

leg. clearance P. 1/8

URGENT

Total Pages: 8

LRM ID: CJB69

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, July 11, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melissa N. Benton

PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: EDUCATION Testimony on Education of the Deaf Act Reauthorization

DEADLINE: 2:00 p.m. Monday, July 14, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS:
DISTRIBUTION LIST

AGENCIES:
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Constance J. Bowers
Janet R. Forsgren

No Comments

LRM ID: CJB69
Reauthorization

SUBJECT: EDUCATION Testimony on Education of the Deaf Act

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melissa N. Benton Phone: 395-7887 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the reponse of our agency to your request for views on the above-captioned subject:

Concur

 No Objection

No Comment

See proposed edits on pages

Other: _____

 FAX RETURN of pages, attached to this reponse sheet

U. S. DEPARTMENT OF EDUCATION

Statement of

Judith E. Heumann

Assistant Secretary
Office of Special Education and
Rehabilitative Services

on the

Education of the Deaf Act of 1986

United States House of Representatives
Committee on Education and the Workforce
Subcommittee on Postsecondary Education, Training, and Life-Long
Learning

15
July ~~10~~, 1997

Mr. Chairman and members of the Subcommittee, thank you for inviting me to discuss the reauthorization of the Education of the Deaf Act of 1986 (EDA). This Act provides the funding authority for Gallaudet University and the National Technical Institute for the Deaf (NTID).

The President has emphasized universal access to postsecondary education and lifelong learning as top priorities of his Administration. This access is needed because today's good jobs increasingly require skills and training beyond a high school education. This means that effective and accessible postsecondary education is critically important. I am pleased to be here today because Gallaudet and NTID provide important postsecondary educational options to assist individuals who are deaf to obtain the skills necessary to succeed in today's competitive job market.

Role of the Department of Education

Under the EDA, the Department of Education is responsible for monitoring and providing oversight to Gallaudet and NTID to help ensure that services and programs are being provided in accordance with the authorizing legislation and that these activities meet the needs of the students for whom they are intended. Over the years, we have worked closely with each of the schools to ensure that Federal funds are being used efficiently and effectively to expand educational opportunities for individuals who are deaf.

Currently, the Department is working with Gallaudet and NTID to meet the requirements of the Government Performance and Results Act of 1993 (GPRA). The Department has provided guidance to the institutions on the requirements of GPRA related to developing an appropriate system of strategic objectives and performance indicators that can be used to help measure the

effectiveness of their programs. Both Gallaudet University and NTID have recently undertaken strategic planning processes that have formed the basis for their performance plans. Each institution has submitted its plan, and we are working with the schools to ensure that the plans include appropriate objectives, indicators, and data sources.

Need to Maintain Progress Made in the 1992 Amendments

The Education of the Deaf Act Amendments of 1992 incorporated a number of important changes into the Act that were recommended by the Department and the Commission on the Education of the Deaf. These include provisions for updating the operating agreements for NTID and Gallaudet's elementary and secondary education programs, establishing limitations on the expenditure of Federal funds, creating a tuition surcharge for international students, and setting a limit on the number of international students that can be accepted and subsidized by the schools. The amendments modified the Endowment Grant provisions to increase investment options and expanded the requirements for annual reports by the institutions. The amendments also incorporated procedural safeguards specified in the Individuals with Disabilities Education Act into the requirements for Gallaudet's elementary and secondary education programs; broadened the mission of those programs to include students who are lower functioning academically, from non-English speaking homes, from rural areas, or who have secondary disabilities; and required the elementary and secondary education programs to conduct model

demonstration activities in an equitable manner based on the distribution of students who are deaf or hard of hearing among various educational environments. The changes to the elementary and secondary education programs at Gallaudet helped ensure that all individuals with deafness benefited from the demonstration activities conducted by these programs.

