation agencies, and I am a little concerned about that. I would like to see accreditation made a smaller part of the process, but nevertheless, a part. Of course, it creates pressures within your organization or pressures on the part of the schools. If some school is in danger of not being accredited or losing its accreditation, all of a sudden there is a much greater urgency on their part to achieve accreditation or to retain it, and it puts pressure on the accrediting agencies.

Dr. DICKEY. And then they are placed in a position of deviating to some extent from full attention to the quality aspect of the situation in order to make it possible for this institution, if it is needed, for its continual existence to become eligible for Federal funds.

Mr. O'HARA. Then you have a responsibility toward the students. In a sense, you have two kinds of responsibilities. If you weren't involved in approval for Federal funds, your responsibility to the students would be to see that they achieved the best possible education. When you are involved in approval of Federal funds and you

have a number of students who are in an on-going program and you would withdraw your accreditation all of the sudden, their eligibility for Federal funds might be withdrawn. They might not be accepted in some school they wanted to transfer to. Instead of being faced with having received an education that doesn't meet, in some regard, your standards, they will be faced with the possibility of not having received a complete education of even an inferior quality and just be completely stuck for whatever they borrowed.

So, I think it is a severe problem as to how you maintain the independence and integrity of the accrediting agencies. And, how, at the same time, do you assure a standard of scholastic and academic standards at institutions that are certified for participation in these programs?

Dr. DICKEY. Having read the testimony that Mr. Kirkwood and the Federation of Regional Accrediting Commissions of Higher Education will soon give, I think there is a point on which we agree thoroughly. In fact, virtually all of our territory is, I think, in agreement. Namely, that accrediting agencies are being called upon to perform than they were ever intended to perform, and some of which they cannot very effectively perform. Not they shouldn't be interested in some of these, such as affirmative action, plans of desegregation and so forth, but if the accrediting agencies are charged with that responsibility, they become a police arm of the Government which is not compatible with the original intent or capabilities, really, of the accrediting agencies.

Mr. O'HARA. Maybe I missed something. Have they been charged with such responsibilities?

Dr. DICKEY. In a sense, indirectly, that they must charge the institutions in terms of not so much the desegregation plans, but at least to the extent of their efforts and affirmative action and this type of thing.

Mr. O'HARA. I hadn't realized that.

Dr. DICKEY. In this essence, it is asking the accrediting agencies to perform a service that I think would be somewhat doubtful in terms of, first of all, their capabilities and then the appropriateness of the Federal agencies asking them to undertake such things.

Mr. O'HARA. To say the least.

Mr. QUITE. Would the gentleman yield?

Mr. O'HARA. Yes.

Mr. QUITE. How does the Federal Government bring about this pressure on the agencies?

Dr. DICKEY. Through the quest for recognition. The credit that has been involved would include certain elements that would make it necessary for the accrediting agencies to indicate that they are giving attention to some of these elements that I have mentioned.

Mr. QUITE. Well, the prohibition against Federal control over education does not apply to accrediting institutions.

Dr. DICKEY. This could be one interpretation, yes, sir.

Mr. O'HARA. Well, you have raised a new point that I find very disturbing. Pressure on an accrediting agency to insist on the maintenance of certain level of academic standards is one thing, because that is after all what the agencies are there for. But pressures on accrediting agencies to look into other aspects of university opera-

tion, including affirmative action programs, for instance, seems to me to be getting rather far afield. I don't know how far, but in any event, it is outside the traditional role of the accrediting agencies.

Dr. DICKEY. That is exactly the point.

Mr. O'HARA. Not outside the traditional role of the well-established accrediting agencies, but outside the traditional role of the best accrediting agencies, all of them.

Dr. DICKEY. Yes.

Mr. QUIE. If the gentleman will yield?

Mr. O'HARA. Yes, Mr. Quie.

Mr. QUIE. If you recall when we first began the civil rights activities in HEW, the Office of Education had the responsibility to enforce the Civil Rights Act. Then it was felt wise the OE should not be a policeman, and therefore they moved it to an office in HEW.

Mr. O'HARA. I must say to the distinguished ranking member of the committee that one of the other areas we hope to get into before we complete title IV is this affirmative action area, because we have received a number of communications, written and spoken, expressing concern about the way in which that aspect of the problem is being administered. We are going to look into that.

Do you have any other question of Dr. Dickey?

Mr. QUIE. Yes, I do. It seems to me I have observed through the years not just the question of accrediting agencies making certain that there is academic quality but there is a great difference of opinion what academic quality it. To that extent you say the politics of it. Have you looked at that in the study, for instance, teacher education for one example? The amount of time and quality of the teaching in the teacher training institutes and the subject matter of discipline of that prospective teacher as against the pedagogy method of teaching?

Dr. DICKEY. This I am sure will continue to be a major problem, because as long as we have some freedom and diversity amongst our institutions and freedom within the institutions for various faculty members, various outside pressure groups, external pressure groups to have differing points of view, I think we will always have some difference of opinion as to what makes up a quality program.

This is a little apart from the discussion, but I was involved in a discussion just recently of salary increments for faculty members based upon the quality of instruction rather than just on their writings and research. The basic problem comes when you determine whose interpretation of the quality of instruction is. What to me might be a superior teacher to you might be a very poor teacher.

So, as long as we have differences of opinion about what constitutes good teaching or what constitutes the basic elements of a sound program, I think we are going to have difficulties. So the accrediting agencies have attempted as much as possible to permit institutional differences and variations within the programs so that they are enabled to follow this out and entitled to some opportuni-



ties for innovation, experimentation without certain blocks of time being rigidly imposed. This makes it extremely difficult to evaluate the programs and assess them.

But if this could be followed, I think we might eventually wind up with a stronger educational program than if we tried to set one particular pattern for them.

Mr. QUIE. What method is there among the accrediting agencies or institutions themselves to bring this issue out for discussion and resolution? Is there anybody accrediting the accrediting agency?

Dr. DICKEY. I suppose in a sense that is what both the Federation of Regional Accrediting Commissions of Higher Education is doing for the regional accrediting commissions and the National Commission of Accreditation for the professional and specialized accrediting agencies in the process of review of the accrediting agencies to determine whether or not they are indeed making unreasonable demands upon institutions and institutional programs.

On the other hand, we would not pretend to have a sufficient amount of expertise in all these professional fields to determine whether their standards were completely accurate or not. It is more a matter of whether or not they are making conflicting demands upon an institution. For example, there a number of institutions in this United States that have as much as 25 to 30 different programs within the institution that were subject to specialized accreditation, and the purpose of the National Commission on Accreditation has been to determine whether or not those different accrediting agencies indeed are presenting conflicting requirements and demands upon the institution.

Now, there is a move underway to merge the Federation of Regional Accrediting Commissions and the National Commission on Accreditation into one organization and counsel on both secondary accreditation that would have the responsibility for coordinating and supervising all the accrediting activities for the postsecondary level. In this way, we feel we can bring about closer coordination, relieve the pressures from some of the accrediting agencies, but at the same time recognizing that there must be a considerable difference field to be accredited trying to bring about a higher degree of coordination amongst them. This new operation will become operative about January 1, 1975.

Mr. QUIE. At the end of your statement you indicated some suggestions for the involvement of States in making some of these determinations. Have you had a chance to look at the implementation of the amendments of 1972 as far as public vocational and technical schools and their accreditation by the State rather than by an accrediting agency?

Dr. DICKEY. Not any direct association with that.

Mr. QUIE. Thank you, Mr. Chairman.

Mr. O'HARA. Thank you very much, Dr. Dickey. We appreciate your coming before us.

Now our next witness will be Mr. Robert Kirkwood, executive director of the Federation of Regional Accrediting Commissions of Higher Education.

Mr. Kirkwood, if you please, take your place at the witness table.

Mr. KIRKWOOD. Thank you very much, Mr. Chairman, and members of the subcommittee.

**STATEMENT OF ROBERT KIRKWOOD, EXECUTIVE DIRECTOR, FEDERATION OF REGIONAL ACCREDITING COMMISSIONS OF HIGHER EDUCATION**

Mr. Kirkwood. On behalf of the Federation of Regional Accrediting Commissions of higher Education may I express our appreciation for the invitation to participate in this hearing. These are important deliberations, of vital interest to the 9 regional accrediting commissions comprising the federation, as well as to the more than 2,500 postsecondary institutions with which we work. We commend the chairman and members of the Special Subcommittee on Education for their diligence and thoroughness in reviewing the subject of student financial assistance and its ramifications.

Mr. Chairman, I have a prepared statement. With your permission, I would like to skip over parts of it which are descriptive of the accreditation process and go on to a few of the statements that I do think pertain directly to some of your comments this morning.

Mr. O'HARA. Mr. Kirkwood, without objection, your statement will be entered into the record of the hearing at this point.

Mr. KIRKWOOD. Thank you very much.

[The prepared statement follows:]

**PREPARED STATEMENT OF ROBERT KIRKWOOD, EXECUTIVE DIRECTOR, FEDERATION OF REGIONAL ACCREDITING COMMISSIONS OF HIGHER EDUCATION**

Mr. Chairman and members of the subcommittee: On behalf of the Federation of Regional Accrediting Commissions of Higher Education may I express our appreciation for the invitation to participate in this hearing. These are important deliberations, of vital interest to the nine regional accrediting commissions comprising the Federation, as well as to the more than 2500 postsecondary institutions with which we work. We commend the Chairman and Members of the Special Subcommittee on Education for their diligence and thoroughness in reviewing the subject of student financial assistance and its various ramifications.

We have been asked to testify about accreditation as one device currently used to determine institutional eligibility for participation in federal student financial aid programs, and to review the meaning and implications of accreditation as currently practiced. In addition, we have been asked to comment on alternatives to accreditation or additional criteria that might be posed by law with respect to such eligibility. We shall endeavor to do so.

Educational accreditation in the United States is not a monolithic entity, contrary to generalizations made by its critics. There are two major types of voluntary nongovernmental accreditation, institutional and specialized, each with particular characteristics. *Institutional accreditation* normally applies to an entire institution, indicating that each of its parts is contributing to the achievement of an institution's objectives, although not necessarily all on the same level of quality. The Federation of Regional Accrediting Commissions of Higher Education works directly with the nine regional commissions in the field of institutional accreditation. *Specialized or professional accreditation* deals with programs or professional schools which are normally parts of a large institution. The policies and procedures related to the two types of accreditation vary considerably in emphasis and approach. Even with institutional accreditation there are differences between agencies which deal primarily with non-profit institutions and those which work with proprietary or profit-making institutions. The regional accrediting commissions work almost exclusively in the non-profit institutional sector, and these remarks are confined to that experience, neither making nor implying comparisons with other types of accreditation.

The accrediting process conducted by the regional commissions is continuously evolving, having changed significantly from the early days of simple check lists

to a steadily increasing emphasis on measuring the outcomes of educational experiences. It begins with a comprehensive effort by an institution to assess its effectiveness in the light of its publicly stated purpose and objectives. This self-study involves a broad cross section of the institution's various constituencies—students, faculty, trustees, administrators, alumni, and sometimes even the local community. The resulting self-study report further serves as introductory and background material to an evaluation team assigned to visit the campus by a regional accrediting commission. A team usually consists of professional educators, faculty members as well as administrators, certain specialists according to the nature of the institution, and sometimes members of state agencies and others representing specific public interests. The visiting team evaluates the institution's own efforts to assess its strengths and weaknesses, and adds judgments based on expertise and the advantage of an outside perspective.

Once an evaluation team completes its report and the institution reviews it for factual accuracy, the report goes to the regional accrediting commission along with the original institutional self-study report and any further response the institution makes to the analysis and judgments of the visiting team. The regional commission then considers the evidence and takes appropriate action, with adequate provisions for review and appeal in accordance with due process.

An institution achieving initial accreditation undergoes mandatory review within five years or less, while longer accredited institutions may go to a maximum of ten years between reviews. However, every institution is required to submit an annual data summary to its regional commission and a report every fifth year describing significant developments or changes. Regional commissions reserve the right to review any institution at any time for cause, and an institution undergoing substantive change, such as moving from the baccalaureate to the master's degree level, will be reviewed not more than two years after the change becomes effective. Thus, there is a continuing relationship between accredited institutions and their regional commissions holding them accountable to their educational peers, to the constituencies they serve, and to the public interest.

Historically and currently institutional accreditation at the postsecondary level may be said to:

Foster excellence in postsecondary institutions through the development of criteria and guidelines for assessing educational effectiveness; encourage institutional improvement through continuous self-study and planning;

Assure the educational community, the general public, and other agencies or organizations that an institution has clearly defined and appropriate objectives, maintains conditions under which their achievement can reasonably be expected, appears in fact to be accomplishing them substantially, and can be expected to continue to do so;

In addition it: provides counsel and assistance to established and developing institutions; and endeavors to protect institutions against encroachments which might jeopardize their educational effectiveness or academic freedom.

Notice that eligibility is not listed among the purposes of institutional accreditation as conducted by the regional accrediting commissions.

The reason is quite simple: accreditation was never designed to serve the purposes of determining institutional eligibility for federal funding or related activities. We like to think that federal agencies decided to utilize accreditation because of the sound reputation regional accrediting commissions have achieved over more than fifty years of experience in the field. Realism suggests however, that convenience and economy had some influence on the decision. For one thing, accreditation was already there, with well-established respect and wide support throughout the educational community. Economics was also a factor: the Accreditation and Institutional Eligibility Staff estimates that merely to set up a comparable federal structure for accreditation would cost over ten million dollars, not to mention the annual operating costs and other expenses.

The advantage to the government is considerable, and for many years the Office of Education and other agencies have gladly utilized institutional accreditation for their purposes. Literally hundreds of developing institutions were assisted by federal funding programs through reliance on accreditation, especially during the 'sixties and the problems compared with the successes were negligible indeed. During most of this period there was a passive but cooperative relationship between the regional accrediting commissions and the U.S.

Office of Education. Nevertheless, uneasiness began to develop within the educational community as distortions in the meaning of accreditation resulted from its use as a basis for determining eligibility. New institutions tended to conform to traditional patterns in order to assure their eligibility for federal funding, despite emphasis by the regional commissions on the importance of innovation and experimentation. To lose entirely the creative and constructive aspects of the accrediting process as it relates to institutional self-study and planning would clearly be a profound loss for American education and for the nation.

Other dangers in the use of accreditation by federal agencies have appeared more recently, and their implications are only now becoming clear. For example, many complex universities and community colleges have to cope with institutional accreditation along with a number of specialized or professional accrediting agencies as well. In some cases this situation is mandated by licensure and certification laws, while in others it is voluntary. Because of the costs involved with each new type of accreditation, together with the internal imbalances and fragmentation which various types of accreditation often create, institutions have been trying to control this proliferation for a number of years through the National Commission on Accrediting. In early 1975, a new Council on Postsecondary Accreditation, merging the activities of the Federation and the National Commission on Accrediting will come into existence, one of its purposes being to control the proliferation of accrediting activities.

The U.S. Commissioner of Education is not under similar restraints, and his Accreditation and Institutional Eligibility Staff continues to recommend recognition of new accrediting agencies, despite the absence of any legislative mandate to do so. The Commissioner is empowered to recognize only those agencies necessary to implement the provisions of federal legislation, but the current list of approximately fifty federally recognized agencies includes about one-third whose accreditation has no relationship to current federal legislation. Unfortunately, federal recognition tends to place increased pressure on institutions to accept each new kind of specialized accreditation. If that trend continues, it could be overwhelmingly disastrous in terms of costs, fragmentation, and ultimately control over the internal affairs of each institution.

A more recent danger to emerge is that of attempting to coopt the accrediting agencies as enforcement arms of the federal government, a development which could divert them from their primary function of promoting the improvement of education to one of intrusive police action. None of the existing accrediting agencies is either capable or desirous of any such undertaking. From a staffing point of view, only the generous and voluntary participation of literally thousands of professional and lay people enable the regional accrediting commissions to carry out their functions. Far from being massive bureaucracies, their professional staffs range from one to a maximum of ten people. Financially, the regional accrediting commissions depend entirely upon their membership for support, with continuous pressure to keep annual dues and accrediting costs to an absolute minimum. Even were it desirable, and that is at best questionable, it is wholly unrealistic for federal agencies to expect the regional accrediting commissions to function as their enforcement agents.

Perhaps the greatest threat in cooptation is the possibility of placing the federal government directly in a position to take over the accrediting process, thereby leading to control of postsecondary education in the United States. We call your attention to the article by Matthew Finkin entitled, "Federal Reliance on Voluntary Accreditation: The Power to Recognize as the Power to Regulate" which appeared in the July 1973 issue of the *Journal of Law-Education* (pp. 339-375). The number and variety of governmental agencies already demanding conformity to certain practices or imposing their will on postsecondary educational institutions is profoundly disturbing. Moreover, the often conflicting and contradictory requirements of separate agencies has brought educational leaders to a state of bewilderment. Where common sense and human decency once paved the way to pragmatic solutions of our problems, federal legislation is now too often seen as a panacea to solve everything.

A quick look at alternatives to accreditation heretofore proposed as a basis for determining eligibility for federal funding, e.g., those suggested by the Newman Commission, shows they would simply extend the federal government's role into accrediting and, inevitably thereby, its control over post-secondary education. Along with many others I have had an opportunity to examine the

most exhaustive study to date of eligibility and accreditation, one commissioned by the U.S. Office of Education but as yet unpublished after two years and a cost of nearly a quarter of a million dollars. I honestly regret to say that it has failed to uncover any workable alternatives to accreditation as a basis for federal funding.

Much of the dissatisfaction expressed with accreditation is based on loose generalizations and occasionally downright ignorance and perversity. That there are weaknesses in institutional accrediting is undeniable, but constructive change is constantly in progress, and the regional accrediting commissions continue to receive the overwhelming support of the educational community and informed citizens. Clearly, in light of the dangers alluded to above, it would be in the best interests of education and society if effective ways could be found to eliminate or at least minimize the potential threats to nongovernmental accreditation. Reduced reliance on accreditation as a basis for determining eligibility would be a step in the right direction. One of the most constructive proposals for doing so is outlined in the statement submitted to this Subcommittee by Dr. Frank Dickey on behalf of the National Commission on Accrediting. It calls for increased utilization of the Higher Education Government Information Survey (HEGIS), and I commend it to your thoughtful attention.

There is little question that serious problems exist with respect to shady and marginal education activities. The dimensions of this Subcommittee's inquiries attest to that. May I respectfully suggest, however, that a major source of the problem is not at the federal level but in the states. Despite recent articles in the *Boston Globe* and *The Washington Post*, this fact has not yet received sufficient attention. There is a mistaken but widely held belief that accrediting agencies determine which institutions may operate or can force out of existence those they disapprove. This is simply not true. Chartering of educational institutions is a state function, and the regional accrediting commissions require that an institution have level authorization to operate before they will work with it. Unfortunately, however, few states have effective chartering legislation, although historically and constitutionally this is one of their responsibilities.

There is a ready solution at hand, namely the proposal by the Education Commission of the States Task Force on "Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees." It is our firm conviction that if enough states adopted the model legislation or modified their laws to conform with its principles, we could go a long way toward eliminating some of the evils which are of concern to this Subcommittee and to all others interested in education.

Obviously, we are not suggesting that the states become accrediting agencies, because we see the same dangers there as at the federal level. Nevertheless, if the states conducted their chartering activities effectively, the federal government could rely on state actions with respect to the legal authorization of educational institutions as a basis for determining eligibility. This is another alternative to accreditation worthy of this Subcommittee's most careful consideration. The accrediting commissions, then, could devote their efforts more fully toward the improvement of education and toward assuring the public as well as the educational consumer that the quality and integrity of the educational opportunities available are reliable and sound. Such developments would foster a better system of checks and balances among federal, state, and nongovernmental agencies, a concept which underlies our Constitution and one whose success may well determine whether we will have another two hundred years of democracy in America.

Thank you for your kind attention and for this opportunity to testify.

Mr. Kirkwood, I would like to point out historically and currently institutional accreditation at the postsecondary level may be said to foster excellence in postsecondary institutions through the development of criteria and guidelines for assessing educational effectiveness; encourage institutional improvement through continuous self-study and planning and to assure the educational community, the general public, and other agencies or organizations that an institution has clearly defined and appropriate objectives, main-

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The advantage to the Government is considerable, and for many years the Office of Education and other agencies have gladly utilized institutional accreditation for their purposes. Literally hundreds of developing institutions were assisted by Federal funding programs through reliance on accreditation, especially during the sixties and the problems compared with the successes were negligible indeed. During most of this period there was a passive but cooperative relationship between the regional accrediting commissions and the U.S. Office of Education. Nevertheless, uneasiness began to develop within the educational community as distortions in the meaning of accreditation resulted from its use as a basis for determining eligibility. New institutions tended to conform to traditional patterns in order to assure their eligibility for Federal funding, despite emphasis by the regional commissions on the importance of innovation and experimentation. To lose entirely the creative and constructive aspects of the accrediting process as it relates to institutional self-study and planning would clearly be a profound loss for American education and for the Nation.

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and the National Commission on Accrediting, will come into existence, one of its purposes being to control the proliferation of accrediting activities.

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With the chairman's permission, I would like to submit a copy of that article for the record.

Mr. O'HARA. Without objection, the article will be entered at the conclusion of your testimony.

Mr. KIRKWOOD. Thank you.

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One of the most constructive proposals for doing so I have seen is outlined in the statement submitted to this subcommittee by Dr. Frank Dickey on behalf of the National Commission on Accrediting.

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Thank you for your kind attention and for this opportunity to testify.

[The article referred to follows:]

**FEDERAL RELIANCE ON VOLUNTARY ACCREDITATION: THE POWER TO  
RECOGNIZE AS THE POWER TO REGULATE**

By Matthew W. Finkin\*

(Journal of Law and Education, vol. 2 No. 3, July 1973, p. 339)

INTRODUCTION

Over the past twenty years, the federal government has relied increasingly on the determinations of private voluntary accrediting agencies as a criterion for eligibility for federal funds in a variety of post secondary education programs.<sup>1</sup> That relationship has recently been subject to some criticism. A report funded by the United States Office of Education concerning post secondary occupational education, issued in 1970, concluded that unless the appropriate agencies make "needed changes in administrative structure, broaden representation, and undertake scientific investigation of their standards and evaluation criteria, a consideration of alternatives [to the current system] should not be ruled out."<sup>2</sup> In a report the following year, HEW Secretary Richardson called on the Commissioner of Education to institute a formal review of accreditation of health personnel programs and alternatives, explicitly including the possibility of establishing a federally chartered corporation to coordinate national accreditation.<sup>3</sup> That same year, a Task Force funded by the Ford Foundation (the Newman Commission) reporting to Secretary Richardson, suggested a reduction in federal reliance on private accreditation.<sup>4</sup> Its draft second report calls for sweeping changes:

We have thus proposed that HEW distinguish eligibility criteria and procedures from accrediting criteria and procedures, to recognize organizations—including accrediting agencies—willing to apply these criteria as opposed to accreditation standards, establish a commission to hear appeals of eligibility denial, and require institutions to publish SEC-type prospectuses as a form of consumer information. Thus, we seek not to federalize accreditation, but merely to limit the federal involvement.<sup>5</sup>

\*LL. M., Yale University School of Law.

<sup>1</sup> These are discussed *infra passim*.

<sup>2</sup> C. Ward, *The State of Accreditation and Evaluation of Post Secondary Occupational Education in the United States* 208 (1970).

<sup>3</sup> HEW, *Report on Licensure and Related Health Personnel Credentialing* 72 (1971). The report was mandated by the Health Training Improvement Act of 1970, discussed *infra*.

<sup>4</sup> HEW, *Report on Higher Education* 66 (1971).

<sup>5</sup> Newman, *A Preview of the Second Newman Report*, 4 *Change* 28, 33 (1972).

In the interim, the Office of Education has moved to revise its criteria pursuant to which private accrediting agencies come to be determinants for eligibility<sup>6</sup> and has funded a study on *Private Accrediting and Public Funding*, conducted by the Brookings Institution.<sup>7</sup> Although that assessment is due in August, a progress report indicates a tentative conclusion that "'accreditation' does not serve adequately to protect the educational consumer or to vouch for the financial or educational integrity of all accredited institutions. . . ."<sup>8</sup> Firm proposals will doubtless be made.

Noticeably absent in the debate, at least as it has proceeded thus far, and essential to the development of concrete proposals for altering the current system, is some clear understanding of the limits of the authority of the Office of Education under the current statutory network.<sup>9</sup> Curiously, no serious questions seem to have been raised within the academic community of the authority of the Commissioner of Education to adopt the proposed revisions in criteria currently under discussion nor have any of the proposals suggested the need for legislative consideration with any specificity.<sup>10</sup> Accordingly, this discussion will treat the question of the government's current authority. Given the breadth of the statutory language concerned, this analysis must perforce rely on legislative intent to the extent discernable as well as on an institutional analysis of the respective roles of the legislative and executive branches in the light of the criticisms leveled at the accreditation system. It would be helpful prior to the requisite emersion in the skein to have some brief acquaintance with the structure and functions of voluntary accreditation.

### Structure

There are two types of accreditation: institutional and specialized or program.<sup>11</sup> The former is accorded by six regional associations of member institutions each exercising exclusive jurisdiction for a specific geographic area.<sup>12</sup> The origins of the various associations differ but they seem to have

<sup>6</sup> *U.S. To Require Accreditors to Add Public Members*, Chronicle of Higher Education, 2 (October 2, 1972).

<sup>7</sup> Brookings Institution *Private Accrediting and Public Funding*, Fact Sheet on a 1972-73 Study (December 8, 1972).

<sup>8</sup> Orians, *Study of Accreditation and Public Funding*, First Quarterly Report 5 (October, 1972).

<sup>9</sup> "Network" is chosen in lieu of the more customary "framework" or "scheme" for as will appear subsequently a word bearing a sufficiently labyrinthian connotation is essential.

<sup>10</sup> Two staff members of the National Commission on Accrediting have pointed out that the statutory basis seems limited and that further involvement "appears to be based entirely on administrative decision." Dickey & Miller, *Federal Involvement in Non-governmental Accreditation*, 53 Educ. Rec. 138, 140 (1972). In neither instance is the matter pursued. Harold Seidman points out that the federal role cannot transcend its current statutory authority and that any "efforts by the office [of Education] to expand its role would be subject to challenge on legal and constitutional grounds." Seidman, *Accreditation of Post Secondary Education: Problems in Organization*, in *Study of Accreditation in Selected Health Educational Programs: Part I—Staff Working Papers F-1, F-7* (1971). He does not, however, explore the limits of that authority. An Advisory Committee to the National Commission on Accrediting, funded by the Carnegie Corporation, made firm recommendations for Commission action covering the Federal involvement including an exploration of "the constitutionality of use by federal agencies of accreditation by a voluntary agency as a basis for financial support to colleges and universities." *The Role and Function of the National Commission on Accrediting* 5 (1969). No other issue of the limits of current authority was discussed. Indeed, the Advisory Committee recommended a more expansive role for the National Commission in the decisions of federal agencies. *Id.* Finally, the Executive Director of the Association of American Law Schools has observed that: . . . the Office of Education has begun to tighten its procedures in deciding whether or not to add an accrediting agency to its list. Here, we find the Office of Education, in the U.S. government, actively engaged in setting standards for an aspect of education that has traditionally been very free of government regulation. Cardozo, *Recent Developments in Legal Aspects of Accreditation*, 213 J. Am. Med. Ass'n. 504, 505 (1970). Again, no issue of the authority of the Office to so move was raised.

<sup>11</sup> HEW, *Nationally Recognized Accrediting Agencies and Associations, Criteria and Procedures for Listing by the U.S. Commissioner of Education and Current List 1* (March, 1972) (hereinafter *Criteria and Procedures*). A brief history of accreditation is provided in W. Selden, *Accreditation: A Struggle Over Standards in Higher Education* (1960) and an updated bibliography and analysis is supplied in F. Dickey and J. Miller, *A Current Perspective on Accreditation* (1972). C. Ward, *supra* note 2 for accreditation of occupational education programs, and Miller, *Structure of Accreditation of Health Educational Programs in Study of Accreditation of Selected Health Educational Programs, Part I: Staff Working Papers, Accreditation of Health Educational Programs, B 1* (1971), for health program accreditation. See also, Cardozo, *Accreditation in Legal Education*, 49 Chi-Kent L. Rev. 1 (1972).

<sup>12</sup> They are the Middle States Association of Colleges and Secondary Schools, the New England Association of Schools and Colleges, the North Central Association of Colleges and Secondary Schools, the Northwest Association of Secondary and Higher Schools, the Southern Association of Colleges and Schools, and the Western Association of Schools and Colleges.

been engendered by a common concern for the problems of admissions and the maintenance of minimum academic standards.<sup>13</sup> The regionals have formed a national Federation of Regional Accrediting Commissions of Higher Education to coordinate their efforts. Each association formulates standards for eligibility for membership, which constitutes the acquisition of institutional accreditation, and determines through committees of visitation whether applicants have conformed to them. In addition, member institutions are themselves periodically re-evaluated, usually at ten-year intervals.

The U.S. Office of Education's Statement of Criteria and Procedures points out that, "regional, or institutional, accreditation applies to the total institution and signifies that the institution as a whole is achieving its objectives satisfactorily."<sup>14</sup> In addition, the Federation of Regional Accrediting Commissions has stated that accreditation does not validate any specialized program offered by the institution.<sup>15</sup>

Specialized or program accreditation is performed by a number of organizations which are national in scope, rather than regional, and each of which represent a specialized area, such as architecture, cosmetology, law, practical nursing, teaching, or trade and technical education. A primary purpose of specialized accreditation is to protect the public against professional or occupational incompetence.<sup>16</sup>

Such specialized agencies are themselves either membership organizations of professionals or associations of professional schools in the field or some body affiliated with them, although in such instances, the degree of control varies.<sup>17</sup> In the health field particularly, the exponential increase in new sub-professions and semi-professions each with a claim for separate accreditation has produced no small strain on the entire accreditation structure.<sup>18</sup>

Overviewing the accrediting system is the National Commission on Accrediting, composed of member institutions and associations of institutions, which undertakes, in effect, to accredit the accrediting agencies.<sup>19</sup> Its early efforts to reduce the status of specialized agencies to that of advisors to the regional associations aborted and it has attempted rather to rationalize the accrediting structure.<sup>20</sup>

#### *Functions*

The U.S. Office of Education lists nine functions performed by voluntary accreditation:

1. Certifying that an institution has met established standards;
2. Assisting prospective students in identifying acceptable institutions;
3. Assisting institutions in determining the acceptability of transfer credits;
4. Helping to identify institutions and programs for the investment of public and private funds;
5. Protecting an institution against harmful internal and external pressures;
6. Creating goals for self-improvement of weaker programs and stimulating a general raising of standards among educational institutions;
7. Involving the faculty and staff comprehensively in institutional evaluation and planning;
8. Establishing criteria for professional certification, licensure, and for upgrading courses offering such preparation; and
9. Providing one basis for determining eligibility for federal assistance.<sup>21</sup>

#### THE STATUTORY BASES FOR FEDERAL RECOGNITION OF PRIVATE ACCREDITING AGENCIES

##### *The Beginning—The Korean GI Bill*

The enactment of the Veterans' Readjustment Assistance Act of 1952<sup>22</sup> established the basic pattern of official federal recognition of private ac-

<sup>13</sup> W. Selden, *supra*, note 11 at 42.

<sup>14</sup> *Criteria and Procedures*, *supra*, note 11 at 2.

<sup>15</sup> Quoted in F. Dickey & J. Miller, *supra*, note 11 at 13.

<sup>16</sup> *Criteria and Procedures*, *supra*, note 11 at 2.

<sup>17</sup> Miller, *supra*, note 11.

<sup>18</sup> Selden, *Expansion of Accreditation of Health Educational Programs*, in *Study of Accreditation of Selected Health Educational Programs*, Part I: Staff Working Papers, E-1 (1971).

<sup>19</sup> Note, *The Legal Status of the Educational Accrediting Agency: Problems in Judicial Supervision and Governmental Regulation*, 52 Cornell L. Q. 104, 105-106 (1966).

<sup>20</sup> F. Dickey & J. Miller, *supra*, note 11 at 18-21.

<sup>21</sup> *Criteria and Procedures*, *supra*, note 11 at 1.

<sup>22</sup> Pub. L. 82-550, 66 Stat. 633 (1952).

crediting agencies although federal reliance on the determinations of such bodies antedates its passage.<sup>25</sup> The Act was, in part, a response to the Korean War, but also a reaction to difficulties encountered with its predecessor—the Servicemen's Readjustment Act of 1944.<sup>26</sup> The latter provided for approval of education and training institutions (including institutions of higher education) by state approving agencies or by the Administrator of the Veterans' Administration. Serious difficulties were encountered with slipshod state approval of "fly-by-night" and "blind alley" programs,<sup>27</sup> although this was not generally a problem in higher education.<sup>28</sup> The House select committee investigating the administration of the GI Bill focussed almost entirely on non-collegiate education and recommended further Congressional attention to the strengthening of educational standards and the clarification of respective jurisdiction of Veterans' Administration and state approving agencies.<sup>29</sup> The House Committee on Veterans' Affairs produced a draft bill, noted in the subsequent hearings, which would continue the reliance on state approving agencies but would provide that such agencies may approve courses offered by an institution where they have been approved by a nationally recognized accrediting agency. It went on to provide that:

For the purposes of this Act the Administrator [of Veterans' Affairs] shall publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered. . . .<sup>30</sup>

It also provided detailed requirements for state approving agencies to utilize in approving non-accredited courses. A number of bills were introduced containing identical language.<sup>31</sup> Others had been introduced constituting variations on the original GI Bill without these accreditation provisions.<sup>32</sup>

In the course of the hearings in the house a number of organizations urged that a role be provided the Office of Education in the administration of the statute.<sup>33</sup> The National Education Association entered a vigorous endorsement<sup>34</sup> and a more subdued one was given by the president of Union College on behalf of the American Council on Education, observing:

At the present moment I can say that our policy has always been to endorse the program which the Office of Education has followed throughout its history of being nondictatorial, but of seeking to bring about cooperation among the various State organizations. Their policy has been one of advice and council [sic] of reserve and of general help to the agencies rather than of attempting to dictate from Washington. . . .<sup>35</sup>

The American Legion would have preferred to give veto authority over

<sup>25</sup> E.g., the National Science Foundation Act of 1950, 64 Stat. 149, 81st Cong., 2d Sess. (1950) allowed the foundation to award fellowships for scientific study at accredited institutions of higher education.

<sup>26</sup> Pub. L. 78-346, 58 Stat. 284.

<sup>27</sup> See *Hearings Before the House Select Committee to Investigate Educational and Training Programs Under GI Bill*, 81st Cong., 2nd Sess. (1951) and H.R. Rep. No. 3258, 81st Cong., 2nd Sess. (1951). As the Acting Comptroller General reported to the Senate Committee on Labor and Public Welfare, "Experience under the existing program shows that State approval of educational institutions has in many instances been no more than a 'rubber stamp' process." *Hearings Before the House Committee on Veterans' Affairs*, 82nd Cong., 2nd Sess. 1104 (1952).

<sup>28</sup> Administration of Veterans' Affairs & the Director of the Bureau of the Budget, Report Relative to the Original Sound Intents of the Servicemen's Readjustment Act, H.R. Doc. No. 466, 81st Cong., 2nd Sess. 6 (1950), H.R. Rep. No. 3258, 81st Cong., 2nd Sess. 9 (1951).

<sup>29</sup> H.R. Rep. No. 3258, 81st Cong., 2nd Sess. 29 (1951).

<sup>30</sup> *Hearings Before the House Committee on Veterans' Affairs on Educational and Training and Other Benefits for Veterans Serving on or after June 27, 1950*, 82nd Cong., 2nd Sess. 1011 (1952).

<sup>31</sup> H.R. 6425; H.R. 6426; H.R. 6427; H.R. 6428; H.R. 6362 and H.R. 6474, 82nd Cong., 2nd Sess. (1952).

<sup>32</sup> H.R. 5040, 82nd Cong., 1st Sess. (1951), H.R. 5038, 82nd Cong., 1st Sess. (1951).

<sup>33</sup> Notably the National Veterans' Education Association, *Hearings, supra* note 28 at 1174, and the National Council of Chief State School Officers, *Id.* at 1682.

<sup>34</sup> "The United States Office of Education is the one Federal agency that has long-established channels and experience in dealing with educational institutions. American education at all levels is accustomed to working with the Office of Education and has complete confidence in the professional ability and integrity of the agency. Thus, the National Education Association believes that the delegation to the United States Office of Education of administrative responsibility for an educational program of the type and scope now being considered by the veterans' committee would be a major safeguard against abuses of the law by educational institutions of questionable status." Letter from the Executive Secretary, National Education Association, *Id.* at 1195.

<sup>35</sup> *Id.* at 1577.

approval to the Veterans' Administration<sup>54</sup> as would the Bureau of the Budget<sup>55</sup> but the representatives of both AMVETS<sup>56</sup> and the Veterans of Foreign Wars<sup>57</sup> favored some role for the Office of Education, the former explicitly rejecting a veto authority for the VA.

The Commissioner of Education opined that control of education should remain a state responsibility and that "modest supervisory responsibility" be given his office as the agency of government having well-established relationships with the educational establishments in the States.<sup>58</sup> He envisioned that role as being more one of persuasion than control and suggested that separate categories be established with differing controls for programs "administered by accredited colleges and universities" as opposed to the others embraced by such omnibus legislation.<sup>59</sup> Accordingly, the Commissioner was requested to submit a draft bill embodying his thinking. Under it, each state would designate a state Veterans' Education Commission composed of persons "broadly representative of the public interest, the principal educational agency of the state government, and of the several educational and training interests involved. . . ."<sup>60</sup> Each commission should develop a state plan embodying acceptable standards and procedures for approving institutions including, however, a proscription of discrimination based on race or national origin. It would approve or disapprove institutions on the basis of inspections and objective findings of fact and establish procedures for considering appeals from those decisions. The Commissioner of Education would have authority to approve or disapprove the state plans so submitted and if none were submitted or if the state were operating in violation of its plan the Commissioner would have the authority to undertake the functions of the state commission.<sup>61</sup>

After the hearings, the committee staff held conferences with interested government agencies on sixteen occasions in an effort to draft legislation reflecting the suggestions made in the hearings.<sup>62</sup> The bill reported out would have allowed the Commissioner of Education to approve courses where the state failed to designate a state approving agency and would have continued the provisions on accreditation embodied in the Committee's earlier draft, save that the Commissioner of Education rather than the Veterans' Administrator would have been given responsibility for designating nationally recognized accrediting agencies and publishing the list of those so found.<sup>63</sup> The Office's proposed statutory function in developing cooperative agreements between the VA and State approving agencies, reviewing their operations and giving technical assistance to them, was hailed by the Federal Security Agency, of which the Office of Education was then a part, as "potentially the most useful for the program"<sup>64</sup> and was vigorously opposed by the Veterans' Administration.<sup>65</sup> On this, the committee observed:

It is to be emphasized that the contemplated function of the Office of Education is of a professional character only and it is not the intent of this subsection to give any veto to the Office of Education or to interfere fundamentally with the administrative authority vested in the Administrator of Veterans' Affairs.<sup>66</sup>

Interestingly, the VA did approve the accreditation provision.<sup>67</sup>

In conference, the VA retained the course approval authority which the House bill had given the Commissioner, but the latter's role in accreditation was retained.<sup>68</sup> Large issues loomed in the Congressional debates and the

<sup>54</sup> *Id.* at 1474.

