HEA/Title III

Maureen_McLaughlin @ ed.gov
09/22/97 02:31:00 PM

Record Type: Record

To: Robert Shireman, William R. Kincaid

cc:
Subject: Re[6]: Press conferences

Yes--we have their clearance to send Title III to the Hill without the findigs attached while DOJ and ED polish them some more. (this is what we did on graduate ed also) We are ready to send the legislation up except for an HBCU capital financing issue raised by OMB. We think we have worked out compromise language with Treasury and OMB but Wayne Upshaw is sending it up the chain of command in OMB, hopefully today, to get final clearance on allowable activities for HBCU capital financing. Maureen

__________ Reply Separator __________

Subject: Re: Re[4]: Press conferences
Author: William_R._Kincaid@oa.eop.gov at Internet
Date: 9/22/97 12:07 PM

Message Creation Date was at 22-SEP-1997 12:07:00

Thanks. Have things ever been finally resolved with DOJ on Title III?

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

Title III / H&I's

FAX: 202-205-2689

TELECOPIER COVER SHEET

Number of Pages Including This Cover Sheet: 8
Telephone Number of Receiving Telecopier: 456-2878

ADDRESSEE:
Name: William Kincaid, Special Assistant to the President
Organization: Domestic Policy Support Ctr. (The White House)
Telephone Number: 456-2216

FROM:
Name: Steve Winnick
Organization: Dept. of Education
Telephone Number: 401-6000

DATE: 8/29/97 TIME: 6:00 pm
IN THE EVENT OF PROBLEMS IN TRANSMISSION:
Call: Joy Murphy Telephone Number: 401-6000

MESSAGE:

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

THE GENERAL COUNSEL

August 29, 1997

Note to Francis Allegra, Randy Moss and Bill Yeomans

Re: Hispanic Serving Institutions

Attached is a summary of the Department's of Education's justification for proposing to reauthorize in somewhat revised form the provisions of the Higher Education Act that provide for assistance to Hispanic Serving Institutions. The focus of our analysis is on the compelling government interest for continuing this program. Although the attachment addresses why we believe this program is necessary to address the articulated government interests, it does not address the full range of possible criteria on the issue of narrow tailoring. That is because, consistent with the discussion at our August 19 meeting, we do not believe that many of these criteria would be of significant concern given that all Hispanic Serving Institutions are themselves subject to Title VI of the Civil Rights Act (and most of them to the Constitution's Equal Protection Clause) and may not discriminate on the basis of race or national origin. In addition, the program is small relative to race neutral federal aid that is given to postsecondary institutions.

As we discussed, we would greatly appreciate your immediate review of the attachment. Our bill, as you know, is already late, and we need to submit it to the Congress within the next week. We are prepared to answer any questions you may have and would also appreciate your thoughts on how much of the attachment should be incorporated in the bill's findings. Thank you for your assistance.

Jamienne S. Studley
Acting General Counsel

Attachment

cc: Dawn Chirwa
Bob Shireman
Bill Kincaid
David Longanecker
Leslie Thornton
Maureen McLaughlin

Justification for the Strenghtening HSI Program Under Adarand

Summary

There is a national interest in aiding institutions of higher education that are successful in admitting and graduating Hispanic students who historically have been denied access to postsecondary education or who have had limited success in graduating from postsecondary institutions. Research indicates that Hispanics are the group most at risk in higher education enrollment. As described below, there are gross statistical disparities between the college enrollment rates of Hispanic and White students who graduate from high school, and even more so, the college completion rates of Hispanic and white students. We believe these disparities make out a prima facie case of discrimination against Hispanic students. Moreover, as the numbers of Hispanic students graduating from high school have increased, these disparities have also increased. Beyond the statistical disparities, there is research evidence of college environments that are unreceptive and even hostile to Hispanic students. There is also research evidence that may suggest discrimination in college admissions against Hispanic students.

As described below, the Program to Strengthen Hispanic Serving Institutions (HSIs) is further justified by — (1) the underfunding by state and local authorities of HSIs relative to other postsecondary institutions; and (2) the need to preserve and expand postsecondary opportunities for Hispanic students as a necessary stimulant for their successful completion of elementary and secondary schooling, where there has been widespread discrimination against Hispanic students.

