



American Council on Education
Office of the President

July 18, 2006

James F. Manning
Acting Assistant Secretary for
Postsecondary Education
U.S. Department of Education
1990 K Street, NW
Washington, DC 20006

RE: Upward Bound Program

Dear Mr. Manning:

I write on behalf of the higher education associations listed below to comment on the Notice of Proposed Priority for the Upward Bound program published in the July 3, 2006 *Federal Register*. My colleagues and I have both substantive and procedural problems with the proposed priority to narrow Upward Bound services to 9th grade students meeting criteria selected by the Department. We especially object to the fact that this process effectively exchanges a congressional priority for an administrative one – a practice we view as precedent-setting and disturbing.

Several aspects of this proposal concern us, among them:

- The priority asserted is such a marked departure from existing program design that it effectively substitutes a new program for the one that Congress authorized and provided the funds to operate.
- The proposed priority discards the current flexibility to vary the program in accordance with local needs, substituting in its place a monolithic federal vision about whom to serve.
- By establishing a priority for a cohort of 9th grade students, the proposal would disenfranchise all of the 10th and 11th graders that Congress intended to be served by the Upward Bound services.
- The requirement that 30% of newly-admitted students be “at high academic risk for failure” would deprive certain 9th grade students – those who may do well in school – from receiving the Upward Bound services they may require.

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- And finally, the proposal creates a troubling gray area between congressional intent as expressed in statutory language – sometimes amplified by report language – and the Department’s Constitutional obligation to carry out that intent in a straightforward manner.

We appreciate that the Department is engaged with the problem of reducing the unacceptably high numbers of high school students who drop out prior to graduation. This is an important problem that deserves attention. However, if this priority setting approach is adopted, it is easy to imagine that many other programs administered by the Department will be subject to a wholesale redesign outside the normal legislative and regulatory processes. We strongly urge you to discard this proposed priority setting effort in favor of working with the Congress and the higher education community to develop promising approaches to solving this problem.

Sincerely,



David Ward
President

DW/cms

On behalf of:

American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
American Indian Higher Education Consortium
Association of American Universities
Association of Community College Trustees
Association of Jesuit Colleges and Universities
Council for Opportunity in Education
Hispanic Association of Colleges and Universities
National Association for Equal Opportunity in Higher Education
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators