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HIGHER EDUCATION

Including Public,
Nonprofit, and For-
Profit Institutions in a
Single Definition Is
Unlikely to Immediately
Affect Federal
Spending, but Long-
term Effects Are
Unclear





Highlights of [GAO-07-857](#), a report to congressional requesters

Why GAO Did This Study

The Higher Education Act (HEA) defines “institution of higher education” to include public, nonprofit, and for-profit institutions, allowing students at these institutions access to \$83.1 billion in aid. However, the act also includes a second, narrower definition of institution of higher education specifically excluding for-profits from access to nearly \$1.96 billion in other funding.

During the 109th Congress, legislation proposed consolidating the two definitions. In response to a congressional request, this report examines the extent to which a single definition might affect federal spending, other aspects of applicable federal programs, as well as state-level programs and policies.

To address these objectives, GAO searched the U.S. Code to identify federal statutes and programs potentially affected by a change in definition, conducted in-depth reviews of programs and policies, and interviewed relevant officials.

What GAO Recommends

GAO does not make recommendations in this report. The Department of Education stated that a single definition could increase federal spending by increasing access to some special postal rates and tax benefits. GAO does not believe that the former is likely; the tax code does not rely on the HEA definitions of institution of higher education.

www.gao.gov/cgi-bin/getrpt?GAO-07-857.

To view the full product, including the scope and methodology, click on the link above. For more information, contact George Scott at (202) 512-5932 or ScottG@gao.gov.

HIGHER EDUCATION

Including Public, Nonprofit, and For-Profit Institutions in a Single Definition Is Unlikely to Immediately Affect Federal Spending, but Long-term Effects Are Unclear

What GAO Found

Given that GAO’s review of references to the narrower HEA definition did not identify any mandatory spending or entitlement programs, it is unlikely that a single definition would immediately increase federal spending; however, more for-profit institutions may become eligible to compete for federal funds and participate in various aspects of certain federal programs. GAO’s searches of the U.S. Code to identify federal statutes and related programs that could be affected by the adoption of a single definition yielded numerous federal statutes referring to the HEA definition that limits participation to public and nonprofit institutions. However, these references appear to be tied to discretionary programs funded through annual appropriations, not mandatory spending or entitlement programs. Accordingly, adopting a single definition will not immediately increase federal spending.

Although a single definition could affect federal programs by allowing some for-profit institutions to apply for discretionary funds, many federal programs may be unlikely to witness greater competition because for-profit institutions generally lack the kinds of academic programs that would qualify for such grants. While federal spending is not likely to increase, some of the provisions GAO identified were funding-related and, as such, could also affect program administration or increase competition for program resources. For example, some of the provisions relate to forming partnerships to pursue funding, and under a single definition, for-profit institutions could become a potential partner. In a limited number of cases, the provisions GAO identified were not connected to federal funding, but under a single definition could expand the pool of eligible participants for some program activities.

A single federal definition is unlikely to immediately affect state programs but could potentially affect state higher education programs and policies in the future. State statutes and regulations generally do not reference the federal definition when establishing eligibility criteria for state higher education programs, and officials in several states told GAO that an institution’s for-profit status is less important than other factors when determining state program eligibility. State officials told GAO that the likely effects of a single definition were greater competition for funding and greater political influence for for-profit higher education institutions.

The effects of a single definition on the American higher education system over a longer time frame are difficult to predict. For example, states might align their own policies to match the definition; for-profit institutions might expand their research programs; and Congress might decide to increase funding for existing discretionary programs. As policy makers address questions about access, they will want to remain aware of these diverse costs and benefits.

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Abbreviations

HEA	Higher Education Act
IPEDS	Integrated Postsecondary Education Database System
SMART	Science, Mathematics, and Research for Transformation

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United States Government Accountability Office
Washington, DC 20548

July 31, 2007

The Honorable George Miller
Chairman
The Honorable Howard P. “Buck” McKeon
Ranking Member
Committee on Education and Labor
House of Representatives

The Honorable Dale E. Kildee
Chairman
The Honorable Michael N. Castle
Ranking Member
Subcommittee on Early Childhood,
Elementary and Secondary Education
Committee on Education and Labor
House of Representatives

The Honorable John A. Boehner
House of Representatives

The Honorable Raúl M. Grijalva
House of Representatives

The Honorable Betty McCollum
House of Representatives

In recent years, the scale and scope of for-profit higher education in the United States has changed considerably, prompting a reconsideration of the role of for-profits in the nation’s higher education system. In 1998, for-profits accounted for approximately 11 percent of all private higher education enrollments. By 2004, that percentage had doubled and included an industry of almost 2,600 for-profit institutions educating some 1.24 million students. Full-time enrollment in 4-year for-profits continues to increase, and one for-profit university now boasts that it is the largest private university in the United States. The Higher Education Act (HEA), the primary legislation authorizing most federal student aid programs (Title IV), already defines institution of higher education to include public, nonprofit, and for-profit institutions, allowing all such institutions to share in the \$83.1 billion of federal grants and loans distributed as financial aid. However, an institution of higher education is defined more narrowly for

purposes of non Title IV HEA programs—such as grants for infrastructure or to support teacher training—to include only public and nonprofit institutions. As a result, for-profit institutions are currently unable to access the nearly \$1.96 billion in federal funding for these programs.

There has been an ongoing debate about creating a single definition of institution of higher education that would give for-profit institutions greater access to non Title IV HEA programs. Proponents of this approach have sought to repeal the existing statutory definitions and replace them with a single definition that would include public, nonprofit, and for-profit institutions as part of an effort to increase college access and remove barriers for nontraditional students.¹ Proponents argued that the dual definitions in the current law foster a tiered system where not all institutions share the same standing in the nation’s higher education system. During deliberations to reauthorize the HEA, some members of Congress expressed concerns that other federal statutes or state laws or programs might explicitly or implicitly reference the existing narrower federal definition and that a change to a single definition could have unintended consequences, such as giving for-profit institutions access to non HEA programs and increasing federal spending

To provide you with the information about the potential impact of adopting a single definition we examined the ways in which a single definition of an institution of higher education might affect: 1) federal spending and other aspects of federal programs across the federal government and 2) state programs and policies.

To address our objectives, we conducted searches of the U.S. Code to identify federal statutes and the related programs that could be affected by the adoption of a single definition of an institution of higher education. Our search was confined to statutory provisions codified in or classified to the U.S. Code and, as such, does not include appropriations acts. We did not search the Code of Federal Regulations or other sources of federal policy, such as agency guidance or other publications. In addition to searching the U.S. Code, we analyzed data from the Department of Education’s Integrated Postsecondary Education Database System (IPEDS) to review the volume of for-profit institutions’ research

¹Legislation to reauthorize the HEA passed by the House of Representatives during the 109th Congress included a provision to consolidate the two definitions into a single definition of an institution of higher education. College Access and Opportunity Act of 2006, H.R. 609, 109th Cong., § 101 (2006).

expenditures and the major fields of study of those enrolled. In addition, we conducted in-depth reviews of applicable state higher education programs and policies in six states—California, New York, Oregon, Pennsylvania, Texas, and Wyoming—and conducted approximately 35 interviews with officials and representatives from federal, state, and private sector organizations in the higher education field. In some cases, the interviews involved multiple attendees who represented various state agencies and public and private organizations. The six states were selected on the basis of a variety of criteria, including the intensity of the state’s higher education regulatory environment, expert recommendations, recent legislative activity in areas of for-profit school regulation or oversight, and the percentage of total state-funded financial aid going to students at for-profit higher education institutions. Appendix I provides a more detailed description of our study’s scope and methodology. We conducted our review between March 2006 and April 2007 in accordance with generally accepted government auditing standards.

Results in Brief

Given that our review of references to the narrower HEA definition did not identify any mandatory spending or entitlement programs, it is unlikely that a single definition would immediately increase federal spending; however, more institutions may become eligible to compete for federal funds and participate in various aspects of certain federal programs. Numerous federal statutes reference the definition limiting the participation of for-profit institutions, but these references were to programs involving discretionary spending. Under a single definition, more institutions could become eligible to compete for these programs, but given that most 4-year for-profits do not have the kinds of academic programs that would qualify for grants, in the short run it is unlikely that many federal programs would witness greater competition. For example, many of the U.S. Code sections we reviewed involve making grant awards to eligible institutions for research in the physical and life sciences, fields in which few for-profits have academic programs. While federal spending is not likely to increase, some of the provisions we identified were funding-related and, as such, could also affect program administration or increase competition for program resources. For example, some of the provisions relate to the formation of partnerships to pursue funding. Under a single definition, for-profit institutions could be a potential partner. In a limited number of cases, the provisions we identified were not connected to federal funding, but under a single definition could expand the pool of eligible participants for some program activities. For example, with a single definition, representatives of for-profit institutions could become eligible to sit on some federal advisory committees.

A single federal definition is unlikely to have an immediate impact on state programs but could potentially affect state higher education programs and policies in the future. There will likely be no immediate impact on state financial aid programs because generally, state statutes and regulations do not reference the federal definition of an institution of higher education when establishing eligibility criteria. According to officials in several states we reviewed, an institution's profit-making status is less important than other factors in determining eligibility for state programs. States generally rely more on factors such as regional versus national accreditation and whether institutions offer degrees and are based in that particular state. Even though there is unlikely to be any immediate impact on state programs and policies, state officials and representatives from other higher education organizations we spoke with believe there could be future implications. Although opinions of officials and representatives varied widely, increased competition for funding and increased political influence of the for-profit higher education industry were most often cited as potential long-term effects of changing the federal definition.

In response to a draft of this report, the Department of Education (Education) offered technical comments suggesting that a single definition could have an effect on federal spending by giving for-profit institutions access to special postage rates and extending certain tax benefits to for-profit institutions. We do not believe that such consequences are likely. With regard to the first issue, the Postal Service receives an appropriation to cover the costs of revenues it foregoes as a result of some reduced mailing rates, but this appropriation does not appear to cover the costs of the reduced rate currently available to nonprofit and public institutions for mailing course catalogs.² However, according to Postal officials, changing the definition of an institution of higher education could result in some institutions seeking access to classes of postage that they might not have had access to before. If they were to prevail, this could affect Postal revenues. Regarding the second issue, our review of the tax code, codified at Title 26, indicates that it does not rely on the section 101 definition of "institution of higher education" for purposes of determining the availability of tax benefits. In the comments, Education also stated that the report should be explicit regarding special eligibility requirements now contained in section 102 applicable to for-profit institutions. We have added language to clarify this point.

²39 U.S.C. § 2401.

Background

The Higher Education Act of 1965, as amended (HEA), is administered by the U.S. Department of Education and authorizes a range of programs and activities, including federal student financial aid (also known as the Title IV programs), aid to institutions, and aid to improve K-12 teacher training at postsecondary institutions. For the purpose of determining postsecondary institutions' eligibility to participate in HEA's various programs and activities, the HEA currently contains two definitions of "institution of higher education." Section 101 defines the term "institution of higher education" for the purposes of all programs and activities of the HEA other than the Title IV student federal financial aid programs.³ Under section 101, in order to meet the definition of institution of higher education, the institution must be either a public or nonprofit institution. For Title IV programs, however, section 102 of the HEA⁴ defines "institution of higher education" more broadly to include all institutions recognized under the section 101 definition, as well as proprietary (for-profit) institutions that meet certain additional eligibility requirements.⁵ Because of this broader definition, students at some for-profit institutions have access to and may participate in Title IV financial aid programs. Legislative proposals for a single definition of institution of higher education for the HEA would repeal the existing statutory definitions and replace them with a single definition that includes public, nonprofit, and for-profit institutions, thereby giving all institutions, regardless of their profit-making status, access to HEA programs and potentially to other federal programs that use the section 101 definition.⁶

For-profit education has become an increasingly larger component of American higher education. Between 1998 and 2004, the percentage of students enrolled in for-profits compared to all enrollments doubled. In 1998, one in ten students enrolled in private institutions was at a for-profit; by 2004, that ratio had dropped to one in five. For-profits' offerings tend to be concentrated in a small number of applied fields and range from non-degree-granting to doctoral programs, though the former is more typical.

³20 U.S.C. §1001.

⁴20 U.S.C. §1002.

⁵For example, in order to participate in Title IV programs, for-profit institutions must have been in existence for two years and must obtain at least 10 percent of their revenues from non Title IV sources. 20 U.S.C. § 1002(b).

⁶However, such proposals may retain the additional requirements, such as those mentioned above, applicable to for-profit institutions.

In 2004, 2,186 of the 2,563 for-profit institutions only offered programs leading to no more than a 2-year degree, and at 4-year institutions, 98 percent of all enrollments were either in business (85 percent) or education (13 percent) programs. Demographically, such institutions tend to enroll large percentages of women and minorities. Indeed, between 2000 and 2004 the percentage of females at for-profits increased from 50 percent to 57 percent.

Regulation and oversight of the nonprofit and for-profit higher education sectors is largely decentralized. Individual states develop their own public higher education systems, establish and implement rules governing the establishment of private nonprofit and for-profit universities, and specify the minimum requirements that all institutions operating in the state must meet in order to grant academic degrees. Quality control is maintained largely through a voluntary accreditation system, whereby privately run accrediting agencies review the qualifications of member institutions. Though it is possible to forego accreditation, the HEA stipulates that an institution must be accredited by one of 61 nationally recognized accrediting agencies designated by the U.S. Department of Education to be eligible for Title IV federal financial aid programs.

A Single Definition Is Unlikely to Immediately Increase Federal Spending, but May Expand For-Profits' Ability to Compete for Funding and to Participate in Other Aspects of Certain Programs

Given that our review of references to the narrower HEA definition did not identify any mandatory spending or entitlement programs, it is unlikely that a single definition would immediately increase federal spending; however, more institutions may become eligible to compete for federal funds and participate in various aspects of certain federal programs. Although numerous federal statutory provisions reference the section 101 definition that excludes for-profit institutions of higher education, none of these provisions appears to implicate mandatory spending programs. However, more institutions could become eligible to compete for programs that are funded with discretionary spending. In addition, some of the provisions we identified could affect program administration or increase competition for program resources. For example, some of the provisions relate to the formation of partnerships to apply for federal funding. Under a single definition, for-profit institutions could become a potential partner for some federal grant programs. A single definition could also expand the pool of eligible applicants for some federal activities. For example, faculty members of for-profit institutions could become eligible to sit on some federal advisory committees.