The Program to Strengthen HSIs is a limited, narrowly tailored remedy for these problems. It is designed to ensure the viability of, and to improve, those institutions that enroll significant percentages of Hispanic students. These institutions have a successful track record of enrolling, providing a supportive environment for, and graduating Hispanic students. At the same time, limitations in the resources of these institutions threaten their viability and prevent them from further developing strong postsecondary education programs. Given that these institutions enroll and graduate a significant percentage of all Hispanic students who enroll in and graduate from postsecondary education nationally, their continued viability is vital to maintaining and extending postsecondary educational opportunities for Hispanic students. many of

Discrimination Against Hispanic Students at the Postsecondary Level

There are statistically significant disparities in the rates of college attendance between Hispanic students and other students. 50.7% of Hispanic students who graduate from high school enroll in college, compared to 65.8% of white high school graduates. Thus, white students who graduate from high school enroll in college at a rate 30% above that for Hispanic high school graduates. This understates the seriousness of the enrollment disparities because a disproportionate number of Hispanic students are enrolled part-time or in non-degree programs. For example, in 1995, among first-time freshman enrolled in degree programs nationally, 71% of the full-time students were white, while only 7.4% were Hispanic. By contrast, 66.4% of the part-time students were white and 12.8 % were Hispanic, among first-time freshmen in these programs.

The disparities for college completion are even more severe. As of 1994, among students who had entered college during the 1989-90 school year seeking bachelor's degrees, 48.1% of white students -- and only 32.4% of Hispanic students -- had received bachelor's degrees. Thus, whites who are in the qualified pool and seeking bachelor's degrees are receiving them at a rate 50% higher than interested and qualified Hispanic students. Moreover, using the same pool of students, the data show that Hispanic students were 33% more likely than white students to have dropped out without obtaining any degree. Similarly, as of 1994, among students who had entered 2-year colleges during the 1989-90 school year, 18.4% of white students -- and only 15.6% of Hispanic students -- had received associate degrees. Thus, whites who are in the qualified pool are receiving associate degrees at a rate 18% higher than qualified Hispanic students.

These college enrollment and completion disparities clearly must be even more egregious at colleges other than HSIs than they are at all colleges. That is because HSIs are significantly more successful than other institutions in enrolling and conferring both bachelor's and associate degrees on their enrolled Hispanic students. Whereas 32% of all Hispanic students in higher education are enrolled at HSIs, Hispanic students at HSIs earn 47% of the associate degrees and 48% of the bachelor's degrees awarded to Hispanic students nationwide.

College enrollment disparities are also increasing, not decreasing. For example, between 1973 and 1994, enrollment of white high school graduates in four-year institutions of higher education increased at a rate four times higher than that for Hispanic high school graduates.

These disparities are evidence of discrimination by postsecondary institutions against Hispanic students. Further evidence of discrimination includes --

what about fin'l expectations

-- Research findings that suggest that there are elements of postsecondary institutional culture, perhaps associated with an historical legacy of exclusion, that continue to resist an Hispanic presence on campus. For example, in one study, only about 1 in 5 academic administrators believes that his or her campus climate is very good or excellent for Hispanic students. More than one in four Hispanic students reports that there is a lot of campus racial conflict and that there is little trust between minority student groups and administrators on campus. Almost one in five reports hearing faculty make inappropriate comments regarding minorities. Other research shows that significant percentages of Hispanic students perceive their universities to be discriminatory.

-- Research findings suggest that heavy reliance on college entrance examinations by postsecondary institutions also may be discriminatory, since these tests tend to underestimate college performance by Hispanic students.

-- During the 1980's the high school completion rates and college entrance scores of Hispanic students increased significantly, but the rates of Hispanic enrollment in postsecondary education dropped.

Discrimination Against Hispanic Students at the Elementary & Secondary Levels

--The problems presented by the significant disparities in college attendance and completion are compounded by the fact that -- largely as the result of well-documented, wide-spread discrimination against Hispanics at the elementary and secondary school levels, as reflected in many sets of judicial and administrative findings -- the pool of Hispanic students eligible for postsecondary education is already significantly reduced. See, for example, Keyes v. School District No. 1, Denver, Colorado, et al., 521 F.2d 465 (10th Cir. 1975), cert. denied, 423 U.S. 1066 (1976); Cisneros v. Corpus Christi Independent School District, 467 F.2d 142 (5th Cir. 1972); U.S. v. Crucial, 722 F.2d 1182 (5th Cir. 1983); U.S. v. T.E.A., 600 F.2d 518 (5th Cir. 1979); Tasby v. Estes, 517 F.d 92 (5th Cir. 1975); July 31, 1997 letter of findings from Department of Education to Denver school district.