<sup>55</sup> *Id.* at 1435-1436.

<sup>56</sup> *Id.* at 1544.

<sup>57</sup> *Id.* at 1510.

<sup>58</sup> *Id.* at 1354, 1356.

<sup>59</sup> *Id.* at 1355. He had earlier noted that the degree of abuse is in "direct ratio to the degree that established and accredited institutions of education have been involved."

<sup>60</sup> *Id.* at 1353.

<sup>61</sup> § 3302(a)(1) of the Commissioner's proposed Veterans' Education Act of 1952. *Id.* at 1555-1556.

<sup>62</sup> *Id.* at 1556-1557.

<sup>63</sup> H.R. Rep. No. 1943, 82nd Cong., 2nd Sess. 24 (1952), 98 Cong. Rec. 6378 (1952) (remarks of Representative Rankin introducing the bill).

<sup>64</sup> H.R. Rep. No. 1943, *supra*, note 42.

<sup>65</sup> *Id.* at 97-98.

<sup>66</sup> *Id.* at 111-112.

<sup>67</sup> *Id.* at 35.

<sup>68</sup> *Id.* at 110.

<sup>69</sup> H.R. Rep. No. 2481, 82nd Cong., 2nd Sess. (1952).

matter of accreditation was touched if at all only tangentially.<sup>49</sup> Some stress was placed, however, on the reduction in "red tape" resulting from a simplified administrative scheme of the act.<sup>50</sup>

As enacted, the Korean GI Bill required states to designate State approving agencies and if they failed to do so the VA Administrator would assume those functions. It authorized the State approving agencies to approve courses offered by an institution when they "have been accredited and approved by a nationally recognized accrediting agency or association"<sup>51</sup> and provided that the Commissioner of Education "shall publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by an educational institution. . . ."<sup>52</sup> It also authorized state approval of non-accredited courses after the submission of requisite information and an investigation that statutory standards are met.<sup>53</sup> These included *inter alia* adequate space and personnel, adequate educational experience and qualifications of administration and faculty, compliance with local fire, building and sanitation codes, good reputation, financial stability and instruction consistent in quality, content, and length with similar courses in public schools and other private schools with recognized standards.

On September 17, 1952, the Commissioner of Education published the criteria, developed after "consultation with an advisory group of educators," for recognition as a national accrediting agency.<sup>54</sup> These required *inter alia* that: the scope of the organization be national or regional (i.e., encompassing several states); i. serve a definite need; it perform no function that might prejudice its independent judgment; it make available to the public current information on its standards, operations and accredited programs or institutions; it only accredit institutions which are found on examination to meet pre-established standards; it has some experience in accrediting; and, it has gained general acceptance of its criteria and decisions. In addition, five procedural requirements were set out concerning the acquisition of information, use of qualified visitors, financial stability and re-evaluation. Recognition was conditioned on the assurance that accreditation will not be conditioned on the payment of any sum apart from any reasonable charges it might have, not exceeding the actual cost of accreditation.

The established criteria seem to fall well within the statutory authorization. Congress had been assured of the reliability of the standards and determinations of accrediting associations<sup>55</sup> and was concerned for the quality

<sup>49</sup> Senator Hill pointed out that the measure "prescribes better and higher standards which schools must meet." 98 Cong. Rec. 8414 (1952) but in response to an inquiry from Senator Bridges as to who is to decide the standards he made no square reference to private accreditation. *Id.*

<sup>50</sup> 98 Cong. Rec. 6395 (1952) (remarks of Representative Teague), 98 Cong. Rec. 6641 (1952) (remarks of Representative Donohue), 98 Cong. Rec. 6638 (1952) (NEA position on reduction of administrative expenses put in record by Representative Rankin) and 98 Cong. Rec. 6640 (1952) (analysis of American Council on Education focusing on reduced costs put in record by Representative Rankin).

<sup>51</sup> The Veterans' Readjustment Assistance Act of 1952, Pub. L. 82-550, §253 (1952).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at §254.

<sup>54</sup> 17 Fed. Reg. 8020 (1952) (error corrected at 17 Fed. Reg. 8094 (1952)). Attached was a list of the six regional associations and 22 specialized agencies recognized pursuant to the criteria.

<sup>55</sup> Note the following colloquy between Representative Teague, who had chaired the earlier House investigation into abuses of the GI Bill and was a sponsor of H.R. 6425 at p. 29 and Mr. Sam Colle, Assistant Administrator for Vocational Rehabilitation of the Veterans' Administration, in *Hearings Before the House Committee on Veterans' Affairs*, *supra* note 28 at 1231-32:

"Mr. Teague: Mr. Colle, would you tell us a little about nonaccredited courses and the approval of nonaccredited courses?"

"Mr. Colle: You refer to institutions of higher learning?"

"Mr. Teague: Yes.

"Mr. Colle: Well of course, the accrediting associations establish high standards in regard to courses of instruction that are provided by the members that are accredited by the associations. I think that is a very fine safeguard in respect to institutions of higher learning.

"Mr. Teague: What about nonaccredited courses?"

"Mr. Colle: Nonaccredited courses in colleges?"

"Mr. Teague: In colleges, public, private, profit and nonprofit.

"Mr. Colle: I think the law ought to contain minimum safeguards. . . ."

"Mr. Teague: Do you believe that nonaccredited courses should be consistent with the quality and content and length of similar courses?"

"Mr. Colle: I see no reason for them to be lower in their standards. . . ."

of education and training offered.<sup>56</sup> On the other hand, a serious problem of federal control of education seemed to be presented as well as a dispute between federal agencies.<sup>57</sup> There seems to have been a consensus, however, that these provisions imported no danger of federal control.<sup>58</sup> One of the few remarks explicitly directed to the accreditation provision came from the representative of the National Council of Chief State School Officers, who observed:

This section makes a magnificent contribution toward insuring that veterans shall receive accredited courses. It substitutes objective professional judgments of professional quality for discretionary judgments of a federal administrator.<sup>59</sup>

Moreover, the cost-conscious Congress was concerned for administrative expenses<sup>60</sup> and reliance on private agencies would reduce the cost of government carrying out individual inspections and evaluations<sup>61</sup> particularly in a sector that had provided little real problem in the past.

In sum, what seems to have been established was essentially a structure intended to minimize federal involvement and upon which state agencies and federal authorities could rely. Indeed, the language of the statute clearly assumed that there *were* recognized national accrediting agencies who were responsible authorities on the quality of education offered. Equally, the Commissioner's criteria seem simply to be built on what was sound practice among the accrediting organizations themselves.

#### *Expansion of Reliance and the Refinement of Alternatives*

*National Defense Education Act.* Section 103(L) of the National Defense Education Act of 1958<sup>62</sup> defined an institution of higher education for the purpose of the Act as an institution which (1) admitted only secondary school graduates or the equivalent, (2) was legally authorized to offer a program of post secondary education in the state, (3) provided a program of education leading to a bachelor's degree or not less than a two-year program which provides credit acceptable for such a degree, (4) was a public or other non-profit institution, and (5) was accredited by "a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited." It reiterated *verbatim* the authorization for the Commissioner of Education to publish a list of "nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered" found in the Korean GI Bill.

The Act, a product of concern for the quality of American education and the production of a larger number of technologically trained personnel, was given considerable impetus by the launching of the Sputnik satellite by the Soviet Union.<sup>63</sup> It had nevertheless to contend with a vigorous opposition based on the threat of federal control over education put, perhaps, most strongly by Representative Johansen:

By adopting this legislation you will give the greatest encouragement ever given by any Congress to that small but solid and utterly ruthless core of unblinking, unblushing, brazen advocates of definite, deliberate, all-out Federal control of education.<sup>64</sup>

<sup>56</sup> As the Deputy Administrator had written to the Chairman of the House Committee, "To simplify administration and eliminate abuses, educational institutions should be required to demonstrate the quality and worth of their courses before they become eligible to participate in this program." *Id.* at 114.

<sup>57</sup> It is relevant to note that the VA did not apparently see itself as threatened by the Office of Education's authority over recognition of accrediting agencies as it did by the statutory right of that office to coordinate and advise on state programs. *Supra* note 45. See Also Hearings, *supra* note 28.

<sup>58</sup> Statement of the President of Rutgers University on behalf of the Association of Land Grant Colleges and Universities. *Id.* at 1612.

<sup>59</sup> *Id.* at 1684.

<sup>60</sup> *Supra* note 50.

<sup>61</sup> The Bureau of the Budget's Examiner for Veterans' Affairs had urged that the new program "should, to the maximum extent possible, be self-administering." Hearings, *supra* note 2 at 1433.

<sup>62</sup> 70 U.S.C., §§461 et seq. (1970), 72 Stat. 1580 (1958).

<sup>63</sup> H.R. Rep. No. 2157, 85th Cong., 2nd Sess. (1958), S. Rep. No. 2242, 85th Cong., 2nd Sess. (1958).

<sup>64</sup> 104 Cong. Rec. 16726 (1958). *Id.* at 16567-8 (remarks of Rep. Allen); *id.* at 16569 (remarks of Rep. Landrum); *id.* at 16576-7 (remarks of Rep. Dawson); *id.* at 16582-3 (remarks of Rep. Berry); *id.* at 16683 (remarks of Rep. Abbt); *id.* at 16686-8 (remarks of Rep. Beemer); *id.* at 16691-2 (remarks of Rep. Garin); *id.* at 16720 (remarks of Rep. Passman); *id.* at 16737 (remarks of Rep. Jensen); *id.* at 16738-9 (remarks of Rep. Thomas); *id.* at 16894-7 (remarks of Rep. Brownson); *id.* at 16697 (remarks of Rep. Alger); and *id.* at 17328 (remarks of Sen. Lauche).

Proponents of the measure stressed shortage of trained personnel<sup>65</sup> and argued that limitations on federal authority were workable.<sup>66</sup> During the hearings a number of spokesmen observed that the GI Bill had not resulted in federal control,<sup>67</sup> and it was widely urged that a limitation of institutional eligibility for student loans and scholarships to accredited institutions would accomplish the purposes of the Act.<sup>68</sup> Moreover, though not without variation many of the bills introduced relied at least to some extent on private accreditation, although not all would have included the publication requirement.<sup>69</sup>

It should also be noted that the language reported out by the House<sup>70</sup> and adopted in the final bill containing these definitional requirements,<sup>71</sup> did occasion some dispute largely concerning the exclusion of proprietary (for profit) institutions and the exclusion of programs not creditable toward a baccalaureate. The former excluded proprietary schools of business<sup>72</sup> some of which were accredited by an association recognized by the Office of Education pursuant to the Korean GI Bill. The latter affected accredited technical education, credits for which were nevertheless non-transferable toward a bachelor's degree<sup>73</sup> as well as hospital schools of nursing<sup>74</sup> and university extension education.<sup>75</sup> Thus, in the course of testimony and interrogation on these issues some features of the accreditation system were developed<sup>76</sup> as

<sup>65</sup> 104 Cong. Rec. 16586-7 (1958) (remarks of Rep. Addonizio); *id.* at 16587-8 (remarks of Rep. Ashley); *id.* at 16588-9 (remarks of Rep. Haskell); and *id.* at 16680-81 (remarks of Rep. McGovern).

<sup>66</sup> *Id.* at 16590 (remarks of Rep. Frelinghuysen); *id.* at 16684 (remarks of Rep. Philben); *id.* at 16742 (remarks of Rep. Robison); and *id.* at 17330 (remarks of Sen. Johnson).

<sup>67</sup> *Hearings Before a Subcommittee of the House Committee on Education and Labor on Bills Relating to a Federal Scholarship and Loan Program*, at 695 (remarks of HEW Secretary Folsom); at 68-69 (remarks of the Commission of Education); at 403 (remarks of the President of the Utah Congress of Parents and Teachers); at 349 (remarks of the President of Huron College); at 652 (remarks of the President Southern Oregon College), 85th Cong., 1st Sess. (1958).

<sup>68</sup> *Id.* at 667, 2035 (statement of the American Council on Education), *id.* at 1663 (statement of the American Association of Land-Grant Colleges and State Universities and the State Universities Association), *id.* at 1700, 1807 (remarks of the U.S. National Student Association). See also *Hearings Before Senate Committee on Labor and Public Welfare on Science and Education for National Defense*, at 257 (remarks of the Commissioner of Education), and at 421 (remarks of American Council on Education), 85th Cong., 2nd Sess. (1958).

<sup>69</sup> H.R. 10281, 85th Cong., 2nd Sess. (1958), sponsored by the Committee chairman, while adopting much of the language of §103(b) omitted reference to any authority in the Office of Education to publish a list of recognized agencies but would give the Commissioner authority to "approve" such agencies. S. 2505, 85th Cong., 1st Sess. (1957) would, like the National Science Foundation Act, simply require accreditation without further reference. However, S. 1727, 85th Cong., 1st Sess. (1957), sponsored by Sen. Javits defined an institution of higher education as a public or private non-profit college or university wholly without reference to accreditation. Similarly, Sen. Humphrey's bill, S. 869, 85th Cong., 1st Sess. (1957) eliminated any reference to accreditation. S. 3157, 85th Cong., 2nd Sess. (1958) sponsored by Sen. Flanders listed the six regional associations in the bill and explicitly required accreditation by one of them thereby precluding any role for the Commissioner. Other variations were presented. S. 1237, 85th Cong., 1st Sess. (1957) would require the "advice" of appropriate accrediting agencies. S. 2917, 85th Cong., 2nd Sess. (1958) relied on a state determination of whether an institution was eligible. S. 2967, 85th Cong., 2nd Sess. (1958) required that institutions be accredited but went on to provide that publicly operated institutions shall be deemed to be accredited and in all other cases "accreditation shall be determined by the Commissioner of Education."

<sup>70</sup> *Supra*, note 63.

<sup>71</sup> H.R. Rep. No. 2689, 85th Cong., 2nd Sess. (1958).

<sup>72</sup> See the statement of the South Dakota Business School Association, *Hearings, supra* note 67, at 340. Statement of the National Association and Council of Business Schools, *Hearings Before the Senate Committee on Labor and Public Welfare, supra* note 68, at 1332-1335. It also affected proprietary technical training, see testimony on behalf of the Electronic Technical Institute, *Hearings, supra* note 67 at 1904.

<sup>73</sup> Statement on behalf of the Coordinating Committee on Scientific and Engineering Technicians, *Hearings supra* note 67 at 1447. *Senate Hearings supra* note 68 at 640-641, 645. Statement of National Society of Professional Engineers, *Hearings Before the Senate Committee on Labor and Public Welfare, supra* note 68 at 629, 635.

<sup>74</sup> See Statement by the Washington Hospital Center, *Hearings supra* note 67 at 1300. *Senate Hearings supra* note 68 at 853 supported by the American Hospital Association, *Hearings supra* note 67 at 1301. The inclusion of hospital schools of nursing was opposed by the American Nurses' Association, *Hearings supra* note 67 at 1846. *Senate Hearings, supra* note 68 at 1311-1312.

<sup>75</sup> Statement of American Association of Land-Grant Colleges and State Universities, *Hearings supra* note 67 at 1587, 1597. *Senate Hearings supra* note 68 at 700-702.

<sup>76</sup> The standards and principles of the Engineers Council for Professional Development for the accreditation of technical institutes was introduced in the *Senate Hearings, supra* note 68 at 646-655, and the accreditation of proprietary business schools was discussed in the *Hearings, supra* note 67 at 1605-1608. In addition, the Report of the Working Committee for the Development of Supporting Technical Personnel of the President's Committee on Scientists and Engineers was introduced in the *Hearings supra* note 67 at 1463-1473 and the *Senate Hearings, supra* note 68, at 663-672, urging that such technical training be eligible for regional accreditation.



well as criticism of it. One witness, the owner of a proprietary school for medical secretarial training<sup>77</sup> appearing on behalf of a number of interested parties,<sup>78</sup> challenged the "country club policies"<sup>79</sup> of regional accrediting agencies and called for the abolition of "discrimination being practiced through accreditation" including the elimination of federal reliance on accreditation and a full investigation of the Office of Education.<sup>80</sup> In the course of his testimony, the Committee's understanding of the ministerial character of the federal reliance on accreditation was underlined.<sup>81</sup>

Relatedly, Senator Allott observed, during his questioning of President Caldwell of the University of Arkansas, that some colleges scarcely deserve to be rated as secondary schools.<sup>82</sup> In response, President Caldwell relied on accreditation as an index of quality.<sup>83</sup> No further issue was made nor was the reliance on accreditation raised in the Congressional debate save perhaps inferentially by the defendants of the measure who disclaimed that federal control would result.<sup>84</sup>

In sum, it seems beyond question that NDEA's section 103(b) was built squarely on the foundation laid by the Korean GI Bill. Congressional consideration of the reliance system, minimal as it was, nevertheless tends to support a view of the Office of Education's role as fundamentally ministerial. Indeed the "three letter" escape allowance for nonaccredited institutions reduced the federal role provided under the earlier act for the approval of non-accredited courses. Interestingly, the publication authorization was seemingly taken from the earlier statute without a reconsideration of the use of the word "training" as opposed to "education," a term more appropriate to an act no longer concerned with on-the-job or on-the-farm vocational preparation.

*Higher Education Facilities Act of 1963.* Unlike its predecessors the Higher Education Facilities Act<sup>85</sup> was acknowledged as an aid-to-education measure as opposed to a catch-up for veterans or an emergency defense action and as such had a thorny path in Congress. The vagaries of various of its titles are not relevant here. Suffice it to note that the basic definition of an eligible "institution of higher education" in both the House and Senate versions was based on the language of NDEA. In addition to the requirements set out in Section 103(b) of NDEA, the House Committee's bill added the provision that for certain two year technical and semi-professional training, if the

<sup>77</sup> Mr. Claude E. Yates of the Zweegman School for Medical Secretaries, *Hearings*, *supra* note 67 at 596.

<sup>78</sup> California Council of Business Schools, Western Region of the Accrediting Commission for Business Schools, National Association and Council of Business Schools, and non-affiliated private, specialized schools in California. *Id.*

<sup>79</sup> *Id.* at 609.

<sup>80</sup> *Id.* at 599-600.

<sup>81</sup> "Mr. Elliott [chairman of the subcommittee]: What does the United States Office of Education base its accreditation on? Is it not on what the local accrediting agencies do?"

"Mr. Yates: But the local accrediting agencies do not extend that privilege to all recognized worthy institutions.

"Mr. Elliott: However, all the Office of Education is doing is just saying that a particular school has not been accredited by the local accrediting agency. Is that all they are [sic] saying?"

"Mr. Yates: That is right."

*Id.* at 597

<sup>82</sup> *Senate Hearings*, *supra* note 68 at 715.

<sup>83</sup> "Mr. Caldwell: But our institutions gain accreditation, that is, gain authority to grant a recognized degree through membership in what we call the regional accrediting associations. In addition to the regional accrediting associations which accredit institutions to offer their bachelor's degree and so on and the master's and doctor of philosophy. We have accrediting associations in many of the professional fields, fields of medicine and law and social work or whatever it might be.

"Sen. Allott: The point I am getting at is, is this possible that our accrediting agencies are not really doing the job that should be done. Who elects the accrediting agency?"

"Mr. Caldwell: An accrediting agency is representative of the practitioners in the field and the educators in the field."

*Id.* at 715-716

<sup>84</sup> As Senator Johnson put it, "We were looking for a way through which help would be extended without the control of Federal bureaucracy. And in this bill, I believe we have found it" 104 Cong. Rec. 17330 (1958). See particularly the statements of Senators Allott and Yarborough, both conferees, in support of the measure. *Id.* at 19079-80, 19085 respectively. The only voice speaking directly to this issue was Rep. Whitten who argued that educational deficiencies were themselves the products of the policies of the accrediting associations. *Id.* at 16740.

<sup>85</sup> Pub. L. 88 204, 77 Stat. 363 (1963).

Commissioner determined there was no nationally recognized accrediting agency qualified to accredit the institution, the Commissioner of Education would appoint an advisory committee composed of persons specially qualified to evaluate the training provided by the institution. The committee would prescribe the requisite standards, content, scope and quality and would also determine whether particular institutions were in conformity.<sup>86</sup> Both the House and Senate versions would have provided for eligibility where the Commissioner found sufficient assurance that accreditation requirements would be satisfied upon completion of the project for which assistance is sought.<sup>87</sup> The conference accepted the House addition for two year technical education<sup>88</sup> and thus the final text contained a substantial addition to the Commissioner's authority to act independent of private accrediting agencies.<sup>89</sup> The question however, is whether additional authority was envisaged with respect to existing accrediting agencies.

It should be noted that the opponents of broad federal aid to education programs seemingly saw nothing inconsistent in reliance on private accreditation for more narrowly framed measures. Senator Goldwater, for example, dissented from the Senate report.<sup>90</sup> However, he sponsored his own Educational Opportunities Act<sup>91</sup> which provided *inter alia* for accreditation or acceptance of credits for transfer as a requirement for eligibility (omitting the publication requirement) and allowing a tax deduction for higher education expenses. The latter provision's definitional section would have required accreditation "by a recognized national or regional accrediting agency"—presumably allowing the Internal Revenue Service to determine accreditation status.<sup>92</sup> Interestingly, after strong opposition to comprehensive federal aid was expressed by the presidents of three private institutions<sup>93</sup> who favored a tax credit

<sup>86</sup> H.R. Re. No. 310, 88th Cong., 1st Sess. 2, 18 (1963).

<sup>87</sup> S. Rep. No. 557, 88th Cong., 1st Sess. 21 (1963).

<sup>88</sup> H.R. Rep. No. 884, 88th Cong., 1st Sess. 14 (1963).

<sup>89</sup> The complex definition of an institution of higher education provided in that section is worth noting in its entirety:

"The term 'institution of higher education' means an educational institution in any State which—

"(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(2) is legally authorized within such State to provide a program of education beyond high school;

"(3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(4) is a public or other nonprofit institution; and

"(5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall . . . appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions for assistance under this Act and shall also determine whether particular institutions meet such standards: *Provided, however,* That the requirements of this clause (5) shall be deemed to be satisfied in the case of an institution applying for assistance under this Act, if the Commissioner determines that there is satisfactory assurance that upon completion of the project for which such assistance is requested, or upon completion of that project, and others under construction or planned and to be commenced within a reasonable time, the institution will meet such requirements; and for the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered."

<sup>90</sup> *Supra* note 87 at 24-27.

<sup>91</sup> S. 181, 88th Cong., 1st Sess. (1963).

<sup>92</sup> Apparently Senator Goldwater did not see this as involving federal control or multi-jurisdictional federal bureaucracy. *Hearings Before the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, 88th Cong., 1st Sess., 278-279, 286 (1963) (testimony of Sen. Goldwater).*

<sup>93</sup> Rockford College, *id.* at 1127-1129; Earlham College, *id.* at 1130-1134; Stetson University, *id.* at 1135-1139.

system, Senator Morse instructed the Committee staff to draft a bill embodying their suggestions. The resultant proposal ostensibly designed to curtail federal involvement nevertheless retained accreditation by a nationally recognized accrediting agency as a definitional element of institutional eligibility.<sup>94</sup>

As with consideration of the NDEA, a variety of measures of varying purposes were introduced, some like Senator Goldwater's relied on accreditation without reference to the authority of the Commissioner to recognize accrediting agencies.<sup>95</sup> Others tended to track the earlier statute<sup>96</sup> and others ignored accreditation altogether.<sup>97</sup> As with consideration of the NDEA the effectiveness of an earlier law, (in that case the Korean GI Bill and in this case the NDEA) was relied on as evidence of federal assistance without federal control<sup>98</sup> and evidence of accreditation policies and practices, in this instance largely relating to technical and semi-professional education, was introduced.<sup>99</sup>

The picture that emerges simply reinforces the previously held assumption by Congress that the role of the Office of Education with respect to voluntary accreditation was to be essentially ministerial. Indeed, the grant of authority for the Commissioner to engage in accreditation where no nationally recognized agency was to be found or to allow eligibility to non-accredited institutions was chosen in explicit contradistinction to the notion of authority to regulate the internal affairs of such agencies.

*Health Professions Educational Assistance Act of 1963.* The Health Professions Educational Assistance Act of 1963,<sup>100</sup> a response to the demand for the production of a greater number of professional health personnel,<sup>101</sup> provided for construction grants for health teaching facilities to be approved by the Surgeon General. It defined an eligible applicant as a non-profit institution in one of a number of enumerated health professions and required that it be accredited by a recognized body or bodies approved for such purposes by the Commissioner of Education. It deemed as accredited, however, any institution for which the Commissioner found, after consultation with the appropriate accrediting body or bodies, there to be a reasonable assurance of meeting accreditation standards after completion of the facility. The authorization to publish a list of recognized accrediting agencies was curiously omitted.<sup>102</sup>

Much of the attention in committee focused on the eligibility of various health disciplines and the testimony almost invariably dwelt, albeit briefly in many cases, on the mere fact of accreditation.<sup>103</sup> In one instance concern

<sup>94</sup> *Id.* at 1141.

<sup>95</sup> S. 350, 88th Cong., 1st Sess. (1963), S. 1115, 88th Cong., 1st Sess. (1963).

<sup>96</sup> S. 500, 88th Cong., 1st Sess. (1963) (sponsored by Sen. Javits), S. 580, 88th Cong., 1st Sess. (1963) (sponsored by Sen. Morse).

<sup>97</sup> S. 389, 88th Cong., 1st Sess. (1963) (sponsored by Sen. Humphrey would rely on an IRS determination of nonprofit educational status under the Internal Revenue Code.

<sup>98</sup> See *e.g.*, *Hearings, supra* note 92 at 738 (remarks of Sen. Gruening). A precursor, the College Academic Facilities Act of 1962, H.R. 8000, 87th Cong., 2nd Sess. (1962) died in conference the previous year. 108 Cong. Rec. 20152-53 (1962). Its definition section was largely tracked in the instant measure save for the special treatment for two-year technical training. Of it, Rep. Green observed in response to a question of Rep. Vanik, "We were reminded of some of the experience, however, which we had under the GI Bill. We felt we had to have some form of accreditation. I think most of us will agree that there were many fly-by-night institutions set up under that program" *Id.* at 1156.

<sup>99</sup> Report of an Advisory Group on Higher Education to the House Committee on Education and Labor. *Id.* at 1549-1559. *Hearings Before the House Committee on Education and Labor*, 88th Cong., 1st Sess. 1000-1001 (1963) (testimony of the National Society of Professional Engineers). The Council for the Advancement of Small Colleges had specifically urged the enactment of the credit transferability standard as of benefit to its unaccredited members. *Hearings, supra* note 92 at 1858, 1869.

<sup>100</sup> Pub. L. 88-129, 77 Stat. 164 (1963).

<sup>101</sup> S. Rep. No. 485, 88th Cong., 1st Sess. (1963), H.R. Rep. No. 109, 88th Cong., 1st Sess. (1963).

<sup>102</sup> Most of the measures introduced are curiously neglectful of that provision given the contemporaneity of the Higher Education Facilities Act. See H.R. 180, 88th Cong., 1st Sess. (1963); H.R. 3182, 88th Cong., 1st Sess. (1963), and H.R. 2527, 88th Cong., 1st Sess. (1963). At least one, H.R. 3180, 88th Cong., 1st Sess. (1963) would give authority to recognize accrediting agencies to the Surgeon General. In the debate on the floor of the House, Rep. Quile argued that it was an aid to education measure which should be administered by the Commissioner of Education. 109 Cong. Rec. 6935 (1963). He objected to the fragmentation of educational assistance programs and offered an amendment containing *inter alia* the now customary publication authorization which did not pass. *Id.* at 6840-41, 6884.

<sup>103</sup> *Hearings Before the House Committee on Interstate and Foreign Commerce on Health Professions Educational Assistance*, 88th Cong., 1st Sess. (1963). *Id.* at 182 (testimony of American Dental Association); *id.* at 335-36 (testimony of Association of American Medical Colleges) and *id.* at 317 (testimony of American Association of Colleges of Pharmacy). *Hearings Before the Subcommittee on Health, Senate Committee on Labor and Public Welfare*, 88th Cong., 1st Sess. (1963). *Id.* at 223 (statement of the American Optometric Association) and *id.* at 206 (testimony of the American Podiatry Association).

was expressed by a member of the House committee for the need of an accrediting agency, explicitly harkening back to the Korean GI Bill.<sup>104</sup> In another, a witness objected to the accreditation policies of the American Medical Association with respect to colleges for chiropractors and other practitioners of drugless healing.<sup>105</sup> He urged that the bill be amended to provide explicit additional directives to the Commissioner of Education<sup>106</sup> but his urging was not followed. It was only upon the appearance of the representatives of the American Medical Association that anything proximate to an issue of the appropriate status of accreditation was raised,<sup>107</sup> to be discontinued as briefly as it had commenced.<sup>108</sup>

Although the publication requirement was omitted from this legislation, its enactment is relevant to this discussion for it sheds some light on what the Congress understood the function of accreditation to be,<sup>109</sup> and the almost total inattention to the role of the Office of Education as well as the omission of the publication requirement is evidence that the Office's function in accreditation was considered (if at all) purely ministerial.

*NDEA Amendments of 1964.* Following in the wake of the hearings held for the proposed 1963 legislation, these amendments<sup>110</sup> extended the student loan provisions of the NDEA to otherwise ineligible but accredited non-profit business schools and technical institutes.<sup>111</sup> The House version would have extended coverage to all schools of nursing.<sup>112</sup> The Senate bill contained no such provision and the compromise eliminated the House's extension of eligibility to diploma (i.e., hospital) schools of nursing, while retaining the provision for collegiate and associate degree programs. Inasmuch as these were required to be accredited and were defined as awarding a baccalaureate or graduate degree or an associate degree following a two year program respectively, the conference report made clear that this "did not intend to make changes in existing laws. The inclusion of the definition is merely to insure continuation of existing administrative practice."<sup>113</sup> The opposition focused again on federal control and the expansion of education programs in the name of national defense.<sup>114</sup>

*Nurse Training Act of 1964.* The failure to deal with hospital schools of nursing under the 1964 NDEA amendments was corrected by the passage of the Nurse Training Act of 1964,<sup>115</sup> itself modeled in part on the Health Pro-

<sup>104</sup> Representative Cunningham stated in his questioning of HEW Secretary Celebrezze concerning schools of podiatry: "I have nothing against foot doctors, but I am just wondering whether there is any accrediting agency that would make a determination or a judgment as to which of these schools might be properly run and managed. When we had the GI Bill, we had, in my opinion, a lot of schools that sprang up overnight that got rich quick with no great deal of supervision, and I was wondering if there is any accrediting agency for podiatry." *House Hearings, supra* note 103 at 63.

<sup>105</sup> *Id.* at 237 (testimony on behalf of the American Health Federation).

<sup>106</sup> The amendment would have provided: "It is the intent of Congress that reasonable and fair standards for accreditation shall be set up by the Commissioner of Education to accredit chiropractic, and other drugless healing schools, and the Commissioner will take extra safeguards to prevent unfair accreditation requirements by which the standards of one recognized health profession are imposed on another." *Id.* at 238.

<sup>107</sup> Rep. Rogers inquired of the status of AMA accreditation and upon being informed it was "voluntary" observed, "You are saying, in effect, that they do not have to be accredited; that it is voluntary. That is like telling a man he does not have to work; he can starve to death." *Id.* at 288.

<sup>108</sup> *Id.* at 289.

<sup>109</sup> A major issue did concern the eligibility of institutions which had racially discriminatory policies. Sen. Javits proposed an amendment prohibiting discrimination, pointing out that 6 of 87 accredited medical schools refused to admit Negroes and that 22 of 243 nursing schools listed by the National League for Nursing bore an indication on the list that they refused to admit Negroes. 109 Cong. Rec. 16825 (1963). Interestingly, Rep. Rogers had asked Secretary Celebrezze whether the accreditation agencies would revoke the accreditation of an institution if it practiced an abuse of any kind—the Secretary assumed, inaccurately, that it would. *House Hearings, supra* note 103 at 48-50.

<sup>110</sup> Pub. L. 88-665, 77 Stat. 1100 (1964).

<sup>111</sup> S. Rep. No. 1275, 88th Cong., 2nd Sess. (1964). The President of the United Business Schools Association (a product of the merger in 1962 of the National Association and Council of Business Schools and the American Association of Business Schools), informed the House Committee that following the passage of the Korean GI Bill, the Accrediting Commission for Business Schools, affiliated with his organization, was founded and was recognized by the Office of Education in 1956. He explained that, "The accrediting commission was organized specifically for schools for whom there was no other avenue of accreditation." *Hearings Before the Subcommittee on Education, House Committee on Education and Labor, 88th Cong., 1st and 2nd Sess.* 510-511 (1964).

<sup>112</sup> H.R. Rep. No. 1629, 88th Cong., 2nd Sess. (1964).

<sup>113</sup> H.R. Rep. No. 1916, 88th Cong., 2nd Sess. 14 (1964).

<sup>114</sup> S. Rep. No. 1275, *supra* note 111 at 78 (individual views of Senators Goldwater and Tower), H.R. Rep. No. 1639, *supra* note 111 at 53 (individual views of Representatives Goodell and Quie), 110 Cong. Rec. 17700 (1964) (views of Sens. Tower and Goldwater).

<sup>115</sup> Amendments to the Public Health Service Act, Pub. L. 88-581, 78 Stat. 908 (1964).

essions Educational Assistance Act.<sup>116</sup> Accordingly, it required that all three categories of nurse training (collegiate, associate and diploma) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, but it allowed an unaccredited institution to be deemed accredited if the Commissioner found, after consultation with the appropriate accrediting agency or agencies, that there was reasonable assurance the program would meet accreditation standards. The latter alternative for hospital schools of nursing was added by the Senate Committee which conceived of one purpose of the Act as enabling many of the large number of unaccredited nursing schools to meet accreditation standards.<sup>117</sup> It was strongly opposed by the American Hospital Association which urged that state approval of hospital schools of nursing should suffice.<sup>118</sup> It was favored with equal vigor by both the American Nurses Association<sup>119</sup> and the National League for Nursing.<sup>120</sup> The NLN had argued the importance of accreditation as a guarantee of quality, likening it to a trademark as a "seal of excellence." Both organizations nevertheless also favored the "reasonable assurance" test for as yet unaccredited programs. It seems clear that the passage of the Act represented a congressional policy highly deferential to specialized nursing accreditation;<sup>121</sup> it was a policy to be sharply buffeted in but a short period.<sup>122</sup>

*Higher Education Act of 1965.* This omnibus legislation<sup>123</sup> built considerably on the reliance-recognition system. In addition to announcing a policy favorable to the attainment of accreditation in the provision of assistance for library resources<sup>124</sup> and applying the accreditation-reasonable assurance test as part of the definition of a "developing institution" for eligibility for special assistance,<sup>125</sup> it provided an institutional definition for the purposes of reduced-interest student loan insurance<sup>126</sup> and amended the definitional section of the NDEA<sup>127</sup> building on the Higher Education Facilities Act. The major addition

<sup>116</sup> 110 Cong. Rec. 16435 (1964) (remarks of Rep. Roberts in introducing the bill).

<sup>117</sup> S. Rep. No. 1378, 88th Cong., 2nd Sess., 4, 7-8 (1964). This also represented the administration's policy. *Hearings Before the Subcommittee on Public Health and Safety of the House Committee on Interstate and Foreign Commerce on the Nurse Training Act*, 88th Cong., 2nd Sess. (1964) (testimony of Special Assistant to the Secretary, HEW).

<sup>118</sup> *Hearings Before House Subcommittee, supra* note 117 at 73, 81, 84. *Hearings Before the Subcommittee on Health, Senate Committee on Labor and Public Welfare on Nurse and Graduate Public Health Training*, 88th Cong., 2nd Sess., 63-64 (1964) (remarks on behalf of the American Hospital Association). H.R. 5062, 88th Cong., 1st Sess. (1963) and H.R. 5248, 88th Cong., 1st Sess. (1963) proposed reliance on state approval.

<sup>119</sup> *Hearings Before the House Subcommittee, supra* note 117 at 100. *Hearings Before the Senate Subcommittee, supra* note 118 at 57.

<sup>120</sup> *Hearings Before the House Subcommittee, supra* note 117 at 127-128. *Hearings Before the Senate Subcommittee, supra* note 118 at 66-70.

<sup>121</sup> Rep. Roberts remarks are noteworthy: "There are a number of schools of nursing today which qualify for national accreditation, but have not done so because there is no incentive for them to do so. If we are to have a Federal program of assistance to schools of nursing, it seems reasonable to require that the schools meet certain minimum standards, and this is provided for in the bill." 110 Cong. Rec. 16436 (1964).

<sup>122</sup> See discussion *infra* at pp. 363-368.

<sup>123</sup> Pub. L. 89-320, 79 Stat. 1219 (1965).

<sup>124</sup> The definitional section, to be discussed *infra*, defined an institution of higher education in part in terms of accreditation. Accordingly, §206 provided that an institution "shall be deemed to have been accredited by a nationally recognized accrediting agency or association if the Commissioner determines that there is satisfactory assurance that upon acquisition of the library resources . . . or . . . other library resources planned to be acquired within a reasonable period of time, the institution will meet the accreditation standards of such agency or association." Reliance on accreditation did not pass entirely unchallenged. The Commissioner of Education pointed out to the Senate Committee that 50% of four year institutions and 82% of two year institutions fall below "accepted minimum standards in the number of volumes in their libraries." *Hearings Before the Subcommittee on Education, Senate Committee on Labor and Public Welfare on Higher Education Act of 1965*, 89th Cong., 1st Sess., 100 (1965). When Senator Clark asked the source of the standard and was informed it was the American Library Association the Senator remarked: ". . . this would be the pressure group in the public schools, the library association—those with probably the greatest and most estimable motives in the world are nonetheless promoting the objectives of their own association, and you and the Secretary are accepting those standards." *Id.* at 150. The ALA's standards were put in the record. *Id.* at 136-150.

<sup>125</sup> Pub. L. 89-320, §302(a)(1)(B) defined a developing institution as *inter alia* one which "is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation . . ."

<sup>126</sup> *Id.* at §435.

<sup>127</sup> *Id.* at §161.

was the eligibility of any public or nonprofit collegiate or associate degree school of nursing or any other school providing not less than a one year program preparing students for gainful employment in a recognized occupation. A "satisfactory assurance" test for non-accredited institution was added as was the possibility of direct federal accreditation where the Commissioner determined there to be no nationally recognized accrediting agency or association qualified to accredit schools in a particular category. Both provisions and the final definitional section provided for the publication of a list of such nationally recognized agencies which the Commissioner determined to "be reliable authority as to the quality of training offered."<sup>128</sup>

Congressional debate on the accreditation aspects was minimal<sup>129</sup> inasmuch as these were viewed as technical matters to be built on or compared with the Higher Education Facilities Act.<sup>130</sup> It is clear that the desirability of accreditation played a significant role in the thinking on library resources<sup>131</sup> and developing institutions.<sup>132</sup> Moreover, representatives of various vocational and occupational schools had urged the broadening of eligibility for reduced interest student loan guarantees<sup>133</sup> which the Senate<sup>134</sup> and eventually the House<sup>135</sup> accepted as including unaccredited schools which in the Commissioner's judgement could become accredited in a reasonable time, collegiate, and associate degree schools of nursing and occupational schools offering not less than a one-year program.