Numerous Federal Statutes Reference the Federal Definition That Excludes For-Profit Institutions of Higher Education

Section 101 of the Higher Education Act, which defines institutions of higher education as public or nonprofit institutions, is frequently referenced in federal laws, many of which pertain to subjects beyond education. We identified references to the definition in more than 350⁷ statutes spread across 22 of the U.S. Code's 50 titles.⁸ Slightly more than half of these references were located in Title 20, which pertains to education, and about 20 percent were found in Title 42, which pertains to public health and welfare. The remainder, scattered throughout the U.S. Code, deal with subjects as varied as agriculture, national defense, and immigration. What is more, the programs covered by statutes using this definition are administered by a variety of federal agencies. Table 1 below lists the number of sections we identified in our search arranged by applicable U.S. Code Title. A complete listing of the statutory references to the section 101 definition we identified can be found in appendix II.

⁷There are also a significant number of provisions using the phrase "institution of higher education," but not referring to the section 101 definition, that are not included in our analysis.

⁸The number of statutes is not indicative of the number of federal programs that would be affected by a single definition. Numerous statutory provisions together may form a single program. For example, at least seven different U.S. Code sections are used to define and authorize the Teacher Quality Enhancement program (20 U.S.C. § 1022).

Table 1: Results of U.S. Code Search for References to Section 101 Definition of an Institution of Higher Education, by Title

Title	Subject matter	Total number of sections
20	Education	192
42	The public health and welfare	77
10	Armed forces	12
29	Labor	12
30	Mineral lands and mining	11
15	Commerce and trade	10
22	Foreign relations and intercourse	9
7	Agriculture	8
25	Indians	4
33	Navigation and navigable waters	4
50	War and national defense	4
8	Aliens and nationality	2
5	Government organization and employees	1
11	Bankruptcy	1
14	Coast Guard	1
16	Conservation	1
18	Crimes and criminal procedure	1
23	Highways	1
37	Pay and allowances of the uniformed services	1
39	Postal Service	1
40	Public buildings, property, and works	1
47	Telegraphs, telephones, and radiotelegraphs	1
Total		355

Source: GAO analysis of the United States Code.

A Single Definition Would Not Likely Increase Federal Spending Immediately, but May Expand the Pool of Eligible Applicants for Some Program Funding and Activities

A single definition of institution of higher education is unlikely to increase federal spending in the short term. Approximately 44 percent of the references we identified relate to the provision of federal program funds directly to students or institutions.⁹

Our review of these provisions did not identify any mandatory or entitlement programs that are not subject to spending caps. Accordingly, the adoption of a single definition of an institution of higher education will not immediately increase mandatory federal spending. The funding-related references appear to be tied to discretionary programs that are funded through the annual appropriations process. Spending for these programs would increase only if Congress elected to appropriate additional funds.

Although a single definition could affect federal programs by allowing for-profit institutions to apply for discretionary funds, in the short run, many federal programs may be unlikely to witness greater competition. Many of the U.S. Code sections related to federal funds were for research in the physical and life sciences.¹⁰ However, academic programs at 4-year for-profits are largely concentrated in the areas of business and education, and the dollar volume of research such institutions do is small, suggesting limited capacity for research in many of the areas where federal funds for science research are available.¹¹ We also identified a number of U.S. Code sections addressing education-related training programs that for-profit institutions could more readily qualify for, such as the Teacher Institutes

⁹For purposes of this analysis, the term “institutions” includes institutions of higher education but may also include state agencies and local educational agencies.

¹⁰For example, 42 U.S.C. § 16721 offers grants to institutions of higher education to conduct research in aeronautical sciences and technologies, and 7 U.S.C. § 8103 awards grants to eligible entities, including institutions of higher education, to help subsidize the development and construction of biorefineries for carrying out projects demonstrating the commercial viability of processes for converting biomass to fuels or chemicals.

¹¹Information based on the latest year available. More than 98 percent of enrollments at 4-year proprietary institutions were either in business-oriented (85.3 percent) or education (13 percent) programs. In addition, of the 367 four-year for-profits reporting expenditures data through IPEDS in 2004, only 13 reported expenditures related to research and public service. One institution reported just more than \$2 million that year, and the mean expenditure was \$10,715. Data was not reported on the percentage of research expenditures related to science.

program or the Teacher Quality Enhancement program.¹² Additionally, for-profit institutions operating in large urban areas and enrolling disproportionately more minority students than nonprofit institutions may be more competitive than such institutions for certain programs. One example is the Urban Community Service program, which provides funds to urban academic institutions to address problems in their communities.¹³ In general though, the number of federal discretionary grant programs that would be affected by greater competition appears to be limited.

Many of the statutory provisions we identified were funding-related and could also have an effect on various aspects of program administration or increase opportunities for for-profits to partner with other entities for purposes of applying for grant funds. With a single definition, for-profit institutions could become eligible for some grants for which they could not previously apply, but as recipients, for-profits may also be subjected to additional reporting obligations. For example, some of these provisions require that grant recipients report certain kinds of information to the administering agency, or that institutions enrolling students who receive federal funds file reports about those students.¹⁴ Other provisions in this category state that only partnerships consisting of institutions of higher education and other entities, such as school districts and state education agencies, are eligible to apply.¹⁵ Accordingly, with a single definition, entities desiring to apply for a grant could collaborate with for-profit institutions as well as public and nonprofit institutions.

In a limited number of cases, the provisions we identified were not connected to federal funding, but under a single definition could expand the pool of eligible applicants for some program activities. For example, some provisions specify the qualifications individuals must have to pursue employment supported by federal funds, such as a provision related to the

¹²The Teacher Quality Enhancement program under Title II of the HEA provides grants to states for many purposes, including implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach. 20 U.S.C. §§ 1021 - 1030. The Teacher Institutes program provides for the National Science Foundation to make competitive grants to institutions and other entities to support teacher education and training in the areas of mathematics and science. 20 U.S.C. § 3913.

¹³20 U.S.C. §§ 1139c, 1139d, 1139f, and 1139g.

¹⁴See 20 U.S.C. § 4706.

¹⁵See 20 U.S.C. § 1452.

No Child Left Behind Act that requires certain teachers' aides to complete at least 2 years of study at an institution of higher education or meet other qualification requirements.¹⁶ Under a single definition this would include individuals who had completed their studies at for-profit institutions as well. Other provisions authorize federal agencies to form advisory committees for particular purposes and specify that committee membership may include representatives of institutions of higher education. For example, the provision establishing the Advisory Council on Coal Research makes the council's membership open to representatives of institutions of higher education who are knowledgeable in the fields of coal research and mining.¹⁷ To the extent that a faculty member at a for-profit was recognized as holding the necessary qualifications, a single definition could allow such individuals to become members of some federal advisory committees.

For a small number of the provisions we analyzed, a single definition is unlikely to have any effect on federal programs. These instances generally involve statements related to program purposes or simply encourage policy initiatives. For example, one provision¹⁸ encourages eligible institutions to provide opportunities for students to develop their knowledge and understanding of developing countries, and another provision¹⁹ expresses Congress's sense that all institutions should take certain specific measures to change the culture of alcohol consumption on college campuses. With a single definition, these policy statements would apply to both for-profit and nonprofit institutions.

¹⁶20 U.S.C. § 6319.

¹⁷30 U.S.C. § 1315.

¹⁸22 U.S.C. § 4709.

¹⁹20 U.S.C. § 1011h.

A Change to a Single Definition of an Institution of Higher Education Is Unlikely to Immediately Affect State Programs, but Could in the Future

A single federal definition of an institution of higher education is unlikely to have an immediate impact on state programs, but could potentially affect state higher education programs and policies in the future. There will likely be no immediate impact on state financial aid programs because in general, state laws and regulations establishing eligibility criteria for these programs do not directly reference the federal definition. According to state officials, several institutional characteristics, rather than the schools' profit-making status, are most often employed to determine eligibility for state student aid programs, including what agency accredits the institution, whether the institution offers degrees, and where the institution is located. Even though there is unlikely to be any immediate impact on state programs and policies, state officials and representatives from other higher education organizations with whom we spoke believe there could be future implications. While perceptions varied widely, officials and representatives suggested that the change in definition could eventually affect state programs and policies by increasing competition for federal grant programs and possibly giving the for-profit higher education industry more influence in shaping relevant state policies.