--The drop-out rate from secondary school for Hispanic students is 30 percent, twice the rate for African American students and more than three times the rate for white students.

--Thirty percent of Hispanic students who were high achievers at the eighth grade do not apply to college by the end of the twelfth grade, twice the percentage for corresponding white students.

-- These facts create a national imperative to ensure that the relatively small number of colleges that are succeeding -- despite resource limitations -- in enrolling and graduating Hispanic students, are sustained and strengthened.

Possible Discrimination Against HSIs

--Funding HSIs is further justified by their current and historic underfunding -- which in our view may indicate discrimination against these institutions by the states and local governments.

--In the 9 States and Puerto Rico where HSIs are located, HSIs receive 27% less in State funds per full-time equivalent student than other postsecondary institutions, even though HSIs must rely to a greater extent than other schools on these funds, as demonstrated by the fact that these funds constitute more than 20% more of the HSIs' total revenues than those for other schools.

--In the same States and Puerto Rico, HSIs receive 36% less in local government funds per full-time equivalent student than other postsecondary institutions, even though HSIs must rely to a greater extent than other schools on these funds, which represent a greater percentage of total revenues for HSIs than for other schools.

--Almost 50% of the revenues of HSIs are derived from a combination of student tuition and fees and federal government funding. By contrast, 29% of the revenues of public colleges generally are from these sources. In addition, HSIs devote 15% of their expenditures to student scholarships and fellowships, compared to 4% at public colleges generally. These figures suggest that HSIs have less flexibility and fewer sources of support to sustain themselves and their academic programs, on the one hand, and greater financial needs to support students, on the other hand.

Remedy

We believe it is self-evident that the Program to strengthen HSIs is an appropriate remedy for the problem of underfunding of HSIs by States and local governments. With respect to the other problems of discrimination described above --

Remedy for Discrimination Against Hispanic Students at the Postsecondary Level

--Funding HSIs is an appropriate, narrowly tailored means to redress hostile environment and other forms of discrimination against Hispanic students at the postsecondary level that limit their enrollment and, more especially, limit their retention and graduation rates.

--Despite their relative underfunding and significant resource problems, HSIs have a significant record of success in educating Hispanic, as well as other, students. As shown in data above, they have an exemplary record in enrolling and, perhaps even more importantly, retaining and graduating Hispanic students. A significantly higher percentage of Hispanic students enrolled in HSIs receive associate degrees or bachelor's degrees than Hispanic students enrolled in other postsecondary institutions. Also, at HSIs, Hispanic students earned 50% of all associate degrees and 65% of all bachelor's degrees awarded in 1995. By contrast, at non-HSIs, Hispanic students earned only 4% of the total associate degrees and 3% of the total bachelor's degrees awarded.

--Studies show that large Hispanic enrollments on campuses are associated with reports of low racial/ethnic tension and are less likely to be associated with reports of discrimination.

--Relatively limited endowments and other resources at HSIs -- in large part reflecting inferior State and local financial support compared to that for other institutions -- further justify this program as an appropriate remedy for Hispanic students, because there is an important need to ensure the continued viability of these institutions -- and to strengthen their educational programs -- as the most effective means to provide postsecondary educational opportunities for Hispanic students. These institutions are succeeding in educating Hispanic students despite significant resource problems that limit their ability to expand and improve their academic programs and that could imperil their financial and administrative stability. Student aid for Hispanic students alone would be an ineffective remedy if there were not institutions with a strong record of enrolling and graduating Hispanic students. In the 9 States and Puerto Rico where HSIs are located --

--The total revenues of HSIs are 41.6% -- or $5,742 -- less per full-time equivalent student than at other institutions.

--Endowment revenues at HSIs per full-time equivalent student are 90.9% less than at other institutions.

--HSIs spend 42.8% less per full-time equivalent student on instruction than other schools.

--HSIs spend 51% less per full-time equivalent student on academic support functions (e.g., libraries, curriculum development, etc.) than do other schools.

--HSIs spend 27% less per full-time equivalent student on student services (guidance, counseling, financial aid administration, etc.) than do other schools, although these expenditures constitute a greater percentage of the HSIs' overall expenditures than that for other schools.

<u>Remedy for Discrimination Against Hispanic Students at the Elementary and Secondary Levels</u>

--Funding HSIs also is justified as a remedy for well-documented and widespread discrimination at the elementary and secondary levels against Hispanic students.