The warmth of the legislative policy toward accreditation<sup>136</sup> was not apparently chilled by the vigor of challenges raised in the hearing. The American Personnel and Guidance Association and the American Vocational and technical schools<sup>137</sup> and the American School Counselor Association encouraged strengthening the Commissioner's authority "in determining nationally recognized accrediting agencies in business, technical and trade institutions" pointing out that counselors have had "considerable difficulty knowing in many cases, the adequacy of the training advertised."<sup>138</sup> Most critical was the American Association of Junior Colleges which called attention to the "entire matter of accreditation."<sup>139</sup> Particularly vexing to the junior colleges was the problem of multiple accreditation by regional and specialized accrediting agencies particularly in view of difficulties encountered under the Nurse Training Act.<sup>140</sup> It urged that "a study of specialized accreditation be undertaken by the U.S. Commissioner of Education and the National Commission on Accrediting for the Guidance of Congress in drafting legislation."<sup>141</sup> Congress was to call for a similar report five years later.<sup>142</sup>

<sup>128</sup> *Id.* at §801(a).

<sup>129</sup> Apart from a brief equation of accreditation with quality, 111 Cong. Rec. 21904 (1965) (remarks of Rep. Fogarty) and the need to upgrade developing institutions in terms of accreditation status, *id.* at 21908 (remarks of Rep. Tunney).

<sup>130</sup> *Senate Hearings, supra* note 124 at 96 (remarks of Sen. Javita); *Hearings Before the Subcommittee on Education of the House Committee on Education and Labor on the Higher Education Act of 1965*, 89th Cong., 1st Sess. 135 (remarks of the Commissioner of Education).

<sup>131</sup> S. Rep. No. 673, 89th Cong., Sess. 25 (1965).

<sup>132</sup> *Id.* at 31, H.R. Rep. No. 621, 89th Cong., 1st Sess. 16 (1965).

<sup>133</sup> *House Hearings, supra* note 130 at 505-508, 520 (remarks of the President of the Draughton School of Business); *Senate Hearings supra* note 124 at 972 (remarks on behalf of the National Council of Technical Schools); *id.* at 982-983 (remarks on behalf of the Home Study Council).

<sup>134</sup> *Supra* note 131.

<sup>135</sup> H.R. Rep. No. 1178, 89th Cong., 1st Sess. 66 (1965).

<sup>136</sup> Interestingly, it was argued to the Senate Committee that the creation of the alternative of federal accreditation where no voluntary agency existed would "provoke" the creation of a private accrediting body. *Senate Hearings, supra* note 124 at 1069 (remarks on behalf of the United Business Schools Association). This seems justified. Indeed the Associate Commissioner for Higher Education pointed out to the House Committee that the alternative of accreditation through an advisory committee established in the Higher Education Facilities Act (and followed here) had resulted in a greater willingness in regional accrediting agencies to grant provisional accreditation and the Commissioner pointed out that he had not appointed an advisory committee under that Act. *House Hearings, supra* note 130, at 136.

<sup>137</sup> *Id.* at 835, 847.

<sup>138</sup> *House Hearings, supra*, note 130, at 603.

<sup>139</sup> *Senate Hearings, supra* note 124, at 1120.

<sup>140</sup> A lengthy statement including a list of meetings with interested agencies, resolutions of the AAJC and the Office of Education's own list of recognized agencies was submitted. *Id.* at 1120-1122.

<sup>141</sup> *Id.* at 1126. Senator Yarborough informed the AAJC representative that the matter would be called to the attention of the Office of Education to make a preliminary study. *Id.* at 1120.

<sup>142</sup> See discussion *infra* at 367-368.

<sup>143</sup> Pub. L. 89-287, 79 Stat. 1037. The vocational student loan program was initially part of the proposed Higher Education Act but the House Committee decided to sever it, and the Senate Committee agreed. S. Rep. No. 755, 89th Cong., 1st Sess. 1-2 (1965).

*Additional 1965 Legislation.* Three other pieces of legislation enacted in 1965 should be briefly noted: The National Student Vocational Loan Act of 1965,<sup>143</sup> directed to non-postsecondary education, nevertheless provided a set of qualifying indicia if accreditation was not available, including state and ultimately federal accreditation, and authorized the Commissioner to publish a list of both voluntary and state accrediting agencies. As in the Korean GI Bill the definition was clearly geared to the exclusion of "fly-by-night" vocational training.<sup>144</sup>

The State Technical Services Act of 1965,<sup>145</sup> intended to effectuate a greater dissemination of science and technology<sup>146</sup> while relying on private accrediting agencies, nevertheless held open the possibility of federal accreditation. It authorized the publication of a list of both accrediting agencies and those institutions which the Commissioner found qualified following an evaluation by an advisory committee appointed by him.

Interestingly, a provision of Medicare<sup>147</sup> dealing with hospitals deemed an institution to have met a set of extensive definitional requirements if it was accredited by the Joint Commission on Accrediting and also authorized the Secretary of HEW to treat the requirements as met if he found that accreditation by the American Osteopathic Association "or any other national accreditation body provides reasonable assurance" that the enumerated statutory standards would be met.

*1968 Legislation.* Two pieces of legislation in 1968 should be noted. The Higher Education Amendments of 1968<sup>148</sup> reiterated the requirement of accreditation in the establishment of eligibility for fellowships for public service with the wrinkle of requiring approval and authorizing publication of a list of such agencies by the Secretary rather than the Commissioner. Interestingly, while the aid to graduate education provisions of that legislation was viewed as curbing the "disturbing trend toward conformity" and the "headlong process of professionalization"<sup>149</sup> no similar concern or interest seems to have been generated concerning the accreditation language.<sup>150</sup>

The Vocational Education Amendments of 1968<sup>151</sup> added a definitional section for a "private vocational training institution" to the Vocational Education Act of 1963 largely tracking the definitional section discussed previously of the National Student Vocational Loan Act of 1965, allowing alternatively for State and Federal accreditation in the event no nationally recognized private accrediting agency was found to exist. The provision originated in the House<sup>152</sup> and was accepted by the Senate without dispute.<sup>153</sup>

*Education Amendments of 1972.* The now traditional reliance on private accreditation was continued in three portions of the Higher Education Amendments of 1972.<sup>154</sup> In providing emergency assistance to institutions of higher education, the definitional section required accreditation or "satisfactory assurance," or credit transferability in lieu thereof, and authorized publication of a list in the now traditional language. Second, it amended the Higher Education Act of 1965 to include accredited collegiate and associate degree schools of nursing and defined "accredited" as meaning accredited "by a recognized body or bodies approved for such purpose by the Commissioner." It also added a definitional section dealing with proprietary institutions of higher education which required *inter alia* accreditation by a

<sup>144</sup> "It was the determined intent, however, that the 'fly-by-night' institutions of the post-World War II era be explicitly eliminated from eligibility." S. Rep. No. 758, *supra* note — at 12. H.R. Rep. No. 308, 89th Cong., 1st Sess. (1965) noted that the House subcommittee "devoted a majority of its attention" to the problem of institutional eligibility and reiterates the Senate Committee's concern for the fly-by-night experience. *Id.* at 9. Appendix 9 of that report listed the Office of Education's list of recognized accrediting agencies. 111 Cong. Rec. 14122 (1965) (remarks of Rep. Needs regarding the exclusion of "fly-by-night" schools).

<sup>145</sup> Pub. L. 98-182, 79 Stat. 679.

<sup>146</sup> S. Rep. No. 421, 89th Cong., 1st Sess. (1965).

<sup>147</sup> Social Security Amendments of 1965, 79 Stat. 286.

<sup>148</sup> Pub. L. 90-575, 82 Stat. 1014.

<sup>149</sup> S. Rep. No. 1387, 90th Cong., 2d Sess. 53 (1968).

<sup>150</sup> The Conference report, H.R. Rep. No. 1988, 90th Cong., 2d Sess. (1968) lacks any attention to this matter.

<sup>151</sup> Pub. L. 90-576, 82 Stat. 1064.

<sup>152</sup> H.R. Rep. No. 1647, 90th Cong., 2d Sess. 27, 51 (1968).

<sup>153</sup> H.R. Rep. No. 1938, 90th Cong., 2d Sess. 46 (1969).

<sup>154</sup> Pub. L. 92-318, 86 Stat. 235.

body approved by the Commissioner, and it reiterated the publication authorization for the purposes of that section. Third, it added a new definitional section to include community colleges, requiring either accreditation by a nationally recognized accrediting agency or association or the attainment of a recognized pre-accreditation status from such agency or credit transferability. No reference to the Commissioner or a publication requirement was referred to in this amendment.

It appears that these provisions did not warrant particular comment by the relevant committees<sup>155</sup> nor during the course of the hearings was any attention paid either to these provisions in particular or to the accreditation-reliance system in general.<sup>156</sup> Although the chairman of the Newman Commission testified before both bodies<sup>157</sup> on the criticism levelled against the higher education system in the Commission's report, its comments on accreditation was nowhere alluded to. Interestingly, Secretary Richardson did observe to the Senate Committee:

Career ladders are so encumbered with requirements for certificates and credentials that "doing time" in school has become nearly the only avenue to advancement. Accrediting bodies have come to protect the professional views of guilds more aggressively than the changing needs and interests of consumers.<sup>158</sup>

This statement, however, was delivered in testimony relating to the proposed National Foundation for Higher Education which the Secretary envisaged as encouraging innovation; it had no reference to the accreditation requirements of this or any predecessor legislation.

#### *The Challenge to Specialized Accreditation*

*Health Professions Educational Assistance Amendments of 1965.* The conflict between generalized regional accreditation and specialized program accreditation complained of by the junior college association<sup>159</sup> and earlier by the American Hospital Association<sup>160</sup> came to the fore in a House proposed amendment to the Nurse Training Act which would have deleted the requirement of accreditation of collegiate and associate schools of nursing by a body recognized by the Commissioner (or reasonable assurance) and substituted approval by a regional association or a State approval agency.<sup>161</sup> The House Committee noted that a number of junior colleges were troubled by the delay and expense of multiple accreditation and were concerned about an increased reliance on specialized accreditation.<sup>162</sup> It concluded that the demand for manpower and the reliability of regional or state accreditation outweighed any claim to greater quality in the current system and that the accreditation provisions could be "modified" without impairing the goals of the Act.<sup>163</sup> In the debate in the House opponents pointed out that the amendment was inserted at the last minute in executive session and that no hearings had been held on the proposal.<sup>164</sup> They stressed that the measure was, in effect, an attack on the accrediting policies of the National League for Nursing, recognized by the Commissioner as the sole agency for accreditation of all nursing programs and put up a stout defense of the League's work.<sup>165</sup> Interestingly, the American Hospital Association had seemingly altered its position<sup>166</sup> and the amendment was also opposed by the Office of Education.<sup>167</sup> Proponents argued, in effect, that too many worthy programs were not being accredited<sup>168</sup>

<sup>155</sup> S. Rep. No. 604, 92nd Cong., 2d Sess. (1972). S. Rep. No. 798, 92nd Cong., 2nd Sess. (1972) (Conference).

<sup>156</sup> *Hearings on Higher Education Amendments of 1971 Before the Special Subcommittee on Education, House Committee on Education and Labor, 92nd Cong., 1st Sess. (1971), Hearings on Education Amendments of 1971 Before Subcommittee on Education, Senate Committee on Labor and Public Welfare, 92nd Cong., 1st Sess. (1971).*

<sup>157</sup> *House Hearings, id.* at 743-773. *Senate Hearings, id.* at 2461-2469.

<sup>158</sup> *Senate Hearings, id.* at 697.

<sup>159</sup> *Supra* note 137.

<sup>160</sup> *Supra* note 118.

<sup>161</sup> H.R. Rep. No. 781, 89th Cong., 1st Sess. (1965).

<sup>162</sup> *Id.* at 20.

<sup>163</sup> *Id.* at 21.

<sup>164</sup> 111 Cong. Rec. 22402 (1965) (remarks of Rep. Cohelan), *id.* at 22454, 22468 (remarks of Rep. Cunningham).

<sup>165</sup> *Id.* at 22402 (remarks of Rep. Cohelan), *id.* at 22394 (remarks of Rep. Vauk), *id.* at 22455 (remarks of Rep. Cunningham), *id.* at 22457 (remarks of Rep. King), *id.* at 22460 (remarks of Rep. Keilin), *id.* (remarks of Rep. Carter).

<sup>166</sup> *Id.* at 22455-56 (letter from American Hospital Association).

<sup>167</sup> *Id.* at 22456 (statement of the Office of Education).

<sup>168</sup> The Senate report pointed out that of 131 junior college nursing programs, only 3 had been fully accredited and 32 granted "reasonable assurance" of accreditation. S. Rep. No. 789, 89th Cong., 1st Sess. (1965).



in the face of a critical demand for trained manpower and questioned the repose of governmental authority in private groups, apparently without observing any inconsistency insofar as regional accreditation is concerned.<sup>169</sup>

By prior agreement no amendment to this section was to be offered and the debate in the House was for the information of the Senate.<sup>170</sup> The Senate Committee on Labor and Public Welfare struck the amendment but inserted a substitute defining an eligible program as one accredited by a body recognized for such purpose by the Commissioner "or a program accredited for the purpose of this Act" by the Commissioner.<sup>171</sup> It was explained that HEW Under-Secretary Cohen would hold meetings with various interested groups and would propose further legislation if needed.<sup>172</sup> Although HEW vigorously opposed the measure<sup>173</sup> the compromise was acceptable to the House advocates who had been assured that junior colleges would be adequately taken care of<sup>174</sup> and thus the authority of the Commissioner explicitly to accredit nursing programs became law. At no point, however, did the debate focus on the amendment to the definitional section of the 1963 Act which allowed an unaccredited institution, not eligible for accreditation due to insufficient time of operation, to be eligible for grants if the Commissioner in consultation with the Surgeon General and the appropriate accrediting body found there was "reasonable ground to expect" the school will meet accreditation standards within a reasonable period after the grant.<sup>175</sup>

*Allied Health Professions Personnel Training Act of 1966.* The House reported measure was intended to expand the eligibility of allied health programs in junior colleges.<sup>176</sup> It would have amended the definition of an eligible institution for reduced interest student loan insurance under the Higher Education Act of 1965 by including schools of health and diploma schools of nursing and by expanding the definition of "accredited" to include nursing schools otherwise ineligible for accreditation but for which the Commissioner found, in consultation with the accreditation agency, that there was reasonable assurance that accreditation standards would be met.<sup>177</sup> It would also have expanded the definition of a "training center for allied health professions" to include a division of a junior college, college or university which offers certain allied health programs and *inter alia* was or was in a college which was accredited by a body or bodies approved by the Commissioner or, if a junior college, was regionally accredited or there was "satisfactory assurance" afforded the accrediting agency to the Surgeon General that "reasonable progress is being made toward accreditation by such junior college."<sup>178</sup>

The Senate Committee rejected the amendment to the Higher Education Act but with minor technical alteration accepted the latter provision.<sup>179</sup> For those to whom multiple accreditation was undesirable, the language was viewed

<sup>169</sup> Representative Moss put it, "I do not know why the Government of the United States should require a private group to spell out the standards. . . ." 111 Cong. Rec. 22461 (1965). Representative Rogers of Florida, the amendment's sponsor, noted, ". . . I do not think we ought to make these junior colleges go to a private organization—a private organization to get their clearance before tax dollars are given to the nursing schools and students. . . ." *Id.* at 22462. Representative Griffin stated that, "In my view, the interpretation placed on the present law by the Commissioner of Education, requiring accreditation by this private organization, is unduly restrictive and not in the public interest." *Id.* at 22468.

<sup>170</sup> *Id.* at 22398.

<sup>171</sup> S. Rep. No. 1378, *supra* note 117 at 7. The Committee observed that it was not its intent to encourage federal accreditation of nursing schools on a "massive scale" but it did conclude that some excellent programs were not accredited which should be eligible. *Id.*

<sup>172</sup> *Id.* See also 111 Cong. Rec. 22645 (1965) (remarks of Sen. Hill).

<sup>173</sup> In a letter to the Committee, Under-Secretary Cohen pointed out that regional and state accreditation relate to the school as a whole and not to any specialized program. Accordingly, he questioned the impact on quality. In addition, he pointed out that, ". . . under existing law there is no restriction on the accrediting body or bodies which the Commissioner of Education may recognize for the purposes of this act. If he should find, therefore, that accrediting bodies other than the National League for Nursing have developed accrediting or approval programs that give attention to the quality of nurse education programs in colleges or junior colleges he could recognize these additional bodies for accreditation purposes." S. Rep. No. 1378 *supra* note 117 at 17.

<sup>174</sup> 111 Cong. Rec. 26496, 26497 (1965) (remarks of Reps. Rogers and Moss).

<sup>175</sup> 79 Stat. 1054.

<sup>176</sup> H.R. Rep. No. 1628, 89th Cong., 2d Sess. 17-18 (1966).

<sup>177</sup> *Id.* at 29, 72-73.

<sup>178</sup> *Id.* at 51.

<sup>179</sup> S. Rep. No. 1722, 89th Cong., 2d Sess. 35-36 (1966).

as a step forward<sup>150</sup> and it became law.<sup>151</sup> Interestingly, the acceptance of regional accreditation in the statute seems to foreclose, at least for the purposes of this Act, any opportunity for the Commissioner of Education to disapprove of any of those organizations under any revision of his criteria for recognizing as responsible such agencies. It posed, as well be noted later, another factor to be weighted in arriving at a conclusion as to the degree of latitude possessed by the Commissioner to alter these criteria. As in all the hearings discussed but particularly noteworthy here in view of the *statutory* reliance on regional accreditation, no testimony or statement was presented on behalf of any regional accrediting association.

*Health Manpower Act of 1968.* An attempt had been made the prior year to delete the authority of the Commissioner to accredit schools of nursing directly under the Nurse Training Act as amended by the Health Profession Educational Assistance Amendments of 1965.<sup>152</sup> Under-Secretary Cohen favored the deletion of that authority on the assumption that the various institutional and accrediting agencies would arrive at a solution.<sup>153</sup> The situation was fully detailed in the House Committee's report which observed of the accreditation reliance system:

"In general, this method of determining eligibility of institutions and programs for Federal assistance has worked extremely well; however, it must be recognized that *as a practical matter* the requirement that an institution or program be accredited by a private nongovernmental group to qualify for assistance permits that private nongovernmental group to be in a position to determine, in accordance with its own standards and procedures, eligibility of other groups or institutions to receive Federal aid, and thereby *to a degree constitutes* a delegation of legislative power to a private organization."<sup>154</sup>

In view of the absence of agreement by the interested parties it was decided to let matters stand pending consideration the following year. HEW concurred.<sup>155</sup> Thus the dispute was renewed in the consideration of the Health Manpower Act.

The administration favored a measure deleting the Commissioner's authority and allowing him to rely on state accreditation.<sup>156</sup> Such reliance was opposed by the American Nurses Association<sup>157</sup> and the National League for Nursing.<sup>158</sup> It was rejected by the Senate Committee which approved, as an alternative reliance on the accreditation of the institution with which the program was affiliated.<sup>159</sup> Many the same arguments were raised in the House Committee<sup>160</sup> which again reviewed the history of the dispute noting: "As this committee pointed out in its report accompanying H.R. 6418 last year (H. Rept. 538, 90th Cong.) [sic], the provisions of existing law permitting a private organization to determine, in accordance with its own standards, eligibility of other institutions to receive Federal funds, constitutes a delegation of legislative power by the Congress to a single private organization. The committee feels that additional organizations should be designated as ac-

<sup>150</sup> 112 Cong. Rec. 13998 (1966) (remarks of Rep. Horton). *Hearings on Allied Health Personnel Training Act of 1966 Before the House Committee on Interstate and Foreign Commerce*, 89th Cong., 2d Sess. 36 (1966) (remarks of Rep. Rogers). *Hearings on Health Professions Personnel Before the Subcommittee on Employment and Manpower, Senate Committee on Labor and Public Welfare*, 89th Cong., 2d Sess. 151-152 (remarks of Sen. Yarborough).

<sup>151</sup> Pub. L. 89-751, 80 Stat. 1222.

<sup>152</sup> H.R. 6418, 90th Cong., 1st Sess. (1967).

<sup>153</sup> *Hearings on the Partnership for Health Amendments of 1967, Before the House Committee on Interstate and Foreign Commerce*, 90th Cong., 1st Sess. 35 (1967).

<sup>154</sup> H.R. Rep. No. 538, 90th Cong., 1st Sess. 34 (1967) (emphasis added).

<sup>155</sup> *Hearings on the Partnership for Health Amendments of 1967 Before the Subcommittee on Health, Senate Committee on Labor and Public Welfare*, 90th Cong., 1st Sess. 74 (1967) (remarks of Under-Secretary Cohen).

<sup>156</sup> *Hearings on Health Manpower Act Before the Subcommittee on Health, Senate Committee on Labor and Public Welfare*, 90th Cong., 2d Sess. 51 (1968) (testimony of Assistant Secretary for Health and Scientific Affairs, HEW). S. Rep. No. 1307, 90th Cong., 2d Sess. 9 (1968). The Assistant Secretary pointed out that the Commissioner had not exercised his authority to accredit "because of our deep reservations about this kind of Federal involvement in education." *Hearings, supra* at 82-83.

<sup>157</sup> *Hearings supra* note 186 at 116-119.

<sup>158</sup> *Id.* at 124. It pointed to the availability of "reasonable assurance" in lieu of full accreditation but Senator Yarborough noted that, "You did not give reasonable assurance until we said, 'We think the Secretary of HEW [sic] ought to accredit them.'" *Id.* at 125.

<sup>159</sup> S. Rep. No. 1307, *supra* note 180 at 9.

<sup>160</sup> *Hearings on the Health Manpower Act of 1968 Before the Subcommittee on Public Health and Welfare, House Committee on Interstate and Foreign Commerce*, 90th Cong., 2d Sess. (1968).

credited bodies for purposes of the act, and has amended the bill correspondingly."<sup>191</sup>

Accordingly it accepted suggestions of reliance on either state or institutional accreditation in addition to special program accreditation:

"The Commissioner would be required to publish a list of nationally recognized accrediting bodies, and State agencies, which he determines to be reliable authority as to the quality of training offered. The committee expects that this list will include the National League for Nursing, the Joint Commission on the Accreditation of Hospitals and the appropriate regional educational agencies that are nationally recognized as accreditation authorities."<sup>192</sup>

The Congressional debate reflected, as in a sense did the House Committee report, the conflict between the demand for a greater number of trained personnel<sup>193</sup> against the claim of quality in specialized accreditation.<sup>194</sup> The Act opted for more "liberalized" standards<sup>195</sup> by allowing reliance on state and institutional accreditation.<sup>196</sup>

*Health Training Improvements Act of 1970.* In a somewhat different context, Senator Javits sponsored a bill in 1969 which would have created an advisory group to study health personnel licensure and certification.<sup>197</sup> His concern was reiterated in the context of considering the Health Training Improvements Act, and he was assured by the Assistant Secretary for Health and Scientific Affairs, HEW, that the Department was in the process of studying the matter.<sup>198</sup> Nevertheless, the Committee reported out the bill with the requirement that the Secretary of HEW report on certification and licensure<sup>199</sup> that eventually found its way into the Act;<sup>200</sup> a portion of the Secretary's report was noted at the outset.<sup>201</sup>

#### ADMINISTRATION OF THE AUTHORITY TO RECOGNIZE

##### *Revision of criteria for recognition—1969*

It was pointed out earlier<sup>202</sup> that the Commissioner's criteria announced in 1952 seem to reflect what was the then sound practice of the relatively few voluntary accrediting agencies, as a standard to guide future recognition decisions. In 1968, however, the Office of Education established an Accreditation and Institutional Eligibility Staff (AIES) within the Bureau of Higher Education and an Advisory Committee on Accreditation and Institutional Eligibility.<sup>203</sup> The latter, composed of persons outside the government, was created to assist the Commissioner in recognizing accrediting agencies<sup>204</sup> and on broad policy matters. The AIES, itself composed of four units, was introduced to administer the program, serve as liaison with accrediting

<sup>191</sup> H.R. Rep. No. 1634, 90th Cong., 2d Sess. 36 (1968).

<sup>192</sup> *Id.*

<sup>193</sup> *Id.* at 36-37, 114 Cong. Rec. 24773 (1968) (remarks of Rep. Jarman); *id.* at 24774 (remarks of Rep. Springer); *id.* at 24775 (remarks of Rep. Dwyer); *id.* at 24775 (remarks of Rep. Montgomery); *id.* at 24778 (remarks of Rep. Rogers); *id.* at 24775-76 (remarks of Rep. May).

<sup>194</sup> 114 Cong. Rec. 24776-77 (1968) (remarks of Rep. Vanik); *id.* at 24782 (remarks of Rep. Van Deerlin).

<sup>195</sup> *Supra* note 193, (Remarks of Rep. Jarman).

<sup>196</sup> Pub. L. 90-490, 82 Stat. 773. The publication requirement was also retained.

<sup>197</sup> S. 2753, 91st Cong., 1st Sess. (1969).

<sup>198</sup> *Hearings on the Health Training Improvements Act of 1970 Before the Subcommittee on Health, Senate Committee on Labor and Public Welfare, 91st Cong., 2d Sess.* 128 (1970). The Assistant Secretary pointed out that, "The challenge in this field is to balance the protection of the patient against unskilled personnel, on the one hand, and assurance of an adequate quantity of health manpower to provide the service the public needs and expects, on the other." *Id.* at 127-128.

<sup>199</sup> S. Rep. No. 91-1002, 91st Cong., 2d Sess. 2, 10 (1970). A portion of the report was discussed in the text accompanying note 3, *supra*.

<sup>200</sup> Stat. 1342.

<sup>201</sup> 116 Cong. Rec. 30386-87 (1970) (report of the House conferees). Pub. L. 91-519,

<sup>202</sup> *Supra*, note 3.

<sup>203</sup> *Supra*.

<sup>204</sup> See Pugsley, Accreditation Policy Unit-USOE: Origins, Activities, and Current Perspectives, address of the Chief, Accreditation Policy Unit, AIES, USOE, before the 33rd Annual Convention of American Medical Technologists July 21, 1971) and Proffitt, The U.S. Office of Education, Accreditation and the Public Interest, sponsored by the USOE and the Nat'l Comm. on Accrediting (November 6, 1970). See Also Dickey & Miller, *Federal Involvement in Nongovernmental Accreditation*, 53 Educ. Rec. 138 (1972).

<sup>205</sup> Pugsley reports that the Committee has met 8 times since its establishment and has reviewed 41 petitions concerning recognition. Pugsley, *supra* note 203 at 8.

ing agencies, review procedures and the like.<sup>206</sup> It was responsible for the development of the revised criteria adopted by the Commissioner in 1969.<sup>206</sup>

The revision accepted *verbatim* a significant portion of its predecessor. Considerably amplified, however, were the procedural aspects of the required accreditation process. For example, its predecessor required only the use of "qualified examiners" to visit an institution, inspect its courses, resources, facilities, and personnel, and prepare written reports and recommendations for use of the reviewing body to be conducted under impartial and objective conditions. The revision required the use of "experienced and qualified examiners" with a scope of inquiry extending into administrative practices and services. It required adequate consultation during the visit with faculty, administration and students. It required that a copy of the report be furnished the institution's chief executive and that he have an opportunity to comment prior to taking action. It required, further, that the agency evaluate the report in the presence of a member of the team and that it provide an internal avenue of appeal of its decisions.<sup>207</sup>

Two novel provisions, however, were not entirely of a procedural character. First, the revision required that the organization "encourage and give staff guidance for institutional or program self-study prior to accreditation."<sup>208</sup> Second, that the organization had "demonstrated its capability and willingness to enforce ethical practices among institutions and educational programs accredited by it."<sup>209</sup>

The Director of the Accreditation and Institutional Eligibility Staff has spoken of the new criteria as including "a concern that a recognized accrediting agency shall manifest an awareness of its responsibility to the public interest, as opposed to parochial education or professional interest. . . ."<sup>210</sup>

#### *Criticism of the accreditation system and the proposed revisions in criteria*

As the introduction observed, increasing scrutiny (and criticism) has been directed to private accreditation. The most common criticisms seem to fall in two groups: those which fault the accrediting agencies for what they could do but have failed to do and those which find a more basic flaw which the existing structure may seemingly be incapable of correcting. The former claim such defects as the failure to evaluate scientifically the soundness of their standards,<sup>211</sup> failure to disseminate information useful to the "consumer,"<sup>212</sup> failure to update standards and policies,<sup>213</sup> and, failure to be open about internal proceedings.<sup>214</sup> The latter would assert that accrediting agencies function like trade monopolies exercising coercive power in their own, not the public interest.<sup>215</sup> The result is an homogenization of education, a perseverance in the status quo. Specialized accreditation comes in for particular criticism because the possibility of a conflict of interest arises when the professional group controlling accreditation may have an economic interest in lowering the production of trained personnel.<sup>216</sup> By far the most frequently raised question in both institutional and specialized accreditation is the lack of "accountability."<sup>217</sup>

In response, seemingly, to some of these criticisms the Office of Education has commenced circulating for discussion within the accrediting community, a proposal for a second revision in recognition criteria. Tentatively, this in-

<sup>206</sup> Proffitt, *supra* note 203.

<sup>207</sup> 34 Fed. Reg. 643-644 (1969).

<sup>208</sup> Compare 17 Fed. Reg. 8929 (1959) (error corrected 17 Fed. Reg. 8994 (1952)) with 34 Fed. Reg. 643 (1969). The *verbatim* inclusions were, *inter alia*, that the agency or association be national or regional in scope, serve a definite need, perform no inconsistent function, make available certain information (with some modification), have an adequate organization and effective procedures (amplified in greater detail than in the earlier statement), and have gained general acceptance by institution, practitioners, etc.

<sup>209</sup> 34 Fed. Reg. 643, no. 5 (1969).

<sup>210</sup> *Id.* at no. 12.

<sup>211</sup> Proffitt, *supra* note 203.

<sup>212</sup> C. Ward, *supra* note 2.

<sup>213</sup> Koerner, *Who Benefits From Accreditation: Special Interests or the Public?* Address in Seminar: *Accreditation and the Public Interest*, sponsored by the USOE and the Nat'l Comm. on Accrediting (Nov. 6, 1970).

<sup>214</sup> Pugsley, *supra* note 203.

<sup>215</sup> *Id.*, Koerner, *supra* note 212; Newman, *supra* note 5, HEW Report, *supra* note 4.

<sup>216</sup> See Note 3, *supra*, Koerner, *supra* note 212.

<sup>217</sup> C. Ward, *supra* note 2. Selden, *Dilemmas of Accreditation of Health Educational Programs*, in Staff Working Papers Part II: Study of Accreditation in Selected Health Educational Programs G-1 (1972).

<sup>218</sup> *Id.* See also the second draft of the Newman Report and the editorial, *Accrediting Accreditors*, The Evening Star, Washington, D.C., Sept. 5, 1972.

cludes provisions requiring a greater responsiveness to the public interest as in requiring "public representatives" on the governing boards of recognized accrediting agencies<sup>218</sup> and greater public availability of information concerning its processes. The requirement that such agencies require accredited institutions to observe "ethical practices" would also be strengthened. In addition the encouragement of institutional experimentation and innovation would be required.<sup>219</sup>

#### AUTHORITY TO RECOGNIZE AS AUTHORITY TO REGULATE

##### *The expansive view*

It appears that with the creation of the Accreditation and Institutional Eligibility Staff, the Office of Education has begun to read its authority under the various statutes far more expansively than heretofore. Its authority so to do nowhere been challenged: thus the legal underpinnings for the Office's action are not entirely clear. However, the outline of a legal justification for the move is not difficult to propose. The argument would first point out that under each of the statutes the Office of Education is given authority to determine the reliability of accrediting agencies in the exercise of its discretion as an expert administrative agency. In addition, a substantial amount of public funds is involved under these various programs, estimated at five billion dollars in fiscal year 1972.<sup>220</sup> Thus accrediting agencies should be viewed as delegates of governmental authority. As Secretary Richardson has put it:

"Legislation passed during the past 20 years has consistently deferred to accreditation as the primary base criterion for Federal funding. Furthermore, there has been a continuing acceptance of accreditation as a standard for evaluation by both Congress and the general public without a full understanding of its concepts or an adequate appraisal of its compatibility with legislative intent.

"With the allocation of significant amounts of public funds to students and to institutions through the eligibility for funding status provided by accrediting associations, accreditation carries with it the burdensome responsibility of public trust. Accrediting associations are functioning today in a quasi-governmental role, and their activities relate closely to the public interest."<sup>221</sup>

Indeed, the argument would point out that many students of accreditation have accepted the proposition that accreditation functions in the public interest<sup>222</sup> and, it could be asserted, that a key committee of the House in fashioning some of this legislation viewed accreditation in just that light.<sup>223</sup>

Moreover, the creation of AIES and the revision of recognition criteria antedates the continuation of congressional reliance on the recognition system as found most recently in the Higher Education Amendments of 1972 and thus congressional approval of the more expansive view is fairly to be implied.

Finally, the argument would conclude by noting that education has assumed an increasingly more important role in American society and that the accreditation system must be made responsive to these altered circumstances. As the Director of AIES has observed: ". . . accrediting bodies are performing an increasingly important societal role—a role in service of the broader society rather than one solely in service of the narrower educational community. And if the Federal government is going to be justified in continuing strong reliance upon private accreditation, the accrediting associations will need to more explicitly recognize their obligation to protect the public interest. We, in the Office of Education, believe that this situation offers many challenges and fruitful opportunities—along with a few pitfalls—for the Nation's accrediting bodies, and we look forward to working cooperatively and constructively on these matters in the future."<sup>224</sup>

<sup>218</sup> *Supra* note 6. This was one of the explicit recommendations of the first Newman Report, *supra* note 4. The nation has been suggested elsewhere in Selden, *Professional Associations—Their Primary Functions*, 45 N.Y.S. Bar. J. 26, 28 (1973).

<sup>219</sup> *Id.*

<sup>220</sup> A figure quoted in F. Dickey & J. Miller, *A Current Perspective on Accreditation* (1972).

<sup>221</sup> HEW Report, *supra* note 3 at 14.

<sup>222</sup> C. Ward, *supra* note 2.

<sup>223</sup> *Supra* notes 184, 191, 192.

<sup>224</sup> Proffitt, *supra* note 203.

Thus as accreditation becomes a determinant for eligibility for federal funds the voluntarism of traditional accreditation simply evaporates as a practical matter and it becomes the responsibility of the federal government to assure adherence to standards reflecting the public interest. Congress, it would be concluded, did not intend to deprive the executive branch of authority to assure adequate accommodation with the public interest as a condition of extending voluntary recognition to a private accrediting agency and the determination of "reliability" is a sufficiently broad standard for the expert administrative agency to adopt recognition criteria requiring such an accommodation.

Appealing as this line of reasoning may be to those who regard tighter federal standards favorably, it does suffer from a basic, indeed fatal, infirmity—it finds no support in the statutes from which the Commissioner derives his authority.

#### *The limited view*

*A Textual Analysis.* Under all the statutes bearing a publication authorization, the federal role is limited to determining that a nationally recognized agency is a reliable authority as to the quality of education or training offered. This, it was noted earlier, assumes the existence of such nationally recognized bodies, that are recognized initially not by the Commissioner but by the related academic or educational community. Thus the criteria established by the Commissioner require acceptance of these bodies. Most important, the Commissioner's determination is limited to the agency's reliability concerning the *quality* of the program undergoing accreditation. While it is arguable that palpably every facet of institutional life conceivably touched on by the accreditation process may have some ultimate bearing on the quality of the program, it is clear that the recognition authority of the Commissioner is limited to accreditation standards directly connected with program quality.

This distinction is perhaps illustrated in the listing of nine functions of accreditation, noted in the Introduction,<sup>225</sup> only one of which directly relates to the current program quality—certification that pre-established standards have been met. It may be helpful to an institution to engage in a self-study and indeed such an engagement seems to be comprehended in two of the functions listed by the Commissioner—creating goals for self-improvement and involving faculty and staff in institutional evaluation and planning. However, helpful these institutional practices are, it is clear from the Commissioner's list that neither directly concerns the first function of accreditation—certification that pre-existing standards have been attained.

#### *Legislative intent*

It is curious that Secretary Richardson should point out that there has not been an adequate appraisal of the compatibility of the accreditation system with legislative intent in creating the recognition-reliance system, while the Office of Education has perforce proceeded on the assumption that its authority is fully consistent with that intent. Further, each of the relevant statutes has concerned large issues of public policy and save for the dispute on specialized or generalized accreditation in health training, little congressional attention has been devoted to the accreditation issue. Nevertheless, the legislative histories are, however slender, relatively clear.

The Korean GI bill established a facility upon which state and federal authorities could rely. The Federal role was viewed as ministerial, simply relying on the consensus in the academic community of the reliability of the agency. In addition, the need for protection from fly-by-night institutions has continued to be a factor, if perhaps no longer the predominant one, that justifies use of the accreditation-reliance system and necessarily colors the government's role with respect to those agencies.<sup>226</sup> Later enactments, however, saw in accreditation more of an affirmative testimonial to institutional quality than a protection from entrepreneurial abuse. Thus the achievement of accreditation was itself made a desirable institutional goal for federal purposes.<sup>227</sup>

<sup>225</sup> Text accompanying note 21, *supra*.

<sup>226</sup> This includes the 1972 amendments, e.g. remarks of Rep. Green concerning the need for accreditation of proprietary institutions "to avoid the situation that appeared after World War II in the GI bill." *Hearings Before the House Subcommittee, supra* note 150, at 684.

<sup>227</sup> *Supra* notes 131, 132.

Moreover, the enactment of alternatives to accreditation—through the credit transferability route, through giving reasonable assurance for as yet unaccredited institutions or through obtaining state or federal accreditation for institutions lacking a nationally recognized accrediting agency—cannot reasonably support a notion of an implied power to regulate in the public interest such as might be made were no alternatives provided. Congress was clearly aware, however, the impact that the existence of these alternatives would have on the accrediting agencies.<sup>20</sup>

Further, the Congressional response to the specialized-generalized accreditation dispute lends further support to the position arguing a limited federal role. It must be pointed out that the House report on the abortive Partnership for Health Amendments of 1967 did not conclude (as the Committee's report the following year seems to imply), that reliance on accreditation "constitutes delegation of legislative power"<sup>20</sup> but rather that "as a practical matter it had that effect "to a degree."<sup>20</sup> Moreover, the committee's reaction was not to provide greater federal authority over the policies of such bodies but simply to add additional accrediting agencies to remedy an apparent imbalance. As we observed earlier, without the testimony of any regional accrediting association in the hearings, the Health Manpower Act seemingly recognized those agencies as *per se* reliable. This raises the interesting question of whether the Commissioner has any authority to deny recognition, through a revision in criteria, to a non-complying regional association, at least for the purposes of that Act. On this point it should be noted that the Commissioner has not published separate lists for each of the acts authorizing publication and the single list published simply refers to the Korean GI bill and later enactments.

In sum, the legislative histories do not support the notion of accrediting agencies as delegates of Federal authority.<sup>21</sup> The history more reasonably suggests the continuing reliance on the existing accrediting systems as a facility much like the use of a rating system of a trade association as part of the specifications in a government contract.

## CONCLUSIONS

### *Scope of the Commissioner's authority*

This study has suggested that the role of the Office of Education in recognizing accrediting agencies is limited by the terms and intent of the legislation to a determination based largely on acceptance in the academic community of the organization's reliability in matters of educational quality. It has also suggested that the Commissioner has misconstrued that function as a more general one of policing the internal policies of these agencies as a condition of federal recognition to bring them in compliance with the Commissioner's notions of what is in the public interest. Somewhat earlier it was noted that at least a portion of the 1969 revised criteria is not directed to whether the agency is reliable in ascertaining adherence to predetermined standards. This trend is accelerated in the proposed revision now being circulated, particularly with respect to the requirement of public memberships on accreditation governing boards and the encouragement of innovation.

### *The need for congressional consideration*

While the Office of Education now seeks to make accrediting agencies responsive to the public interest "as opposed to parochial educational or professional interest"<sup>22</sup> the legislative histories make it abundantly clear

<sup>20</sup> *Supra* note 130.

<sup>21</sup> *Supra* note 191.

<sup>22</sup> *Supra* note 184.

<sup>23</sup> The re-enactment argument is simply weightless inasmuch as the record is clear that the relevant committees never considered the accreditation-reliance system at the time of the 1972 amendments. *Supra* note 156. Interestingly, it appears that the General Counsel's Office of HEW prepared and made available a memorandum of June 19, 1970 concerning the delegation issue in the recognition-reliance system. In it the Office relies on the independent role of private accrediting agencies as minimizing any constitutional problem. ". . . private agencies undertake to accredit schools for many reasons other than Federal aid eligibility. Accreditation is generally considered to be the single most reliable indicator of institutional quality in higher education, and private accrediting agencies play a broad role apart from the role placed upon them by the statutory provisions noted above—in maintaining and improving educational standards. *The Federal-aid statutes merely take cognizance of this well-established system.*" (Emphasis added.) This study concludes that the emphasized language of the General Counsel's memorandum is accurate.

<sup>24</sup> Proffitt, quote accompanying note 210.

that the system of federal reliance was based on those agencies functioning precisely in the "service of the narrower educational community."<sup>225</sup> Thus any alteration in the system so established requires congressional action.

Moreover, the conflict between claims of professional expertise and public accountability in eligibility for federal funds is squarely a matter for legislative treatment. It was this kind of issue in health training that resulted in the demonopolization of specialized accreditation. Whether or not one agrees with the balance struck it is clearly the role of Congress to strike it. Thus from an institutional perspective, whatever one's conclusions of the desirability of the current recognition-reliance system, one is justified in registering *dubitante* when an administrative agency seeks, without legislative authorization, to protect an ill-defined "public interest." It would, however, be premature to suggest the content of such further legislation. That must await the detailed findings of the Brookings study as illuminated by discussion of them, and, hopefully, by Congressional hearings.

Mr. KIRKWOOD. If there are any questions, I shall be happy to answer them.

Mr. O'HARA. Thank you very much, Mr. Kirkwood.

Mr. Kirkwood, you speak of a problem at the top of page 4 that I would like you to give us a little more information on. You say that many complex universities and community colleges have to cope with institutional accreditation along with a number of specialized or professional accrediting agencies as well.

Let us take a community college as an example. If a community college in my congressional district or Mr. Quie's congressional district was accredited by the North Central Accrediting Commission, do they need more for some of these Federal programs?

Mr. KIRKWOOD. In some cases, because of State laws for licensure and certification or those for qualifying to sit for certain types of examinations, the applicants or candidates have to be graduates of an accredited program or school so that in some cases because of those State laws, in addition to institutional or regional accreditation, the institution must also have certain types of specialized accreditations. Nursing, for example, might be an example at the community college level in some States.

Mr. O'HARA. And in the university regarding medical schools?

Mr. KIRKWOOD. Very often. Most of the professional schools.

Mr. O'HARA. Is there a tendency towards a proliferation toward these kinds of accrediting agencies for the kinds of programs that are found in community colleges? For instance, we speak of nursing as one example. Can you think of some other example?

Mr. KIRKWOOD. Well, of course the whole allied health field has been burgeoning in recent years, and with each new specialty a new group arises in which it and only it has the approval to authorize or approve a program. There has been a very serious problem in the community colleges, in those particularly with heavy emphasis on allied health studies.

Mr. O'HARA. I understand. The business of enlisting the accrediting agencies as enforcement arms of the Federal Government is something that concerns me. I had not realized the extent to which this was being done. I wonder if you could give us some notion of just what you have in mind with respect to that complaint.

<sup>225</sup> Proffitt, quote accompanying note 224.



Does it have to do with the affirmative action field, or are there others as well?

Mr. KIRKWOOD. Well, in the latest version of the Commissioner's criteria for recognizing accrediting agencies, there are a couple of stipulations. One, for example, that accrediting agency must insist an institution has a refund policy. There was a time when we were being pressured to specify the nature of the refund policy, and we refused to do that simply because we do not see it as our position to take over the policymaking authority of an educational institution. We have not done that in our accrediting activities, and we are not interested in doing it now.

But there is a stipulation that unless we include in our criteria for reviewing an institution that it have a very clearly stated refund policy, this would be one of the criteria on which perhaps we might be denied recognition by the Commissioner. The point was mentioned on discrimination, that we must make very clear that there shall be no discrimination on the basis of sex, race, or any other unnecessary attributes.

The point I think is that these are first steps. But once we begin seeing to it that institutions have this or that then the question arises, what next and how far? I think there is now some very serious misgivings on the part of many of us that the Federal Government may see itself moving into accrediting activities.

Mr. O'HARA. You see, you present us with something of a dilemma. You say on the one hand that you don't want the Federal Government—you decry the way in which the Federal Government is calling upon the accrediting agencies to adopt certain criteria as part of the accrediting process or being in danger of losing their approved status. Also, on the other hand, you suggested in your presentation that you don't want the Federal Government to get into what amounts of the accrediting business. You call attention to the paper by Mathew Finkin which I haven't had a chance to read yet, so I can't comment on that.

But you say the greatest threat in co-optation is the possibility of placing the Federal Government directly in a position to take over the accrediting process. Then you say that the Newman Commission's recommendations would simply extend the Federal Government's role into accrediting, inevitably, thereby increasing its control over postsecondary education.

So, all right. On the one hand we continue to make the accrediting agency the arm of the Federal compliance. But you say if you adopt the Newman dual approach, you make the Federal Government the accrediting agency, and that is bad. You suggest we ought to get more States to adopt the standards, that we might go for the HEGIS examination, although I'm not so sure that it's entirely different from what Newman suggests.

What would be the difference, really, between the proposal put forward by Dr. Dickey with respect to a review of the HEGIS information and a determination of eligibility on that basis? Wouldn't that be consistent with the Newman recommendation?

Mr. KIRKWOOD. Well, the only mention of accreditation in the second Newman report is rather limited. It is difficult to judge. There was to be a full separate report on accreditation prepared by the Newman Commission, the second Newman Commission, but we have never seen a copy of that. As you describe the use of the HEGIS report in light of the statement that was being discussed by Mr. Fulton, there would be a very similar use. One of the dilemmas you point out is real, and we have discussed it at some length, we being the staff members and president of the federation council and members of the Newman Commission, about 2 years ago. One of the problems over which we really grappled extensively without very successful results was the problem of drawing a line between determining the essentials that the Government needs to know in order to invest its funds in an institution or make it eligible for participation, and making value judgments about the quality of the institution. Many of the Newman people agreed that it would be very difficult to draw the line.

Now, the uses of course that they would be interested in making of such information are quite different from the uses we are interested in making. We are really much more concerned with the internal working and development and quality of the institution and in facilitating the achievement of that quality, whereas the Government is concerned primarily with stability and with continuity.

Now, if some way could be devised—and I think the HEGIS form may be a way of doing that—it would to a considerable extent eliminate the need for value judgments being made at the Federal level.

Mr. O'HARA. If we could work out a combination between independent accrediting agencies and the examination of the HEGIS form to determine some other things, that might be a fairly sensible approach. I want to take a good hard look at the HEGIS form and try to determine just what kinds of things could be done.

I agree with you. I don't want that Federal Government getting into the assessment of quality, with the Office of Education getting into the assessment of the quality of the academic program. I would think that the Federal role might be one of simply requiring truthful advertising and requiring that certain kinds of information be made available to prospective students about what the dropout rate at the institution is, the number that complete their training, their programs, and perhaps some information about what happened to those people after they got out. Then it is up to the student, once it is an accredited institution, it is up to the student to decode if he feels that it provides the kinds of opportunities that he wants.

Mr. KIRKWOOD. There might be another way of getting at the problem, and it is not necessarily related to accreditation. I think perhaps one of the greatest weaknesses in our massive educational structure today is in the area of counseling. This I think you will recognize is where we have the most work to do. There are many of us who are beginning to think in terms of having, instead of concentrated counseling services within the high school or elementary schools, of developing community educational counseling

centers where a great deal of useful information could be available to students or to prospective students or to their parents. I think in some ways this would help to eliminate the misjudgments or mistakes that so many people make by going to what may be a questionable or in some cases even a worthless kind of educational institution.

Mr. O'HARA. I think that is a problem, and I don't know that a community-based concept would be any better a system. That is a separate issue.

Mr. KIRKWOOD. A whole separate issue.

Mr. O'HARA. A very complex and difficult one at that. I certainly agree with you that one of the steps we ought to be taking is to encourage the States to develop improved licensing procedures. I think we ought to encourage the adoption of the E.C.S. statute or something similar to it. One of the ideas that I have been talking about, in the process of thinking out loud during these hearings, has been the notion of higher educational revenue sharing which you give a certain amount of money to the State and say, all right, use this to improve your system, improve the opportunities for citizens of your State to obtain postsecondary education, and you fit it in with whatever system you have adopted.

Of course you could impose conditions on the State instead of one State having a tough licensure law for which you have adequate enforcement capability and actual enforcement.

Mr. KIRKWOOD. Quite frankly, I think that is the only way it is going to be brought about. I don't think in most cases there are enough people in many of the States who are aware of or sufficiently concerned about this problem. I think if the procedure you outlined could be established, it would move things much more rapidly.

Mr. O'HARA. Mr. Quie, do you have any questions?

Mr. QUIE. Yes. We looked at accreditation of vocational-technical schools in 1972. We felt the regional agencies were moving too slowly. So we gave the authority for the States and technical schools to do their own accreditation.

Did that have any effect on the regional agencies to speed up their efforts for becoming accredited for these postsecondary schools?

Mr. KIRKWOOD. Actually, I am surprised it was as recent as 1972 that this question came up, because all of the regionals have been working with vocational and technical institutions since the early 1960's. They have done it in somewhat different ways, but in contrast to the point Mr. Fulton made, the North Central Commission, for example, has worked for vocational institutions for several years now. All of the other regionals have done so similarly. Some have been working with them as long as 30 years. The problems vary considerably. But I think there was a great deal of misunderstanding and in some cases perhaps misinformation about the role of regionals with respect to vocational education.

Mr. QUIE. Does that happen in North Central? For example, Minnesota didn't have any vocational-tech schools that were accredited.

Mr. KIRKWOOD. I can't remember whether it was Minnesota or Wisconsin. One of the two first had to develop their own program of vocational schools and so on. But later they did develop a very close working relationship with the North Central Commission. As far as I know, the schools out there have fared very well under the accrediting program.

Mr. QUIE. I thought that was Michigan?

Mr. KIRKWOOD. No.

Mr. QUIE. Weren't the Michigan schools the first ones that were accredited under the North Central Commission?

Mr. KIRKWOOD. I think so.

Mr. QUIE. Is there a possibility that your organization and the National Commission on Accreditation will merge?

Mr. KIRKWOOD. As Mr. Dickey said, there are plans under way, and the agreement has been reached in strong terms now to join these two organizations into a simple agency to be known as the Council on Postsecondary Education. Our target is to have it in effect in operation on January 1, 1975.

Mr. QUIE. Is there any possibility this would move for monolithic decisionmaking there the same as the Federal Government?

Mr. KIRKWOOD. Well, anything is possible in this world. I should never say it isn't. But I think it is quite unlikely, because we have such a diversity of representation. There will be a board of this council comprised of 36 members, some of whom will be representatives of institutions, some of whom will be appointed by various public agencies and some of whom will be citizens with no relationship to any agency whatsoever. At least a quarter of the total board will be public representatives with no direct involvement in education as such.

I think the diversity in our federation council (for example, we have approximately a quarter of our membership which is public representatives and there were many people who for many years were uneasy about the idea of bringing non-educators in accrediting activities), our experience with public representatives has just been marvelous. They add a dimension of perspective, a questioning and challenging point of view which I think is highly desirable, and I hope will be continued in the new council.

Mr. QUIE. Thank you, very much.

Mr. O'HARA. Thank you.

Mr. KIRKWOOD. Thank you very much.

[Material on the merger of the two organizations follows:]

NEWS RELEASE, APRIL 11, 1974

Plans have been approved to merge the two national associations currently responsible for coordinating and monitoring accreditation of postsecondary institutions and programs.

In official actions taken respectively in Chicago and Atlanta, the board of the National Commission on Accrediting (NCA) and the Council of the Federation of Regional Accrediting Commissions of Higher Education (FRACHE) approved in principle a merger of the two organizations. Such a step has been discussed for several years, but the details have been worked out by a special liaison committee which was appointed last September.

The new organization, to be known as the Council on Postsecondary Accreditation (COPA), will embrace a wider spectrum of accrediting activities than heretofore engaged in by either organization. It will also include on its governing board representatives from both the non-profit and proprietary sectors of higher education, specialized and professional groups, trade and technical schools, the Federal and state governments, college trustees, and public citizens.

The new Council is designed to be a national nongovernmental body for ensuring that all accrediting activities affecting postsecondary education are conducted in a professional and equitable manner, thereby lending a greater assurance to both the educational community and to the public at large that the institutions are delivering quality educational offerings.

A hallmark of the accrediting process has been its capacity to promote institutional and programmatic improvement. This will be a continued overall purpose of the new Council, according to Frank G. Diekey and Robert Kirkwood, Executive Directors respectively of NCA and FRACHE. The new Council will not itself serve as an accrediting agency of institutions or their programs.

In expressing their pleasure at the prospect of the merger, the Directors said that both economy and efficiency will be achieved. A saving of \$100,000 annually to the institutions in membership dues is anticipated. The formation of one unified national body through which all postsecondary educational accrediting activities can be coordinated and to which all accrediting problems may be channeled is expected to strengthen nongovernmental accreditation significantly.

As proposed, the merger plan calls for COPA to be fully operative by January 1, 1975. Ratification of the bylaws by various constituent organizations is expected to be finalized in November or early December. Formal dissolution of NCA and FRACHE and merging of assets and some staff will occur concurrently with incorporation of the new organization.

Dana B. Hamel, Chancellor of the Virginia State Community College System, was chairman of the committee which developed the detailed merger plan. Serving with him were Louis T. Benezet, President, State University of New York at Albany; Donald Blanchard, Vice President, Sunbeam Corporation; Lloyd H. Elliott, President, The George Washington University; Thomas J. Gluey, Secretary, Council on Dental Education of the American Dental Association; Robert R. Ramsey, Jr., Director of Evaluation, Commission on Institutions of Higher Education, New England Association of Schools and Colleges; and J. L. Zwingle, President-Emeritus of the Association of Governing Boards of Universities and Colleges.

#### BACKGROUND INFORMATION

The NCA was founded in 1949 at the request of collegiate institutions to serve as their national agents for recognizing professional groups to accredit specialized programs of instruction within the institutions—such specialties as medicine, law, engineering and dentistry. Since World War II many professional groups have been vying for the privilege of conducting these specialized accreditations. One responsibility of the NCA has been to review the activities of petitioning professional groups and where judged necessary, to assign the accrediting authority to the best qualified. In doing so the NCA has striven to promote a consistency of quality among accredited educational programs. To date, the NCA has recognized 35 professional and specialized agencies to accredit programs. Only five have been recognized in the past eight years although as many as fifty have applied.

The FRACHE also began in 1949 as a forum for discussion and exchange of ideas and information among the regional accrediting commissions in the United States. (There are now nine such commissions related to six regional associations.) These commissions, for almost a century, have had the responsibility for accrediting the public and private non-profit institutions of higher education in the Nation and its territories. The education explosion of the 1960's caused these autonomous commissions to seek greater coordination of accrediting policies and procedures reorganized and strengthened, a full-time staff was authorized, and a national office was opened in Washington in September, 1972.

**BYLAWS AND FINANCE PLAN FOR THE COUNCIL ON POSTSECONDARY ACCREDITATION**

(Approved by the Executive Committees of Federation of Regional Accrediting Commissions of Higher Education and National Commission on Accrediting)

*Preamble*

Postsecondary education in the United States derives its strength and excellence from the unique and diverse character of its many individual institutions. Such qualities are best sustained and extended by the freedom of these institutions to determine their own objectives and to experiment in the ways and means of education within the framework of their respective authority and responsibilities.

Public as well as educational needs must be served simultaneously in determining and fostering standards of quality and integrity in the institutions and such specialized programs as they offer. Accreditation, conducted through nongovernmental institutional and specialized agencies, provides a major means for meeting these needs.

The Council on Postsecondary Accreditation is a nongovernmental organization intended to foster and facilitate the role of these accrediting agencies in promoting and ensuring the quality and diversity of American postsecondary education. The accrediting agencies, while established and supported by their membership, are intended to serve the broader interests of society as well. To achieve these ends, the Council recognizes, coordinates, and periodically reviews the work of its member accrediting agencies, determines the appropriateness of existing or proposed accrediting activities, and performs other related functions in accord with the following bylaws:

*Bylaws*

**ARTICLE I—NAME, SEAL, AND OFFICES**

*Sec. 1:01. Name.*

The name of this organization is the Council of Postsecondary Accreditation, Inc. (hereinafter referred to as the "Council"), a nonprofit corporation organized under the District of Columbia Non-Profit Corporation Act exclusively for educational, scientific, research, mutual improvement, and professional purposes.

*Sec. 1:02. Seal.*

The seal of the corporation shall be circular in form and shall bear on the upper portion of the outer circle the title of the Council and on the lower portion of the outer circle the words "Washington, D.C." In the center of the seal shall appear the words "Corporate Seal." The Board of the Council (hereinafter referred to as the "Board") may change the form of the seal or the inscription thereon at its discretion.

*Sec. 1:03. Offices.*

The principal office of the Council shall be located in Washington, D.C. In accord with the corporation laws of the District of Columbia, the Council may have other offices within or without the District of Columbia as the Board may from time to time determine.

**ARTICLE II—PURPOSE**

The Council shall have the necessary and incidental powers to carry out its corporate purposes, among which shall be to:

- (a) Promote the improvement of postsecondary education, principally through the process of accreditation and such other means as it shall devise;
- (b) Review continuously the accrediting practices of all its members to assure the integrity and consistency of their policies and procedures and to safeguard the freedom and quality of postsecondary educational institutions and programs;
- (c) Promote the interests of the educational consumer, including provisions for direct public representation in the conduct of the affairs of the Council;
- (d) Develop systematic procedures for recognizing institutional and specialized accrediting agencies;

(e) Develop policies and procedures for the coordination of accrediting activities, to be implemented by the appropriate member agencies or regional commissions, in the best interests of the educational institutions affected;

(f) Insure that each member accrediting agency of the Council shall provide clearly defined procedures for handling appeals through due process;

(g) Establish, promote, or direct research programs for the purpose of improving methods and techniques of accrediting as a vehicle for improving postsecondary education;

(h) Cooperate on accreditation and related matters with educational institutions and organizations, foundations, and agencies of government;

(i) Represent and speak for postsecondary accreditation at the national level, provided, however, that this shall not preclude individual views of any organizational member of the Council or of any member of the Board from being presented before any governmental or other body.

(j) Conduct an informational program to promote understanding and effective utilization of the accrediting process, including but not limited to collection, publication, and distribution of information pertinent to accreditation;

(k) Prepare and distribute annually a list of member accrediting agencies;

(l) Provide for periodic publication and distribution of a listing of all institutions and programs accredited by member agencies;

(m) Undertake such other desirable and appropriate activities as the Board may determine.

#### ARTICLE III—ACCREDITATION

Each member of the Council shall have the responsibility as determined by the Board for the evaluation and accreditation of postsecondary institutions or programs. The accreditation of a postsecondary institution or program by one member of the Council shall be recognized by all other members; provided, however, that such recognition shall not in any manner infringe upon the independence of each institution to choose or admit students in accordance with its own policies. The Council shall serve in a recognizing, reviewing, and coordinating capacity but shall not be an accrediting agency for individual institutions or educational programs.

#### ARTICLE IV—MEMBERSHIP AND OFFICERS

##### *Sec. 4:01. Membership.*

The Council membership initially shall consist of the member accrediting commissions of the Federation of Regional Accrediting Commissions of Higher Education (FRACHE) and the accrediting agencies of the Council of Specialized Accrediting Agencies (CSAA) recognized by the National Commission on Accrediting as of January 1, 1975, and the accrediting commissions of the American Association of Bible Colleges (AABC), the Association of Independent Colleges and Schools (AICS), the National Association of Trade and Technical Schools (NATTS), and the National Home Study Council (NHSC).

The Board shall establish policies and procedures for admitting new members to the Council. Membership in the Council shall be synonymous with recognition by the Board of an agency's accrediting activities, which shall be subject to periodic review, and may be obtained or terminated only by a two-thirds vote of the total membership of the Board.

##### *Sec. 4:02. Officers.*

Officers of the Council shall be the officers of the Board as hereinafter provided.

#### ARTICLE V—THE BOARD

##### *Sec. 5:01. General powers.*

The activities of the Council shall be managed by its Board. All the corporate powers, except as otherwise provided for in the Articles of Incorporation and these bylaws, shall be and are hereby vested in and shall be exercised by the Board as provided in the Articles of Incorporation of the Council.

##### *Sec. 5:02. Number and Qualifications.*

The Board shall consist of 36 members chosen with due regard for institutional, geographic, professional, and other considerations appropriate to ensuring broad representation as follows:

**Institutional representatives:**

(a) 2 appointed by the postsecondary accrediting commissions in each geographical area (Middle States, New England, North Central, Northwest, Southern, and Western) as determined by the respective commissions with preference urged that those appointed be heads of institutions.....	Amount 12
(b) 1 each appointed by:	
American Association of Community and Junior Colleges.....	1
American Association of State Colleges and Universities.....	1
Association of American Colleges.....	1
Association of American Universities.....	1
Association of Urban Universities.....	1
National Association of State Universities and land-grant colleges.....	1
(c) 1 appointed by the Board of the American Council on Education.....	1
(d) 4 appointed by the Council of Specialized Accrediting Agencies..	4
(e) 1 appointed by:	
American Association of Bible Colleges.....	1
Association of Independent Colleges and Schools.....	1
National Association of Trade and Technical Schools.....	1
National Home Study Council.....	1

**Public representatives:**

(f) 2 appointed by the Education Commission of the States.....	2
(g) 1 named by the U.S. Commissioner of Education from the Advisory Committee on Accreditation and Institutional Eligibility.....	1
(h) 1 appointed by the Association of Governing Boards of Universities and Colleges.....	1
(i) 5 to be selected from outside the academic or accrediting community by the board at its first meeting and thereafter by the board as it shall determine.....	5

Total membership of the board..... 36

Staff persons of the agencies represented in the Council may attend meetings and serve as consultants or observers but shall not be members of the Board. Executives and/or representatives from other accrediting or educational constituencies, e.g., members of the Council of Regional School Accrediting Commissions or the State Higher Education Executive Officers organization, also may be invited to Board meetings as observers.

**Sec. 5:03. Terms of office.**

(a) The term of office of each Board member shall normally be for three years. However, to assure that approximately one-third of the Board shall be elected each year, the Board shall make provisions for deciding which initial members shall serve for terms of less than three years.

(b) No member shall serve more than two consecutive three-year terms.

(c) Each person selected for membership on the Board shall be given written notice of his appointment by the President of the Council.

(d) A Board member shall become ineligible to serve if he changes professional positions and assumes professional duties outside the jurisdiction which provided for his initial selection to the Board.

(e) Unexpired terms of Board members shall be filled in the same manner in which the original selection was made and such new appointees shall assume office immediately.

(f) Except for the members selected to the initial Board under these bylaws, all of whom shall assume office at a called organizational meeting, all new members of the Board shall take office immediately following the annual meeting of the Board.

**Sec. 5:04. Officers of the board, terms, and duties.**

Officers of the Board shall be a Chairman, a Vice Chairman, and a Secretary-Treasurer, each of whom shall be elected at an annual meeting by the full Board, shall serve for terms of two years, and shall be eligible for reelection for one additional term. They shall take office immediately following the annual



meeting at which they are elected. As previously noted, the officers of the Board shall be deemed to be officers of the Council and as hereinafter provided shall be members and officers of the Executive Committee. A vacancy in an office may be filled by the Board for the unexpired portion of the term.

(a) The Chairman shall preside at all meetings of the Board and of the Executive Committee. He shall perform all duties which are usually attendant upon this office, and such duties as may be prescribed by the Board.

(b) The Vice Chairman, in the absence of the Chairman, shall perform the duties of the Chairman and when so acting shall exercise the powers of the Chairman as prescribed in these bylaws. He also shall perform such other duties as may be assigned to him by the Chairman.

(c) The Secretary-Treasurer shall perform such duties as are usually attendant upon this office or as may be delegated or assigned him by the Chairman. In the absence or disability of the Secretary-Treasurer the Chairman or Vice Chairman may sign all papers normally requiring the signature of the Secretary-Treasurer.

*Sec. 5:95. Meetings.*

(a) Regular Meetings. The Board shall have an annual meeting and such other meetings as may be necessary at the time and place designated by the Board. Written notice shall be given at least ten (10) days prior to each meeting.

(b) Special Meetings. Special meetings of the Board may be called by the Chairman (or the President acting as his agent) or at the request of any ten (10) members of the Board. The President shall fix the time and place for special meetings. Written notice shall be given at least ten (10) days prior to each special meeting.

*Sec. 5:96. Quorum and manner of acting.*

Fifty-one percent (51%) of the Board membership shall constitute a quorum for purposes of carrying on the work of the Board. Except as may be otherwise provided in these bylaws, actions shall be taken on affirmative vote of a majority of the members of the Board present at any regular or special meeting. Proposals for action may be placed before the Board by any of its officers or members or any member of the Council. Routine matters will be acted upon at the same meeting where they are presented. Major substantive proposals ordinarily will not be acted upon at the meeting at which they are first introduced unless they have been circulated to all Board members at least fifteen (15) days prior to the meeting, or unless such action is approved by two-thirds of the members present and voting.

*Sec. 5:97. Minutes.*

The draft minutes of the Board shall be sent to each member thereof, to each member of the Council, and to such other agencies or individuals as the Board may designate. The draft minutes of the Board, or of any committee thereof, shall not become the official minutes of the Board or such committee, as the case may be, until approved by the Board or such committee present at the meeting for which the minutes are prepared.

*Sec. 5:98. Compensation.*

Board members shall receive no compensation for their services, but shall be reimbursed for travel and other necessary expenses incurred when performing services for the Board.

ARTICLE VI EXECUTIVE COMMITTEE

*Sec. 6:91. Membership, election, and terms of office.*

There shall be an Executive Committee of the Board composed of seven members to include the Chairman, Vice Chairman, and Secretary-Treasurer, and four other members of the Board. It is expected that the Executive Committee will be broadly representative of the constituencies represented on the Board. The officers and other members of the Executive Committee shall be elected at an annual meeting of the Board to serve for two years and are eligible for election to one other term. They shall take office immediately following the annual meeting at which they are elected.

*Sec. 6:02. General powers.*

The Executive Committee shall have and may exercise all of the powers of the Board during the interim period between meetings of the Board, except the Executive Committee shall not have the power to amend these bylaws or to pass on membership or discontinuance of membership. The Board may specifically reserve certain powers to itself, or specifically assign them to other committees or officers.

*Sec. 6:03. Meetings.*

The Executive Committee shall meet at least semi-annually and at such other times as may become necessary. Meetings of the Executive Committee may be called by the Chairman, or in his absence or disability by the Vice Chairman. Written notice shall be given a minimum of five days before such meetings to each member of the Executive Committee at his address shown on the records of the Council, except that the written notice may be waived provided an emergency exists and each committee member is otherwise notified. A majority of the membership of the Executive Committee shall constitute a quorum.

*Sec. 6:04. Reporting.*

The Executive Committee shall report to the Board at each of the Board's regular or special meetings presenting a summary of the committee's activities since the last previous meeting of the Board.

*Sec. 6:05. Compensation.*

Members of the Executive Committee shall receive no compensation for their services but shall be reimbursed for travel and other necessary expenses incurred in fulfilling their duties as committee members.

## ARTICLE VII—ADMINISTRATION

*Sec. 7:01. The president.*

The Board shall appoint a President to serve at its pleasure as the chief executive staff officer of the Council, and shall fix the duties, responsibilities, and emoluments of the position.

The President shall provide leadership in carrying on the work of the Council, shall represent and express the views of the Council when and where appropriate, and shall serve as the custodian of the corporate records. He shall see that all notices are duly given in accordance with these bylaws or as required by law; arrange for meetings, printing, mailing, and the like; serve as an ex officio member of all committees of the Council; keep the official minutes of all meetings of the Board, the Executive Committee, and all special committees; and coordinate Council studies and research projects. He shall receive and collect dues and other obligations to the Council, pay its debts, manage its assets, and otherwise perform the functions of business manager.

In addition, the President shall perform such other duties as may be assigned by the Board or the Executive Committee to effectuate the corporate purposes of the Council.

*Sec. 7:02. Staff.*

The President shall appoint professional and support personnel as needed in consultation with and on terms approved by the Executive Committee.

*Sec. 7:03. Annual report.*

The President shall make each year at the annual meeting a written report on the affairs of the Council. Such report shall be made to the Board, which may authorize its further distribution.

## ARTICLE VIII—FINANCES

*Sec. 8:01. Dues.*

The Board shall be responsible for the finances of the Council, shall fix the dues or assessments to be levied for its support, and shall be empowered to seek and accept funds from various sources if and when deemed desirable for carrying on the purposes of the Council.

*Sec. 8:02. Budget.*

The Board shall approve an annual budget for the operation of the Council. It shall also approve emergency appropriations and/or assessments.

*Sec. 8:03. Audit.*

The finances of the Council shall be audited each year by a certified public accountant or firm and such auditor or firm shall submit a written report immediately following the end of each fiscal year. Copies of the written report shall be provided to the officers and shall be available to each member of the Board. Summaries of the audit report shall be circulated to each member of the Board and to each member of the Council. The fiscal year for the Council begins on July 1 each year and ends on June 30 of the succeeding year.

## ARTICLE IX—OTHER COMMITTEES

The Board, in addition to the Executive Committee, may establish such other committees and assign their duties as it deems necessary to carry out the functions of the Board or the Council. Members of such committees need not be members of the Board. Expenses incurred by committee members in fulfillment of their duties shall be reimbursed by the Council, except as otherwise provided.

## ARTICLE X—POWER OF ATTORNEY

The Chairman, Vice Chairman, Secretary-Treasurer, and President shall have authority as attorney in fact to execute and acknowledge on behalf of the corporation, legal documents or other instruments in connection with the operations of the corporation as approved generally and specifically by the Executive Committee or the Board.

## ARTICLE XI—BONDING

The Secretary-Treasurer, President, and such other officers and employees as required by the Board shall be bonded at the expense of the Council in the amounts determined by the Board.

## ARTICLE XII—REMOVAL

*Sec. 12:01. The executive officer(s).*

The executive officer or agent appointed or elected by the Board may be removed by a two-thirds vote of the total membership of the Board at any regular meeting or special meeting called for that purpose.

*Sec. 12:02. The board members.*

Any Board member absent without cause from two consecutive meetings of the Board may be removed and the name of a new member shall be requested from the agency originally making the appointment. In that event, the replacement shall be eligible for election to one additional full term on the Board.

## ARTICLE XIII—ADMINISTRATION OF PROPERTY

*Sec. 13:01. General powers.*

The Board, representing the corporation, shall have the power to sue and be sued, to purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated; to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets; to lend money to and otherwise assist its employees other than its officers and directors; to make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure its obligations by mortgage or pledge of all or any of its property, franchises and income; to conduct its affairs, carry on its operations, hold property, and have offices and exercise the powers granted by this charter in any part of the world; to elect or appoint officers and agents of the corporation, and define their duties and fix their compensation; to make and alter bylaws, not inconsistent with its Charter or with the laws of the District of Columbia, for the administration and regulation of the affairs of the Corporation. Notwithstanding the above, the Council shall not engage in any business or other activity which is not in the furtherance of and exclusively for its educational, scientific, research, mutual improvement, and professional purposes.

**Sec. 13:02. Funds.**

The funds of the corporation shall be deposited in such depositories as may be approved by the Board or the Executive Committee, but such depositing authority may be delegated by them to the President.

**Sec. 13:03. Litigation.**

The corporation shall defend against suit or legal proceedings, pay the expenses and indemnify against judgment or loss of any Board member, officer, agent or employee or former Board member, officer, agent or employee of the corporation arising out of his connection with or activities on behalf of the corporation provided he is not guilty of bad faith. This provision shall not be deemed to be exclusive of any other rights to which such person may be entitled under any bylaw, agreement, vote of Board or Executive Committee, or members, otherwise.

**ARTICLE XIV—AMENDMENTS**

Amendments to these bylaws may be proposed by any member of the Board or by any member of the Council. Such amendments shall be submitted to the Board at least thirty (30) days prior to consideration thereof by the Board. Any such amendment shall be adopted by a two-thirds vote of the total membership of the Board, and shall become effective at such date as it shall determine.

**ARTICLE XV—PROCEDURE**

*Robert's Rules of Order*, Revised, shall govern all meetings of the Board, the Executive Committee and parliamentary procedures of the Council insofar as they are not inconsistent with applicable statutes, the Charter, and these bylaws, unless other specific procedure is provided by the Board.

**ARTICLE XVI—DISSOLUTION**

The Council may be dissolved, or merged with another similar corporation carrying on substantially the same activities, upon approval of a plan of dissolution adopted by a two-thirds vote of the total membership of the Board. Such a plan of dissolution shall provide for the complete payment and discharge of all corporate obligations before disposition of the net corporate assets, which may then be distributed equally among such constituent members of this corporation or their successors as are in existence, actively engaged, and qualify as tax-exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law).

**PLAN FOR FINANCING THE COUNCIL ON POSTSECONDARY ACCREDITATION**

The plan for financing COPA approved by the Executive Committees of FRACHE and NCA allocates the sources of income among the constituent members as follows:

Institutional dues (to be assessed through the institutional accrediting commissions): \$60 per accredited institution $\times$ 3,443 institutions.....	\$206,580
Sustaining fees (institutional membership organizations: \$1,000 per organization $\times$ 7 organizations.....)	7,000
Specialized accrediting agencies:	
1-50 accredited programs.....	\$250.00 $\times$ 13 = 3,250
51-100 accredited programs.....	500.00 $\times$ 11 = 5,500
101-150 accredited programs.....	750.00 $\times$ 3 = 2,250
151-200 accredited programs.....	1000.00 $\times$ 0 = 0
201- or more accredited programs.....	1250.00 $\times$ 7 = 8,750
Total.....	19,750
Projected total income:	
Institutions.....	206,580
Membership organizations.....	7,000
Specialized agencies.....	19,750
	233,330

## PROJECTED SOURCES OF INCOME

Specialized accrediting agencies	Number of accredited programs	Basic sustaining fee
1. Accrediting Commission on Graduate Education for Hospital Administration.....	30	\$250
2. American Association of Collegiate Schools of Business.....	56	500
3. American Association of Theological Schools.....	136	750
4. American Bar Association.....	146	750
5. American Chemical Society.....	398	1,250
6. American Council on Education for Journalism.....	57	500
7. American Council on Pharmaceutical Education.....	74	500
8. American Dental Association (Council on Dental Education).....		1,250
Dentistry.....	59	
Dental Hygiene.....	138	
Dental Assisting.....	224	
Dental Technology.....	34	
Total.....	455	
9. American Home Economics Association.....	6	250
10. American Library Association.....	51	500
11. American Medical Record Association.....	30	250
12. American Occupational Therapy Association.....	39	250
13. American Optometric Association.....	12	250
14. American Osteopathic Association.....	6	250
15. American Physical Therapy Association.....	61	500
16. American Podiatry Association.....	5	250
17. American Psychological Association.....	76	500
18. American Public Health Association (Community Health).....	27	250
19. American Society of Landscape Architects.....	28	250
20. American Speech and Hearing Association.....	81	500
21. American Veterinary Medical Association.....	19	250
22. Association of American Law Schools.....	123	750
23. Association of American Medical Colleges.....	93	500
24. Board of Schools of Medical Technology.....	96	500
25. Council on Public Health Education.....	18	250
26. Council on Social Work Education.....		1,250
Graduate.....	84	
Undergraduate.....	189	
Total.....	273	
27. Engineers' Council for Professional Development.....	215	1,250
Engineering Technology.....	65	
Total.....	280	
28. National Architectural Accrediting Board.....	76	500
29. National Association for Industrial Technology.....	6	250
30. National Association of Schools of Art.....	56	500
31. National Association of Schools of Music.....	301	1,250
32. National Council for Accreditation of Teacher Education.....	465	1,250
33. National League for Nursing.....	214	1,250
Associate Degree Nursing.....	76	
Total.....	290	
34. Society of American Foresters.....	38	250
Total.....		19,750

Institutional accrediting agencies	Number of accredited institutions	Annual dues	Total
<b>Regional accrediting commissions:</b>			
1. Middle States.....	392	\$23,520	\$23,520
2. New England—College.....	167	10,020	10,020
3. New England—Commission on Vocational Technical Education.....	8	480	480
4. Northwestern.....	110	6,600	6,600
5. North Central.....	677	40,620	40,620
6. Southern Association—Commission on Colleges.....	653	39,180	39,180
7. Southern Association—Commission on Occupational Education Institutions.....	126	7,560	7,560
8. Western Association—Senior.....	124	7,440	7,440
9. Western Association—Junior.....	115	6,900	6,900
<b>Nonregional accrediting commissions:</b>			
10. American Association of Bible Colleges.....	64	3,840	3,840
11. National Association of Trade and Technical Schools.....	430	25,800	25,800
12. Association of Independent Colleges and Schools.....	487	29,220	29,220
13. National Home Study Council.....	90	5,400	5,400
Totals.....		206,580	206,580

*Institutional membership organizations*

1. American Association of Community and Junior Colleges.....	\$1, 000
2. American Association of State Colleges and Universities.....	1, 000
3. Association of American Colleges.....	1, 000
4. Association of American Universities.....	1, 000
5. Association of Urban Universities.....	1, 000
6. National Association of State Universities and Land-Grant Colleges..	1, 000
7. American Council on Education.....	1, 000
Total.....	7, 000

Mr. O'HARA. Our last witness today is Mr. James C. Schmitt, who is president of the Better Business Bureau of Greater St. Louis. Mr. Schmitt was nominated as a witness by a distinguished member of this committee and a very good friend, Congressman Bill Clay of Missouri and the nomination was seconded by Senator Tom Eagleton. So Mr. Schmitt, I am confident you are going to do a good job.

Mr. SCHMITT. Thank you, Mr. Chairman. I appreciate the opportunity of being heard. I wish to submit a brief statement with some recommendations a more detailed report of the closing of at least one technical school in St. Louis, North. I request it be entered in the record.