States We Reviewed Rely Mainly on Several Institutional Characteristics, Not the Federal Definition, to Determine Eligibility for State-Funded Student Financial Aid Programs

Having a single definition is unlikely to result in an immediate or substantial impact at the state level. Our search of state statutory and regulatory codes identified only a small number of direct references to the HEA section 101 definition of institution of higher education. According to state officials in all the states we reviewed, state aid directed to institutions is only provided to public and private nonprofit higher education institutions. None of the states we reviewed provided state aid, such as grants supporting an institution's core operations or research activities, directly to for-profit institutions although in half of the states, students attending for-profit institutions are eligible to receive state financial aid. For state student financial aid, eligibility requirements emphasize one or more factors like accreditation, types of programs offered, and location, rather than institutions' profit-making status.

Three of the six states we reviewed make state financial aid available to students at for-profit institutions: California, New York, and Pennsylvania. These states ensure the integrity of the programs they fund by requiring that participating institutions have qualifications such as accreditation and degree-granting status, and participation in federal programs. State higher education officials in these states told us that they were more focused on the quality and type of programs institutions offered rather than their profit-making status. For example, officials in New York told us they limit state Tuition Assistance Program funding to students at degree-granting

institutions only, regardless of their profit-making status. Similarly, an institution of higher education in Pennsylvania must be accredited and approved by the Pennsylvania Department of Education in order to be eligible for the State Grant Program.²⁰ California also provides funding to students at for-profit institutions with Cal Grant funds. For example, in California, any private institution that participates in the Pell Grant program and any two of the three major federal campus-based student aid programs may access student financial aid funds,²¹ regardless of for-profit status.²²

Wyoming, Texas, and Oregon currently exclude for-profit institutions from state student financial aid programs. However, officials in each of these states told us that for-profit institutions may have been excluded not simply because of their for-profit status but also because of limited public resources, relevant state laws being created before the growth in degree-granting for-profit institutions, or because of state lawmakers' preference to limit public funds to public institutions. For example, in Wyoming, the Hathaway Scholarship Program funding is limited to students attending the University of Wyoming or a Wyoming community college, even though a Wyoming official told us there was some debate at the time of the program's inception about opening it up to students attending other accredited, degree-granting private institutions. Texas also limits state student aid funding through the TEXAS Grant Program to the state's public institutions and private nonprofit institutions accredited by Southern Association of Colleges and Schools. One official indicated that these funds may be limited to public and nonprofit institutions because of limited state funding or because relevant state regulations were established long before the rise in for-profit, degree-granting institutions. Oregon also excludes for-profit institutions from its student financial aid program, the Oregon Opportunity Grant, funding only accredited nonprofit, Oregon-based schools, public institutions, and community colleges.

²⁰Out of state institutions are eligible only if they are accredited, degree-granting, nonprofits.

²¹The three federal programs are the Supplemental Educational Opportunity Grant, Work-Study, and the Perkins Loan.

²²Any institution—public, nonprofit, or for-profit—are eligible to participate as long as they are accredited by Western Association of School and Colleges, the regional accrediting body responsible for California, and meet certain requirements.

Officials and Representatives We Interviewed Predict Little or No Immediate Impact on State Programs, but Views Vary on Long-Term Impact

While many officials and representatives we spoke with believed the single definition would not have an immediate impact on state programs and policies, they did raise a number of potential long-term consequences to consider. Opinions on the exact nature of the long-term consequences, however, varied among and within states, indicating that future impact is difficult to predict. In general, we found that those representing the for-profit higher education industry were more likely to note the potential benefits of a single definition while representatives from nonprofit and public institutions, along with state higher education officials, were more likely to identify the possible problems. Of the potential consequences mentioned most often by officials and representatives with whom we spoke, two main issues emerged: (1) increased competition for federal grant program funds and (2) increased political influence of the for-profit higher education industry in state policymaking.

Increased Competition for Federal Grant Program Funds and Increased Oversight Responsibility

Many officials and representatives of nonprofit and for-profit institutions with whom we spoke believed that the single definition would increase competition for federal funding. Some representatives and state officials believe that increased competition could, in theory, provide postsecondary students access to a broader range of programs and expand overall educational choice. On the other hand, representatives from the public and nonprofit sectors suggested that increased competition would reduce already scarce public funding for nonprofit and public universities in their states. However, as we stated earlier in this report, it may be unlikely that most for-profits will be competitive for federal grant programs in the short term. Some officials and representatives concurred with this point, stating that they thought it unlikely that for-profit institutions that do not already qualify for those funds for which they would be most competitive—i.e., teacher training programs—would take the necessary steps to meet the qualifications for federal grant programs in other fields given the return on investment.

Some officials expressed concern that a single definition will cause a strain on state agency resources. Assuming the single definition makes more institutions eligible to apply for federal funds, several state officials were worried about the administrative burden of monitoring the increased number of institutions receiving federal funds. According to officials, state agencies are already responsible for administering federal grant programs in their respective states and providing oversight for institutions that

Increased Political Influence of For-Profit Institutions

receive federal funds.²³ Additionally, since states rely heavily on institutions' accreditation status in their oversight, some state officials we spoke with suggested that quality control in the recognition of accrediting agencies would become more important.

State officials and representatives from for-profit institutions we spoke to believed that a single definition could potentially give the for-profit sector added influence, allowing it to shape policy change in individual states. For example, one official in Oregon, which currently excludes for-profits from state financial aid funding, said that pressure to open state programs to for-profit institutions already exists in this state and believed that the single federal definition could potentially increase that pressure on the state legislature. While officials in several states we reviewed described their states' higher education policies as largely independent of the federal government's, some officials and representatives from other higher education organizations with whom we spoke noted that states consider federal policy when setting state policy and developing guidance. An official in Pennsylvania, for example, told us that as a matter of practice, administration of state financial aid generally parallels federal guidelines in order to ease the administrative burden on the state's program administrators. Indeed, several officials told us that they believed states could eventually follow the federal lead on this issue.

Additionally, some state officials and representatives from for-profit institutions believed that for-profit institutions could use successful passage of the single definition at the federal level to push for policy changes on other related issues, such as transfer of credit policy, although many for-profit representatives with whom we spoke said they wanted only the symbolic recognition provided by a single definition.²⁴ Many traditional public and nonprofit institutions currently only accept transfer credit from regionally accredited institutions, and since for-profit institutions generally lack such accreditation, their students face problems when trying to transfer to traditional nonprofit schools. Representatives from several for-profit institutions believed that a change in the federal definition could help remove these barriers. Other representatives

²³Examples of federal programs administered by states include Teacher Training under HEA and the Adult Education and Literacy Programs under the Workforce Investment Act.

²⁴GAO, *Transfer Students: Postsecondary Institutions Could Promote More Consistent Consideration of Coursework by Not Basing Determinations on Accreditation*, [GAO-06-22](#) (Washington, D.C.: October 2005).

believed that transfer-of-credit policy would remain tied to accreditation rather than profit-making status, regardless of the outcome of the single definition debate. At the same time, some representatives with whom we spoke from the for-profit sector maintained that they were not seeking eligibility for specific federal and state grant programs or other policies. Rather, they stated that the single definition provides symbolic recognition of their institution's important and fundamental role in the American postsecondary education system.

Concluding Observations

A change in the federal definition of institution of higher education is likely to have a limited impact in the short run. However, the effects of a single definition on the American higher education system over a longer time frame are difficult to predict yet important to keep in mind. While states largely set their higher education policies independently, future federal policy initiatives could provide states with incentives to more closely align their own policies with those at the federal level. Newfound eligibility to compete for federal resources may or may not encourage for-profit institutions to invest in education and research programs outside of their traditional domain, and greater competition may encourage nonprofit institutions to expand their own commercial activities. Furthermore, a larger pool of eligible institutions may, in the future, increase pressure on the Congress to increase the funding levels for existing discretionary programs. Overall, while a single definition would grant for-profit institutions greater parity, additional federal recognition would bring additional oversight. As policy makers address questions about access, they will want to remain aware of these diverse costs and benefits.

Agency Comments

We provided a draft of this report to Education for review and comment. In response to a draft of this report, Education offered technical comments about the effect that a single definition would have on federal spending. Although Education suggests that giving for-profit institutions access to special postage rates would result in immediate budgetary consequences for the federal government, we do not believe that such consequences are likely. This is, in part, because the Postal Service receives an appropriation to cover the costs of revenues it foregoes as a result of some reduced mailing rates, but this appropriation does not appear to cover the costs of the reduced rate currently available to nonprofit and public institutions for mailing course catalogs. However, according to Postal officials, changing the definition of an institution of higher education could result in some institutions seeking access to classes of postage that they might not have had access to before. If they

were to prevail, this could affect Postal revenues. Similarly, Education suggested that there could be increased federal costs for extending certain tax benefits to for-profit institutions. However, our review of the tax code, codified at Title 26, indicates that it does not rely on the section 101 definition of “institution of higher education” to determine the availability of tax benefits, but rather relies on other criteria. As a result, we do not anticipate that a single definition would, in itself, result in any immediate tax consequences. Finally Education stated that the report should be explicit regarding special eligibility requirements now contained in section 102 and applicable to for-profit institutions. We have added language to clarify this point and agree that Congress should be aware of these additional eligibility rules as it considers future legislative proposals for a single definition. Education’s comments have been reproduced in appendix III.

We will send copies of this report to the Secretary of Education, relevant congressional committees, and other interested parties. In addition, the report will be available at no charge on GAO’s Web site at <http://www.gao.gov>. Please contact George Scott at (202) 512-5932 if you or your staff have any questions about this report. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.



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Appendix I: Objectives, Scope, and Methodology

Our objectives were to examine ways in which a single definition of an institution of higher education might affect: 1) federal spending and other aspects of applicable federal programs, and 2) state programs and policies. To answer these questions, we searched the U.S. Code to identify federal statutes and the related programs that could be affected by the adoption of a single definition of an institution of higher education. We also analyzed data from the Department of Education's Integrated Postsecondary Education Database System (IPEDS) to review both the volume of 4-year for-profit institutions' research expenditures and the major fields of study of those enrolled. In addition, we conducted interviews with federal, state, and private sector organizations in the higher education field and contacted selected states to obtain more information about the potential impact of the single definition within these states. See below for more detailed information on each of these aspects of our research. We performed our work from March 2006 through April 2007 in accordance with generally accepted government auditing standards.

Search of U.S. Code

In order to determine the number of references to the section 101 definition of "institution of higher education" in the U.S. Code, we performed multiple searches of the commercial legal databases Westlaw and Lexis. First, we searched these databases for explicit references to section 101's definition in statutory text, for example, by searching for occurrences of the phrases "section 101" or "institution of higher education" in close proximity to "the Higher Education Act," or for references to the codified version of the section 101 definition, "20 U.S.C. § 1001." We reviewed these results carefully to ensure that they referred to the section 101 definition of institution of higher education and not to some other unrelated provision and in a small number of cases, eliminated search results based upon this review.

In conducting this preliminary review, we observed that a significant number of the statutory provisions we identified contained definitions that applied for purposes of various subdivisions of the U.S. Code, such as a particular chapter or subchapter. Therefore, we performed a second set of searches designed to identify implicit references to the section 101 definition. For example, 10 U.S.C. § 2199 refers to the section 101 definition of institution of higher education and specifies that this definition applies for purposes of the entire chapter in which the reference occurs. Accordingly, in order to identify the implicit references to the section 101 definition in the relevant chapter, we searched that chapter only for additional uses of the term "institution of higher education." In this particular case, our search revealed three additional code sections

(§§ 2196 – 2198) that refer to institutions of higher education, but incorporate the section 101 definition by reference, rather than by identifying it explicitly. We repeated this process where appropriate to expand our search results. Notably, this step generated approximately three times more search results than the first, which indicates that the majority of statutory provisions that rely on the section 101 definition do not do so explicitly, but rather incorporate it by reference. Both of these research steps were performed initially in March 2006 and were repeated in January 2007 to ensure that our analysis reflects any legislative changes that occurred in the course of our work. The full list of search results is available in appendix II.

There are some limitations to our methodology that should be noted. First, in some cases, we also observed that the term “institution of higher education” is used to define another term (for example, “postsecondary educational institution”), which is then used to establish grant eligibility or other program requirements. However, we did not conduct additional searches to identify statutory references to these other terms. As a result, our analysis may overlook some peripheral references to “institution of higher education.” Second, we did not verify whether Congress has provided recent funding for particular programs or provisions. Additionally, our search was confined to statutory provisions codified in or classified to the U.S. Code and as such does not include appropriations acts. We did not search the Code of Federal Regulations or sources of federal policy, such as agency guidance or other publications. To the extent that these sources rely on the section 101 definition, there may also be implications for a change to a single definition.

Although this approach enabled us to identify the number of provisions that potentially would be affected by a single definition of institution of higher education, we did not attempt to identify the number of federal programs that would be affected. Our decision was affected by multiple factors. First, given that numerous statutory provisions together may form a single program, the number of statutes is not indicative of the number of federal programs that would be affected by a single definition.¹ Second, some statutes are free standing and cannot be identified as part of a larger program. Additionally, in some cases, the statutes forming a particular

¹For example, at least seven different U.S. Code sections identified in our search are used to define and authorize the Teacher Quality Enhancement Grant Program (20 U.S.C. § 1022).

program are codified in places scattered throughout the U.S. code. However, in some cases, the structure of the U.S. Code lends itself more easily to identifying statutes that together form a program.² As a result, our analysis refers to both federal programs and particular provisions.

Review of Statutory References

In order to determine whether a change in the definition of an institution of higher education will have a federal budgetary impact or result in higher federal spending, our approach was to determine if any of the identified references involved mandatory funding—programs whose budget authority is provided in laws other than appropriations acts, such as entitlement programs. To determine the budgetary impact, we identified references that are related to programs that provide funds directly to students or institutions and traced these direct-funding references to readily available descriptive information. Such readily available information included published program data, the President’s budget, agencies’ budget justification documents, and/or other information made publicly available by agencies administering the programs. We also reviewed a list of mandatory accounts to determine if these direct-funding references involved mandatory funding. To determine the likely impact of a single definition on other aspects of federal programs, we reviewed the statutory text of provisions not directly related to federal funding to determine if the adoption of a single definition would have any impact on these program activities.

In-depth Reviews of States

To determine how a single definition might affect state programs and policies, we conducted in-depth reviews of six states. We visited three states: California, New York, and Oregon, and interviewed officials by phone in Pennsylvania, Texas, and Wyoming.³ These states were selected on the basis of a variety of criteria, including the intensity of the state’s regulatory environment, expert recommendations, recent legislative activity in areas of private school regulation or oversight, and the

²See appendix II for examples of how the structure of the U.S. Code can be used in some cases to identify programs. Title 10, for example, deals generally with topics related to the armed forces. It is further divided into subtitles, which are divided into parts, which are divided into chapters. In this case, Chapter 112 pertains to the Information Security Scholarship Program. For purposes of our work, the sections within this program that are relevant are § 2200, § 2200a, § 2200b, and § 2200e.

³These officials, in general, included officials from the state department of education, state student aid administrations, and state legislative staff.

percentage of total state financial aid going to students at for-profit higher education institutions. During our interviews, we discussed each state's higher education system with various state officials. These discussions included how it is structured and regulated, the extent of state oversight, and the eligibility criteria for states' higher education grant programs, such as institutional aid and student financial aid. We also reviewed documents obtained from higher education officials during these meetings, including state laws or regulations outlining eligibility criteria for states' student financial aid programs. To determine perspectives on how the creation of a single definition of institution of higher education may affect federal and state programs and policies, we also spoke with representatives from nonprofit and for-profit higher education institutions, and several higher education associations representing the interests of the for-profit and nonprofit, private higher education sectors nationwide. In total, we conducted approximately 35 interviews that, in some cases, included multiple attendees who represented various state agencies and public and private institutions and organizations.

As part of our review of the six selected states, we conducted a limited search of state statutory and administrative codes to help determine if a single federal definition would have an immediate impact on state policies or programs. We requested that state officials in our six interview states provide us with relevant statutory language defining institutional eligibility criteria for state student financial aid programs. Based on the information they provided, we searched state statutes and regulations to identify the appropriate institutional eligibility requirements. In addition, we searched each of these states' statutory codes and program regulations using key terms to assess whether the federal definition of an institution of higher education was used to determine institutional eligibility for other higher-education-funding programs in our interview states.

Appendix II: U.S. Code References to Institution of Higher Education

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Title 5. Government Organization and Employees

Part III. Employees

Subpart I. Miscellaneous

Chapter 98. National Aeronautics and Space Administration

§ 9809. Science and technology scholarship program

Title 7. Agriculture

Chapter 55. Department of Agriculture

§ 2279. Outreach and assistance for socially disadvantaged farmers and ranchers

§ 2279c. student internship programs

Chapter 64. Agricultural Research, Extension, and Teaching

Subchapter III. Agricultural Research and Education Grants and Fellowships

§ 3152. Grants and fellowships for food and agricultural sciences education

Subchapter XIV. Institutions of Higher Education in Insular Areas

§ 3361. Definition

Chapter 103. Agricultural Research, Extension, and Education Reform

Subchapter III. Miscellaneous Provisions

Part B. General

§ 7657. Senior Scientific Research Service

Chapter 107. Renewable Energy Research and Development

§ 8103. Biorefinery development grants

§ 8104. Biodiesel fuel education program

§ 8105. Energy audit and renewable energy development program

Title 8. Aliens and Nationality

Chapter 12. Immigration and Nationality

Subchapter II. Immigration

Part II. Admission Qualifications for Aliens; Travel Control of Aliens and Citizens

§ 1182. Inadmissible Aliens

§ 1184. Admission of nonimmigrants

Title 10. Armed Forces

Subtitle A. General Military Law

Part II. Personnel

Chapter 31. Enlistments

§ 510. Enlistment incentives for pursuit of skills to facilitate national service

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Part III. Training and Education

Chapter 111. Support of Science, Mathematics, and Engineering Education

§ 2192a. Science, Mathematics, and Research for Transformation (SMART) Defense Education Program

§ 2193. Improvement of education in technical fields: grants for higher education in science and mathematics

§ 2196. Manufacturing engineering education: grant program

§ 2197. Manufacturing experts in the classroom

§ 2198. Management training program in Japanese language and culture

§ 2199. Definitions

Chapter 112. Information Security Scholarship Program

§ 2200. Programs; purpose

§ 2200a. Scholarship program

§ 2200b. Grant program

§ 2200e. Definitions

Subtitle E. Reserve Components

Part IV. Training for reserve components and Educational assistance programs

Chapter 1611. Other Educational assistance programs

§ 16401. Marine Corps platoon leaders class: college tuition assistance program

Title 11. Bankruptcy

Chapter 5. Creditors, The debtor, and the estate

Subchapter II. Debtor’s duties and benefits

§ 522. Exemptions

Title 14. Coast Guard

Part II. Coast Guard Reserve and Auxiliary

Chapter 21. Coast Guard Reserve

Subchapter A. General

§ 709a. Reserve student precommissioning assistance program

Title 15. Commerce and Trade

Chapter 7. National Institute of Standards and Technology

§ 278h. Research program on security of computer systems

Chapter 40. Department of Commerce

§ 1542. Establishment of the Ernest F. Hollings Scholarship Program

Chapter 81. High-performance computing

Subchapter III. Department of Energy high-end Computing Revitalization

§ 5541. Definitions

§ 5542. Department of Energy high-end computing research and development program

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Chapter 92. Year 2000 Computer Date Change

§6604. Punitive damages limitations

Chapter 100. Cyber Security Research and Development

§ 7402. Definitions

§ 7403. National Science Foundation research

§ 7404. National Science Foundation computer and network security programs

§ 7410. Grant eligibility requirements and compliance with immigration laws

§ 7411. Report on grant and fellowship programs

Title 16. Conservation

Chapter 6. Game and Bird Preserves; Protection

§ 698u-5. Advisory committee

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 11. Bribery, Graft, and Conflicts of Interest

§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

Title 20. Education

Chapter 28. Higher Education Resources and Student Assistance

Subchapter I. General provisions

Part A. Definitions

§ 1001. General definition of institution of higher education

§ 1003. Additional definitions

Part B. Additional General Provisions

§ 1011. Antidiscrimination

§ 1011a. Protection of student speech and association rights

§ 1011b. Treatment of territories and territorial student assistance

§ 1011d. Student representation

§ 1011e. Financial responsibility of foreign students

§ 1011h. Binge drinking on college campuses

§ 1011i. Drug and alcohol abuse prevention

Part C. Cost of Higher Education

§ 1015. Improvements in market information and public accountability in higher education

Part D. Administrative Provisions for Delivery of Student Financial Assistance

§ 1018. Performance-Based Organization for delivery of federal student financial assistance

Subchapter II. Teacher Quality Enhancement

Part A. Teacher Quality Enhancement Grants for States and Partnerships

§ 1021. Purposes; definitions

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

§ 1022. State grants

§ 1023. Partnership grants

§ 1025. Administrative provisions

§ 1027. Accountability for programs that prepare teachers

§ 1028. State functions

§ 1029. General provisions

Part B. Preparing Tomorrow’s Teachers to Use Technology

§ 1041. Purpose and program authority

§ 1042. Eligibility

§ 1043. Use of funds

Subchapter III. Institutional Aid

§ 1051. Findings and Purpose

Part A. Strengthening Institutions

§ 1058. Definitions; eligibility

§ 1059c. American Indian tribally controlled colleges and universities

§ 1059d. Alaska Native and Native Hawaiian-serving institutions

Part B. Strengthening Historically Black Colleges and Universities

§ 1060. Findings and purposes

§ 1061. Definitions

§ 1063. Allotments to institutions

§ 1063b. Professional or graduate institutions

Part C. Endowment Challenge Grants for Institutions Eligible for Assistance under Part A or Part B

§ 1065. Endowment Challenge Grants

Part D. Historically Black College and University Capital Financing

§ 1066c. Limitations on Federal insurance for bonds issued by designated bonding authority

Part E. Minority Science and Engineering Improvement Program

Subpart 1. Minority Science and Engineering Improvement Program

§ 1067. Findings

§ 1067a. Purpose; authority

Subpart 2. Administrative and General Provisions

§ 1067g. Eligibility for grants

§ 1067k. Definitions

Part F. General Provisions

§ 1068b. Application review process

Subchapter IV. Student Assistance

Part B. Federal Family Education Loan Program

§ 1078-11. Loan forgiveness for child care providers

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Subchapter V. Developing Institutions

Part A. Hispanic-Serving Institutions

§ 1101. Findings; purpose; and program authority

§ 1101a. Definitions; eligibility

§ 1101b. Authorized activities

Subchapter VI. International Education Programs

Part A. International and Foreign Language Studies

§ 1121. Findings and purposes

§ 1122. Graduate and undergraduate language and area centers and programs

§ 1123. Language resource centers

§ 1124. Undergraduate international studies and foreign language programs

§ 1125. Research; studies; annual report

§ 1126. Technological innovation and cooperation for foreign information access

§ 1128a. American overseas research centers

Part B. Business and International Education Programs

§ 1130. Findings and purpose

§ 1130-1. Centers for international business education

§ 1130a. Education and training programs

Part C. Institute for International Public Policy

§ 1131. Minority foreign service professional development program

§ 1131a. Study abroad program

§ 1131c. Internships

Part D. General Provisions

§ 1132. Definitions

Subchapter VII. Graduate and Post-Secondary Improvement Programs

Part A. Graduate Education Programs

Subpart 1. Jacob K. Javits Fellowship Program

§ 1134. Award of Jacob K. Javits Fellowships

§ 1134a. Allocation of fellowships

§ 1134b. Stipends

§ 1134c. Fellowship conditions

Subpart 2. Graduate Assistance in Areas of National Need

§ 1135. Grants to academic departments and programs of institutions

§ 1135a. Institutional eligibility

§ 1135b. Criteria for applications

§ 1135c. Awards to graduate students

§ 1135d. Additional assistance for cost of education

Subpart 3. Thurgood Marshall Legal Educational Opportunity Program

§ 1136. Legal Educational Opportunity Program

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Part B. Fund for the Improvement of Postsecondary Education

§ 1138. Fund for the improvement of postsecondary education

§ 1138c. Special projects

Part C. Urban Community Service

§ 1139c. Allowable activities

§ 1139d. Peer review

§ 1139f. Designation of urban grant institutions

§ 1139g. Definitions

Part D. Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education

§ 1140. Purposes

§ 1140a. Grants authorized

§ 1140b. Applications

§ 1140c. Rule of construction

Subchapter VIII. Miscellaneous

§ 1153. Underground Railroad Educational and Cultural Program

Chapter 31. General Provisions Concerning Education

Subchapter II. Appropriations and Evaluations

Part 2. Planning and Evaluation of Federal Education Activities

§ 1228c. Disclosure requirements

Chapter 33. Education of Individuals with Disabilities

Subchapter I. General Provisions

§ 1401. Definitions

Subchapter II. Assistance for Education of All Children with Disabilities

§ 1412. State eligibility

§ 1416. Monitoring, technical assistance, and enforcement

Subchapter IV. National Activities to Improve Education of Children with Disabilities

Part A. State Personnel Development Grants

§ 1452. Eligibility and collaborative process

§ 1454. Use of funds

Part B. Personnel Preparation, Technical Assistance, Model Demonstration Projects, and Dissemination of Information

§ 1461. Purpose; definition of eligible entity

§ 1462. Personnel development to improve services and results for children with disabilities

§ 1465. Interim alternative educational settings, behavioral supports, and systemic school interventions

Part C. Supports to Improve Results for Children with Disabilities

§ 1471. Parent training and information centers

Part D. General Provisions

§ 1481. Comprehensive plan for parts B and C

§ 1482. Administrative provisions

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Chapter 42. Harry S Truman Memorial Scholarships

§ 2002. Definitions

§ 2005. Truman scholars

§ 2008. Scholarship conditions

Chapter 44. Vocational Education

§ 2302. Definitions

Subchapter I. Career and Technical Education Assistance to the States

Part A. Allotment and Allocation

§ 2324. National activities

§ 2325. Assistance for the outlying areas

§ 2327. Tribally controlled postsecondary career and technical institutions

Part B. State Provisions

§ 2342. State plan

§ 2344. State leadership activities

Subchapter II. Tech Prep Education

§ 2373. Tech prep education

§ 2374. Consortium applications

Chapter 52. Education for Economic Security

§ 3902. Definitions

Subchapter I. National Science Foundation Science and Engineering Education

§ 3913. Teacher institutes

§ 3914. Materials development and methods research for mathematics, science, and engineering

§ 3916. Other functional activities

Subchapter III. Partnerships in Education for Mathematics, Science, and Engineering

Part A. Higher Education Partnerships

§ 3981. Statement of purpose

§ 3982. Definitions

§ 3984. Authorized activities

§ 3985. Application

§ 3986. Submission of applications

Chapter 57. James Madison Memorial Fellowship Program

§ 4505. Recipient’s choice of institution

§ 4506. Recipient’s eligibility

§ 4509. Fellowship conditions

§ 4514. Definitions

Chapter 59. Barry Goldwater Scholarship and Excellence in Education Program

§ 4702. Definitions

§ 4706. Scholarship conditions

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Chapter 66. Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation

§ 5602. Definitions

§ 5605. Authority of Foundation

Chapter 70. Strengthening and Improvement of Elementary and Secondary Schools

Subchapter I. Improving The Academic Achievement of the Disadvantaged

Part A. Improving Basic Programs Operated by Local Educational Agencies

Subpart 1. Basic Program Requirements

§ 6316. Academic assessment and local educational agency and school improvement

§ 6317. School support and recognition

§ 6319. Qualifications for teachers and paraprofessionals

Part B. Student Reading Skills Improvement Grants

Subpart 1. Reading First

§ 6362. Formula grants to State educational agencies

§ 6363. State formula grant applications

Subpart 3. William F. Goodling Even Start Family Literacy Programs

§ 6381a. Program authorized

§ 6381f. Applications

Part C. Education of Migratory Children

§ 6398. Coordination of migrant education activities

Part D. Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

Subpart 1. State Agency Programs

§ 6438. Transition services

Part F. Comprehensive School Reform

§ 6516. Local use of funds

Subchapter II. Preparing, Training, and Recruiting High Quality Teachers and Principals

Part A. Teacher and Principal Training and Recruiting Fund

§ 6602. Definitions

Subpart 2. Subgrants to Local Educational Agencies

§ 6623. Local use of funds

Subpart 3. Subgrants to Eligible Partnerships

§ 6631. Definitions

§ 6634. Use of funds

Subpart 5. National Activities

§ 6651. National activities of demonstrated effectiveness

Part B. Mathematics and Science Partnerships

§ 6661. Purpose; definitions

Part C. Innovation for Teacher Quality

Subpart 1. Transitions to Teaching

Division A. Troops-To-Teachers Program

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

§ 6673. Recruitment and selection of program participants

§ 6674. Participation agreement and financial assistance

§ 6676. Support of innovative preretirement teacher certification programs

Division B. Transition to Teaching Program

§ 6681. Purposes

§ 6682. Definitions

§ 6683. Grant program

Subpart 2. National Writing Project

§ 6702. National Writing Project

Subpart 3. Civic Education

§ 6715. Cooperative civic education and economic education exchange programs

Subpart 4. Teaching of Traditional American History

§ 6721. Establishment of program

Part D. Enhancing Education through Technology

§ 6753. Definitions

Subpart 1. State and Local Technology Grants

§ 6764. Local applications

Subchapter III. Language Instruction for Limited English Proficient and Immigrant Students