--Limitations in educational opportunities for Hispanic students at all levels have created a vicious cycle that reinforces unequal opportunity. As noted above, even the most successful Hispanic students fail to seek admissions to college to the same extent as white students. We believe that is because college attendance and graduation are not viewed among Hispanic families as realistic opportunities to the same extent as in white families. Absent the prospect of postsecondary education, we believe that efforts to redress discrimination against Hispanic students at the elementary and secondary levels will have limited success.

--There are a number of programs around the country that establish that a commitment to provide postsecondary education for low income students who make satisfactory progress in elementary and secondary education motivates the students and leads to success at the elementary and secondary levels.

-- Because HSIs are significantly more successful than other postsecondary institutions in enrolling, and particularly in providing a receptive environment for, and in graduating, Hispanic students, providing federal aid to strengthen these schools is an appropriate remedy for problems of discrimination against Hispanic students at the elementary and secondary levels. Obviously, it is an indirect and incomplete remedy. Other efforts are needed and are being pursued, such as federal civil rights enforcement in individual cases; federal aid at the elementary and secondary levels that strengthens academic programs for Hispanic and other students, such as Title I, the Bilingual Education Act, and the Goals 2000: Educate America Act; the TRIO programs; and postsecondary student financial aid. These programs generally are race neutral and do not raise Adarand issues. However, as noted above, the limited resources of HSIs threaten their stability. If HSIs are unable to continue and expand their programs, we believe the promise of postsecondary opportunities for Hispanic students would be undercut and these other efforts could not be effective in remedying unequal opportunity for Hispanic students at the elementary and secondary levels. ?

--We therefore view the strengthening HSI program -- in addition to addressing the other purposes described above -- as a limited and very narrowly tailored way to redress the continuing effects of discrimination at the elementary and secondary school levels.

Note to: Jamie Studley
From: Jack Kristy
Date: August 14, 1997
Concerning: DOJ Comments on HEA Title III

I just got off the phone with Daniel Halberstam of DOJ/OLC who indicated the following:

(1) OLC's comments would be confined to part D, Strengthening HSIs. They had no particular concerns with the other parts, or at least no comments to offer.

(2) Unlike our earlier discussions regarding the clearance of the Graduate programs (where OLC spoke for DOJ), he indicated he could speak only for OLC and suggested we contact Fran Alegra to see if there were other DOJ concerns. (In fact, he told me that DOJ/OCR wanted us to delete "To the maximum extent possible" from section 337 of the draft (Minority Business Enterprise Utilization) and insert something like "Wherever appropriate," and was surprised that we hadn't received that comment.)

(3) Unlike the HBCU programs (sanctioned by history) and the Tribal Colleges program (unique status of Indian tribes), OLC is troubled by the lack of a clear, post-Adarand constitutional rationale for the HSI program. He explained that the program clearly has an ethnic basis, yet no clear remedial (not aimed at institutions or students subjected to discrimination) or diversity (strengthening the educational process through diverse points of view) rationale. He said the current program narrowly escaped last year's Adarand review, largely because there were other, more egregious, programs to focus on and that reauthorizing and amending the current HSI authority provides a different analytical context. He also said that part of the reason the current HSI program got by before was that litigation seemed unlikely. Further, he said that the fact that as many as 75% of the students who benefit from the program need not be Hispanic helps "in the balance," but does not explain or rationalize the explicit ethnic categorization in the first place.

(4) He suggested ED recast the program to aid institutions that enroll large numbers of low-income, first-time students who may require bilingual instruction--or any other "neutral" factors that may characterize Hispanic students. Aware of the political volatility, he suggested that such an approach could be said to preserve the current program in the face of Adarand analysis.

(5) He explained that it was not in OLC's province to veto our proposal, merely to warn of legal risks. He said he did not think OLC would go to the barricades on this and that these views had not yet been raised to the highest levels of DOJ. He said he was going to advise DOJ's legislative office of these views, and that they might write an internal DOJ memo to that office to this effect. I asked for a copy of anything written.

Revised 8/12/97

Higher Education Act
Title III - Strengthening Institutions

Proposal Under Consideration

- ***Move the Hispanic Serving Institutions (HSI) Program from Part A to a new part.*** The Strengthening HSI program currently exists under Title III Part A: Sec. 316 and has received appropriations since FY1995.
- ***Create a new Strengthening Tribal Colleges and Universities (TCU) program under a separate part.*** This would be a new program created to target institutional aid to Tribal Colleges and Universities.