Mr. O'HARA. The material that has been submitted by the witness will be printed in the record.

[The material referred to follows:]

PREPARED STATEMENT OF JAMES C. SCHMITT, PRESIDENT, BETTER BUSINESS BUREAU OF GREATER ST. LOUIS, INC.

In recent years, several trade and technical schools in the St. Louis area have closed their doors. These closures have left a number of students struggling to repay loans, received through the Student Loan Program or other sources, for training courses they have not received, thus shattering their hopes of breaking out of a pattern of low-paying, menial jobs, through technical education. A copy of the Better Business Bureau of Greater St. Louis report, dated November, 1973 and made available on the closing of the Technical Education Corporation, is attached for your convenience.

In reviewing the closing of these as well as other schools there are points that I think would be of interest to the committee:

There was no apparent effective examination or regulation of the trade and technical schools that closed in the St. Louis area when the benefits of FISL were given, nor direct examination for solvency, curriculum, student testing methods and procedures, sales methods or advertising.

Many schools, including Technical Education Corporation, carried advertisements of high-paying jobs awaiting students once they graduated. High pressure sales tactics were used to enroll students, many of them poor and without the education which would enable them to successfully complete the training. These tactics included the promise of loans that would be easy to repay with the high-paying jobs received upon graduation.

The only restriction that we could find that HEW had placed upon at least one school—Technical Education—was that student loans would not be available for high school students.

On the other side of the coin, the schools were apparently allowed to advertise that they had Federal government approval, either through the VA or HEW, and many of the students we interviewed stated that they had relied on the implied endorsement of agencies of the Federal government in making a decision.

In the case of Technical Education Corporation, as in the case of other schools, HEW relied almost solely upon the National Home Study Council to monitor advertising, sales tactics, curriculum evaluation, testing, as well

as financial stability and adequacy of management. Reliance on this organization solely as a means to enforce a decently administered and satisfactory student loan program has proved, in my estimation, to be a mistake. Several days after the school was closed our ureau received notice that the National Home Study Council had withdrawn its accreditation.

#### COORDINATION OF GOVERNMENT AGENCIES

There was no apparent coordination of other Federal, state, local and private organizations in an effort to assist in the administration of the student loan program in the proprietary sector. Also, no apparent effort was made to determine if consumer complaints had been made to the FTC, various state government officials, private agencies, or if those public and private agencies had objections to advertising or sales tactics, or to conduct a coordinated investigation.

I wish to point out there are many good trade and technical schools and they do perform an ethical, fair and valuable service to their students. However, under a program that is as loosely administered as the student loan program, the situation is ripe for poorly or fraudulently run schools to operate and make money--in other words, it is a license to steal. I cannot believe that in the passage of the student loan program, that it was Congress' intent to give the Dept. of Health, Education and Welfare the program and no authority to directly administrate it or to protect the tax payer, the students, and the legitimate trade and technical schools.

It would appear to me that much could be done to correct this problem without legislative action. As such, I would recommend the following:

1. The Dept. of Health, Education, & Welfare should conduct effective evaluations of all proprietary schools that are eligible under the student loan program. This should be done in the fields of financial and curriculum evaluation; testing evaluation and testing safeguards; sales tactics; advertising. One requirement should be a Certified Public Accountant's statement initially, and annually thereafter. Further, HEW should not rely solely upon private agencies for evaluation.

2. That HEW should coordinate their activities with other governmental agencies, such as the Veterans' Administration, Federal Trade Commission, IRS, etc. and other accrediting agencies. Further, HEW should coordinate with private and public accrediting agencies; with the various state departments of education; the attorneys-general, and other agencies which might have a bearing on proprietary education. Further, I would even require coordination with city officials, such as licensing agencies, as well as coordination with private agencies that have something to do with evaluation, receiving and processing consumer complaints, etc.

3. The Federal government should stop all schools from advertising and selling on the basis that it is operating under a Federal endorsement such as HEW or VA approval.

4. Payment to the schools should be on the basis of pay as the student learns. This is what many private lending institutions are doing in order to protect their loans.

5. That the guarantee, or implied guarantee, of a position upon the successful completion of the course being offered be administratively prohibited by HEW or any Federal agency.

#### TEC REPORT

The St. Louis Better Business Bureau has kept an active file on the Technical Education Corporation since it was first established in December, 1959 under the name of Automation Training, Inc. In January, 1962 the school was purchased by C. R. Johnson, who changed the name to TEC and added several courses to the curriculum which were not related to the automation field.

TEC was a nationwide correspondence school as well as resident training school. Home study students paid \$990 for an 81 lesson program with a 2 week terminal training (in residence) at the St. Louis Training Center at 5701 Waterman.

These home study students had the option of dropping the home lesson plan at any point and paying an additional \$450 for a 4 month training

session at the St. Louis Training Center. Many students never took the home study course, but enrolled directly in the St. Louis Training for the 4 month's training.

The school was accredited through the National Home Study Council and the National Association of Trade & Technical Schools (listed by the United States Dept. of Education as the official accrediting agency for the country's private, trade and technical schools). Several of the school's courses were also approved for veterans' training, by the Veterans Administration.

Despite the recommendations of these national associations the school became a source of much concern and numerous complaints to this Bureau. The complaints ran across the entire spectrum of the school's operations—advertising, sales tactics, course content, teacher qualifications, and job referrals. The most numerous complaints dealt with the desires of students to cancel contracts and receive refunds in accordance with the contract terms.

The BBB staff met with owner Charles Johnson on several occasions in an attempt to correct areas of the operation which were of particular concern. One of our major concerns was the fact that TEC's national sales director, Ron Borscheit, had been convicted of mail fraud and served a jail term for same. TEC's original contact with prospective students was done via mail with a follow up of numerous phone calls.

TEC was accepted by HEW as a school qualified for Federally Insured Student Loans (FISL) in May of 1967. They were accepted as a qualified lender for FISL in May of 1969. These two decisions we feel were (at least in part) responsible for the demise of the school in October, 1973.

The BBB first learned of the school having closed on October 17 when students enrolled in a resident training session found the doors of the school locked. These 22 students had received one month of their 4 month course. Many of the students were transferees from the correspondence course and had as much as \$1400 invested in the tuition as well as housing and transportation costs. We immediately put into action what became a lengthy and extremely involved process to discover what had happened to TEC and, more immediately, what could be done for these students.

We learned that TEC was insolvent and was perhaps in the process of declaring bankruptcy. We were further advised after a call to NHSC that TEC was being foreclosed upon by EDCO Financial Services of Los Angeles, California.

EDCO had been financing TEC for over a year and was the secured creditor of TEC.

Attempting to learn more about the transfer, we made many calls to agencies who deal with technical schools. We called the regional office of HEW; the Vocational Training Division of the Illinois Board of Education; the Attorney General's office; and the Missouri Association of Trade & Technical Schools. None of these agencies were aware of the transfer or TEC's closing except by rumor.

The National Home Study Council informed us that they had withdrawn their accreditation from TEC and had sent out notification of same. We later received such notification in our office with an October 15 date which was several days after the school's actual closing.

After several calls to John Tate, President of EDCO in Los Angeles, Mr. Tate returned our call. He was here in St. Louis at the TEC building making final transfer arrangements. We asked to meet with him to discuss the plight of the students and his plans for the thousands of correspondence students involved, but Mr. Tate advised that he was too busy for such a meeting and we should refer all such problems to William Chamberlain of Phoenix, Arizona.

Mr. Chamberlain is the president of a new firm set up by EDCO named Institute of Technical Education, this firm being formed, we are told, to assist with the training of correspondence students enrolled by TEC who wish to continue their home study courses. (However, as a new firm, they accept no liability for refunds due incurred by the former owners.)

Apparently Mr. Chamberlain had been in St. Louis attempting to salvage the TEC operations and had met with officials of the Veterans' Administration in an attempt to maintain VA approval under the new ownership. At the same time Mr. Tate was meeting with representatives of NHSC attempting to hold the accreditation status which might allow the school immediate responses and so EDCO felt compelled to immediately close the school and move its assets to Phoenix.



At this point, we sought the advice of the Missouri Attorney General and the St. Louis Circuit Attorney, seeking to learn from them if there was a possibility of delaying EDCO's removal of the school's assets and records until we could determine the extent of student involvement in our city and state. We were advised by those agencies that such action was not within their scope. We have subsequently been denied records of TEC students in Missouri with FISL by Mr. Chamberlain who advises we have no reason to ask for such records.

The Los Angeles BB advises us that EDCO Financial Services was originally connected with Diversified Management Systems located in Maryland. EDCO has a subsidiary known as Nationally Insured Student Loan Servicing Center. This educational division is in Phoenix and is directed by Wm. Chamberlain. Listed at the same Phoenix address are: Academic Investors Corporation; Petroleum Engineering Institute; Industrial Engineering School; Artist Institute of America; Hotel & Motel Managers Institute; Weaver's School, and the Floral Art Center. Hotel & Motel Managers Institute has since been dissolved. Indications seem to be that EDCO has taken over these schools and phased out at least one of them while others remain active. The Arizona State Board of Education, Private and Technical Training School Division, has no jurisdiction over correspondence schools in that state (only over their agents) and could give us no information about EDCO's business practices.

Since the closing of the school we have learned much about technical schools in general, TEC in particular, FISL's, regulating agencies and the ineffectiveness of agencies to protect individual consumers.

TEC was qualified for FISL from May, 1967 to March, 1973. They were qualified as a lender from May, 1969 until October, 1971. There was some discussion among HEW local officials who felt TEC should not be a qualified lender because they were selling their loans to financial institutions, but HEW officials did rule in TEC's favor. During that time approximately one million, five hundred thousand dollars' worth of FISL's were made for TEC students involving 25 to 30 banks throughout the country. One St. Louis bank has over 600 such loans.

The Bank of Savannah (Missouri) had over \$300,000 worth of these student loans and is now in State receivership according to the Missouri Commissioner of Finance. Savannah Bank as well as others involved were allegedly sold their loans by money brokers. There has been a widespread lack of discretion on the part of many banks who feel they can't lose with the FISL. The default of the student can actually be financially attractive to the lender because they receive total reimbursement from the government instead of the usual lengthy payment period. And, of course, then the government is put into the role of acting as a collection agency.

HEW notified TEC on several occasions that those loans sold to students still in high school would not qualify for FISL's. Nonavailability to high school students is one of the few restrictions placed on these loans. The only intelligence qualification is that the student have "the ability to benefit." While this might exclude some types of discrimination, it does seem to encourage other abuses. Many salesmen go into ghettos or rural areas where students are high school dropouts without the ability or interest for a long term correspondence course in computer training, nor do they have any repayment ability if they do drop the course. The salesmen made the loans predicated on a glamorous future and not having to pay until you have a high-salaried job. He makes his commission, the school sells the contract and makes its money, the lending institution has the government insuring its money and so the only one who can lose is the student, who may not have the ability to finish the course, or to repay the loan, but does owe the U.S. Government. TEC had a very high dropout rate in their correspondence course.

Mr. Borschelt informed the BBB that HEW does not screen the students to determine if they are eligible; that HEW relies on the accreditation given by NATTS and NISAC; that salesmen give the prospective students aptitude tests, but that these tests are not monitored by HEW, NATTS, or NISAC. He estimated that 50% of the students accepted by TEC were not mentally qualified to complete the course. (An interesting corresponding statistic is that only 10% of FISL's went to students enrolled in vocational schools in 1971, but these same schools accounted for more than 70% of the defaults in one part of the program.\*)

\*Washington Monthly - 11/73.

TEC was suspended as a qualified school in March, 1973, following a partial audit by HEW. At that time HEW asked Johnson to have an immediate and total audit done, but although a CPA was contacted by Johnson, the audit never took place. Later this CPA attended the transfer meetings between Johnson and EDCO in the capacity of an "observer."

There were no restrictions put upon TEC (or any school) or any FISL lender how the money was made available to the school. While it would seem obvious that one simple safeguard would be for the lender to make the money available to TEC on a "pay as the student learns" system, that was not the case. The money was made immediately available and usually before the student began his course. When Johnson was faced with the loss of that cash flow TEC was in financial trouble.

We know that during the last few months of the school's existence there were clear indications of serious financial trouble. Letters promising still undelivered refunds to students go back as far as January, 1973. Employees of the school experienced difficulty getting their payroll checks cashed.

Johnson assured everyone that the money was available and urged his sales people to continue on their course. (Several days after the school was closed, the BBB received calls from TEC sales people. They had not been notified of the school's situation and were still selling courses.)

When TEC closed and EDCO took the records to Arizona, the St. Louis BBB was assured that all students involved would be notified. A terminal training course was scheduled to begin October 31 and apparently none of the students were notified of its cancellation. Students arrived in our St. Louis office from as far away as Fairbanks, Alaska and Seattle, Washington.

At the request of Senator Eagleton's office, the BBB tried to get a list of Missouri students with FISL's. EDCO refused to supply the information and we went directly to HEW. We met with the expected bureaucratic mire but soon discovered that no records are kept which could tell us names and addresses of insured Missouri students. We were supplied with a large printout of students enrolled at TEC, but no addresses. (It occurred to us that such listings might bring to view abuses by salesmen or lending agencies in a particular area.)

EDCO's educational branch, Institute of Technical Education, has not sent letters to many of the students informing them of the transfer and their intention to continue the correspondence courses. It is not clear if all correspondence students will be serviced or only those financed by EDCO. Equally unsure is to whom the 2 week terminal will be made available. What is certain is that EDCO accepts no liability for refunds due incurred by the former owners. BBB has been notified that collection agencies are now contacting students who dropped out of TEC over a year ago on behalf of EDCO.

Some of these students, hearing nothing in over a year, have destroyed their records and have no proof of having submitted sufficient notice to TEC. So, once again, we are faced with this hopeless situation. Students with limited means trying to break out of a pattern of low paying, menial jobs are taken in by the high pressure salesman offering a glamorous future. The school, which has been accredited, either closes its doors and the student is left untrained, or the school doesn't live up to its promises and the student drops out. Whatever the reason, the student is left owing a sizeable sum of money to someone. The blame for this situation cannot be directed in any one direction. In fact, it is the very nature of the program which defuses the guilt. The individual schools are guilty, of course. But they are accredited and those accrediting commissions are responsible for policing the schools and their policies to maintain standards. If the accrediting agency falls short, then it is the responsibility of the Office of Education's Institutional Accreditation and Eligibility to remove that agency from their approved list. The lenders, too, are a party to the problem. They often use the program solely for their own benefit and should be held accountable to the Division of Insured Loans, which, of course, could supersede all of the other agencies and remove an individual school quite simply.

**STATEMENT OF JAMES C. SCHMITT, PRESIDENT, BETTER BUSINESS  
BUREAU OF GREATER ST. LOUIS, INC.**

Mr. SCHMITT. In recent years, several trade and technical schools in the St. Louis area have closed their doors. These closures have left a number of students struggling to repay loans, received through the student loan program or other sources, for training courses they have not received, thus shattering their hopes of breaking out of a pattern of low-paying, menial jobs, through technical education.

As I said earlier, a copy of our report is included about that school. In reviewing the closing of these as well as other schools there are points that I think would be of interest to the committee.

There was no apparent effective examination of regulation of the trade and technical schools that closed in the St. Louis area when the benefits of FISL were given, nor direct examination for solvency, curriculum, student-testing methods and procedures, sales methods, or advertising.

Many schools, including Technical Education Corp., carried advertisements of high-paying jobs awaiting students once they graduated. High-pressure sales tactics were used to enroll students, many of them poor and without the education which would enable them to successfully complete the training. These tactics included the promise of loans that would be easy to repay with the high-paying jobs received upon graduation.

The only restriction that we could find that HEW had placed upon at least one school—and that it Technical Education, Inc.—was that student loans would not be available for high school students.

On the other side of the coin, the schools were apparently allowed to advertise that they had Federal Government approval, either through the VA or HEW, and many of the students we interviewed stated that they had relied on the implied endorsement of agencies of the Federal Government in making a decision.

In the case of Technical Education Corp., as in the case of the other schools, HEW relied almost solely upon the National Home Study Council to monitor advertising, sales tactics, curriculum evaluation, testings as well as financial stability and adequacy of management. Reliance on this organization solely as a means to enforce a decently administered and satisfactory student loan program has proved, in my estimation, to be a mistake. Several days after the school was closed our bureau received notice that the National Home Study Council had withdrawn its accreditation.

**COORDINATION OF GOVERNMENT AGENCIES**

There was no apparent coordination of other Federal, State, local, and private organizations in an effort to assist in the administration of the student loan program in the proprietary sector. Also, no

apparent effort was made to determine if consumer complaint had been made to the FTC, various State government officials, private agencies, or if those public and private agencies had objections to advertising or sales tactics, or to conduct a coordinated investigation.

I wish to point out there are many good trade and technical schools and they do perform an ethical, fair, and valuable service to their students. However, under a program that is as loosely administered as the student loan program, the situation is ripe for poorly or fraudulently run schools to operate and make money—in other words, it is a license to steal. I cannot believe that in the passage of the student loan program, that it was Congress' intent to give the Department of Health, Education, and Welfare the program and no authority to directly administrate it or to protect the taxpayer, the students, and the legitimate trade and technical schools.

It would appear to me that much could be done to correct this problem without legislative action. As such, I would recommend the following:

1. The Department of Health, Education, and Welfare should conduct effective evaluations of all proprietary schools that are eligible under the student loan program. This should be done in the fields of financial and curriculum evaluation; testing evaluation and testing safeguards; sales tactics; advertising. One requirement should be a certified public accountant's statement initially, and annually thereafter. Further, HEW should not rely solely upon private agencies for evaluation.

2. That HEW should coordinate their activities with other governmental agencies such as the Veterans' Administration, Federal Trade Commission, I.R.S., et cetera, and other accrediting agencies. Further, HEW should coordinate with private and public accrediting agencies; with the various States' departments of education; the attorneys general and other agencies which might have a bearing on the proprietary education.

Further, I would even require coordination with city officials, such as licensing agencies, as well as coordination with private agencies that have something to do with evaluation, receiving, and processing consumer complaints, et cetera.

3. The Federal Government should stop all schools from advertising and selling on the basis that it is operating under a Federal endorsement such as HEW or VA approval.

4. Payment to the schools should be on the basis of pay as the student learns. This is what many private lending institutions are doing in order to protect their loans.

5. That the guarantee, or implied guarantee, of a position upon the successful completion of the course being offered be administratively prohibited by HEW or any Federal agency.

I stand ready to answer any questions that you may have.

Mr. O'HARA. Thank you very much, Mr. Schmitt.

Mr. Schmitt, this particular school, Technical Education Corp., involved a period of home study followed by a period of study on the premises?

Mr. SCHMITT. Yes, it did. Study on the premises was called terminal education. Students as far away from the school as Alaska showed up for their terminal education and found the school was closed.

Mr. O'HARA. How long had this corporation been in existence? Can you tell us a little more about it?

Mr. SCHMITT. This school was in existence since 1959.

Mr. O'HARA. What finally happened? Was it closed up?

Mr. SCHMITT. This is correct.

Mr. O'HARA. If they had been operating since 1959, what was it?

Mr. SCHMITT. Financial difficulties and mismanagement, I am told are the reasons.

Mr. O'HARA. I think one of our problems is in trying to apply the programs to home instruction courses. I don't want to foreclose home study, but I think we have to develop a better set of specialized criteria and procedures in connection with home studies. I gather though from your statement that you aren't very high on the kind of program that TEC had before they went out of business?

Mr. SCHMITT. No, that is correct.

Mr. O'HARA. In other words, maybe in terms of the needs of the students going out of business was the best thing.

Mr. SCHMITT. We were concerned with their advertising, first of all. Their promises of paying jobs, implied promises. We were concerned really about the endorsement of a Federal agency, because it is most serious.

Mr. O'HARA. Me too. I have noticed some of the advertising in the Washington Post articles that say VA approved and HEW approved and so forth. Approved for guaranteed students loans and what have you. I think that an implication of a Federal endorsement of the program to the school is a very bad deal. I like your suggestion which goes to stopping them from advertising. I think that is an excellent point. I think, too, you also would suggest that they not be permitted to impliedly guarantee a position upon completion.

My own feeling is that either in this or subsequent legislation, we have to introduce a little truth in educating kind of a concept where not only do they have to refrain from saying something that is false but they have to provide some actual information on what the experience has been.

Mr. SCHMITT. I think that would be excellent.

Mr. O'HARA. Mr. Schmitt, let me ask you one other question, really. Does the State of Missouri have some sort of licenser?

Mr. SCHMITT. No, it does not at the present time. Two bills have been introduced. I should say the same bill has been introduced twice, in two subsequent sessions of the Missouri Legislature and they both failed.

Mr. O'HARA. I think that we have to, as I suggested to the last witness, and I am sure you heard him, look for ways to apply some pressure on the States to adopt and enforce strict licensing laws with respect to these schools.

Mr. SCHMITT. I think that would be excellent, sir. I would say

this, having been a State official myself, there are two important considerations. One, the law should have teeth. Secondly, most important, the authority should be properly funded.

Mr. O'HARA. We have found in the mine-safety field some years ago the State of Montana had a beautiful State safety statute, and they had one employee of the enforcement agency who was supposed to cover the entire State. So they had a great statute, but it was a dead letter.

I think that we have had experience even with those kinds of problems and what we have done on a few occasions in the past is demand that the law meet minimum standards and they have adequate personnel to carry out the law and that they enforce the law.

Mr. SCHMITT. I might add this school had done business in States where there was licensing requirements, and this did not stop the school from doing to the States what they had done.

Mr. O'HARA. Those States are very ineffective, the ones that do have ones.

Mr. Schmitt. I thank you for coming before us. I appreciate the fact that Mr. Clay and Senator Eagleton were kind enough to call your availability to my attention. I hope that you will continue to be in touch with the committee as we work on his problem.

Mr. SCHMITT. I will be glad to.

Mr. O'HARA. Thank you very much.

The subcommittee will now stand in adjournment. We will meet next Thursday at 10 a.m.

[Whereupon, at 12:25 p.m. the subcommittee adjourned to reconvene Thursday, July 25, 1974.]

# FEDERAL HIGHER EDUCATION PROGRAMS INSTITUTIONAL ELIGIBILITY

THURSDAY, JULY 25, 1974

HOUSE OF REPRESENTATIVES,  
SPECIAL SUBCOMMITTEE ON EDUCATION OF THE  
COMMITTEE ON EDUCATION, AND LABOR,  
Washington, D.C.

The subcommittee met at 10:15 a.m., pursuant to recess, in room 2261, Rayburn House Office Building, Hon. Joseph M. Gaydos presiding.

Present: Representatives O'Hara, Gaydos, and Dellenback.

Staff present: Jim Harrison, staff director; Webster Buell, counsel; Elnora Teets, clerk; and Robert Andringa, minority staff director.

Mr. GAYDOS. Today is the third in a series of hearings dealing with institutional eligibility for participation in the student aid programs established by the Higher Education Act of 1965 and its subsequent amendments. The focus of these hearings is on the accreditation of schools as a requirement of eligibility.

Mr. O'Hara unfortunately had an assignment before the Supreme Court and won't be here to open the hearing.

Four witnesses are scheduled to appear before this subcommittee today. First will be our distinguished Member from California, a member of our general Committee on Education and Labor, Mr. Alphonzo Bell.

Mr. Bell has been a most valuable member of this committee. I have appeared with him several times with Mr. Wolff on educational matters on national TV, and all my colleagues and the people here should and can rest assured that Mr. Bell, when he speaks out on this subject, is well versed and very steeped in his background information.

I am happy to welcome my colleague at this hearing. You may proceed any way you want.

Mr. BELL. Mr. Chairman, my bill on this subject H.R. 11927 is sponsored by myself and my distinguished colleague and friend from California, Mr. Jerry Pettis. Consequently, we are appearing here today together.

[The text of H.R. 11927 is as follows:]

[H.R. 11927, 93d Cong., 1st sess.]

A BILL To establish criteria to be observed by approving entities for federally assisted postsecondary education programs in order to protect students in such programs

(153)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postsecondary Education Consumer Protection Act of 1973".*

#### PURPOSES

SEC. 2. The Congress declares that the purposes of this Act are to provide protection for students, consumers, and legitimate postsecondary educational institutions against substandard or fraudulent practices, to provide compensation for losses of Federal financial assistance by way of loan or loan insurance because of the insolvency of eligible institutions, and to provide for improvement in the quality of postsecondary education, by strengthening the process by which postsecondary educational institutions gain eligibility for funding status.

#### FINDINGS

SEC. 3. The Congress finds that—

(a) under the provisions of various federally assisted student aid programs and other Federal programs assisting educational institutions, substantial Federal funds and loan funds guaranteed by the Federal Government flow into postsecondary educational institutions;

(b) eligibility of such institutions for receipt of such funds has sometimes been misrepresented by institutions as amounting to direct accreditation or approval by the Federal Government or an agency or department thereof, when no such accreditation exists;

(c) such misrepresentation has sometimes induced students to enroll in a particular education program who would not otherwise have so enrolled; and

(d) the Nation has suffered substantial losses of human, financial, and educational resources because of the unethical actions of some administrators, recruiters, and other persons associated with eligible postsecondary educational institutions.

#### DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "approving entity" means a public or private association or accrediting agency which approves or accredits postsecondary educational institutions or the programs of such institutions.

(b) The term "federally recognized approving entity" means an approving entity relied upon by any Federal officer or agency in connection with a program (1) of Federal assistance to postsecondary educational institutions by way of grants or contracts, loans, or loan insurance or guarantee, (2) of Federal assistance to students at postsecondary educational institutions by way of grants, loans, loan insurance or guarantee, or workday programs, or (3) under which continuation of Federal payment is conditioned on attendance at a postsecondary educational institution approved or accredited by an approving entity.

(c) The term "postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, home study, business, professional, or other school, college, or university, or other organization or person, offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory school attendance in their respective States.

(d) The term "education" includes, but is not limited to, any class, course, or program of training, instruction, or study.

#### ELIGIBILITY STUDY

SEC. 5. (a) The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall, through the Advisory Committee on Accreditation and Institutional Eligibility, conduct a study of the operation and effectiveness of the various federally recognized approving entities. In conducting said study, the Secretary may utilize information and data available as a result of other studies which are relevant to the purposes of this Act. Such study should be conducted with a view toward determining whether the standards employed by such entities are closely monitored and strictly enforced by the entities and



effective in protecting the interests of students and toward general improvement of postsecondary educational institutions and their programs.

(b) The Secretary shall, from time to time, make such interim reports of his activities, findings, and recommendations (including recommendations for changes in the provisions of this Act) as he may deem appropriate and shall make a final report to the President and the Congress not later than December 31, 1975, which shall detail the results of his findings and make such recommendations with respect to the operation of this Act or to new legislation as he may see fit.

#### CRITERIA FOR FEDERALLY RECOGNIZED APPROVING ENTITIES

SEC. 6. Upon completion of the study conducted under section 5(a), the Secretary shall, by regulation, and upon recommendation of the Advisory Committee on Accreditation and Institutional Eligibility, revise the criteria to be met by federally recognized approving entities, where appropriate, to ensure that recognized approving entities are functioning as to assure the following:

(1) That the institution shall have a statement in plain, clear, and understandable language regarding the objectives of its program of education or training.

(2) That the institution provides students and other interested persons with a catalog or brochure containing information describing the programs offered, program objectives, definition of educational credentials awarded, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, and that such information is provided to prospective students prior to enrollment.

(3) That the institution provides students and other interested persons with a disclosure statement of its financial status, business relations, and other relevant information regarding the fairness, legality, and solvency of its financial situation, and that such a statement is provided to prospective students prior to enrollment.

(4) That the education, moral character, ethical practices, and experience qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive fair administrative treatment and education consistent with the objectives of the course or program of study.

(5) That the institution has adequate space, equipment, instructional materials, and personnel, where appropriate, to provide education of good quality.

(6) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(7) That upon satisfactory completion of training, the student is given appropriate educational credentials by said institution, indicating that said course or courses of instruction or study have been satisfactorily completed by said student.

(8) That accurate auditable financial records accounting for receipt and refund of guaranteed student loan proceeds, and records to show attendance, progress, or grades are maintained on the premises; and that satisfactory standards are enforced relating to admission, attendance, progress, and performance.

(9) That the institution is maintained and operated in compliance with all pertinent ordinances and laws, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(10) That the institution is financially sound and capable of fulfilling its commitments to students.

(11) That neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(12) That the institution has a fair and equitable cancellation and refund policy; that all unearned tuition from guaranteed student loan proceeds is returned to the student's account with the lender (or other holder of the note); that such refunds be on a timely basis (within thirty days of the student's last day of attendance); and that failure to comply with these requirements shall be cause to remove the approved or accredited status (and the institutional eligibility) of such institution.

## ADMINISTRATION

**SEC. 7. (a)** The Secretary shall continuously monitor the performance of all federally recognized approving entities and if he determines, after due notice and opportunity for a hearing on the record, that such an entity is failing to meet and enforce the criteria established pursuant to section 6, he shall so notify all departments and agencies recognizing such entity. The Secretary shall rescind such notification when he determines, after due notice and opportunity for a hearing on the record, that the entity has come into compliance with such criteria.

**(b)** Whenever an officer or agency of the United States receives notification from the Secretary that a federally recognized approving entity fails to meet the criteria prescribed by the Secretary, he shall, until such notification is rescinded, discontinue reliance on such entity's approval or accreditation of postsecondary educational institutions or programs, but institutions and programs which such an entity has approved or accredited prior to receipt of such notification may (in the discretion of the department or agency) continue to be considered to be recognized through the end of the current enrolment period.

**(c)** During the period that subsection (b) is applicable to an approving entity, and the Secretary determines there is no other nationally recognized approving entity qualified to approve the institutions formerly approved by such approving entity, he shall appoint an advisory committee, composed of persons specially qualified to evaluate education provided by postsecondary institutions formerly approved by such entity, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate in programs in the area with respect to which such approving entity operated.

**SEC. 8.** If the Secretary determines, after affording due notice and opportunity for a hearing, that (1) a student who is pursuing a program of postsecondary education with the assistance of a student loan which is guaranteed by the United States has been denied the primary educational benefits for which the loan was obtained by reason of the insolvency of the institution or its failure to provide the education or training stipulated in an agreement between the student and the institution, and (2) in the case of a denial of such benefits by an institution eligible after the establishment of criteria under section 6, the Secretary determines that such institution should not have been eligible under the standards of the federally recognized approving entity which approved or accredited the institution, the United States shall (A) forgive the student of any obligation to repay the loan and loan interest when the United States is the holder of the loan, and (B) pay any other holder of the loan any amount due on the loan if it releases the student from further obligation to repay the loan, and (C) pay to the student an amount equal to all payments he may have made on the loan. This section shall apply in cases of insolvency and in cases of failure to provide stipulated education or training which occur less than five years after the enactment of this Act.

**SEC. 9.** Section 553 of title 5, United States Code, shall apply to the promulgation of criteria by the Secretary, and sections 554 through 558 of such title shall apply to proceedings under section 6.

**SEC. 10.** The Secretary shall publish biannually in the Federal Register a list showing the following:

(1) The approving entities which currently meet the criteria established by the Secretary pursuant to section 6.

(2) The postsecondary educational institutions which are approved or accredited by such approving entities including a particularization of the departments or courses of study which are approved or accredited at the institutions.

(3) The institutions which have lost approval or accreditation and those whose applications for approval or accreditation were not accepted.

**SEC. 11.** It is the sense of the Congress that the several States should enact laws for the approval or accreditation of postsecondary educational institutions and authorization to grant degrees. Such laws should establish standards for approving entities that will insure proper business procedure within the industry and could utilize model legislation plans and the wealth of recent study in drafting statutes for this purpose.

## FEDERAL CONTROL

Sec. 12. Section 432 of the General Education Provisions Act is amended by inserting after "the Emergency School Aid Act:" the following: "the Postsecondary Education Consumer Protection Act of 1973;"

Mr. GAYDOS. I do want to extend the warm welcome of this committee, Mr. Pettis, and I am sure both of you are going to give some very valuable information to this committee.

**STATEMENTS OF HON. ALPHONZO BELL AND HON. JERRY L. PETTIS, REPRESENTATIVES IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. BELL. Thank you, Mr. Chairman.

I want to commend the subcommittee for its attention to the problems resulting from the inadequacies of present institutional eligibility procedures. As you know, this is a subject which has long been of particular concern to me. I believe that we in the Congress have an obligation to take immediate action to remedy the apparently growing incidence of abuse in this area, particularly within the vocational and trade school industry.

By allowing the use of its name and money, the Federal Government has contributed substantially both to the existence and the magnitude of this problem. I believe strongly, therefore, that we have an obligation to do something about it.

According to an estimate made by Mr. Robert Johnson of the National Association of Trade and Technical Schools, there were in existence in 1968 only 1,200 trade-technical schools. Since the implementation of the student loan program this figure, by 1974, has grown to some 7,000 trade-technical schools in the United States today.

The Office of Education has clearly—if belatedly—acknowledged the existence of abuses within the vocational education industry. In a letter dated May 8, 1974, from Dr. Peter Muirhead of OE, to Senator Brooke, which I believe you have, Mr. Chairman, OE acknowledges that five primary kinds of malpractice have arisen within this industry.

As stated in the letter, these are:

Misleading advertising, indiscriminate recruiting, poor course completion, false job-placement promises, and insufficient tuition refunds.

The letter, which I would like the committee to enter into the record, further states:

The actual and potential scope and magnitude of these abuses . . . clearly indicates that additional Federal statutory action is required if educational consumers are to be protected properly.

Further on, the letter states:

We believe that the clear and evident deficiencies exist in present monitoring devices used to assure the quality and capability of schools whose students now receive Federal funds.

As you know, Mr. Chairman, we are dealing here not merely with isolated instances of local fraud, appropriate for investigation by a district attorney's office, but with a national scandal of multi-million dollar proportions.

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As I pointed out before the Subcommittee on Government Operations last week, an illustrative example of these abuses occurred in my own city of Los Angeles.

The West Coast Trade Schools, a corporate entity maintaining five proprietary vocational schools located in and around Los Angeles, closed its doors on 2 days' notice in May 1973, leaving at least \$6 million of potentially worthless loan paper in the hands of unsuspecting financial institutions, primarily employee credit unions.

EDCO, Inc., a Los Angeles firm which is now servicing West Coast's loans for six of these creditors has informed my office that roughly 80 percent of the alleged borrowers either cannot be located or have refused to pay their loans on the grounds that they never received the education they were promised.

An EDCO representative told my office that he has not found "Any students who are satisfied. The only students who are paying, and they comprise the remaining 20 percent, are paying out of fear."

One student who attended school for only 8 days in January of 1973 received notice a year later that he owed \$1,500 in repayment of a student loan. Others did not even know that the piece of paper they were signing was a loan obligation.

I have a letter from a person who was led to believe that he was filling in an enrollment application when he was actually signing a student loan note. He had signed on a Friday and called the first thing Monday morning to cancel his application—and was assured there would be no problem. Two years later, he was notified that payment of the loan he never knew he had, was now due.

In a variation of bait-and-switch a woman was enticed by a help-wanted ad. She applied for the advertised job and was told it was no longer available—but a similar job would be available if she would sign up for this handy training program. The next thing she knew, she owed the Government \$1,500.

I am focusing here, Mr. Chairman, on consumer protection aspects. Investigative reporting by Gene Ferguson of a Los Angeles radio station, KPOL, has uncovered other information pointing to possible criminal fraud.

A vast grey area exists, however, between abuses which clearly qualify as criminal acts, and noncriminal abuses amounting to unethical, misleading professional practices.

I think one area this committee needs to look into is the investigative capability of the Office of Education and/or HEW. I understand that there is currently a minimal staff, under the Secretary, assigned to Security and Investigations, but this division was recently cut in size rather than being expanded.

The committee ought to determine what the investigative capabilities at HEW are, how they might be improved, and how they might be implemented to help in the area of abuses in Federal financial aid programs.

HEW is presently facing the possible loss of hundreds of millions of dollars. Clearly a need exists for at least a modest capacity for preliminary investigation within the agency itself—first, to allow for investigation of abuses that might technically come within

the letter of the law, and to make relevant recommendations; and secondly, to make preliminary investigations into situations which might subsequently be referred to the Justice Department for criminal investigation with a view to prosecution.

Let me strongly emphasize at this point that I certainly believe postsecondary trade and technical schools are a beneficial and necessary element of our overall educational system. They provide important instruction and training in areas not included in our traditional college and university curricula.

But we must begin to come down on the minority—or what I hope is only a minority—of these schools that are misusing Government funds, “ripping off” their students and discrediting an entire industry.

My concern is with these institutions—the schools which have violated the most minimal standards of decency and professional ethics—schools that have lured unsuspecting persons into training courses of dubious value through misleading claims and high-pressure sales tactics.

These schools sign up students when there is virtually no possibility they will ever realize the glamorous career objectives so eloquently and receptively sold to them.

And, tragically, the students so often attracted to these schools are among the most vulnerable of our citizens. They are usually persons from low-income backgrounds seeking to improve their lot.

They are often our veterans.

They are not asking for a handout. They are playing by the establishment's rules, work hard, study hard—get a good job and you will earn a decent salary.

They reasonably believe that if a school is approved by the Federal Government under the student loan program or the GI bill, it must be good. Imagine their disillusionment when they discover that their Government was used to pull the rug out from under them.

Mr. Chairman, the bill which I introduced last December together with my distinguished California colleague, Mr. Pettis, provides at least a starting point for doing something about this unconscionable situation.

In putting the bill together, we specifically rejected any idea of prohibiting Federal program eligibility for proprietary schools altogether. We also rejected the approach, proposed by some, to create a method of direct Federal approval for accreditation, as dangerously intrusive into what should remain non-Federal areas. Thus, our bill allows for continuation of the present two step process whereby the agencies of the Federal Government rely on the expertise of non-Federal bodies of approval or accreditation—but would require much more standards and supervisory responsibilities.

To achieve this end, we inserted in the bill, with certain modifications, a “shopping list” of result-oriented standards developed by the Education Commission of the States. We would require the Secretary of HEW to develop new criteria based on those in the bill.

A problem which has concerned us is that of placing what amounts to consumer protection responsibilities on what are essentially education-oriented entities. The accreditation group which might be able, for example, to evaluate a teacher's qualifications might not be as able to evaluate a school's financial management capabilities.

One possible solution to this dilemma might be an amendment which would require that all proprietary schools participating in the student loan program be bonded. It is my understanding that surety bonding is a routine requirement in most other government loan programs. This would constitute a self-policing mechanism involving little intrusion by the Federal Government.

Mr. Chairman, I want to emphasize the urgency of this problem. We are presently facing losses in the hundreds of millions of dollars—and one estimate I have received puts the potential as high as \$1 billion:

When I think of the magnitude of this situation and compare it to programs in the elementary and secondary education, I am sickened.

We on the General Education Subcommittee were so pleased, for example, when the administration designed to recommend a \$15 million increase for bilingual education from \$35 million to \$50 million—a pittance compared to the losses in the higher education area.

And this same administration, that can barely squeeze out bilingual funds, can delay 2½ years before even bothering to implement the requirements of the 1972 Education Amendments.

The administration's cavalier attitude is unconscionable. Congress must act now. We must act to protect the innocent victims of the fraud perpetrated by segments of the proprietary school industry, and we must act to protect the taxpayers.

I do not know what all the answers are—and my bill does not pretend to be a comprehensive solution. But it does provide a starting point for committee action. It was drafted primarily as a vehicle for hearings—it intentionally raises questions without answering them so that the experts can respond.

