



American Council on Education  
Office of the President

July 24, 2007

United States Senate  
Washington, D.C. 20510

Dear Senator:

During Tuesday's debate on S. 1642, you will be asked to vote on an amendment by Senator Coburn to prevent colleges and universities from exercising the first amendment privileges enjoyed by virtually every other sector of our society. On behalf of the higher education associations listed below, I urge you to defeat this amendment.

Senator Coburn's amendment is designed to restrict the work of "registered lobbyists" on earmarks, but whether intentionally or not, it goes much, much further. As drafted, it would prevent any college or university official from meeting with "any officer or employee of any agency of the federal government," or any legislative branch employee "in connection with any federal action."

The scope of this single phrase is sweeping and unprecedented. It would make it illegal for:

- a faculty member to testify before the HELP committee about No Child Left Behind;
- a Member of Congress or their staff to visit a community college to learn about job training programs;
- a research scientist to serve on a peer review panel to make recommendations about NIH funding for cancer, heart disease or diabetes;
- a university engineer to meet with the Army Corps of Engineers to discuss rebuilding the levees in New Orleans; or
- a college to host a presidential debate.

More concretely, five members -- exactly half of the Iraq Study Commission (Robert Gates, James Baker, William Perry, Alan Simpson and Chuck Robb) -- would have been prohibited from serving on that body because of their employment at institutions of higher

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education. Surely it is not in the nation's interest to make it impossible for world class experts to give advice to federal officials about "any federal action."

It is critical to note that Senator Coburn's amendment overlooks the fact that colleges and universities, like all federal grantees, must follow strict federal guidelines that limit their ability to engage in advocacy. The Byrd Amendment and OMB Circular A-21 specify in considerable detail what federal grantees can and can't do with respect to influencing federal action. These provisions have been developed over many years and make a clear but nuanced distinction between sharing information designed to educate and inform, and impermissibly attempting to influence government policy making. Campuses must certify their compliance with these rules and regulations as part of every single federal grant they receive. Institutions that violate these guidelines are subject to sizable monetary penalties.

In addition, under the Federal Acquisition Regulations, nonfederal funds used by colleges and universities to pay lobbyists for assistance in obtaining federal grants and contracts must be disclosed and filed with the relevant federal agency. The disclosure must list the names of all individuals who made lobbying contacts to help secure the award. The civil penalties for each failure to file the requisite disclosures range from \$10,000 to \$100,000.

We can think of no precedent for imposing such severe strictures on any other segment of society, nor can we point to any failings on the part of institutions in complying with the federal rules they must follow to warrant the extreme actions set out in the Coburn amendment. We ask you to vote to defeat the Coburn amendment.

Sincerely,



David Ward  
President

DW/jsf

On behalf of:

American Association of Community Colleges  
American Association of State Colleges and Universities  
American Council on Education  
Association of American Universities  
Association of Jesuit Colleges and Universities  
National Association of Independent Colleges and Universities  
National Association of State Universities and Land-Grant Colleges