ED has been very public about its proposal to have a separate part under Title III for strengthening HSIs and TCUs. In fact, Secretary Riley elaborated on his commitment to these separate parts in his testimony to the House Subcommittee on HEA reauthorization (June 19, 1997) when he stated, "We want to continue to support improvements in academic quality and institutional management at institutions serving disadvantaged and minority students. Our plan to create separate parts of Title III for Hispanic-serving Institutions and Tribal Colleges and Universities underscores the importance of these institutions." In addition, the Secretary commented that ED would support increased funding for Title III programs to reflect the Department's commitment to these existing and new programs. Our proposal has also been discussed with members of the Congressional Hispanic Caucus and their staff and Assistant Secretary David Longanecker and staff have discussed this proposal in several community meetings and briefings. The Hispanic Association of Colleges and Universities (HACU) recommendations are also attached for your information.

Legal, Public Policy and Budget Concerns

Concerns have been raised about the creation of a separate part for the HSI program by William Gray of UNCF and Henry Ponder of NAFEO (see attached copy of letter).

Legal concerns: The Department of Justice has raised legal concerns about targeting programs by minority status in general. However, our Office of the General Counsel has indicated that our proposal for the Title III programs has a firm legal foundation. Staff are in the process of making clear the relationship between this program and issues affecting Hispanics in higher education. In addition, since the HSI program currently exists under the Part A program as a separate section, our proposal does not involve creating a new program -- it merely proposes to move an existing program from the subsection it is in currently into a separate part.

Public policy concerns: There is a misconception that the only requirements for eligibility in the HSI program are the criteria that institutions 1) have at least 25 percent undergraduate Hispanic full-time equivalent student enrollment and 2) have 50 percent of Hispanic students that are low-income and first generation, and 3) another 25 percent of Hispanic students that are low-income or first-generation. HACU

- **To be eligible for the HSI program, all institutions must FIRST meet the basic Title III institutional eligibility criteria.** This includes meeting the definition of an institution of higher education as defined in Sec. 1201(a) of the HEA and eligibility requirements under Sec. 312. developing institution
- **Specifically, an eligible institution must have a high enrollment of needy students and low average educational and general expenditures.** These requirements ensure that no large, well-endowed public (or private) institution -- such as UCLA and University of Texas at Arlington specifically mentioned in Grey's letter-- would be eligible for the institutional aid programs.

The result of these criteria is that there are about 130 institutions eligible for the Title III HSI program from a potential pool of close to 770 institutions.

Budget concerns: To gain strong community support for our Title III proposal to create separate sections for HSIs and Tribal Colleges and Universities, we must indicate our commitment to an increase in Title III funds. Attached is a table that includes Title III budget information from FY1997 to FY1999.

While it is important that we address funding levels for these programs, we could either be specific about funding authorization levels in our legislative proposal or Secretary Riley could write a letter to Congress about the total funding level for institutional aid programs but not specify the funding levels for each specific program.

Higher Education Act
Title III Budget

Aid for Institutional Development: (in thousands)	FY1997 Appropriation	FY1998 President's Request	FY1998 House Committee Action to Date	FY1998 Senate Committee Action to Date	ED's Preliminary 1999 Budget Included with Legislation	ED's Preliminary FY1999 Strawperson Budget	OMB's FY1999 suggestion
Strengthening Institutions [Part A]	$ 55,450	$ 55,450	$ 55,450	$ 55,450	$ 80,000	$ 60,000	$ 57,000
Strengthening (HSIs) [Part A: Sec. 316] [proposed Part D]	10,800	12,000	12,000	12,000	24,000	20,000	24,000
Strengthening HBCUs [Part B: Sec. 323]	108,990	113,000	120,000	108,990	130,000	120,000	124,000
Strengthening HBGIs [Part B: Sec. 326]	19,606	19,606	25,000	19,606	26,000	22,000	20,000
Strengthening TCUs [proposed Part E]	2,000 --	--	--	--	5,000	5,000	5,000
MSIP [proposed Part F]	5,255	5,255	5,255	5,255	10,000	7,500	5,500
Total Title III program:	$200,101	$205,311	$217,705	$201,301	$275,000	$234,500	$235,500

prob will get something in this neighborhood

10 / [illegible]
5 HBGI
3 A
2 MSIP

[illegible]
+5 HBGIs

TP
3 Part A

ED/OPE/PPI

Revised 8/12/97

Hispanic Association of Colleges and Universities
Higher Education Act Reauthorization

The Hispanic Association of Colleges and Universities (HACU) believes the reauthorization of the Higher Education Act (HEA) should strengthen the capacity of Hispanic-Serving Institutions (HSIs) and ensure that Hispanic Americans have access to, and can be successful in, a postsecondary education. Most programs under the Act are important to the successful attainment of a postsecondary education by Hispanic Americans.

Summary of Recommendations

Libraries and information services at Hispanic-Serving Institutions must be developed to provide Hispanic and other students attending HSIs with the full range of research and information resources available to students at majority institutions.

- Designate Hispanic-Serving Institutions as eligible institutions for Title I Part D grants (Academic Libraries and Information Services).

The eligibility definition for Title III (Strengthening Institutions) HSI grants is too restrictive. HSIs must meet three requirements: 1) a Hispanic student enrollment rate of 25% or more; 2) 50% or more of the Hispanics must be low-income individuals who are first generation college students; and 3) an additional 25% of the Hispanic students must be either low-income or first generation college students. Greater flexibility in the definition of eligible HSIs must be established.

- Repeal the requirement that an additional 25% of the Hispanic students enrolled be either low-income and first generation college students.

- Repeal the requirement that 50% of the Hispanic students enrolled be first generation college students. (The requirement for low-income status is maintained).

- Repeal a requirement that funding for Title III (Part A) grants be greater than $80 million before any funds are provided to HSI grants.

- Designate the HSIs program as Part C of Title III and redesignate other parts accordingly.

There is a tremendous lack of Hispanics enrolled in graduate and professional programs. HSIs enroll over half of all Hispanic undergraduate students in postsecondary education. HSIs with existing graduate and professional programs and a proven record of enrolling Hispanics, comprise a solid base for launching federal support for graduate and professional opportunities for Hispanics.

- Create a new grants program authority under the revised Part C of Title III to provide awards to HSIs with graduate and professional programs for activities to expand or improve graduate and professional opportunities for Hispanic Americans and other students underrepresented in graduate education. $20 million would be authorized to be appropriated for this program.

- Provide a priority in funding to grant applicants under Part D of Title IX (Graduate Assistance in Areas of National Need) for programs which enroll students underrepresented in graduate and professional programs and which recruit such students from HSIs and Historically Black Colleges and Universities.

Hispanic Americans have been underrepresented in the programs comprising TRIO (Federal Early Outreach and Student Services Programs). Three changes to the HEA should result in an increase in the number and percent of Hispanics participating in TRIO.

- Repeal the "prior experience" consideration for TRIO programs and replace with a special consideration for proposed projects serving students "underrepresented in TRIO."
- Provide a special consideration for the geographical distribution of TRIO programs.
- Provide a priority in funding to Upward Bound projects serving individuals from population groups with a high rate of high school dropouts.

As the number of minority language students increases; so does the demand for bilingual teachers and teachers of bilingual education in elementary and secondary schools. The HEA can be modified to expand the number of bilingual teachers, who teach in Title I schools or work for Community Based Organizations serving minority language populations.

- Create a program to provide loan forgiveness for individuals, including bilingual teachers, who agree to teach in Title I eligible schools with large concentration of Limited English Proficient students and who teach bilingual education or participate in programs under Title VII of the Elementary and Secondary Education Act of 1965. Bilingual teachers working for community-based organizations serving language minority populations also would be eligible for the loan forgiveness program. $20 million shall be available annually for this program from funds for the administration of the federal student loan programs.

Federal Work Study, Supplemental Educational Opportunity Grants, and Perkins Loans comprise the campus-based programs, which are based on need. While low-income Hispanics can and do receive campus-based aid, their award amount is dependant on the total funding allotment provided to their institution. The HEA includes a distribution formula, which "grandfathers" many institutions' allotment at levels set in the mid-1980s. Therefore, many institutions receive an allotment that is only a fraction of their demand, while others schools have the same level of funding they did a decade ago. Campus-based aid should be distributed to institutions with the highest need.

- Repeal the "hold harmless" for institutions which participated in the campus-based aid programs prior to 1985.