And in recent months experts have come up with a variety of suggestions which merit careful evaluation.

I hope, Mr. Chairman, that you will focus the expertise of your subcommittee on finding some of these answers, and reporting out a bill on this subject as soon as possible. I do not believe that we, like the administration, can wait another 2 or 3 years before taking action.

Thank you, Mr. Chairman.

Mr. GAYDOS. I wish to thank you Mr. Bell, and I am sure we will be hearing your position and your contribution during our general committee hearings.

It is now my pleasure on behalf of the committee to welcome again your colleague, Mr. Pettis of California. Mr. Pettis, you may proceed as you deem proper.

Mr. PERRIS. Thank you, Mr. Chairman.

I hope no one gets the idea that this is a California problem

because Mr. Bell and I happen to be the sponsors of this particular piece of legislation, because it is a national problem.

You have already heard several days of testimony on the general subject Mr. Bell and I deal with in H.R. 11927—the abuse of Federal student assistance funds. My California colleague, who has sat as a member of this subcommittee during these past days, has just added to this input with his very excellent statement. I will try to keep my formal statement short and to the point.

I understand that some of the witnesses who have preceded Mr. Bell and me have been rather reluctant even to admit that the problem we're talking about exists or that new or stronger Federal initiatives are needed to deal with the situation, over and above the accrediting requirements, consumer protection and fraud laws already on the books.

Frankly, Mr. Chairman, this "don't rock the boat" attitude is just so much whitewash and, in my opinion, pretty disgraceful in the face of what the record shows to be neither a small-scale problem nor a nickel-and-dime operation.

We're really talking about national abuses involving staggering amounts of money, including the estimated billion dollars Mr. Bell cited which the Federal Government stands to lose on guaranteed student loans that aren't going to be repaid.

Recent stories on the problem that Reader's Digest, the Washington Post, Los Angeles Times, Boston Globe and numerous radio and television stations across the country have carried will help to some extent to make the public more wary of the types of dishonest operations that exist in the education field.

These hearings will help, too, and that's good, but just raising the public consciousness isn't enough.

Mr. Bell has already related to you some of the West Coast Trade Schools fiasco that was uncovered in Los Angeles last year. I got involved in the problem a little earlier when some young people in my congressional district fell victim to the machinations of Riverside University in Riverside, Calif.

I have compiled some of the cases on the Riverside University problem for you to look over and hope you will use any of this information you feel is particularly relevant in the official hearings record. At this point I would like to have that introduced, Mr. Chairman, for the record.

Mr. GAYDOS. Without objection, it is so ordered.

[The information referred to follows:]

JUNE 17, 1971.

*To Whom It May Concern:*

This is to inform you that I, Helaine F. Rampley, have not been and am not now a student of Riverside University.

I am protesting the fact that a student loan that I had applied for, for entrance in the school was processed and paid to the school in February by U. S. Life Savings Check #169813 in February of 1971; I wasn't registered as a student then.

I am revoking my power of attorney from Riverside University.

I would also like to protest the issuance of funds to an organization seven months before a student is even scheduled to register for classes; and that the school had the audacity to process and cash a check for/and in the name of someone who wasn't even registered as a student.

I am attaching a copy of a letter received from Riverside University, in which it states that they are expecting me for the fall term in November of 1971.

The loan application also states that the funds are for a student carrying at least a part-time schedule and that funds will cease when student is carrying less than half of the credits required for a full-time student. How can funds be issued and made available when one isn't even a student?

I do not feel that I should be/nor am I responsible for the funds paid to the school. I feel that it was mis-management of funds to allow such a thing to occur.

HELAINÉ F. RAMPLEY.

RIVERSIDE UNIVERSITY,  
Riverside, Calif., January 21, 1971.

Mrs. HELAINÉ F. RAMPLEY,  
San Bernardino, Calif.

DEAR MRS. RAMPLEY: It is with great pleasure that I extend to you a welcome on behalf of the students and faculty of Riverside University. I am certain that you will find your experience here one which will be rewarding to you both academically and from the point of view of new friends made.

Naturally, when you arrive on November 27, 1971, you will find the full facilities of Riverside University dedicated to bringing you the finest in educational opportunity. I am sure you will be pleased with the warm greeting which you receive from the faculty, and we are happy to have you join our student body.

If I can be of service to you at any time during your attendance at Riverside University, please let me know, and I shall be happy to do my best.

Sincerely,

Dr. GEORGE J. HORGATE, *President.*

SEPTEMBER 6, 1972.

CONGRESSMAN JERRY L. PETTIS,  
House of Representatives,  
San Bernardino, Calif.

DEAR MR. PETTIS: I know you are a very busy man, but I wonder if you could take a few minutes of your time to advise me on a matter, and help straighten it out.

A little over a year ago I got involved with the Riverside University mess, and the Student Loan program, sponsored by HEW. I have been trying all this time to get this straightened out and am still being dunned for payment of a loan I never received or had benefit of. I would like to resolve this matter without the expense of a lawyer, because as sole support of the family, I can't really afford one, and I don't know how to go about suing for fraud, which I think this case fall under.

Due to the fact that some of this matter involves the use of taxpayers money I thought perhaps you could help straighten part of it out for me.

I am sending copies of some of the letters I have written to various agencies including HEW and have never received answers to. They will help to explain part of my situation to you without my repeating the whole story. Not only am I concerned for myself, but also because it looks to me that this type of situation may be perpetuated hundreds of times in other schools, and the poor taxpayer is getting the brunt of it.

What really riles me though, is my letters go unanswered, and except for form letter-duns from Life Savings regarding money I owe them for a student Loan I never received, I get nothing. Its like banging your head against a stone wall.

I wrote to Mr. Tunney, because he was at one time on the Board of the Directors of Riverside Univ. and even he ignores me. Is our government so corrupt and so busy with spending money, they can't even take time out to check and see if it is being spent honestly???

I will appreciate any help, information and advice you can give me and take this opportunity to thank you for taking a few minutes out of your busy day to give me some help.

Sincerely,

HELAINÉ RAMPLEY.



Mr. R. I. MAPPUS,  
*Insured Loan Section, U.S. Office of Education,  
 San Francisco, Calif.*

DEAR MR. MAPPUS: Last January I went to Riverside University, Riverside, California to see about possibly entering the school in the fall as I was very much interested in getting my degree and as far as I knew that was the only school that offered a bachelor's degree to night students. Being that it was a private school and far beyond the reaches of a working mother, who is the sole support of a family, I asked about the possibility of a student loan. On February I received a note from a Mr. Reid of the University, stating that my loan application had been approved and that I was to come into the office to further process the loan. Which I did.

Because of all the controversy that there has been about Riverside University I began to wonder and U S Life Savings and Loan (formerly Sterling Savings and Loan) who were funding the loan to ask about it. A Miss Betty Cullen in the Student loan department told me that they had on February 23, 1971 sent check #169813 to Riverside University for \$1500 and that as far as they were concerned I was responsible and owed that money.

Now I don't mind paying for something that I owe, and have gotten the benefit of, but how can a lending institution pay a school money for the tuition and books of a student who isn't even scheduled to start until September of this year? Why would a lending or funding institution pay a school for a student almost 7 months before the time that the student is scheduled to start school?

Also, sir, doesn't your department govern how monies are paid out. Didn't you discover that monies were being paid out before a student was even on the school roster? I should think that both your department and that of the lending institutions would at least demand from the student in question some sort of proof that they are in fact registered and intending to attend classes before the actual payment of monies. A lot of students could apply for a loan at a certain school and then decide they want to go to another and not register. If this practice of paying the schools so far in advance is followed throughout the country then I am afraid sir, that many many places are misappropriating funds and innocent people are getting bilked.

I told Miss Cullen that I felt that I don't feel that I am responsible for the \$1500 loan by letter (copy attached) and also by phone. She was the one who suggested that I write your department. I am also enclosing a letter from Riverside University that states that I am not expected to attend he school until November of 1971.

Please advise me on how your department intends to clarify this matter.

Sincerely,

HELAINE RAMPLEY.

JUNE 14, 1971.

Miss BETTY CULLEN,

*Life Savings and Loan Association, Student Loan Department,  
 Riverside, Calif.*

DEAR MISS CULLEN: Thank you very much for all of your help over the phone today, June 14, 1971 regarding the Riverside University Fiasco.

One thing puzzles me though and that is if, as you say, my application stated, I was not to begin school until Sept., why did your institution go ahead and process the loan in February??? Isn't that illegal?? How can you O.K. a loan for a student and pay the school for that student in February when that student is not even supposed to go to school until September??? Isn't there some ruling about processing a loan and paying out for it before a student is actually attending the school? I thought that the loans were to pay for the tuition of the student and the students books and that a person wouldn't actually become a student until he had registered for classes. You paid on a loan for a student who might have changed his/hers mind and wanted to go to a different school.

I would think that an institution that is working with other people's money would be extra careful of how it is allocating and paying it out.

I don't feel that I am responsible for the money that you paid Riverside University, I was not a student of that school at that time, and was not scheduled to become one until September. I have papers saying I wasn't actually to start until November, a copy of which I am attaching for your benefit. I think that

Life (Sterling) Savings and Loan is sadly amiss in their handling of funds for student loans; they should at least have taken the time to ascertain that a person is actually registered and attending classes before paying out money.

Your institution is equally at fault in the handling of this situation and I feel that you should bear the burden of it. I will not assume any responsibility for a loan that I have not had to use nor will have the use of, and will if necessary go to an attorney to get this matter straightened out.

Sincerely,

HELAINE F. RAMPLEY.

BEST, BEST & KRIEGER, LAW OFFICES,  
Riverside, Calif., November 2, 1972.

Re: Reid v. Riverside University.

HON. JERRY L. PETTIS,  
Washington, D.C.

DEAR MR. PETTIS: Thank you for your letter of October 18, 1972. I am most anxious to be informed as to the response of the Director of the Division of Insured Loans, Office of Education, relative to your suggestion that the Office of Education relax its rules regarding collection of the currently outstanding student loans covered by the Federal Insured Student Loan Program. As a stopgap measure, this is an excellent suggestion and would result in a tremendous benefit to a significant amount of innocent students.

As I mentioned to your Legislative Assistant, Bob Boyd, I have been closely connected with the Riverside University situation since early 1970. As a result of initial investigation and numerous complaints from students in the Short-hand Reporting School, a Complaint for Damages for False, Deceptive, Inaccurate and Misleading Statements and Representations was filed in April 1970 pursuant to California Education Code sec. 29008. A copy of the Complaint is enclosed for your records.

The Complaint sought special, general and punitive damages against Riverside University as a corporation. It was subsequently amended to include a request for the same type of relief as against George Holgate, its President, and Ronald Barrington, Dean of Admissions.

Riverside University was established and qualified to issue degrees in California pursuant to California Education Code sec. 29007(a)(3). Under this section, any corporation can issue any degree that it wants, with or without any training, merely by filing an affidavit that it has \$50,000 net assets used exclusively for educational purposes.

The complaints of the students are specifically delineated in the Complaint. However, it is a fair summary to state that the students basically complained that they were promised a highly qualified curriculum for court reporting. It was represented to the students that they could complete the court reporting course within 18 months and upon graduation be certified to practice court reporting. Generally the student, upon applying for application to the University, would be admitted without any inquiry into his or her past academic record. Discovery in this particular case showed that the practice of the Admissions Department insofar as it applied to our clients, generally did not concern itself with the academic background of any applicant. The initial conferences between representatives of the University and applying students can only be classified as "hard sell." Generally the type of student that was attracted to the University was one which was employed and married and had insufficient funds and educational background to be admitted to an accredited University or community college.

Direct representations were made orally and in writing that the University was fully accredited. However, the primary accrediting institution in the western United States is known as the Western Association of Schools and Colleges. Deposition of the Executive Director of this Association was taken in the case and it was disclosed that Riverside University had applied for accreditation on three separate occasions and, after investigation by applicable committees, was denied accreditation on each separate occasion. Representations were given to the students that there would be adequate equipment and facilities for a complete instruction in the skills of court reporting. In fact, it was antiquated equipment when it existed and the facilities were wholly inadequate. Significant representations were given to the students as

to the quality of the faculty at Riverside University. However, during the discovery portion of this case, it became evident that many of the faculty members did not have the degrees which they represented and the type of advertising utilized by Riverside University was extremely deceptive in terms of the educational qualifications of the faculty. The plaintiffs in my particular action indicated that there would be a tremendous turnover of faculty and each new teacher would embark upon an entirely new theory of teaching. In addition, the students complained that there was a high rate of absenteeism of the faculty and on numerous occasions students would be left in charge of the course.

I found that most of the students complained that at the time they were accepted for admission to the University (usually the same day they applied) they would be asked to sign a Power of Attorney in blank form. It has subsequently been disclosed that the University would utilize the Power of Attorney to obtain the educational checks for the students and the students would never receive the student loans in the average amount of \$1,200. Several of the students have complained that they never signed a Power of Attorney and the school records have shown the existence of such. When confronted with this, the students have claimed that the Power of Attorney is a forgery.

As mentioned earlier, it was also represented to the students that they would be certified as a shorthand reporter on graduation. Nothing could be further from the truth since California has its standards which demand that mere graduation alone from a court reporting school does not entitle an individual to be certified as a shorthand reporter. Generally, before any certification is possible, the students must pass a written examination given by the State. I followed up in this respect and was surprised to find that, during the period of the lawsuit, not one person who completed the court reporting course at Riverside University had ever passed the California examination. To my knowledge, no student has ever passed the examination to this date.

Each of the students involved generally was given approximately \$1,200 loan per year. Of course, these loans have not been repaid by the students and it is their position that they should not have to repay a loan for which they received no consideration. I met with approximately 40 students and the continuing observation remains that they cannot understand why they should have to repay a loan where it was represented to them that they would obtain a first class education and in truth and fact, received no semblance of education whatsoever. To a person, the students feel that morally, the government should have more thoroughly investigated Riverside University and its personnel (the Dean of the Law School had been convicted of a felony and disbarred in the State of Florida) before blindly insuring the loans. Frankly I cannot explain to the students why the Government is attempting to recover the amount of loans from them from a moral standpoint. It seems to me that because of their lack of adequate investigation of Riverside University and its personnel, the Government should be proceeding directly against the principals of Riverside University.

I could go on and on about the inequities of the entire situation. I have devoted years to this case and the only thing I have to show for it is a file drawer full of evidence and clients who cannot understand the equities of the situation. Your offer of assistance is most welcome and I would be happy to cooperate with you in any way to make sure that circumstances like this do not occur again.

Very truly yours,

TERRY BRIDGES.

REDLANDS, CALIF., September 1, 1972.

Representative JERRY L. PETTIS,  
Washington, D.C.

DEAR SIR: I am enclosing a copy of a letter which I am sending to the U. S. Commissioner of Education.

Last year, you may recall that I sought your help in allowing me to continue law school at an unaccredited school under the FISI program, making an exception in view of the circumstances of Riverside University. This exception was not allowed; I could not continue under the FISI program at an unaccredited school.

This year, I am seeking your help concerning payment of the loan for my attendance at Riverside University. As you may recall, the school was a fraud and was closed by Attorney General Younger. I want to do what is fair and what is right, but I refuse to pay this loan because I certainly did not receive what I was to pay for. I feel that the government is obligated because the government initiated the FISL program, it held Riverside University out to be an accredited school eligible for the FISL program, and it approved the loan.

I seek your help because I have little hope that my letter to the Commissioner will solve anything. Empire-builders generally do not act adversely to their own interests, preferring to ignore any embarrassments or admissions of negligence. I imagine that the FISL program has generated such an empire. I wish to prevent what I feel to be an unnecessary litigation bout if no action is taken.

Since I contacted you last year, I have been in touch with some of my former classmates of the Riverside University law school. It appears that those who did not apply for a loan were not billed by the school. I am told that one of the practices of the school was to send out for loans whether or not the student applied, and under fictitious as well as real names. Many other students received VA loans. The VA is still battling these students to have them pay the VA back, but the students are adamantly refusing.

I would appreciate any help you can give me in resolving this matter of the FISL loan.

Yours truly,

NORMAN COHEN.

SEPTEMBER 1, 1972.

Re: Student Loan Program.

U.S. COMMISSIONER OF EDUCATION.

Office of Education,

Department of Health, Education and Welfare,  
Washington, D.C.

DEAR SIR: I have been a victim of fraudulent misuse of the federal student loan program, and seek your assistance in the final resolution of this matter.

In the fall of 1970, I enrolled in the law school of Riverside University, Riverside, California, which held itself out to be an accredited law school eligible for the student loan (FISL) program. This was supported by literature of the Office of Education, which listed Riverside University as being among the eligible schools although it did not specify the law school as such. I applied for the loan and it was approved in the amount of \$1300.

In early 1971, Riverside University was exposed as a fraud and was closed by the State Attorney General's Office. There were questions of criminal as well as civil misconduct on the part of school officials. The law school never was accredited (the Dean of the law school was an ex-convict from another state). For all practical purposes, the school ceased to be a school in March. All but one of the instructors left. Students had to fend for themselves, assisted by local attorneys who gave of their time when they could without compensation; most of the time, there was no instruction.

Faced with this quandary, I applied to accredited schools (the closest being 75 miles away) to try to salvage the time I had invested and to be able to continue the FISL program. No accredited school would accept my attendance at Riverside University. I then applied to unaccredited schools (the closest then being 50 miles away), and petitioned the Office of Education to allow me to continue the FISL program at such other school, to make an exception in view of the circumstances. The Office of Education refused, leaving me stuck.

Now, more than a year later, I received a letter from the U.S. Life Savings and Loan Association (Los Angeles) demanding payment of the \$1300 because I am no longer a student under the FISL program. I had no idea who the lender was, and had assumed that the matter was taken care of by the government upon learning of the circumstances of Riverside University.

It was bad enough to learn that I was not attending an accredited school, but rather a fraud. It was a bitter pill to swallow when other schools would not recognize my work. It was worse when the government would not allow me to continue under the FISL program at a school that would not accept

me. But to demand that I pay for that now goes too far. Am I really expected to pay double? I have no intention of paying.

In summary, the government has allowed a program designed to help qualified students to become an instrument to defraud them. The government held Riverside University out to be an accredited school, and approved the loan to attend the unaccredited law school. The students have lost time, and are now being asked to lose their money as well. That is intolerable. That kind of abuse and result of a government program simply cannot be allowed.

The government has a moral if not legal obligation to pay off this loan, assuming the lender is entitled to it. I respectfully request that your office sees to it that this loan is paid. If no action is taken, I guess I will have no choice but to allow myself to be taken to court by the lender where I will have to involve you. If you see another choice, please let me know about it.

I am enclosing the particulars of the loan as sent to me by the lender.

Yours truly,

NORMAN COHEN.

RIVERSIDE, CALIF., October 12, 1973.

HON. JERRY L. PETTIS,  
Congress of the United States,  
Washington, D.C.

DEAR CONGRESSMAN PETTIS: Thank you for your letter of October 2nd, 1973 and also for your interest and involvement in the Riverside University matter.

I would be happy to explain the circumstances of my relationship with the University at any time and will attempt to provide you now with a written summation of that experience.

I entered college (De Paul University, Chicago, Illinois) immediately following high school but discontinued my studies after one year to enlist in the U. S. Marine Corps. Following the completion of my service obligation I returned to college. After completing another year I was accepted into the U. S. Peace Corps for service in Venezuela, South America.

After the completion of my two year service in the Peace Corps, I moved to Northern California and, after five years in the Bay Area, was transferred by my employer, the U. S. Army and Air Force Exchange Service, to San Bernardino, California.

With the hope of completing my college education I enrolled at Riverside University on December 30th, 1970 for the Spring 1971 term.

At the time of enrollment I was given the option of paying cash by the quarter or assuming a federally insured loan for one year. I elected the latter because it was stated to be a no interest loan, payable by installments nine months after either completion of studies or termination of studies.

In June 1971, after having attended only five months of night school attendance, the problems of the University became widely publicized. Seeking immediate information from administration officials concerning the status of my loan, I was informed that the entire years tuition (\$1,344.42) was paid in advance by the then Sterling Savings and Loan directly to Riverside University on January 18th, 1971, eighteen days after my enrollment.

The alarming suspicion that I would be responsible for the full payment of the loan soon became fact. I demanded and received from Sterling Savings a photostatic copy of the check issued for my tuition.

The check was mailed by Sterling Savings to Riverside University without my knowledge and certainly without my consent, and, although the check stated "made payable to Joseph C. Jaycox," it was fraudulently endorsed by someone other than me.

Certain that at no time did I sign a power of attorney I asked how this transaction could have been made without my knowledge and, as payee, without my signature.

I was informed that, in cases where there was not a signed power of attorney, a 'blanket' power of attorney was used. I had never before, nor have since, heard of such a term and the disbelief expressed to the Sterling Savings official was met with a matter-of-fact attitude inferring the total legality of such a transaction.

I was advised to register my complaint with a Mrs. Dorothy N. Mason of the student loan department for U. S. Life Savings and Loan which had, I learned, absorbed the Sterling Savings and Loan Association.

Ironically, within a few days after my conversation with U. S. Life, I received in the mail a letter advising that I was responsible for payment of \$32.92 per month for 47 months commencing July 5th, 1971.

A letter of complaint was immediately delivered to and signed by Mrs. Nelson but was never answered. Other letters mailed to U. S. Life via registered mail were also never given any acknowledgement nor response.

In chronological order, the below listed payment notices were received from June of 1971:

Type	Date	From
Installment payment notice.....	June 29, 1971	Mrs. Betty Nelson—U.S. Life.
Full payment due notice.....	Oct. 7, 1971	Mr. Jack O'Connell—U.S. Life.
Do.....	July 28, 1972	Mr. R. W. Hoxie—U.S. Life.
Installment payment notice.....	Sept. 1, 1972	Do.
Past due notice.....	Oct. 10, 1972	Form letter—U.S. Life.
Do.....	Oct. 23, 1972	Do.
Full payment due notice.....	Oct. 30, 1972	Mr. R. W. Hoxie—U.S. Life.
Delinquent notice letter.....	Nov. 29, 1972	Mr. K. C. Adams, attorney—U.S. Life.
Do.....	Jan. 2, 1973	Do.
Delinquent notice mailgram.....	Jan. 29, 1973	Mr. M. A. McTigh, Office of Education, Washington, D.C.
Disclaimer of liability letter.....	May 15, 1973	R. W. Hoxie—U.S. Life.

During this total period I also received telephone calls from U. S. Life, once at my residence and once at my office in Riverside.

With the belief that Joseph C. Jaycox vs. U.S. Life S & L was analogous to David vs. Goliath I sought professional advice from the offices of Best, Best and Krieger of Riverside, California. Mr. Terry Bridges of that office was most helpful in reducing my anxieties concerning the situation and determined that a "wait and see" attitude would be the most logical approach to the matter.

To date the last notice of indebtedness was received on May 15th, 1973 and my position is still "wait and see." The time that has elapsed, however, makes me cautiously speculate that the matter may not be pursued further by U. S. Life.

I would like to mention a few of the 'wrongs' that emanated from this entire matter.

1. The time and expense during the five months of attendance at Riverside University was without any form of benefit. The few credits that were awarded were not transferrable to the State College at San Bernardino, the only school I could attend without proximity problems.
2. The letters, the mailgram and the phone calls created a high degree of anxiety for both my wife and myself because of their threatening tones.
3. The effectiveness of my work was hampered considerably during that period of time.
4. My goal of attaining a degree suffered a serious setback because of the experience.

If not for our American judicial process making it virtually impossible for an average person to bear the cost of a court fight, I would not have taken the passive position that was recommended.

I will close by stating that Mr. Bridges recommended my retaining all documents concerning the matter and if a review of these documents by your office would be desired, I would be most happy to present them to you.

Again, thank you for taking the interest that you have. The involvement of a Congressman into a situation that would not seem to be high on a priority list has made me believe even more that justice in our society can prevail.

Respectfully,

JOSEPH C. JAYCOX.

SEPTEMBER 17, 1973.

DEAR CONGRESSMAN PETTIS: It is with a great deal of pleasure that I reply to your letter of Sept. 12, 1973 regarding bill H.R. 10013. I am one of the persons represented in this bill as I was a student at Riverside University and I received a federally insured loan.

I was induced to leave one law school after my first year, and to attend Riverside University because Mr. Jensen of Riverside University advised me

that the federally insured student loans were readily available. I enrolled at that institution as a second year law student and was given a loan of \$1400.00 which was to cover tuition and all my books.

After several months the school started to deteriorate rapidly and went under receivership leaving a group of us in the law school with uncompleted instruction and loans to pay for education and books we did not receive. It was only through the gratuitous efforts of several attorneys, namely Fred Benson and Charles Hunt, that we were able to complete our courses.

Mr. Benson taught the second year law subjects without pay just so we would not lose all of our course credit. In fact the second year students felt so indebted that we scraped together and paid a token payment to Mr. Benson for teaching courses we had already paid for under the loan.

In addition to the above money, I was forced to buy law books with my own funds since the school book store refused to give me books I had already paid for under the loan.

Trying to transfer into another law school as a third year student from a defunct, corrupt institution was another ordeal. The other law schools were understandably reluctant to give me credit for Riverside University classes as they were afraid it would jeopardize their standing with the California Bar Association.

Here again I was fortunate in that Dean Boas of Western State University College of law took mercy on me and graciously gave me credit for my transfer units from Riverside University provided Mr. Benson complete the course instruction. I was fortunate to receive my J.D. degree from Western State University last June.

The actions of the administration of Riverside University were, in my opinion, clearly a fraud and a misrepresentation to the students as we accepted their representations respecting these loans and the solidity of the school in good faith.

I feel that I did not receive any educational benefit for at least one third of the amount of my loan, and the benefits I received from the balance of my loan were certainly questionable as was evidenced by the questions and close scrutiny of my transcript from Riverside by the law schools to which I attempted to transfer.

In reflecting upon this incident, I find it hard to believe that the federal government could be so negligent as to permit these loans to be approved and to fail to more closely scrutinize the practices at Riverside University which entrapped the honest and unwary students.

I feel a great sense of appreciation in the fact that you are so personally concerned with our plight that you have taken the initiative to introduce your bill to the legislature. You have my deepest gratitude and I will support this action, and you personally, in any way I can in the future.

Sincerely,

ELTON D. OLSON.

### CAREER SCHOOLS AREN'T ALWAYS WHAT THEY CLAIM

IN THE COUNTRY'S "LAST LEGALIZED CON GAME," COUNTLESS STUDENTS ARE VICTIMIZED BY CERTAIN SCHOOLS THAT PROMISE—BUT DON'T DELIVER—TECHNICAL TRAINING AND TOP-PAYING JOBS

(By Jean Carper)

"Earn more money!" blazon the advertisements. Become an aircraft mechanic, insurance adjuster, writer, machinery operator, broadcaster, computer programmer, lab technician or truck driver. All you have to do is enroll in a private career school. When you graduate, you'll step into a fabulous, high-paying job.

Unfortunately, too many Americans have discovered to their sorrow that the promised jobs never materialize. Complaints from victimized students to the Office of Education about unethical vocational schools nearly doubled from 1972 to 1973. In a nationwide crackdown over the past two years, the Federal Trade Commission (FTC) has conducted 400 inquiries into schools suspected of deceptive practices.

The nation's 10,000 private vocational, or career, schools—both resident and correspondence—annually enroll over three million students at a tuition cost

of \$2.5 billion. Undeniably, much of the money is spent on schools which *do* provide solid educations that enable graduates to obtain jobs. But, tragically, millions of dollars are wasted on substandard education for jobs that are not available. Poor governmental controls make it easy for career schools to prey on students. In some states, all you need to set up a vocational school is a postal address and the price of a license, while other states—such as Indiana, Minnesota, New York, Texas, Wisconsin—have strong regulatory laws.

Consequently, few schools are held accountable for high standards. Only 1700—a mere 17 percent of private vocational schools—are accredited by such nationally recognized agencies as the National Association of Trade and Technical Schools, the National Home Study Council and the Association of Independent Colleges and Schools. But accreditation or lack of it does not necessarily determine a school's reliability. Many of the FTC's recent complaints of deceptive sales practices were against accredited schools, including several large computer-training schools.

Amazingly, both the Veterans Administration, which grants G.I. payments for training in any state-approved resident or correspondence school, and the Office of Education, which approves federally insured student loans for accredited vocational schools, are prevented by law from giving any assurance that these schools are reputable. The federal government merely puts up the money for grants or loans, and if the school is dishonest, substandard, or collapses mid-term, the student is left holding the bag. A typical case is Denver's Western Technical College, a trade school which folded in 1971 after a history of financial troubles, leaving 600 students owing \$1 million in federally insured loans. According to Maury Tansey, chief of claims and collections for the Office of Education, his agency will pay off the loans to banks holding the notes and dun students for repayment—for an education they didn't complete. Says the angry father of one student who owes \$1200, "We thought if the government approved the loan the school was okay."

What are the main complaints against the career schools? Essentially, prospective students should beware of:

**Misleading advertising.** Invariably, ads promise high pay and job placement, but these claims often bear little resemblance to the actual job market. A 1972 FTC study in the Midwest showed that schools were luring would-be aircraft mechanics with ads like "Need men for high-paying positions immediately." Yet an FTC check revealed that among major airlines, American had laid off 365 mechanics in the previous six weeks, United had no openings and Eastern had not hired a mechanic since 1969.

In one New York case, a truck-driver training school charged \$985 in tuition for a three-week course guaranteed to get graduates "\$200 per week and more." Investigators for the state's Bureau of Consumer Frauds and Protection discovered that only 14 out of 179 students who had graduated—a scant eight percent—had been placed as promised in jobs as heavy-equipment operators, and *none* received salaries approaching those advertised.

**High-pressure salesmen.** Commissioned salesmen with glorified titles like "counselor," "registrar" or "educational consultant" make pitches at school career-days or canvas door to door—their sole aim to get a signature on a contract. They often conduct phony aptitude tests anyone can pass. One salesman in Nebraska who talked a woman on welfare into taking an artist's correspondence course administered the "talent test" himself (he gave her a high score). Some salesmen lie about accommodations. A now-defunct airlines-personnel training school headquartered in Missouri once pictured the University of Missouri campus in its brochures. The school's dormitory was actually a boardinghouse over a bar. Sometimes salesmen pose as civil-service officials. For \$300 to \$800 they sell instructions on how to pass civil service examinations—which anyone can obtain from the Civil Service Commission absolutely free!

**Poor-quality education.** Frequently, so much money goes into the sales operation of vocational schools that little is left for schooling. During a recent year, one of the nation's largest vocational-school chains spent 65 percent of its gross income on advertising and administrative expenses, and only 15 percent on instruction.

Both prospective employers and public officials are disturbed about the quality of teaching at some vocational schools. Says Dr. Morris Schaeffer, former assistant commissioner of health for New York City, about private vocational schooling in medical technology: "Instructors generally lack adequate creden-



tials, the equipment is poor and there is a lack of practical materials." Dr. Henry Isenberg, head of Microbiology Laboratory at Long Island Jewish-Hillside Medical Center in New York, reports that he is unable to hire 95 percent of those with vocational training who apply for jobs as lab technicians. They are too ill-prepared.

*Unqualified graduates.* Some students earn a diploma from a career school—only to be left out in the cold because of additional standards they have not been informed about, such as industry or union regulations and licensing requirements. For example, a boy who trained to be a detective couldn't qualify because he was five-foot-six—too short. A girl who completed a stewardess course couldn't be hired because her vision was so bad as to brand her nearly legally blind. After graduating from a broadcasting school, a Chicago man was rejected by 40 stations in the area; all said they wanted someone with experience or a college degree. Though a California school touted its court-reporting courses, none of its graduates had ever passed the state's exam to practice.

All in all, these vocational-school practices add up to what Sen. Walter Mondale of Minnesota has called "the last legalized con game in America." What can you do to protect yourself from them? Before signing up for vocational training, the FTC urges you to ask four crucial questions—not of the schools themselves but of several prospective employers: 1) Would you hire graduates from X school? 2) How many have you hired in the past year? 3) Were they hired because of school training? 4) Did training make any difference in starting salary?

Check also with local and state employment agencies, guidance counselors, unions, trade and professional associations to find out about special qualifications needed in your field. Ask the prospective school for the last year's job placement rate and a list of several graduates whom you can contact as references. Find out whether the school is accredited and by whom. Always visit a residential school's campus before enrolling. Read every contract thoroughly, and never sign one under pressure.<sup>1</sup>

If you decide to drop out of a school, send a registered letter immediately informing the registrar's office—this is critical in getting a refund. If you feel cheated, write a formal complaint to the school, the state licensing agency, the accrediting agency (if the school is accredited), your local or state consumer-protection agency, the Office of Education (if you have a student loan), and the Federal Trade Commission, Room 479, Washington, D.C. 20580. As a last resort, consider filing suit.

Many authorities are now supporting strong state regulations to clean up vocational schools. For example, after Texas put through a tough new regulatory law, about one third of the state's private vocational schools shut down. The Education Commission of the States has proposed model licensing legislation, calling for strict standards of financial stability, equipment and instruction in all states. Congressmen Alphonzo Bell and Jerry L. Pettis, both of California, have introduced a bill requiring the Secretary of Health, Education and Welfare to make a study of the federal government's involvement in funding private vocational schools and to adopt new procedures to prevent students from being cheated.

As Congressman Pettis says, "It is foolish to squander national resources on shoddy education. Students who enter vocational schools deserve—and should receive—a good education."

Mr. PERRIS. The student cases you have in front of you and those that appeared in the various media I cited have all told similar stories about people who have been bilked by con artists and shrewd manipulators out after a fast buck. So far, they've been pretty successful in getting Uncle Sam to give it to them through student assistance programs.

An important point is that these stories have all been about schools or institutions that have been caught—and, maybe, the

<sup>1</sup> For further information contained in the FTC guidebook on vocational schools, send 40 cents to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

operators involved in these swindles can and will be prosecuted under existing laws.

But I don't think we can rely on existing laws, which, judging by the scope of the problem, have been ill administered at best.

The Government Operations' Special Studies Subcommittee is looking into this aspect of the problem right now and I have no doubt that their actions will result in more vigorous enforcement of existing law, which in turn should help curb the problem.

But what Mr. Bell and I propose is a little stronger dose of preventive medicine—to shut the barn door before the horse gets out, or, in this case, to tighten up Federal criteria for schools participating in student assistance programs before any more students get "taken."

Mr Chairman, there is a great deal of precedent for this step.

I can remember reading about the diploma mills of the early 20th century in this country where you could become a doctor of medicine in 6 weeks if you came up with \$100. At that time, the Federal Government financed a study of the medical education system throughout the country and, as a result, we got rid of the the medical diploma mills.

Today, everybody who wants to practice medicine must pass a national, standardized examination. The States still are responsible for licensing physicians within their own State boundaries, but those who are licensed must at least pass one of the national exams.

I believe the adoption of national criteria for participation in Federal student assistance programs, including the GI bill, would have the same effect of protecting the public without treading on States' rights.

The bonding amendment Mr. Bell has mentioned is a good one and I support it. This type of financial surety requirement should get rid of some of the fast-buck operators in the proprietary vocational schools and correspondence course fields.

But I don't think bonding alone is an answer for the entire problem.

I'd like to point out right now that I personally don't consider the terms "proprietary" or "profitmaking" schools in the same class as an expletive deleted. But I think anybody who refuses to accept the plain truth about the fly-by-night bad apples, if you will excuse my mixed metaphor there, that are in this group is simply burying his or her head in the sand.

At the same time, I know that the Orleans study pointed out some abuses in recruiting students to attend traditional post secondary schools. This aspect has not gotten as much publicity, but this type of Federal student aid "come on" to bolster sagging enrollments should be halted right along with unscrupulous trade school practices.

Mr. Chairman, I'd like to end my formal statement by thanking you and this subcommittee for holding these hearings and bringing this problem into the congressional light of day.

Something must be done to protect postsecondary students and to stop the Federal student aid rip-offs. I believe the bill Mr. Bell and I have introduced will accomplish this mission and I trust

you will help us in leading the effort to enact stronger postsecondary consumer protection laws.

Thank you.

Mr. GAYDOS. Thank you, Mr. Pettis, for taking the time out of what I know is a very busy schedule to appear with our colleague Mr. Bell. You have made a valuable contribution.

I have one question before I turn it over to Mr. Dellenback for further questioning.

I don't think anybody is trying to leave the misimpression that the fly-by-nights are responsible for the \$1 billion deficit, are they?

Mr. BELL. No.

Mr. PETTIS. No.

Mr. GAYDOS. They are a factor in there, but where the percentage lies will be determined after a further investigation?

Mr. BELL. We don't know exactly how much money has been wasted on this situation.

Mr. GAYDOS. Mr. Dellenback will continue to ask questions.

Mr. DELLENBACK. Thank you, Mr. Chairman.

I really don't have a great many questions to ask. I thank my colleagues for what has been a good spark to the subcommittee and to the Congress in putting forth this legislation. I think you are to be commended for helping concentrate thinking on this legislation.

I notice, Mr. Bell, in your testimony you allude to figures of hundreds of millions of dollars, and note that it could be potentially as high as \$1 billion. Do you have any studies to back this up which could be made available to the subcommittee.

Mr. BELL. Some of this has been from off-the-record sources in HEW. When you consider the number of schools here this has happened, however, you can begin to start estimating the figures, and they get pretty substantial.

Consider just the ones that have been found and caught in this thing—You know there are many others that haven't. Consider the number of students that are having problems with this situation, that are unable to pay their loans and are upset by this whole program.

Mr. DELLENBACK. It is extremely important that we be precise, however, because the unfairness that could arise from this kind of a hearing could spread a pall over a great many schools which do not deserve to have it spread over them.

I am interpreting your testimony and this is what I have remembered you as saying, but I would like it to be clear for the record, that you are not by any means saying that all schools are in this classification.

Mr. BELL. Definitely not, Mr. Dellenbeck. If you recall, in my statement I referred to a distinct minority that have a tendency to muddy the waters for this whole project; but this minority nonetheless accounts for a substantial number of students.

For example, the West Coast Trade Schools had a very substantial enrollment. There are schools in Boston equally guilty of causing big problems in this field. This is not something that affects just one or two or three cities; this problem extends to a sizable number of our major cities throughout the country.

Mr. PERTIS. If the gentleman would yield, I think one of the ways by which we can get a handle on this would be to look at the record in HEW and the VA and to look at the record of the students who have defaulted on loans and find out why.

I think there is already a pretty good file there. I talked to the VA and they said they can tell you right off whether the default has merit or it does not have merit. I am sure HEW must have some records of this kind.

A second is to take a look at the schools that we have made reference to, and the ones mentioned in the Washington Post and Reader's Digest articles. A check there and you will find that these students were an easy target for manipulators and those people who are out after a fast buck. And when I traced the history of that school in Riverside, I found that was done with very careful design by the people involved; and if you looked at it twice, you would have spotted it a mile off. And the people who live in that community are embarrassed that it happened in a town that is not very large.

I don't think it would be too difficult for us to run this down and get the precise figures you are looking for. Unfortunately, as you know, a Member of Congress does not have the kind of staff to develop the kind of data you are talking about, but I do think it is available from the Federal agencies in charge of student aid programs.

It would not be too difficult to separate the young people who are defaulting or whose money, the taxpayers' money, is lost for one reason or the other, and there are just two reasons.

Some of these students are defaulting, not because they didn't get an education or not because of the fault of the school, but in many instances, they have written to the Government saying, "I am not going to pay this loan because I didn't get the education I signed up to get."

Mr. BELL. Many of them were promised jobs, but never got their jobs. About 30 percent, I would guess, of those students that haven't paid back their loans come from trade schools. I think that is a minimal estimate. The exact figure might be even higher than that.

Mr. DELLENBACK. All I am trying to do at this moment, having gotten an understanding very well of what you said about the staff make an intensive nationwide study, is to pose the question as to whether you did have any other data so that we could incorporate that data in committee records. I understand that you could not have made an exhaustive study.

Mr. BELL. A lot of this has come from HEW people that for one reason or other don't want to go on record.

Mr. DELLENBACK. That kind of testimony always leaves me very cold. It is like the anonymous letter. Frankly, I "deep-six" those letters if somebody doesn't have the courage to sign the letter. Whether they are critical or approving, I think the letter ought to be thrown away.

Although I understand what you say, I discount very much anonymous testimony that is not given to us with anything we can

put our hands around. It isn't fair to build legislation on that kind of a basis.

Mr. BELL. If the gentleman would yield, part of the reason this problem exists is because the administration for so long felt there was no problem. They were acting for some time as though there was no situation like this. Last week during the testimony before this committee, as you recall, there was indication that they are just now awakening to this and doing something about it, even though it has been going on for sometime and nothing was done about it. The district attorney in Los Angeles is looking into the West Coast Trade School right now.

Mr. DELLENBACK. All I am doing is drawing a line saying we ourselves should not be blind; we should not take every unsubstantiated rumor that someone is unwilling to put his name behind and take this as fact.

Mr. BELL. Basically what I am trying to tell this committee is that they should do an investigating job on this to determine what the exact situation is and what the precise figures are.

Mr. PERRIS. There is one other aspect of this that neither of us have touched on in our testimony, which I think bears some study, and that is the school that is about to go under. I mean it is just teeter-tottering. And how many hundreds of these there are I haven't the faintest idea.

There is one in my district that I know about that just came to my attention not too long ago, but I wonder how many more there are nationwide.

You know, there are very meager requirements for starting one of these schools from a financial standpoint. This bothers me that you can start and advertise a university with \$50,000. You can't start a garage with \$50,000, and here they talk about facilities and all of this paraphernalia that it takes to get a technical education. It bothers me that you can do this.

Mr. BELL. If I may add another point to this, one of the reasons that this disturbs me relates to the hearings we held recently in our committee on juvenile delinquency. One of the things that came out quite clearly during that testimony was that the young juvenile problem children that go out of high school often want to go to a vocational school, that is the only way they see—down the tunnel—to get job and money.

We encourage them to do this, but then our schools fold up. How much is that adding to the juvenile problem today? I just put that together as an example.

Mr. GAYDOS. Let me ask you. Are you saying that we have too many people attending vocational schools?

Mr. BELL. No. I am saying that we should have a more effective watch over our vocational schools, that there are some that are causing a considerable amount of trouble. They constitute a minority, I believe, but there has been no adequate check by the Federal Government on these problems.

Mr. PERRIS. Well, if one of these youngsters who has had a very poor economic background gets into one of these schools and he finds out he didn't get the education he was led to believe he was

going to get, and then on top of that he owes \$1,500. he is pretty turned off on society and he may say, "There is no way for me to get out of this situation."

Mr. GAYDOS. One of the practical problems we have, and I think you will agree with me, is utilizing television to a great extent. I think all of us have seen this commercial many times. It is on regularly. That is, to make everybody a computer expert.

We all know that you must have a particular mentality and ability to even begin to comprehend the education, because it takes a very articulate mind trained and oriented in that one area; not everybody can be a computer expert. Yet they make it sound so encouraging and so great, that many of our people, our students who have available Federal assistance, will fall victim to this high-class advertising, enroll in a program, with the result there is no hope at all for them to matriculate even two months at the school. It is a shameful situation. I have heard a lot of complaints on this.

Mr. BELL. Mr. Chairman, on this point, I think it is well to note that the attitude of these schools—which clearly emerges when one reads the information they put out—has been "just get bodies there, get that class full." They pay their advertising people more money than they pay their teachers! That is their main thrust, to get those bodies in that school. They don't care much about the "curriculum."

Mr. DELLENBACK. Just a couple more brief questions.

Do you know whether West Coast Trade Schools had been accredited by any particular association? Were they a member of any association?

Mr. BELL. No, they were not accredited by any association.

Mr. DELLENBACK. Do you know about Riverside?

Mr. PETTIS. It is interesting. It was accredited for one narrow area of business education, and so they took all the students through this little tunnel, enrolling them and signing them up for student loans through the business school. When they got through that tunnel, they were actually enrolled and taking classes in this "university" which had these vast offerings having nothing to do with business—the only thing they were licensed for in the State of California.

Mr. DELLENBACK. When you say license, was this a State license?

Mr. PETTIS. Yes.

Mr. DELLENBACK. Was it ever approved by one of the regional associations or any one of the trade school associations or the like?

Mr. PETTIS. The business school was accredited by the Accrediting Commission for Business Schools. However, they were turned down three times for accreditation by the Western Association of Schools and Colleges when they tried to get the rest of their curriculum approved, but that never was brought out. Then, they would end run the student and accreditation requirements by signing all students up in the business school no matter what curricula they were studying.

I would like to bring this discussion back to one thing that both Al and I are talking about as a primary concern, the student assistance aspect of this, which we are responsible for in the Con-

gress. If we don't establish the Federal criteria for schools that participate in the student assistance programs which we fund, who is going to?

Now maybe the States will, but it is the Federal tax dollar that goes there, and that is what I personally—I can't speak for Al—but I personally want to safeguard that Federal dollar a little bit more in terms of students' assistance programs which we fund.

Mr. BELL. I certainly would agree.

Mr. DELLENBACK. I find the thrust of Mr. Bell's testimony pointing away from the Federal Government taking complete control so that we do all of the job. I think there is much wisdom in staying with the two-stage goal. That to me is a more desirable road to walk rather than taking it all over.

Mr. BELL. I agree, Mr. Dellenback. I think it should be basically a State and local responsibility, but with some Federal assurance that it gets done.

Mr. DELLENBACK. Mr. Chairman, I want to end my questions with an expression of appreciation again to both of our colleagues for having started this in the sense of having pushed hard to get us to this particular stage of hearings.

You should both be commended for it. Your service to education and the people in your State is clear, and we of the rest of the Congress are grateful to you for what you are doing.

Mr. GAYDOS. On behalf of the chairman, who is not here, I extend his thanks and appreciation for your testimony.

Mr. BELL. Thank you.

Mr. PERRIS. Thank you.

Mr. GAYDOS. The next witness scheduled is Mr. William A. Goddard, executive director, National Association of Trade and Technical Schools, accompanied by William A. Fowler, executive secretary, Accrediting Commission of the National Home Study Council. Both of these gentlemen are accompanied by Mr. Bernard Ehrlich, legal counsel.

**STATEMENTS OF WILLIAM A. GODDARD, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF TRADE AND TECHNICAL SCHOOLS, AND WILLIAM A. FOWLER, EXECUTIVE SECRETARY, ACCREDITING COMMISSION, NATIONAL HOME STUDY COUNCIL, ACCOMPANIED BY BERNARD EHRLICH, LEGAL COUNSEL**

Mr. GAYDOS. Gentlemen, I wish to impress upon you that even though all the committee members are not here, that the evidence you are about to give, will be used by all the committee members. Since we have so many things to do, all the committee members can't be present.

You may proceed in any manner you wish.

Mr. DELLENBACK. Mr. Chairman before our witnesses start. I must apologize for having to slide away again for a while. Each of us has about three places that he is supposed to be this morning.

Dr. Andringa will be following very closely your testimony. I am particularly reluctant to miss this testimony because of my personal high regard for Mr. Goddard and the people he represents.

The testimony he is about to give, Mr. Chairman, is important testimony and it bears out the last thrust of what I was getting at with the prior witnesses. While I think we have a definite obligation to move in and close holes where there are holes. I think it is very important that in our investigation we do not directly or indirectly blanket the whole field with criticism or suspicion. The work that is involved in the type of association that is here represented is already doing, in my mind, a very good job, and they don't deserve—and all of their member schools don't deserve—the castigation and trouble we can give them.

So it is against that background that I repeat my apology, Mr. Chairman, for having to slide off for a while.

Mr. GAYDOS. I thank Mr. Dellenback. You gentlemen may proceed in the manner which you think best.

Mr. GODDARD. My name is William A. Goddard. I am the executive director of the National Association of Trade and Technical Schools [NATTS].

NATTS is a voluntary nonprofit organization of accredited private residence school offering job-oriented specialty training in trade and technical occupations. The membership of NATTS includes both proprietary and nonprofit schools. Although all member schools must be accredited, an accredited school need not apply for membership.

The accrediting commission of NATTS is the accrediting agency listed by the U.S. Office of Education as the nationally recognized accrediting agency in the trade and technical school field and is the only accrediting agency so listed by the U.S. Office of Education.

The broad purpose of NATTS is to establish and maintain sound educational standards and ethical business practices for its member schools, which schools complement, rather than compete with, tax-supported facilities.

I will be available for questioning and will be pleased to answer, to the best of my ability, any questions this committee may have relating to the trade and technical school field.

However, it is the primary aim of this statement to acquaint the committee with the role of trade and technical schools in our educational system and to explain the nature of the accreditation process.

Several studies have been made of vocational schools, including trade and technical schools, which furnish substantial information concerning the role of trade and technical schools.

In 1969, a fairly exhaustive study was published by A. Harvey Belitsky entitled "Private Vocational Schools and Their Students: Limited Objectives, Unlimited Opportunities." The author is on the staff of the W. E. Upjohn Institute for Employment Research, and the study was financed over a 15-month period by the Ford Foundation.

In June 1970 the author published a condensed version of his studies in this field, at the invitation of the Bureau of Higher Education, Office of Education, U.S. Department of Health, Education, and Welfare.

Mr. Chairman, I have for you a copy of the full study by Mr. Belitsky and a copy of the limited portion of the study.



Mr. GAYDOS. Thank you. I will accept it on behalf of the subcommittee. Thank you very much.

Mr. GODDARD. Thank you.

[The summary version of Mr. Belitsky's study appears in the Appendix at p. 238.]

Mr. GODDARD. References herein to Belitsky's studies are directed to the June 1970 condensed report.

The author, at the outset, states (page 1):

The expected advances in the use of private vocational schools are grounded in the demonstrated capacity of the schools to motivate and train students with various needs and interests for specific occupational objectives.

The author estimates that there are 3,000 trade and technical schools with 835,710 students. He points out that the enrollment in each individual school is small as compared to other types of schools, for the following reasons:

One explanation for the small size of most of these schools is related to the importance assigned to practical, problem-solving aspects in the courses. It follows that only a short period of time is spent in large classrooms, and the costs of adequate space and machinery in a shop and laboratory settings necessarily limit the size of a school building and its staff.

Second, the schools are widely distributed geographically, often either located in cities with less than 100,000 persons or situated within sections of a large metropolitan area.

A third reason is that the trade and technical schools—the primary focus of attention in this study—tend to train for single or related occupations. Nevertheless, collectively, the large number of highly specialized trade and technical schools offer the greatest diversity of courses.

He points out that the variety of occupational courses found in private trade and technical schools reflects the "unique ability" of these schools to respond to the training needs of many industries and professions; and that about 230 different occupational courses were offered in the more than 500 trade and technical schools examined in his study.

As for instruction in these schools, he found that it is highly specialized, with a view to the final employment objective; that the schools maintain close but informal contacts with employers; that course content is readily modified to reflect pertinent changes that are reported to school officials by employers; that decisions to add improved facilities can also be made rapidly; and that this differs from the delays often encountered by public schools and colleges that must seek approval from school boards or legislatures.

He further points out that training is provided in a job-simulated setting; that visual aids and operative equipment are typically more important than textbooks; that classroom or lecture instruction is usually followed immediately by supplementary training in the school shop or laboratory to demonstrate the practical application of the theoretical concepts; that most schools arrange student visits to plants and offices; and that modest home assignments are required because only those theoretical concepts which are relevant to the performance of a job are taught.

As for instructors' roles, he found that each instructor must be critically evaluated, since the referrals of the student body; that the schools are convinced that creditable teaching performances can be insured by making teaching capability the main criterion

for reward and advancement; and that instructors are not usually given tenure.

He further found the student-to-instructor ratio to be quite low, with the majority of schools assigning 19 or fewer students to an instructor at any given time.

In conclusion, he found that private vocational schools are likely to experience a consistent growth in enrollments and greater general acceptance as an important training resource for persons who do not attend college; and that the realistic and economically sound recognition and usage of the private schools could be a major means for expanding the laudable goal of equal educational opportunity.

In 1973, Wellford Wilms, of the Center for Research and Development in Higher Education, University of California, Berkeley, published a study entitled "Proprietary Versus Public Vocational Training." and, Mr. Chairman, I have a copy of that study for presentation to the committee.

Mr. GAYDOS. I thank you. I accept it on behalf of the subcommittee.

Mr. GODDARD. Thank you.

[A summary of the study appears in the appendix at p. 260.]

Mr. GODDARD. I will endeavor not to duplicate material already developed by Belitsky, but to point out additional factors developed in the Wilms study.

Wilms develops the concept that proprietary and public post-secondary schools are conceptually—and practically—distinct. The proprietary schools are rooted in the marketplace. Public schools ultimately depend on the political process.

This essential difference determines how each type of school derives its income, allocates resources and, most important, provides vocational training. He says:

Proprietary vocational schools' income is related to how well their graduates do in the marketplace. Most proprietary schools are relatively small, and they base personnel hiring, retention and promotion largely on performance of tasks dictated by the market.

If their students do not get satisfactory jobs, these schools quickly lose their appeal. In short, the proprietary vocational school derives its income through the market mechanism.

In summary, he points out that proprietary schools must meet the needs of their students and prepare them for occupations better than their competitors for any given cost: they must consider signals from output markets to survive; they are characterized by limited objectives and programs; they are "single purpose" organizations, to prepare students for successful employment; they recognize that their own success depends largely on the occupational success of their graduates and therefore they select students with a high probability for successful placement; they are characterized by flexible operations to accommodate the needs of students and employers; year-round operations and frequent class starts are the norm; their operations show evidence of market incentives to provide effective training at low cost; the market encourages them to experiment and evaluate new approaches; and their teachers are hired, retrained, and promoted on their ability to

teach, are not given tenure, and are evaluated frequently by school management and students.

He then contrasts this situation with that of public institutions which do not depend on their performance in the marketplace, but rather on the political process, and which place less emphasis on job placement.

In conclusion, he found that public and proprietary schools march to different drummers, the public schools to the political process and the proprietaries to the market, and that (page 82):

Proprietary schools need to recruit, train, and place graduates in jobs successfully to get a return on their investments. Consequently, their programs are specific and determined by current labor market and consumer needs.

Governed by the profit motive, rather than political survival, the proprietary schools have a built-in incentive to seek out student markets not served by nearby competing public schools. . . .

But for the limitations of time, many more factors could be developed at length to illustrate the need for and the purposes served by private trade and technical schools.

However, for our present purposes, I believe that I have demonstrated the useful purpose served by trade and technical schools and the need for such schools as a part of our educational system.

Mr. Chairman, with your permission I should like to summarize the remainder of my presentation, if it may be possible to enter the entire presentation in the record.

Mr. GAYDOS. Yes. There being no objection, your entire discourse will be entered in the record and available to the other members for close study and scrutiny.

[The prepared statement follows:]

**STATEMENT OF WILLIAM A. GODDARD, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF TRADE AND TECHNICAL SCHOOLS**

My name is William A. Goddard. I am the Executive Director of the National Association of Trade and Technical Schools (NATTS).

NATTS is a voluntary non-profit organization of accredited private residence schools offering job-oriented specialty training in trade and technical occupations. The membership of NATTS includes both proprietary and non-profit schools. Although all member schools must be accredited, an accredited school need not apply for membership.

The Accrediting Commission of NATTS is the accrediting agency listed by the United States Office of Education as the nationally recognized accrediting agency in the trade and technical school field and is the only accrediting agency so listed by the United States Office of Education.

The broad purpose of NATTS is to establish and maintain sound educational standards and ethical business practices for its member schools, which schools complement, rather than compete with, tax supported facilities.

I will be available for questioning and will be pleased to answer, to the best of my ability, any questions this Committee may have relating to the trade and technical school field.

However, it is the primary aim of this statement to acquaint the Committee with the role of trade and technical schools in our educational system and to explain the nature of the accreditation process.

Several studies have been made of vocational schools, including trade and technical schools, which furnish substantial information concerning the role of trade and technical schools.

In 1969, a fairly exhaustive study was published by A. Harvey Bellitsky entitled "Private Vocational Schools and Their Students: Limited Objectives, Unlimited Opportunities." The author is on the staff of the W. E. Upjohn

Institute for Employment Research and the study was financed over a 15-month period by the Ford Foundation.

In June, 1970, the author published a condensed version of his studies in this field, at the invitation of the Bureau of Higher Education, Office of Education, U. S. Department of Health, Education and Welfare.

References herein to Belitsky's studies are directed to the June, 1970, condensed report.

The author, at the outset, states: "The expected advances in the use of private vocational schools are grounded in the demonstrated capacity of the schools to motivate and train students with various needs and interests for specific occupational objectives."

The author estimates that there are 3,000 trade and technical schools with 835,710 students. He points out that the enrollment in each individual school is small as compared to other types of schools, for the following reasons:

"One explanation for the small size of most of these schools is related to the importance assigned to practical, problem-solving aspects in the courses. It follows that only a short period of time is spent in large classrooms, and the costs of adequate space and machinery in shop and laboratory settings necessarily limit the size of a school building and its staff. Second, the schools are widely distributed geographically—often either located in cities with less than 100,000 persons or situated within sections of a large metropolitan area. A third reason is that the trade and technical schools (the primary focus of attention in this study) tend to train for single or related occupations. Nevertheless, collectively, the large number of highly specialized trade and technical schools offer the greatest diversity of courses."

He points out that the variety of occupational courses found in private trade and technical schools reflects the "unique ability" of these schools to respond to the training needs of many industries and professions; and that about 230 different occupational courses were offered in the more than 500 trade and technical schools examined in his study.

As for instruction in these schools, he found that it is highly specialized, with a view to the final employment objective; that the schools maintain close but informal contacts with employers; that course content is readily modified to reflect pertinent changes that are reported to school officials by employers; that decisions to add improved facilities can also be made rapidly; and that this differs from the delays often encountered by public schools and colleges that must seek approval from school boards or legislatures.

He further points out that training is provided in a job-simulated setting; that visual aids and operative equipment are typically more important than textbooks; that classroom or lecture instruction is usually followed immediately by supplementary training in the school shop or laboratory to demonstrate the practical application of the theoretical concepts; that most schools arrange student visits to plants and offices; and that modest home assignments are required because only those theoretical concepts which are relevant to the performance of a job are taught.

As for instructors' roles, he found that each instructor must be critically evaluated, since the referrals by former students account for a substantial percentage of the student body; that the schools are convinced that creditable teaching performances can be ensured by making teaching capability the main criterion for reward and advancement; and that instructors are not usually given tenure. He further found the student to instructor ratio to be quite low, with the majority of schools assigning 10 or fewer students to an instructor at any given time.

In conclusion, he found that private vocational schools are likely to experience a consistent growth in enrollments and greater general acceptance as an important training resource for persons who do not attend college; and that the realistic and economically sound recognition and usage of the private schools could be a major means for expanding the laudable goal of equal educational opportunity.

In 1973, Wellford Wilms, of the Center For Research and Development in Higher Education, University of California, Berkeley, published a study entitled "Proprietary Versus Public Vocational Training."

I will endeavor not to duplicate material already developed by Belitsky, but to point out additional factors developed in the Wilms study.

Wilms develops the concept that proprietary and public postsecondary schools are conceptually (and practically) distinct. The proprietary schools

are rooted in the marketplace. Public schools ultimately depend on the political process. This essential difference determines how each type of school derives its income, allocates resources and, most important, provides vocational training.

He says:

"Proprietary vocational schools' income is related to how well their graduates do in the marketplace. Most proprietary schools are relatively small, and they base personnel hiring, retention, and promotion largely on performance of tasks dictated by their market. If their students do not get satisfactory jobs, these schools quickly lose their appeal. In short, the proprietary vocational school derives its income through the market mechanism."

In summary, he points out that proprietary schools must meet the needs of their students and prepare them for occupations better than their competitors for any given cost; they must consider signals from output markets to survive; they are characterized by limited objectives and programs; they are "single purpose" organizations, to prepare students for successful employment; they recognize that their own success depends largely on the occupational success of their graduates and therefore they select students with a high probability for successful placement; they are characterized by flexible operations to accommodate the needs of students and employers; year-round operations and frequent class starts are the norm; their operations show evidence of market incentives to provide effective training at low cost; the market encourages them to experiment and evaluate new approaches; and their teachers are hired, retained and promoted on their ability to teach, are not given tenure, and are evaluated frequently by school management and students.

He then contrasts this situation with that of public institutions which do not depend on their performance in the marketplace, but rather on the political process, and which place less emphasis on job placement.

In conclusion, he found that public and proprietary schools march to different drummers, the public schools to the political process and the proprietaries to the market, and that:

"Proprietary schools need to recruit, train, and place graduates in jobs successfully to get a return on their investments. Consequently, their programs are specific and determined by current labor market and consumer needs. Governed by the profit motive, rather than political survival, the proprietary schools have a built-in incentive to seek out student markets not served by nearby competing public schools. . . ."

But for the limitations of time, many more factors could be developed at length to illustrate the need for and the purposes served by private trade and technical schools.

However, for our present purposes, I believe I have demonstrated the useful purpose served by trade and technical schools and the need for such schools as a part of our educational system.

With this background, I would now like to acquaint this Committee with the accreditation process as carried out by NATTS—how it works, what it does and the results accomplished.

At the outset, it should be remembered that the accrediting process is purely voluntary. No school need apply for accreditation. Although the membership of NATTS is composed of accredited schools, an accredited school need not be a member.

The objective of NATTS, as stated in its Constitution, is

"To promote high educational standards and ethical business practices in the trade and technical field.

"To cooperate with local, state and Federal authorities and business, commerce and industry in the maintenance of high standards and sound policies in the field of trade and technical school education.

"To develop a national accrediting program for the trade and technical schools on the basis of established Federal standards."

Accreditation is intended to be a means of assisting good private trade and technical schools to become better schools; a means of assuring the public of high quality trade and technical education offered by private schools; and a means of setting standards to which all trade and technical schools can aspire.

The Board of Directors of NATTS has established an Accrediting Commission of nine members, five representatives of trade and technical schools

and four outstanding persons from outside the private school field. The Accrediting Commission has authority to determine whether or not individual schools meet the standards set by NATTS. Each school is judged in the light of its announced objectives. Accreditation carries no intent of standardization of either objectives or school operation.

To initiate the accrediting process, an applicant school makes a study of its own operation according to an outline provided to it. Fact and material evidence are assembled into a Self-Evaluation Report, copies of which are provided for study by the Visiting Team and the Accrediting Commission. This is part of the whole evaluation process by which schools are stimulated to continuous improvement. This Report and the accreditation process is expected to induce an institution to reassess its objectives, its resources, its program, procedures and achievements. The preparation of the Self-Evaluation Report requires a detailed and searching examination of the entire operation of the school--its objectives, its study program, its course content, and its business practices.

After receipt of the Report, the Commission arranges for a Visiting Team of knowledgeable persons to visit the school personally. The Team normally includes a member familiar with the management, administration and business aspects of private school operation; an educator familiar with trade and technical school instructional methods and educational processes; a subject-matter specialist for each major field offered; and a representative of the Commission.

The Visiting Team verifies data in the Self-Evaluation Report, seeks additional data and in general develops a clear understanding of how well the school meets each of the standards. The Team is free to confer with instructors, other school employees, students, graduates and employers of the graduates in making an assessment of conditions, courses of study, and effectiveness of the school.

Each member of the Visiting Team prepares a factual report of those phases of the visit for which he is responsible and submits it to the Team Leader, who integrates the report in proper sequence, caps it with a summary of strong and weak points and submits it to the Secretary who reproduces the Report and supplies each member of the Commission with a copy.

Following the Team visit, a File Review Committee prepares a File Report describing its findings. A copy goes to the applicant school which has a period to comment on the factual elements of the File Report and to submit any additional written materials it desires to place before the Accrediting Commission in response to the Report.

The Accrediting Commission meets periodically to review all the evidence with respect to each applicant. An applicant school, upon request, is given an opportunity to make an oral presentation before the Commission.

In light of the school's announced objectives and the Standards, the Accrediting Commission will accredit, accredit with stipulations, defer action, or deny accreditation. The Commission's decision is not subject to review by any other organ of NATTS.

The accreditation process is carried out under general policies which may be summarized as follows:

1. Each school is judged in the light of its overall picture reflected against its announced objectives and the Standards. Strengths in some respects may be allowed to compensate for noncrucial and correctable weaknesses in others.
2. Only private schools with a definite trade and technical education objective are eligible for accreditation.
3. The Commission reserves the right to limit the scope of its review to classes of schools for which it feels adequate standards have been developed and for which it has competence to review.
4. Upon accreditation, a tentative time is set for a complete re-examination, within five years. New schools, schools with mild but remedial weaknesses, rapidly changing schools and schools with recent changes of ownership will be re-examined at shorter intervals.
5. Schools must notify the Secretary immediately of changes in ownership, management, contractual affiliations with other schools, additions or major changes of courses, and items that could substantially affect the school's policies, staff, curricula, reputation, legal or financial status.

6. Accreditation does not automatically transfer with changes in ownership.  
 7. Annual reports are required from all accredited schools. The Commission may seek continuing evidence of compliance with standards and may request special reports from some or all accredited schools.

8. New non-related courses in accredited schools must be evaluated within three to six months after classes are in session.

9. Schools automatically become eligible for NATTS membership when accredited, but are not required to be NATTS members.

10. A directory of accredited schools is published annually and supplements showing newly-accredited schools are issued after each meeting of the Commission.

As a further step in the accrediting process, every applicant for accreditation or re-accreditation is checked with the local Better Business Bureau, the local Chamber of Commerce, the regional office of the Federal Trade Commission, the Consumer Protection Bureau, the State Department of Education and/or the state approval agency and the Post Office Department. Every application for renewal of accreditation is checked with the state loan agency.

Any complaints received from any of these sources, as well as from any other source whatsoever, whether with reference to an accredited school or not, is promptly investigated under complaint procedures established by the Commission.

I have referred to Standards which a school is required to meet in order to be accredited. Time does not permit a detailed statement of the Standards, but it should suffice for the present to point out that detailed Standards have been established covering the following general categories: educational objectives, courses and curricula, faculty, size of staff, student services, student success and achievement, admission policies and practices, enrollment agreements, tuition policies, refunds and cancellation, student recruitment, field agents, physical facilities, management, financial responsibility and self improvement programs.

Appellate procedures have been established affording due process to any school which wishes to appeal from an adverse decision.

Needless to say, all information obtained in the accrediting process is highly confidential.

In conclusion, I may say that I have not attempted to address myself, in my statement, to any specific problems which may be of interest to this Committee. I repeat that I am ready and willing, to the best of my ability, to answer any questions the Committee may have with respect to the operation of trade and technical schools. The main purpose of my statement, which I believe I have carried out, is to acquaint this Committee with the importance in our educational system of available trade and technical schooling, affording training opportunities for employment which are not available elsewhere; and to point out to this Committee the purpose of NATTS, through the accreditation process, to make available to students quality education in the trade and technical fields, with specific emphasis on training directly related to successful trade and technical employment opportunities.

Mr. GAYDOS. You may continue in any manner you wish.

Mr. GORDON. Thank you.

I would like now to acquaint the committee with the accreditation process, how it works, what it does and the results accomplished.

Mr. GAYDOS. Before you proceed, I would like to make a comment and ask you a question.

As I understand your testimony to this point, you have made an excellent case in establishing the fact that there is a need for private vocational schools. I think you have done it quite well and I think the facts that you have placed before the committee in the permanent record will indicate that there is unquestionably an unquestionable need, a need that we have never questioned.

The problem I think we have—and I haven't participated in all of these meetings—the problem I believe that we have to consider

is the type of institution that doesn't meet the criteria or doesn't fall into the category you have described.

The problem we have seen is the fact that there are some institutions that don't meet the criteria as such, but survive through one way or another; those are the culprits that we are after.

I would have to say that I don't think any of the committee members or our colleagues generally question the need for the proven vocational private training institutions that we have in the country. In fact, I equate them along the lines of higher education because as a high school graduate is prepared to matriculate into some higher institution so it is when a vocational trainee leaves a public school and then progresses into a more specific type of training program and I think competition in the private vocational institutions is very nil today.

The community colleges emphasize the arts and sciences. There are very few—I am speaking of the State of Pennsylvania—that go into the area where private vocational schools would be filling that gap or need in our society.

We do have some. For instance, a regional school for accounting within the State of Pennsylvania where students can matriculate after graduation from high school, but by and large most of these needs are met in the private sector by private schools.

I have not heard to date any question or any debate regarding the need for the institution but I do want to compliment you on putting it in proper perspective. You present it very clearly, and the references you have made to the documentary evidence are excellent and I am sure the committee is going to be able to present this on the floor, if and when it is presented, in a much more knowledgeable way which would be understood by our colleagues.

The committee here will have the benefit of your testimony, but when we go on the floor the members are cold. They have their own problems and it is a matter of trying to influence and educate them in a very limited period of time, and usually the rule would allow only 1 or 2 hours.

So, I think in that area and for that purpose your testimony to this point is going to be most valuable.

I do want to conclude with the observation that I don't think you are going to have any problems with any members of the committee or this Congress generally as to the need for private vocational schools. They are functioning properly, the majority of them. They are filling that great need and nobody is trying to eliminate them, so I don't think you have to defend that position.

Mr. GODDARD. Thank you, and that is very reassuring at this point in time for us. We certainly share your concern and the committee's concern for this very small minority of schools that would be causing the problems that we have been discussing.

Mr. GAYDOS, I have a question that gets right down to the meat of the problem this committee is now wrestling with, and that is how do you accredit and where are we weak in the accreditation process and how should it be changed?

Mr. GODDARD. The first point to remember is that accreditation is a voluntary process.



Mr. GAYDOS. I am going to interrupt you a little, hopefully to clarify the record for the benefit of my colleagues who aren't here as they had to be someplace else.

When you say it is voluntary, do you think it should remain voluntary? I hope I don't interrupt your line of thought, but I want to try to make this a comprehensive type of response from you because you are one of our most informed witnesses. We don't get too many people with your background before us. Let me ask you at that point should it remain voluntary?

Mr. GODDARD. Yes, sir; I believe it should and I believe it must.

Mr. GAYDOS. All right. I will ask you why later but you go ahead.

Mr. GODDARD. Please do. The membership of NATTS, the organization I represent, is composed of only accredited schools. However, the schools we accredit do not need to apply for membership.

Accreditation is primarily a means of assisting good schools to become better schools, a means of assuring the public of high quality of trade and technical education offered by private schools and a means of setting standards to which all trade and technical schools aspire.

Our commission is composed of nine members. It is an autonomous group. It answers to no other organization of the association. Five of the members are from the private trade and technical school field and four are from outside of the field itself.

Mr. GAYDOS. Let me stop you right there. You have extensive investigative work which must be undertaken. You have to have personnel, secretarial services, facilities, and things of that nature. Who pays for it?

Mr. GODDARD. I guess you could say that business and industry pays most of the cost of accreditation.

Mr. GAYDOS. You mean the foundations?

Mr. GODDARD. No, sir. We use experts from business and industry to do a good part of our evaluation. The actual manpower, the great majority of the manpower is recommended to us generally on a voluntary basis through professional organizations, societies, unions, trade organizations and so forth. They recommend to us the people that they feel are best qualified in their areas of industry.

Mr. GAYDOS. At that point I would like to ask you, comparing this operation to others in the private sector, do you find from your own personal experience with your approach to the subject matter that people who don't get paid don't produce too much?

Mr. GODDARD. No, sir.

Mr. GAYDOS. You don't. And let me ask you another thing. Those that volunteer as such, do they quit any time they want, are their services disposed of, or does someone tell them, well, we don't need your services any more? That is a very practical question.

Mr. GODDARD. In the process we do actually use great numbers of people of this nature. They are voluntary, recommended to us, and they actually consider what we are doing a professional obligation. They are usually people quite loyal to their own field and they want to determine that the people being trained and coming

into their field are competent. They are generally many employers of the output of the schools that we are evaluating of the type of schools.

Mr. GAYDOS. The institutions that are eventually accredited, do they pay for this service in any way?

Mr. GODDARD. The institution does pay a fee. The institution does not pay all of the fee, however.

Mr. GAYDOS. Let's take just an example so that we would have a semblance of an understanding as to what kind of costs would be involved and the process generally.

Mr. GODDARD. Okay. Well, the average cost to an applying institution is about \$600. I would say that is a good average cost. Now, it could go higher because we do charge the institution according to the number of people that are necessary to go on an examining team.

Mr. GAYDOS. What would be your highest cost in your experience that you have charged an institution? \$1,000?

Mr. GODDARD. Well, for an institution that trains several thousand students, has an enrollment of several thousand students, the cost could go possibly close to \$1,500, but generally the average, I believe, is very close to \$600 and with costs going up someday we may have to increase that somewhat.

Mr. GAYDOS. Have you ever in your experience turned any institution down?

Mr. GODDARD. Yes, sir; we turn down a significant number of applicants and have in fact turned down for accreditation schools that have been discussed previously at hearings such as this.

Mr. GAYDOS. Have you provided for some type of appeal procedure?

Mr. GODDARD. Yes, sir.

Mr. GAYDOS. Do they pay another fee when they reapply?

Mr. GODDARD. In some cases it would be necessary such as in case the school reapplied after being turned down. If the school would appeal about the only other expenses that would normally be required would be the cost of the people, the travel expenses the people would spend to appear at the hearing.

Mr. GAYDOS. That institution that was turned down, could it continue to operate? Generally it can, can't it, without your accreditation?

Mr. GODDARD. Eighty-five to 90 percent of the private vocational schools in this country are not accredited.

Mr. GAYDOS. What do you think we ought to do about that?

Mr. GODDARD. Well, I think it should remain a voluntary process. Those schools that don't wish to seek our endorsement should not have to if they see no need for it. I believe, however, that there should be very strong State legislation to assure the public be protected.

Mr. GAYDOS. Would you go so far as to advocate and recommend Federal legislation in this area that would apply to all 50 States in all categories, minimum requirements?

Mr. GODDARD. Well, I have not given that full consideration. I am not sure that I would recommend that at this time. I think

that approximately 40, 35 to 40 States do have legislation in this area.

Mr. EHRLICH. Mr. Goddard is a member of a task force of the Education Commission the States and I served as a legal consultant, just participating. We completed a project with the education commission of the States to develop model State legislation. This job has been done and has been published and so there is available now and is being pushed by the education commissioner of the State model legislation to take care of this matter and it is now available. It has just been of recent duration. It has not been for a period of time.

Mr. GAYDOS. Does the committee have that study available?

Mr. EHRLICH. I would imagine they do.

Mr. GODDARD. A school would actually apply for accreditation on a voluntary basis.

Mr. GAYDOS. I really apologize, but I have got to ask you. You are such an informed witness I do have to interrupt you. Do you advertise that your services are available or is it just by circumstance that the rumor goes around among the industry as such that you are available?

Mr. GODDARD. We do not advertise as such. However, I feel reasonably sure that the industry as a whole is aware of our activities.

Mr. GAYDOS. I promise not to interrupt you any more.

Mr. GODDARD. It is no problem. I appreciate the help.

The schools in applying for accreditation give us basic information and at that point start on a self-evaluation process. We consider this a very important element of accreditation.

The school very thoroughly examines itself in the areas of instruction, student services, management, and all other areas of school operation and then sends to us according to our guidelines a report of that self-evaluation very clearly describing to the accrediting commission what that institution is, what it purports to do, how it does it, when it does it and what its success has been.

The accrediting commission then sends a team of experts to the school. The team will consist of a school management specialist, an educator versed in our type of training, and a subject specialist for each occupational area in the field in which the school provides the training.

Then it would also consist of a member from the accrediting commission itself, either a member of the commission or a member of the commission staff as a coordinator to help standardize the level of evaluations.

This team that visits the school carefully examines the data supplied by the school on its own self-evaluation and verifies this data and at the same time develops additional information about the school and its offerings.

Each team member prepares a report. The report is somewhat summarized by the chairman of the team and all of the individual team member reports and the summary by the chairman are sent to members of the accrediting commission.

The commission meets quarterly to examine these applications and then the commission may accredit, may accredit with stipulation, may defer its action pending receipt of additional informa-

tion or even giving the school an opportunity to correct a minor weakness or, of course, the commission may deny accreditation which it must do at times.

The commission's decision is not subject to any review by the organization, NATTS.

I have included in my prepared remarks several other general provisions, general policies of the commission and I did want to emphasize the fact, however, that as a step in the accrediting process every applicant for accreditation or for renewal of an accreditation is checked carefully with local better business bureaus, the local chamber of commerce, regional office of the Federal Trade Commission, and of the U.S. Office of Education, the Consumer Protection Agencies, the State Department of Education, and State approval agencies and even the Post Office Department.

Every application for renewal of accreditation is even checked with the State guaranteed loan agency.

Any complaints that we receive from any of these sources whether or not a school is accredited is promptly investigated under complaint procedures established by our accrediting commission.

Needless to say, all information obtained in this crediting process is confidential.

In conclusion, I want to say that I have not attempted to address myself in my statement to any specific problems which may be of interest of the committee. I do repeat that I am available for questions in any respect to the operation of trade and technical schools and I believe I have acquainted you with the importance in our educational system of available trade and technical schooling, affording training opportunities for employment which are not available elsewhere and to point out to this committee the purpose of NATTS through the accreditation process to make available to students quality education in the trade and technical employment opportunities.

Mr. GAYDOS. I want to thank you on behalf of the committee and I immediately accept your kind offer that you would be available for any further explanation or questions, so we will make a notation of this and we will probably bother you to death, because this is a subject that has not received too much review generally.

Let me ask you several questions, if I may.

I did keep my promise not to interrupt you. When you are an accrediting commission how do you judge the extent of the purpose of the institution, for instance, what its objectives are? How do you judge that? Could you be biased in any manner?

Mr. GODDARD. I don't think so. I think our criteria is quite clear in that respect. We do only evaluate schools with a definable occupational objective, employment objective.

The training must lead to a job or to advancement on a job, and we require such comprehensiveness in the stated objective of the institution to qualify for the job.

Mr. GAYDOS. Are you saying in so many words that you are looking at the success of the institution, how it has performed to date, how many it has placed in possible employment areas, or what their end product looks like as far as you are concerned?

steps here that people are able to see exactly what the accrediting process is, but the precise information is confidential as far as the school is concerned. We are under some legal restraints to observe proper due process until the accrediting commission takes final action.

There is also in the process that before the commission makes a ruling as far as the school is concerned that the school is given the chairman's report so they have an opportunity to see what is the situation there and they have an opportunity to respond before the commission makes a decision.

So, we try to build in both fair play, due process and an opportunity for input at all stages.