Part A. English Language Acquisition, Language Enhancement, and Academic Achievement Act

Subpart 1. Grants and Subgrants for English Language Acquisition and Language Enhancement

§ 6822. Native American and Alaska Native children in school

§ 6825. Subgrants to eligible entities

§ 6826. Local plans

Subpart 3. National Activities

§ 6861. National professional development project

Subpart 4. Definitions

§ 6871. Eligible entity

Part B. Improving Language Instruction Educational Programs

Subpart 1. Program Development and Enhancement

§ 6911. Financial assistance for language instruction educational programs

§ 6912. Program enhancement activities

§ 6913. Comprehensive school and systemwide improvement activities

§ 6914. Applications

Subpart 2. Research, Evaluation, and Dissemination

§ 6931. Authority

Subpart 3. Professional Development

§ 6951. Professional development grants

Subpart 4. Emergency Immigrant Education Program

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

§ 6967. Uses of funds

Part C. General Provisions

§ 7011. Definitions

Subchapter V. Promoting Informed Parental Choice and Innovative Programs

Part A. Innovative Programs

Subpart 3. Local Innovative Education Programs

§ 7215a. Administrative authority

Part D. Fund for the Improvement of Education

Subpart 1. Fund for the Improvement of Education

§ 7243. Programs authorized

Subpart 2. Elementary and Secondary School Counseling Programs

§ 7245. Elementary and secondary school counseling programs

Subpart 3. Partnerships in Character Education

§ 7247. Partnerships in character education program

Subpart 4. Smaller Learning Communities

§ 7249. Smaller learning communities

Subpart 6. Gifted and Talented Students

§ 7253c. Authorized programs

Subpart 7. Star Schools Program

§ 7255c. Applications

§ 7255f. Definitions

Subpart 8. Ready to Teach

§ 7257. Grants

Subpart 11. Community Technology Centers

§ 7263a. Eligibility and application requirements

Subpart 13. Excellence in Economic Education

§ 7267b. Grant program authorized

Subpart 15. Arts in Education

§ 7271. Assistance for arts education

Subpart 16. Parental Assistance and Local Family Information Centers

§ 7273e. Local family information centers

Subpart 21. Women’s Educational Equity Act

§ 7283b. Programs authorized

§ 7283c. Applications

§ 7283d. Criteria and priorities

Subchapter VI. Flexibility and Accountability

Part A. Improving Academic Achievement

Subpart 1. Accountability

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

§ 7301a. Grants for enhanced assessment instruments

Subchapter VII. Indian, Native Hawaiian, and Alaska Native Education

Part A. Indian Education

Subpart 2. Special Programs and Projects to Improve Educational Opportunities for Indian Children

§ 7441. Improvement of educational opportunities for Indian children

§ 7442. Professional development for teachers and education professionals

Subchapter VII. Indian, Native Hawaiian, and Alaska Native Education

Part A. Indian Education

Subpart 3. National Activities

§ 7451. National research activities

§ 7452. In-service training for teachers of Indian children

§ 7453. Fellowships for Indian students

Subpart 4. Federal Administration

§ 7473. Preference for Indian applicants

Part B. Native Hawaiian Education

§ 7512. Findings

§ 7515. Program authorized

Subchapter IX. General Provisions

Part A. Definitions

§ 7801. Definitions

§ 7803. Applicability to Bureau of Indian Affairs operated schools

Part E. Uniform Provisions

Subpart 2. Other Provisions

§ 7908. Armed Forces recruiter access to students and student recruiting information

Chapter 73. Adult Education and Literacy

Subchapter I. Adult Education and Family Literacy

§ 9202. Definitions

Chapter 76. Education Research, Statistics, Evaluation, Information, and Dissemination

Subchapter I. Education Sciences Reform

§ 9501. Definitions

Part A. Institute of Education Sciences

§ 9514. Office of the Director

§ 9516. National Board for Education Sciences

Part C. National Center for Education Statistics

§ 9544. Performance of duties

§ 9546. Dissemination

Part D. National Center for Education Evaluation and Regional Assistance

§ 9562. Commissioner for education evaluation and regional assistance

§ 9564. Regional educational laboratories for research, development, dissemination, and technical assistance

References in the U.S. Code to “Institution of Higher Education” as defined by Section 101 of the Higher Education Act

Part F. General Provisions

§ 9579. Fellowships

Title 22. Foreign Relations and Intercourse

Chapter 33. Mutual Educational and Cultural Exchange Program

§ 2460. Bureau of Educational and Cultural Affairs

§ 2462. Establishment of grant program for foreign study by American college students of limited financial means

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Source: GAO Analysis of the United States Code.

Appendix III: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

JUL 12 2007

THE ASSISTANT SECRETARY

Mr. George A. Scott
Director, Education, Workforce
and Income Security Issues
United States Government Accountability Office
Washington, DC 20548

Dear Mr. Scott:

The Department of Education (ED) appreciates the opportunity to review the General Accounting Office's (GAO's) draft report, *Higher Education: Including Public, Nonprofit, and For-Profit Institutions In A Single Definition Is Unlikely to Immediately Affect Federal Spending, but Long-Term Consequences Are Unclear* (GAO-07-857). GAO makes no recommendation based on this report.

While ED has no substantive comments, below are three technical comments:

- Current statute, 39 USC 3626, which governs special postage rates for educational institutions, references the HEA Section 101 definition of an institution of Higher Education (IHE). Thus, the change to a single definition will likely have some immediate budgetary consequence for the federal government.
- IHEs have tax benefits in addition to those that apply to regular non-profits in terms of non-taxed tuition benefits that they can provide to employees. In addition, they don't have to spend as much of their endowments as do other non-profits. If the same tax benefits apply to a for-profit IHE, this could be costly to the federal government.
- The report incorporates by reference the single definition that was included in the HEA reauthorization bill the House of Representatives passed during the 109th Congress, which included a provision to consolidate the two definitions into one. The House language retained the unique requirements for some institutions within the combined definition. The report should be explicit about the terms of these requirements included in the House-passed language. Without this information, the reader could be lead to believe that there would be no impact from removing all of the special eligibility requirements applicable to for-profit institutions that are now contained in Section 102. In the absence of these unique requirements, however, not only would for-profit institutions now eligible under the Title IV programs become eligible under other HEA programs (as the draft indicates), but

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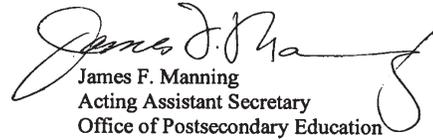
Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

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other for-profit institutions currently not eligible under both Title IV and other
HEA programs would gain eligibility.

If you have questions about these comments, please contact Dottie Kingsley, Director,
Strategic Planning at (202) 502-7505 or by e-mail, dottie.kingsley@ed.gov.

Sincerely,


James F. Manning
Acting Assistant Secretary
Office of Postsecondary Education

Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

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