We believe that the EDA was substantially improved in the 1992 reauthorization, and that those changes helped increase the accountability and focus of the Gallaudet and NTID. The Department has worked closely with the institutions over the past several years to ensure effective implementation of the requirements of the EDA. We strongly believe that nothing should be done to weaken the Act's current direction. The current law is a good law, and does not need to be substantially amended.

Proposal to Incorporate EDA into the Higher Education Act

You have asked us to specifically address a proposal to include the authorities for Gallaudet and NTID in a separate title under the Higher Education Act (HEA). Although we have not had the opportunity to fully explore this proposal, we have some initial reservations. Based on our assessment thus far, we do not believe that there are any advantages to this proposal from either an administrative or programmatic perspective. If Gallaudet and NTID are incorporated into HEA, the schedule and process for reauthorization of HEA will control the timing and process for reauthorizing these authorities. Inclusion of these authorities into such a large and complex statute could also

diminish the amount of attention these programs receive from the Congress during reauthorization. Finally, one could question the appropriateness of the fit given the fact that EDA authorizes two elementary and secondary programs at Gallaudet, the Kendall Demonstration Elementary School and Model Secondary School for the Deaf.

Change of Title for the EDA

We are concerned that the title of the Education of the Deaf Act has caused some confusion in the deaf community as to the purpose of the Act. In 1986, the EDA was enacted to consolidate the separate authorities for Gallaudet University and the National Technical Institute for the Deaf. It was not intended to address the broad range of issues related to the education of individuals who are deaf. We believe the title should be revised to better reflect the primary purpose and scope of the legislation, although this is not a pressing priority of the Department at this time.

Closing Remarks

To ensure that all students have equal educational opportunity, individuals with disabilities must have a full range of educational options available to them. The Rehabilitation Act of 1973 and Americans with Disabilities Act have provided students with disabilities a wide and increasing range of postsecondary educational options. However, the education provided by these institutions offers an important option along the continuum of postsecondary options for individuals who are

deaf. I believe that by working together, the Administration, Congress, Gallaudet, NTID, and individuals who are deaf can continue to ensure that the education these schools provide continues to be a viable and important resource for our Nation's students who are deaf.

Those of us involved in the effort to bring top-quality postsecondary educational opportunities to people with disabilities have a common goal. That goal is to create policies, programs, and institutions that facilitate the ability of all Americans to lead independent, productive lives and to contribute to American society. We believe that the Education of the Deaf Act provides an appropriate statutory framework for the activities of these institutions, and therefore are not recommending any substantive amendments to the authority for these programs.

Mr. Chairman and members of the subcommittee, thank you again for allowing me to share some of the Administration's thoughts on the reauthorization of the Education of the Deaf Act. My colleagues at the Department and I look forward to working with you and would be happy to discuss any issues related to the reauthorization.

SPECIAL*leg. Referral*Total Pages: 11

LRM ID: CJB59

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, July 3, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: *Janet R. Forsgren*
Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: EDUCATION Views on HR1987 Fair Play Act

DEADLINE: 4:00 p.m. Monday, July 7, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

* **COMMENTS:** Attached is a copy of HR 1987 with (handwritten) annotations by the Dept. of Education. ED proposes to convey informally a message to the bill's supporters that it would support the bill with those amendments.

The bill would require the Secretary of ED to assist in the dissemination of information currently required by the HEA on athletic participation by students. It would require the Secretary to issue his own report on data disclosed by individual institutions and publicize its availability. ED's proposed amendments are designed to reduce the burden on ED and micro-management.

DISTRIBUTION LIST**AGENCIES:****EOP:**

Barry White
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Michael Cohen
William R. Kincaid
Jonathan H. Schnur
Daniel J. Chenok
James C. Murr
Janet R. Forsgren

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

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HLC.

105TH CONGRESS
1ST SESSION**H. R. 1987**

Handwritten edits are
the Dept. of Education's
suggested changes to
make the bill
acceptable.

IN THE HOUSE OF REPRESENTATIVES

Mrs. LOWEY (for herself, [see attached list of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To amend section 486(g) of the Higher Education Act of 1965 to make information regarding men's and women's athletic programs at institutions of higher education easily available to prospective students and prospective student athletes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Fair Play Act".