Mr. GAYDOS. Every time there is a secret and a veil over something, your antenna goes up and there are some questions that are raised. I am not trying to be facetious or critical. I am just trying to gain information.

I hope you don't interpret my questions as disrespectful or as accusing you of doing something surreptitiously.

Mr. GODDARD. Not at all, sir, and I did not intend to imply by use of the word "confidentiality" that we meant secrecy. We do not have secret evaluations. Everybody involved in the evaluation knows what is going on.

Mr. GAYDOS. So, if a turndownee wanted to take you to court to force you to accredit their institution or their activities they would have available to them all the facts at your disposal.

Mr. GODDARD. The institution has available to it in advance of consideration by the commission the facts that have been developed and has an opportunity to respond to these. In addition, as Mr. Ehrlich pointed out, we have great numbers of observers from official sources, agencies, and private agencies, consumer protection groups, better business bureaus, as well as all of the government agencies who go with us and who evaluate the evaluators, you might say, and we keep no secrets from those observers in the individual school process.

However, we do not make it a practice of publicizing every bit of available information that we secure about a school.

Mr. GAYDOS. I have several questions passed to me by counsel and they need the response to these questions because we put them on a spot many times in our deliberations. So, I would like to ask you these questions: Do you consider any level or certain level of dangers when we are talking about a local institution depending upon loans. Government loans? Do you have any kind of concept or criteria or a policy that would set some kind of a level or percentage that a school should operate in as far as what they depend on as far as loans? How many students participating in the Federal program, whether all of them or, 50 percent, what is dangerous or do you see any danger at all?

Mr. GODDARD. Well, while we set no percentage the commission would certainly be concerned if it detected over-reliance by an institution on programs such as the student loan program.

Mr. GAYDOS. Well, if they were a good institution and that is all they had, do you think you are a little bit harsh in that?

In addition to educational standards, these standards require accredited schools to:

Enroll only students who can be expected to benefit from hte instruction.

Show satisfactory student progress and success.

Be honest in its advertising and promotional materials.

Carefully select, train, and supervise its field representatives.

Show ample financial resources to carry out long-term obligations to students.

Use reasonable tuition collection methods and have a satisfactory refund policy.

Demonstrate a satisfactory period of ethical operation.

All schools must undergo initial and periodic evaluations, with every school being reaccredited at least every 5 years. Schools furnish the commission comprehensive reports each year, and the commission can remove accreditation from a school for failure to meet the published standards.

Special reviews of schools are conducted when the ownership of the school changes hand or when serious problems are in evidence at a school. Complaints against schools are carefully analyzed on a continuing basis to ascertain problems, and examination reviews are promptly ordered if necessary. The procedures are much the same as NATTS.

There is onsite examination, surveys of outside agencies to determine the reputation of the school, decision of the commission with appeal and due-process procedures.

The commission has always been intensely aware of its role and responsibilities in the area of protecting the education consumer, and the commission's responses to the needs of consumers predates the consumer movement in this country.

The accrediting commission was one of the first agencies to adopt a policy for the settlement of tuition accounts. This policy is one of the most liberal, to the student, of its kind. It is a performance-based policy that allows students to receive nearly half of their tuition back if they discontinue at the midpoint of their studies. This study was recognized by Congress and major provision included in the 1972 amendments to the GI bill.

Since 1969, accredited home study schools have been eligible to participate in the guaranteed student-loan program administered by the Federal Government since Congress in its wisdom recognized that American citizens ought not to be denied the opportunity of enrolling in the educational institution of their choice because of lack of funds.

The commission, aware of the possibility of abuse in this program, adopted special standards and rules for home-study schools with students participating in the GSLP.

These special standards go far beyond the regulations and controls set up by Congress and the Office of Education and have been the chief reason why, as a March 1974 Office of Education paper analyzing home-study school involvement in the program stated: "Overall default claims for (home study schools) were relatively small."

Mr. GAYDOS. Mr. Chairman, I have kept this seat warm for you and I am now about to vacate it and I do want to make a comment on these three witnesses.

Their testimony was not only interesting and informative, but it was quite a pleasure to discuss the matters with them and I think you missed something, and I know you will look forward to reviewing their subject matter.

Mr. O'HARA [presiding]. I certainly will.

Thank you, Mr. Gaydos.

Thank you very much for your testimony. I am sorry that I missed it. I will review your statements and review the transcript.

Thank you very much.

[Mr. Fowler's statement follows.]

STATEMENT BY WILLIAM A. FOWLER, EXECUTIVE SECRETARY, ACCREDITING  
COMMISSION OF THE NATIONAL HOME STUDY COUNCIL

My name is William A. Fowler. I am the Executive Secretary of the Accrediting Commission of the National Home Study Council and I also serve as the Executive Director of the National Home Study Council.

The National Home Study Council is located at 1801 Eighteenth Street, N.W., Washington, D.C. It is a non-profit educational association of some 158 accredited private home study schools. The Accrediting Commission of the Council is the accrediting body listed by the United States Office of Education as a nationally recognized accrediting agency in the private home study school field. The Accrediting Commission of the National Home Study Council is also recognized by the National Commission on Accrediting, which was established in 1949 for the purposes of coordinating accrediting activities in higher education and giving nongovernmental recognition to reliable accrediting agencies.

My purpose in appearing before you is to acquaint you with the work of our accrediting agency and to tell you about its philosophy, policies and procedures. It is a unique accrediting agency operating in a unique field—the field of home study.

The National Home Study Council has been a leading advocate of quality correspondence education in America for 48 years. The N.H.S.C. was founded in 1926 under the cooperative leadership of the Carnegie Corporation of New York and the National Better Business Bureau.

From its beginning, when a handful of quality schools banded together under the visionary leadership of Dr. John S. Noffsinger, private home study education has gained academic respectability and can point to a record of solid achievement in providing an invaluable social service to millions of Americans who, without the benefits of home study, would surely have been denied an opportunity for education or training.

Today, over 2 million Americans are enrolled in some 700 to 1,000 private home study schools. One hundred and fifty-eight of these schools (representing 72 ownerships) are accredited, and nearly 1.5 million students are enrolled with them. Accredited schools offer some 500 different academic and vocational courses. These accredited schools are located in 23 States, but they enroll students from every walk of life in every State of the U.S. and from many foreign countries. About one fifth of all N.H.S.C. accredited schools are nonprofit institutions. Correspondence instruction has a long and successful record in American education.

Although writing at an earlier time, John Morris has relevance to today when he stated that "probably more men in American history have gained the technical phases of their trade from correspondence schools than by any other means." An independent April 1974 survey of full time radio and TV servicemen, for example, revealed that 47% of them received their career training through correspondence study.

From its inception, the Council insisted on high educational standards and ethical business practices. It has cooperated with State and Federal agencies and educational associations. To give historical perspective to the present, I would like to mention just a few examples of the Council's activities over the past half century.

Most respondents appeared in agreement on several intertwined principles: accreditation was the only practicable and widespread national test of minimal quality; it also required compliance with standards not related to quality; a number of schools or programs of comparable quality were unaccredited; if there were some way of identifying them, they deserved to be eligible; and, finally, accrediting standards which were not relevant to educational quality, stability, student protection, or any other government interest were, in effect, excess baggage which accredited schools must carry to become eligible, and which could unfairly disqualify unaccredited schools from eligibility. If there were some way of discarding that baggage for eligibility determinations, it would be fine. But is there?

"If there are other means for assuring the quality and stability of the programs, yes," unaccredited programs should be eligible, Robert Kirkwood wrote. "Accreditation should not be seen as the only measure of quality. If they show other evidence of excellence they should be eligible for federal funds," wrote the director of a specialized agency. "Yes, if they are good and well managed and have on the basis of the 'record' done a good job in educating students," wrote another; and a third: "It depends on why they are not accredited." The last respondent we will quote put the "excess baggage" principle clearly. "A school may well meet its stated objectives, be satisfactory to its students, but not meet some aspects of accreditation criteria vital to the schools constituting the accrediting agency. The USOE might well have reason to disregard these particular criteria in considering funding eligibility."

#### EFFECTS OF RENDERING UNACCREDITED SCHOOLS ELIGIBLE

"If reputable but unaccredited schools were eligible for federal programs, what effect would that have on your agency?" Some two-thirds of specialized agency respondents thought it would have little effect; two-thirds of those from proprietary school agencies felt it would hurt them; respondents from the regionals were more evenly divided (Table 16). Only four respondents believed that the policy might actually help their agencies.

Confidence that an agency would be basically unaffected if unaccredited schools or programs were eligible was founded upon the strong position of the agency, whose work had often begun before, and rested upon grounds independent of, the invocation of accreditation in federal statutes. The "cohesion of the higher education community in our region" would remain, said one regional director. "Accreditation . . . has been desired by institutions before Federal funding and there is no reason to believe it will not continue to be desired," said a second. And a third: "Unaccredited schools have a right to participate in Federal funding if they offer quality education or training."

Many specialized agencies would remain unaffected because they were not in any event utilized for eligibility purposes. "Can't see that it would make any difference at all," wrote the director of a large agency. "The USOE doesn't seem to be making any use of our accreditation now" (relying instead on regional accreditation). The strength of professional agencies rested on other factors than federal funds: their educational standing; the heavy concentration of enrollment, leading faculty, and research in accredited programs; the influence of associations on many professional and national activities other than accrediting, and their dominating role on licensure boards and standards. All of these would remain unaffected by any special federal charity to a few unaccredited programs. And if, as was true in medicine and several other licensed fields, the profession maintained a monopoly of education—if there were no unaccredited professional programs—the government would have no object for its charity: ". . . we will not allow a school to start," wrote one director, "that does not meet our pre-accreditation requirements, and to continue if minimum requirements are not met." The licensed professions are indeed islands of monopoly in the sea of competition. (To be sure, there are many other such islands in the economy: more island, it may be, than sea.)



that they are accredited, or preaccredited, by a recognized accrediting agency or, if unaccredited, that their course credits have been accepted by three accredited institutions.

Nondegree granting vocational schools have had fewer, or no, alternatives to accreditation. Some 500 public area vocational schools listed by State agencies as eligible under the 1963 Vocational Education Act and 750 proprietary schools in selected States whose licensing procedures were approved by an advisory committee were granted temporary eligibility until an accrediting agency in their region or field was recognized by the Commissioner of Education; thereafter, they were given 5 years to gain accreditation or lose eligibility.

The 1972 Education Amendments extended eligibility to public vocational schools approved by State agencies recognized by the commissioner, but no such alternative is available for proprietary schools.

Thus, only 2,000 proprietary schools participate in the insured loan program, compared to perhaps 5,000 approved for veterans.

The Commissioner has authority to render individual schools eligible directly but, fearful of the political pressures and technical difficulties, he has not done so.

Student beneficiaries aged 18-22 who, since 1965, have received aid from the Social Security Trust Fund, must be enrolled full time at an "approved" educational institution.

The rules for approval are extremely liberal and include:

1. All schools accredited by recognized accrediting agencies, including all programs of a school which has only one program accredited by a specialized agency;
2. Schools whose credits are accepted on transfer by three accredited institutions;
3. All public institutions operated or supported by a Federal, State or local government agency;
4. All schools licensed by State agencies, approved for veterans, used by State vocational rehabilitation agencies, or receiving State or local tax exemption, loans, scholarships, or other financial aid.

Unlike the Veterans' Administration and the Office of Education, the Social Security Administration devotes little staff effort to establishing and maintaining its list of eligible schools, relying largely upon the lists prepared by other Federal, State, and private agencies.

The eligibility rules of the several Federal manpower training programs administered by State and local agencies vary in different States and little comprehensive information is available on the number and kinds of participating schools.

#### ACCREDITATION IS NOT REQUIRED

In some States, all public and licensed private institutions are eligible; in States which require no license, all private schools with courses approved for veterans may be eligible.

Contracts for vocational rehabilitation may be let with any private school deemed suitable for a particular trainee even if it is not accredited or approved for veterans.

Mr. O'HARA. Thank you very much.

Mr. Arnstein, do you have anything to add?

Mr. ARNSTEIN. I would like to add a few comments.

Short of direct Federal intervention or determination of quality, we now have reliance on two systems: One is accreditation, which is basically monitored by the Office of Education. It is not working adequately.

The other one is administered by the Veterans Administration, delegated to the so-called State approving agencies, which is not working either.

One of the things I hope this committee will give some thought to is a comparison between those two systems and whether there could be improved linkages in order to achieve some of the safeguards that we are trying to identify here and possibly build into future legislation.

Basically State licensing should be a reliable indicator of quality, but it is not because otherwise there would be no need for private voluntary accreditation nor for the State approval agencies operated by the VA.

Mr. Goddard in his testimony pointed out that visiting teams on accrediting visits are made up of experts.

I would put it a little bit differently. I would say visiting teams are made up of unpaid amateurs. Now, it is perfectly true that they are experts in their specialty. I recall a visit in which I participated as an observer where a dentist looked at the training of dental technicians. It never occurred to him to inquire into the qualifications of the administrators, to examine the sales manual, and to ask about refund policies and other business and finance aspects. He was a nonexpert, an amateur with respect to those things.

It is in this sense that we have to think of accrediting teams in keeping with what the law says, namely, that the U.S. Commissioner of Education recognizes those accrediting agencies which he determines to be reliable authorities as to the quality of training offered by an educational institution. But the quality of training is quite different from the integrity, honesty, and ethics of the school, which is where we are having so much difficulty. It is there that the accrediting teams offer no assurance of quality, integrity or probity.

I also would like to mention that the accrediting bodies of the three organizations, the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, and the National Home Study Council are recognized by the Commissioner of Education but less than half of the State approving agencies which pass on veterans benefits rely on the accreditation provided by these three agencies.

I have a tabulation which is more than a year old based on data furnished by these three accrediting bodies as to which State approving agencies rely on them: the count shows that less than half of the States according to the data provided by the State commissions are indeed accepted, which would seem to indicate that at least half of the States or more find them other than reliable authority despite the fact that they are so recognized by the U.S. Commissioner of Education.

total number of courses provided by these schools was nearly 1,500.

The six major vocational categories (based on the number of courses in each category) were:

Vocational Category	Number of Courses
<b>Total</b> . . . . .	<b>851</b>
Auto Maintenance and Related Services . . . . .	127
Data Processing . . . . .	185
Drafting . . . . .	131
Electronics . . . . .	159
Medical Services . . . . .	154
Radio-TV . . . . .	95

Less than 60 percent of all reported courses are included in the above categories. The three largest areas of training (data processing, electronics, and medical services) are acknowledged to be growth fields in most manpower projections. The other three categories cannot necessarily be designated "traditional," because drafting may be allied with the electronics industry and a radio-TV course may emphasize the repair of color television sets. Even automobile repair offers numerous employment openings for competent workers.

Other important training fields include courses in commercial arts; construction; fashion design; needle trades; shoemaking; food preparation, processing, retailing, and service; interior design and related services; machine shop; major and minor appliance repair and servicing; photography; printing; promotion, sales, and related services; tool and die design; various forms of transportation and traffic management; and welding. Finally, courses in aerospace engineering technology, waste and wastewater reconversion, gardening, hotel-motel operation, and many others though listed by only a few schools, are areas of growing job opportunities.

Not all of the courses (see list in Appendix) are equivalent to generally accepted occupational designations. However, occupational breakdowns are necessarily somewhat arbitrary, and personal differences are evident with respect to vocational interest, ability, and willingness to devote the required time to what is regarded as ideal, well-rounded training.

The great variety of occupational training is matched by a wide diversity in course length and, quite expectedly, in tuition. Tuition ranged from about

In general, the inspection of private schools by most state supervisors is less thorough than that of a NATTS accrediting team. Each state supervisor in even the larger states frequently must oversee a sizable number of schools. New York and possibly a few other states utilize subject specialists in their evaluative inspections when a school introduces a new course. According to New York law, each course must be reevaluated every five years; this is similar to a NATTS provision.

Most of the 20 states that regulate private schools require instructors to have work experience, ranging from two years in Colorado to eight years in Massachusetts, in the vocation that they are teaching. Usually work experience is an alternative to formal education, and no state requires more than a high school education. However, a survey of instructors in the member schools of NATTS disclosed that about 60 percent of the instructors actually had some college education and more than one-third of the total had at least four years of college education.<sup>11</sup> The larger independent schools, plus those operated as subsidiaries of corporations, often pay the tuition of their instructors enrolled part time in college courses that are related to their teaching fields.

### Instructors' Roles

It is noteworthy that numerous policies regarding instructors in private vocational schools are still exceptional cases or experiments in other schools. For instance, most private schools consider a sizable number of student failures in one instructor's course, or in several of his courses over time, an indication of the *instructor's* failure.

Instructors in private vocational schools are urged to consider their students as "clients," not "charges." An important financial accountability, therefore, resides with the school and its instructors. The supervisor of a school for electronics technicians once observed that each prospective instructor must be critically evaluated, since the referrals of former students account for at least 50 percent of a school's student body. The schools are convinced that creditable teaching performances can be ensured by making teaching capability the main criterion for reward and advancement; and instructors are not usually given tenure.

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<sup>11</sup>Seven hundred and twenty-six full-time and part-time instructors were included in the 65 schools responding. See E.L. Johnson, *A Descriptive Survey of Teachers of Private Trade and Technical Schools Associated with the National Association of Trade and Technical Schools*, doctoral dissertation submitted to The George Washington University; reproduced in part by Griswold Institute Print Shop, Cleveland, 1967, pp. 57, 70.

schools plus the significant expansion in corporate purchase and operation of the schools. This factor is also likely to have an independent influence upon the general growth of the schools.

The types of courses offered and the educational requirements for admission determine, to a great extent, the nature of the student bodies in the schools. In all probability, the students' average level of formal education has risen faster than the average educational requirement for admission to the schools during recent years. This conclusion is based on the author's study comparing admission requirements with actual qualifications of students. The greater educational preparation of most students could lead more schools to raise the level of sophistication in many of their occupational training courses.<sup>15</sup>

On the other hand, since most trade and technical schools have unused capacity and an interest in enrolling more students, their programs might be broadened to accommodate the large number of people who need initial training, upgrading, or retraining. This would involve accepting more persons with lower educational attainment. The author recommends a government loan-grant program as an equitable means for enabling these persons to attend private vocational schools.

### **Toward Equality of Educational Opportunity<sup>16</sup>**

It would be operationally desirable to have a government loan-grant program for *all* persons seeking employment-related training in private vocational schools. There is, however, a more important reason for universalizing the program—namely, an impressive growth in social concern for and commitment to “free public education.”

The goal of equality of educational opportunity must naturally also provide more persons in low-income families the option of securing a college education. Nevertheless, equality (or, more accurately, equity) will not be achieved by placing an exaggerated emphasis upon college preparatory programs in high school. Many students simply lack either the interest or the ability to attend a college or even a junior college. Also, a community college, public technical institute, or area vocational school may not always

<sup>15</sup>Only a minority of trade and technical schools have thus far applied to colleges and actually received partial transfer credits for students desiring to attend college. Business schools may possibly have been more active in this regard.

<sup>16</sup>Belitsky, *op. cit.* pp. 144-150, for a more detailed discussion.

school teachers and counselors helped guide these students into higher education at the local community college or technical school.

On the other hand, proprietary students who made it through high school were more likely in low-status, general programs. They generally did not have the verbal facility of the students in the public schools. Proprietary students, who probably needed guidance from their high school counselors and teachers, apparently didn't get it, but had to rely on rather unconventional sources of information such as Yellow Pages and late night television advertisements to decide what to do after high school.

Part of the reason why high school counselors and teachers do not guide students into proprietary schools is probably that these teachers and counselors, who are middle-class themselves, feel more comfortable working with the more middle-class students—Whites who have brought with them, or acquired, good verbal skills in high school.

Another, more pervasive reason is a real gap in information that exists about the proprietary schools. When asked, Do you feel that your school competes with other schools in the area for students? only about half the public school presidents and directors responded, Yes. When asked which schools were the main competitors, by name, the community college and technical school leaders most often named 4-year colleges. None named proprietary schools, which indicates a profound lack of knowledge.

This lack of information is one-sided, however, because directors of all proprietary schools said that other schools in the area did compete with them, and named local community colleges and technical schools as a major source of competition.

To sum up, our findings contradict the conventional wisdom that motivation is the factor that determines whether students go to public or proprietary schools. This study, which includes a wide range of schools and students, shows that differences in motivation determine school choices of some, but not most, students.

*Students' Expectations after Graduation*—Students were asked the highest level of education, they expected to attain during their lifetime. Both groups had, in our estimation, unrealistic expectations. Almost half (49%) of the students in the public schools said they expected to attain a bachelor's degree or more, and more than a third (36%) of the proprietary students responded similarly. These expectations are not merely a function of the amount of education already attained, because only 3 percent of the public students and 6 percent of the proprietary students had bachelor's degrees then. This finding is perplexing because neither public vocational nor proprietary programs are easy or usual routes into higher education.

One explanation is that both public and proprietary schools are performing the "cooling out" function described by Clark (1960), in which students who cannot or will not perform at the institutionally defined "standard, 4-year college level," are let down, bit-by-bit, and counseled into terminal programs. They have little hope of transferring back into the 4-year, college-bound stream.

Another explanation is, despite the current popularity of denigrating the college degree, these students still feel they need one for a successful life. We can only speculate about this finding.

Students were asked how much money they expected to earn 3 to 5 years after graduation and 10 years after graduation (exclusive of their spouses' earnings). Expectancy theory (Gurin 1970) indicates that expectations depend not only on the desirability of a goal, in this case future salaries, but also the probability of reaching the goal. Many studies have shown that expectations changed quickly with feedback indicating success or failure (Health 1961; Feather 1963). Following success, most people adjust their expectations upwards, and after failure, most lower their expectations. According to these findings, students with jobs and income should expect higher salaries in the future, because, in view of their current earnings, their expected future earnings seem realistic. On the other hand, future salary expectations of students with the same achievement motive, but without a source of current earnings, should be lower. This is because, in their eyes, the probability of reaching such a high goal is lower. Predictably, the students attending public community colleges and technical institutes who had more resources behind them and were working more and earning more, expected more. On the other hand, students attending proprietary schools, who had fewer resources behind them and worked less and earned less, expected less. When we take into account the differences in current earnings by spreading the earnings effects

U.S. OFFICE OF EDUCATION, ACCREDITATION AND INSTITUTIONAL ELIGIBILITY STAFF—INSTITUTIONS ELIGIBLE  
FOR THE GUARANTEED STUDENT LOAN PROGRAMS, JUNE 30, 1974—Continued

Eligibility termination (1970 to June 30, 1974)	
Degree granting institutions:	
Loss of accredited status.....	3
Loss of 3 I-C.....	7
Closed.....	86
Total.....	96
Proprietary institutions:	
Loss of accredited status.....	129
Closed.....	105
Loss of adv. committee approval.....	156
Merged with other schools.....	15
Total.....	405
Public or nonprofit vocational schools:	
Loss of accredited status.....	18
Closed.....	133
Loss of adv. committee approval.....	37
Merged with other schools.....	10
Total.....	198
Guaranteed Student Loan Program—Vocational Schools, June 30, 1974	
Proprietary schools.....	1,685
Accredited.....	1,341
Nonaccredited.....	344
State approved.....	49
Public area vocational schools.....	816
Accredited.....	4
Nonaccredited.....	812
Allied-medical.....	450
Total.....	3,000

AMERICAN COLLEGE IN PARIS,  
July 19, 1974.

HON. JAMES G. O'HARA,  
Chairman, Special Subcommittee on Education,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN O'HARA: As you suggested at our meeting on May 14, 1974, I have sent to the members of the Special Subcommittee on Education relevant background information on the American College in Paris and our efforts to seek eligibility for assistance under federal programs supporting higher education. A copy of the documentation is enclosed.

Please let me know if any additional information is required. In the meantime, I should like to express, on behalf of the entire College community, my sincere appreciation for your willingness to consider the case of the American College in Paris.

Yours sincerely,

FRANCIS MINER,  
Chairman, Board of Trustees.

Enclosure.

1. THE AMERICAN COLLEGE IN PARIS: A BACKGROUND SUMMARY

STATUS

Founded in 1961 as a private two-year liberal arts college, the first such independent American college to be established outside of North America.

Incorporated in the District of Columbia as a non-profit institution of higher learning.

Licensed by the Board of Higher Education of the District of Columbia to confer the Associate in Arts Degree.

Currently an applicant for the license to grant the Bachelor of Arts Degree which was presented to the D.C. Board of Higher Education on May 31, 1974, and which will result in the College granting its first B.A. degrees in the spring of 1978.

MODEL STATE LEGISLATION FOR APPROVAL OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND AUTHORIZATION TO GRANT DEGREES

(A summary report of the model legislation to the steering committee of the Education Commission of the States at the annual meeting, June 27-29, 1973)

APPROVAL OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND AUTHORIZATION TO GRANT DEGREES

SECTIONS OF MODEL LEGISLATION AND SUMMARY STATEMENT

*Section 2. Purposes.*—The model legislation is designed to protect citizens, students, and institutions against questionable, unethical, and fraudulent practices including those of what are referred to as degree mills through the regulatory powers of the state by:

- (1) Establishing minimal operational standards (educational, ethical, fiscal, and health and safety);
- (2) Prohibiting issuing of false or misleading credentials;
- (3) Controlling use of academic terminology;
- (4) Prohibiting misleading advertising or solicitation; and
- (5) Providing for preservation of records.

*Section 3. Definitions.*—The critical definition is "postsecondary educational institution" and the Task Force attempted, in cooperation with the Federal Interagency Committee on Education and the U.S. Office of Education to develop a definition sufficiently broad to include all postsecondary educational operations, including those applying to or available to persons of post-high school age. It was the decision of the Task Force to operate from such a broad definition to specific exemptions rather than to use a narrower definition in order to insure that it did not inadvertently create loopholes by restrictive definition.

*Section 4. Exemptions.*—The specific exemptions would include:

- (1) Exclusively elementary and secondary institutions;
- (2) Fraternal, professional, or business organizations offering in-service education for employees or members only;
- (3) Institutions offering solely avocational or recreational education;
- (4) Education by eleemosynary institutions not leading to credentials;
- (5) Public postsecondary educational institutions—however: Although the Task Force recognizes the need for providing minimum standards for all of postsecondary education in order to protect all current and potential consumers, generally, publicly authorized existing postsecondary educational institutions would not be effected by the provisions of the model legislation. However, in the interest of insuring at least minimal standards for all postsecondary education for the protection of both institutions and consumers, the Task Force recommends that policy makers and educators at the state level give careful consideration either to exempting public postsecondary educational institutions as determined by the designated agency or commission; or, as an alternative, although such public postsecondary educational institutions might be exempt, it is still suggested that such exempt institutions be expected to conform to the minimum standards for approval or authorization to operate as determined by the agency or commission.

*Section 5. [Agency.] [Commission on Postsecondary Institutional Authorization.]*—The Task Force felt that it would be inappropriate to suggest to the states where governmental authority should be placed for carrying out the provisions of the model state legislation. The designation of an existing agency or commission in the state very much depends upon circumstances within the states. The range of possibility either for designation of an existing agency or establishment of a new agency would depend upon state statutes, constitutional constraints, accepted practice, and political realities, all of which vary from state to state.

The Act suggests two approaches, either designation of an existing agency or creation of a new agency. If an existing agency is designated, it should



Force recognizes that variations from its model legislation may--and, in fact, should--occur. The issue of which agency of state government should administer the provisions of the Act is illustrative. Many would argue for using an existing agency, such as the coordinating or governing board for higher education and postsecondary education in a state or, in some cases, the board of education. Others would argue for the creation of a special commission that for the purposes of the Act would have jurisdiction in relation to all postsecondary educational institutions.

Therefore, recognizing that the function of model legislation is to serve as a guide that may be modified to meet the particular needs of individual states, I am pleased to present this report, including the proposed model legislation and commentary, on behalf of the Task Force and the Education Commission of the States.

The Honorable Tom Jensen  
Tennessee State Representative  
and House Minority Leader  
Task Force Chairman

Text

membership, or offered on a no-fee basis.

(c) Education solely avocational or recreational in nature, as determined by the [Agency] [Commission], and institutions offering such education exclusively.

(d) Education offered by eleemosynary institutions, organizations, or agencies, so recognized by the [Agency] [Commission], provided such education is not advertised or promoted as leading toward educational credentials.

(e) Alternative One. [Postsecondary educational institutions established, operated, and governed by this [State] [Commonwealth] or its political subdivisions, as determined by the [Agency] [Commission].]

(e) Alternative Two. [Postsecondary educational institutions established, operated, and governed by this [State] [Commonwealth] or its political subdivisions; provided, however, such institutions meet minimum standards accepted by the [Agency] [Commission] for authorizing all other postsecondary educational institutions of like kind or character.]

Section 5. [\_\_\_\_\_ Agency.]  
[Commission on Postsecondary Institutional  
Authorization.]

Commentary

*institutions, but with the condition that they satisfy at least the minimum standards applicable to the non-exempt institutions, as established and enforced by the state agency or commission.*

[\_\_\_\_\_ Agency]  
[*Commission on Postsecondary Institutional Authorization*]. Section 5 suggests alternatives for

Text

(a) A postsecondary educational institution must be maintained and operated, or, in the case of a new institution, it must demonstrate that it can be maintained and operated, in compliance with the following minimum standards:

(i) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(ii) That the institution has adequate space, equipment, instructional materials, and personnel to provide education of good quality.

(iii) That the education and experience qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive education consistent with the objectives of the course or program of study.

(iv) That the institution provides students and other interested persons with a catalog or brochure containing information describing the programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and such other material facts concerning

Commentary

include consideration of the institution's ability to enable students to reach its educational objectives and assurance that it has the means of doing so. They also encompass adequate, fair, and accurate information for prospective students in regard to the objectives, costs, and conditions involved. The Act requires not only truth in advertising, but also disclosure of relevant information.

Paragraphs (i) through (vi) of Part (1)(a) relate specifically to objectives, facilities, qualifications of staff, information, credentials, and records.

Paragraphs (vii), (viii) and (xi) deal with the minimum standards for the physical and fiscal conditions of the institution, including protection of the consumer in terms of health, safety, and fiscal responsibility.

Paragraph (iv) establishes the minimum informational disclosure items that should be available about the institution or educational program and should be read in conjunction with paragraph (ix), relating to disclosure practices which are false, deceptive, misleading, or unfair.

Part (1)(b) sets forth the conditions to be satisfied by any applicant for an agent's permit,

Text

(e) Grant, or offer to grant, educational credentials, without authorization to do so from the [Agency] [Commission].

Section 8. Authorization to Operate.

(1) Each postsecondary educational institution desiring to operate in this [State] [Commonwealth] shall make application to the [Agency] [Commission], upon forms to be provided by the [Agency] [Commission]. Said application shall be accompanied by a catalog or brochure published, or proposed to be published by the institution, containing the information specified in Section 6 (1)(a)(iv) of this Act, including information required by rules and regulations of the [Agency] [Commission]. Said application shall also be accompanied by evidence of a surety bond as required by this Act, and payment of the fees specified herein.

(2) Following review of such application and any further information submitted by the applicant, or required by the [Agency] [Commission], and such investigation of the applicant as the [Agency] [Commission] may deem necessary or appropriate, the [Agency] [Commission] shall either grant or deny authorization to operate to the applicant. A grant of authorization to operate may be on such terms and conditions as the [Agency] [Commission] may specify.

Commentary

Authorization to Operate. Agent's Permit. Sections 8 and 9 develop the procedures and conditions for obtaining or renewing the institution's authorization to operate and the agent's permit.

Text

years, and may be issued for a lesser period of time.

(5) At least sixty (60) days prior to the expiration of an agent's permit, the agent shall complete and file with the [Agency] [Commission] an application form for renewal of said permit. Said renewal application shall be reviewed and acted upon as provided hereinabove.

Section 10. Denial of Authorization to Operate or Agent's Permit.

(1) If the [Agency] [Commission], upon review and consideration of an application for authorization to operate, or for an agent's permit, or for renewal thereof, shall determine that the applicant fails to meet the criteria established as provided in this Act, the [Agency] [Commission] shall so notify the applicant, setting forth the reasons therefor in writing, and shall deny the application.

(2) The [Agency] [Commission] may grant to an applicant for renewal an extension of time of reasonable duration in which the applicant may eliminate the reason or reasons for denial contained in the statement of denial, if the applicant has demonstrated to the satisfaction of the [Agency] [Commission] its or his desire to meet

Commentary

Denial of Authorization to Operate or Agent's Permit. [Agency] [Commission] Review. Revocation of Authorization to Operate or Agent's Permit.  
 Sections 10, 11, and 12 are designed to establish safeguards and due-process requirements in connection with applications for authorization to operate, agent's permits, and renewals thereof.

Text

A complaint may also be filed by [Director of Agency] [Commissioner] or the Attorney General with the [Agency] [Commission]. A complainant may also file with the [Agency] [Commission] as a representative of a class of complainants.

(2) The [Agency] [Commission] shall investigate any such complaint and may, at its discretion, attempt to effectuate a settlement by persuasion and conciliation. The [Agency] [Commission] may consider a complaint after ten (10) days written notice by registered mail, return receipt requested, to such institution or to such agent, or both, as appropriate, giving notice of a time and place for hearing thereon. Such hearing shall be conducted in accordance with the [Administrative Code of this [State] [Commonwealth] ] [Rules of Civil Procedure of this [State] [Commonwealth] ].

(3) If, upon all the evidence at a hearing, the [Agency] [Commission] shall find that a post-secondary educational institution or its agent, or both, has engaged in or is engaging in, any act or practice which violates this Act or the rules and regulations promulgated hereunder, the [Agency] [Commission] shall issue and cause to be served upon such institution or agent or both, an order requiring such institution or agent or both to cease and desist from such act or practice.

Commentary

*justified, it may order the act or practice to cease, impose penalties on the institution or the agent, or revoke an institution's authorization to operate or an agent's permit.*

Text

(d) The [annual] renewal fee for an agent's permit shall be \$\_\_\_\_\_.

Section 17. Preservation of Records. In the event any postsecondary educational institution now or hereafter operating in this [State] [Commonwealth] proposes to discontinue its operation, the chief administrative officer, by whatever title designated, of such institution shall cause to be filed with the [Agency] [Commission] the original or legible true copies of all such academic records of such institution as may be specified by the [Agency] [Commission]. Such records shall include, at a minimum, such academic information as is customarily required by colleges when considering students for transfer or advanced study; and, as a separate document, the academic record of each former student. In the event it appears to the [Agency] [Commission] that any such records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the [Agency] [Commission], the [Agency] [Commission] may seize and take possession of such records, on its own motion, and without order of court. The [Agency] [Commission] shall maintain or cause to be maintained a permanent file of such records coming into its possession.

Commentary

Preservation of Records. Section 17 is included in the Act to insure availability of academic records for students who may need them at a later date. The Act authorizes the agency or commission to preserve or cause to be preserved academic records at institutions that cease to exist, as well as to seize such records if they are in danger of being destroyed, secreted, or otherwise made unavailable.

Text

whether or not a resident of or having a place of business in this [State] [Commonwealth], which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, contracts or offers to contract, to provide instructional or educational services in this [State] [Commonwealth], whether such instruction or services are provided in person or by correspondence, to a resident of this [State] [Commonwealth], or which offers to award or awards any educational credentials to a resident of this [State] [Commonwealth], submits such institution, and, if a natural person his personal representative, to the jurisdiction of the courts of this [State] [Commonwealth], concerning any cause of action arising therefrom, and for the purpose of enforcement of this Act by injunction pursuant to Section 22 hereof. Service of process upon any such institution subject to the jurisdiction of the courts of this [State] [Commonwealth] may be made by personally serving the Summons upon the defendant within or outside this [State] [Commonwealth], in the manner prescribed by the [Rules of Civil Procedure] of this [State] [Commonwealth], with the same force and effect as if the Summons had been personally served within this [State] [Commonwealth]. Nothing contained in this section shall limit or affect the right to serve any process

Commentary

to the jurisdiction of the courts of states enacting this proposed legislation, if such institutions provided or solicited to provide education to residents of the enacting state. The section has two main purposes: (1) To enable an individual dealing with the institution to bring suit in his own state, rather than having to go to the state where such institution was located, and (2) to enable the agency or commission to obtain an injunction against fraudulent or deceptive practices of the institution, or against other practices of the institution that violated the Act.



to see that all applicable minimal standards are met in order to do business within that state.

"Before a list of standards can be given to the federal Congress for their consideration, we must be aware of the kind of standards that must be developed on a state to state basis. The states that do have adequate laws generally apply the following standards:

"(1) *Application Information*.—This standard deals generally with contracts with close attention focused on the truth-in-lending act and full disclosure for consumer information.

"(2) *Catalog Criteria*.—This standard relates to the type of information that must be contained in any document that purports to be a catalog. Once again attention is focused on full disclosure of all operating procedures of the institution and highlighted so that a student can make a decision without being misled by oral statements of an agent or salesman of an institution.

"(3) *Admission Policies*.—This standard is the most difficult to outline because of the variety of students and subjects offered by the proprietary school. In some states they cover this by rule and regulation based upon a determination made as to the 'kind and type' of institution being evaluated.

"(4) *Instructional Criteria*.—This standard is evaluated by the state educational staff or by individuals, who by virtue of their expertise in business, industry and educational subject areas are asked to perform this function. Basically the instructional material is measured to see that the most advanced materials are presented in a manner that can be comprehended by the student and organized in a clear meaningful manner to actually prepare the potential student for his job.

"(5) *Record-Keeping Criteria*.—This standard provides for a system of record-keeping that will detail all pertinent data on the student, during his training, and after graduation, including placement and job success.

"(6) *Agent/Salesmen Criteria*.—This standard reflects the requirements necessary to becoming a licensed representative, prohibitions concerning advertising and recruitment of potential students by the agent/salesmen.

"(7) *Placement*.—This standard would apply to all schools offering placement assistance. Methods of placement, as well as placement figures must be documented.

"(8) *Cancellation and Refund Policy*.—Perhaps the most difficult policy to standardize is what constitutes a good refund policy. All require schools to adhere to a refund policy which must be clearly explained to the student, and which must be clearly understood by the agent.

"(9) *Equipment/Facilities*.—This standard is designed to make the institution prove that equipment and facilities are not obsolete or that the facilities provide an adequate educational environment. Normally, all standards are so written as to preclude a needless expenditure of equipment unless present equipment does not provide modern experience.

"(10) *Faculty Criteria*.—This standard is designed to designate the manner in which faculty will be certified by the state to assume knowledge and competence in their area of teaching. The standards are geared as to reflect qualification through on-the-job training (work experience) and formal classroom training (college, graduate school).

"(11) *Administrative Staff Support*.—This standard is designed to insure that the student has proper channels of redress and that someone, properly trained and cognizant of the total school operation is always available to both student and faculty.

"(12) *Advertising/Recruitment*.—This standard is designed to provide for ethical behavior on the part of an institution, its staff and representatives in the use of multi-media advertising, scholarships or grants, and recruitment practices.

"(13) *Financial Stability*.—This standard is designed to insure that the student is protected against any loss incurred by the institution or its representatives in not fulfilling the contractual arrangements between student and institution. (This is an extremely difficult standard to make uniform since current bonding requirements vary from \$1,000.00 to \$50,000.00.)"

The above standards are generally found in all the states who do have adequate laws. They normally will reinforce the basic statute by Rules and Regulations. In an attempt to develop uniform laws throughout the fifty states, the Education Commission of the States developed a legislative model