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

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1 (1) June 23, 1997, marks the 25th anniversary
2 of the signing of title IX of the Education Amend-
3 ments of 1972 (20 U.S.C. 1681 et seq.) into law,
4 and on that day communities across the United
5 States will honor the tremendous difference such
6 title IX has made to women and girls in our Nation.

7 (2) Since enactment in 1972, such title IX has
8 played a vital role in expanding the athletic opportu-
9 nities available to American girls and women.

10 (3) Prior to the enactment of such title IX,
11 fewer than 32,000 women competed in intercolle-
12 giate athletics, women received only 2 percent of
13 schools' athletic budgets, and athletic scholarships
14 for women were practically nonexistent.

15 (4) In 1997, more than 110,000 women com-
16 peted in intercollegiate sports, and women account
17 for 37 percent of college varsity athletes.

18 (5) While such title IX has been very success-
19 ful, a significant gap remains between the athletic
20 opportunities available to men and the athletic op-
21 portunities available to women.

22 (6) According to a 1997 study by the National
23 Collegiate Athletic Association, female college ath-
24 letes receive only 23 percent of athletic operating
25 budgets, 38 percent of athletic scholarship dollars,

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1 and 27 percent of the money spent to recruit new
2 athletes.

3 (7) While women represent 53 percent of the
4 students attending institutions of higher education,
5 women comprise only 37 percent of the athletes at-
6 tending institutions of higher education.

7 (8) There is substantial evidence that women
8 and girls who participate in athletics have better
9 physical and emotional health than women and girls
10 who do not participate, and that participation in
11 athletics can improve academic achievement.

12 (9) Easily accessible information regarding the
13 expenditures of institutions of higher education for
14 women's and men's athletic programs will help pro-
15 spective students and prospective student athletes
16 make informed judgments about the commitment of
17 a given institution of higher education to providing
18 athletic opportunities to male and female students
19 attending the institution.

20 **SEC. 3. PURPOSES.**

21 The purposes of this Act are—

22 (1) to make information regarding men's and
23 women's athletic programs at institutions of higher
24 education easily available to prospective students
25 and prospective student athletes; and

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1 (2) to increase the athletic opportunities avail-
2 able to women at institutions of higher education.

3 SEC. 4 INFORMATION AVAILABILITY.

4 Section 485(g) of the Higher Education Act of 1964
5 (20 U.S.C. 1092(g)) is amended—

6 (1) by redesignating paragraphs (4) and (5) as
7 paragraphs (5) and (6), respectively; and

8 (2) by inserting after paragraph (3) the follow-
9 ing:

10 "(4) SUBMISSION; REPORT; INFORMATION
11 AVAILABILITY.—(A) Each institution of higher edu-
12 cation described in paragraph (1) shall provide to
13 the Secretary, *at such time and in such form as*
14 *the Secretary may require,*
15 ~~institution makes available the report under para-~~
16 ~~graph (1), the information contained in the report.~~

17 "(B) The Secretary shall *issue* ~~prepare~~ a report re-
18 garding the information received under subpara-
19 graph (A) for each year by April 1 of the year. The
20 report shall—

21 *Compile*
22 "(i) ~~summarize~~ the information *in a form that is useful*
23 *to prospective students and prospective student athletes,*
24 *identify trends in the information; as well as the public;*

25 "(ii) aggregate the information by divisions
26 of the National Collegiate Athletic Association
27 and

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1 “(iii) contain information on each individ-
2 ual institution of higher education.

3 “(C) The Secretary shall ensure that the report
4 described in subparagraph (B) is made available on
5 the Internet within a reasonable period of time.

6 “(D) The Secretary shall establish, within a
7 reasonable period of time, a toll-free telephone serv-
8 ice—

9 “(i) to provide the public with information
10 regarding reports described in subparagraph
11 (B);

12 “(ii) to provide the public with information
13 regarding the information received under sub-
14 paragraph (A); and

15 “(iii) to respond to inquiries from the pub-
16 lic regarding the ^{application} ~~provisions~~ of title IX of the
17 Education Amendments of 1972. ^{to athletics}

18 “(E) The Secretary shall use the information
19 provided by institutions of higher education under
20 paragraph (1) to ensure compliance with title IX of
21 the Education Amendments of 1972.

22 “(F) The Secretary shall ~~notify~~, not later than
23 180 days after the date of enactment of this para-
24 graph, ~~all secondary schools in all States~~ regarding
25 the availability of the information reported under

*take reasonable steps to notify school districts
and secondary schools*

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- 1 subparagraph (B) and the information made avail-
- 2 able under paragraph (1), and how such information
- 3 may be accessed.

JULY 1985

310

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the reporting requirements

311

HIGHER EDUCATION ACT OF 1985

Sec. 485

(6) The statistics described in paragraphs (1)(F) and (1)(H) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.

(7)(A) Each institution of higher education participating in any program under this title shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

(g) DATA REQUIRED.—

(1) IN GENERAL.—Each coeducational institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report

that contains the following information regarding intercollegiate athletics:

(A) The number of male and female full-time undergraduates that attended the institution.

(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

(2) SPECIAL RULE.—For the purposes of subparagraph (G), if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary

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among the teams on a basis consistent with the coach's respon-
sibilities for the different teams.

(3) DISCLOSURE OF INFORMATION TO STUDENTS AND PUB-
LIC.—An institution of higher education described in paragraph
(1) shall make available to students and potential students,
upon request, and to the public, the information contained in
the report described in paragraph (1), except that all students
shall be informed of their right to request such information.

(4) DEFINITION.—For the purposes of this subsection, the
term "operating expenses" means expenditures on lodging and
meals, transportation, officials, uniforms and equipment.

(5) REGULATIONS AND EFFECTIVE DATE.—The Secretary
shall issue final regulations to implement the requirements of
this subsection not later than 180 days following the enact-
ment of this subsection. Each institution described in para-
graph (1) shall make available its first report pursuant to this
section not later than October 1, 1996.

(20 U.S.C. 1092)

SEC. 485A. COMBINED PAYMENT PLAN.

(a) ELIGIBILITY FOR PLAN.—Upon the request of the borrower,
a lender described in subparagraph (A), (B), or (C) of section
428C(a)(1) of this Act, or defined in subpart I of part C of title VII
of the Public Health Service Act may, with respect to a consolida-
tion loan made under section 428C of this Act (and section 439(o)
of this Act as in effect prior to the enactment of section 428C) and
loans guaranteed under subpart I of part C of title VII of the Public
Health Service Act (known as Health Education Assistance Loans),
offer a combined payment plan under which the lender shall sub-
mit one bill to the borrower for the repayment of all such loans for
the monthly or other similar period of repayment.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—A lender offering
a combined payment plan shall comply with all provisions of sec-
tion 428C applicable to loans consolidated or to be consolidated and
shall comply with all provisions of subpart I of part C of title VII
of the Public Health Service Act applicable to loans under that sub-
part which are made part of the combined payment plan, except
that a lender offering a combined payment plan under this section
may offer consolidation loans pursuant to section 428C(b)(1)(A) if
such lender holds any outstanding loan of a borrower which is se-
lected for inclusion in a combined payment plan.

(c) LENDER ELIGIBILITY.—Such lender may offer a combined
payment plan only if—

(1) the lender holds an outstanding loan of that borrower
which is selected by the borrower for incorporation into a com-
bined payment plan pursuant to this section (including loans
which are selected by the borrower for consolidation under this
section); or

(2) the borrower certifies that the borrower has sought and
has been unable to obtain a combined payment plan from the
holders of the outstanding loans of that borrower.

(d) BORROWER SELECTION OF COMPETING OFFERS.—In the case
of multiple offers by lenders to administer a combined payment
plan for a borrower, the borrower shall select from among them the