The HEA requires institutions to maintain low default rates in order to continue to participate in student loans. Today, institutions with a cohort default rate of 25 % or higher for three consecutive years are ineligible to participate in student loans (and in some cases grant aid programs). However, the HEA exempts Historically Black Colleges and Universities (HBCU) and Tribal community colleges from the cohort default rates restrictions.

- Exempt HSIs from the cohort default rate restrictions under the Act.

There is a continuing need to increase the number and percent of transfers from 2-year to 4-year institutions among Hispanics. FIPSE awards can begin to address the rate of student transfers.

- Add as a new authority under FIPSE, "developing innovative methods for ensuring the successful transfer of students from 2-year to 4-year institutions."

National Association For Equal Opportunity In Higher Education
NAFEO • Black Higher Education Center • Lovejoy Building • 400 12th Street, N.E.
Washington, D.C. 20002 • Telephone (202) 543-9111 • Fax No. (202) 543-9113

July 16, 1997

The Honorable William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

On behalf of the Nation's Historically Black Colleges and Universities (HBCUs), we are writing to call to your attention a matter of grave concern. During our meeting with you and the Vice President on February 24th, you indicated that your door was open and that we should bring any important matters affecting HBCUs to your attention. Just such an issue has arisen.

In his June 19, 1997 testimony before the House Subcommittee on Postsecondary Education, Training and Lifelong Learning, Secretary Riley indicated that the Department of Education would include in its Higher Education Act reauthorization proposals, a recommendation that a separate part be created in Title III authorizing funds for "Hispanic-serving Institutions" (HSIs). While the HBCU community has long supported institutional assistance for colleges and universities that enroll significant numbers of low income and "first generation" Latino students, we believe this proposal is seriously flawed. There are inherent legal, public policy, and budgetary problems with the proposal advanced by the Hispanic Association of Colleges and Universities (HACU) in testimony before the Congress and embraced by your Administration.

Our serious concerns about HACU's Title III recommendations can be summarized briefly. First, the recommendations would allocate Title III funds to a category of institutions based largely on the race or national origin of a portion of the enrolled students. As you know, both the Fourth Circuit Court of Appeals and the Fifth Circuit Court of Appeals have questioned the constitutionality of minority scholarships (*Kirwan* v. *Podberesky*) and race-based admissions policies (*Hopwood* v. *University of Texas*), respectively, i.e. use of race as the factor in making financial aid award and admissions decisions is constitutionally "suspect." The Supreme Court of the United States has also expressed similar reservations in *Adarand* and more recently in the *Miller* congressional redistricting case in Georgia. Both your administration and the Supreme Court in *Fordice*, have recognized the unique historical and legal position of HBCUs -- which distinguishes them from any other category of colleges and universities.

Second, we believe the endorsement of HACU's recommendations to de-emphasize the use of low income and "first-generation" student status in defining HSI institutional eligibility in Title III is mistaken. Repealing the current Title III eligibility requirements -- relative to defining HSIs based on their enrollment of low income and "first-generation" college students -- alters the fundamental intent of the Title III Institutional Aid program. Problems already exist with the HSI program since large, well-endowed public institutions -- like UCLA and the University of Texas at Arlington -- are currently eligible for an institutional aid program designed to help poorer colleges and universities which enroll significant numbers of low and middle income students. The proposed amendments further exacerbate the allocation of institutional aid based on the enrollment of only 25 percent of its students.

Finally, the proposed modifications would dramatically expand HSI institutional eligibility without providing concomitant fiscal resources to support that expansion. Without sufficient appropriations to support the newly-admitted HSIs, funding for other Title III institution participants will be threatened and undermined. Your administration, in fiscal year 1996, recommended a reduction in Title III, Part A funding. Congress largely adopted that recommendation -- resulting in reduced funding to HSIs and other Part A institutions. We believe the solution to the funding for HSIs can be found in providing additional resources to programs which serve Latino students, e.g. Pell Grants, the TRIO programs, and increased Title III, Part A funding -- not through modifying the institutional definition of HSIs.

As a result of these concerns, we are requesting your intervention and support in facilitating a mutually beneficial resolution of this matter. Consequently, we would very much appreciate and welcome the opportunity to meet with Bruce Reed and Gene Sperling to discuss our concerns and proposals for addressing the needs of HSIs and Latino students. We believe this can be accomplished without compromising the existing Title III program and the policies supporting institutional aid to HBCUs.

Thank you for your consideration of our request. We look forward to hearing from you in the very near future.

Sincerely,

Henry Ponder
President/CEO
NAFEO

William H. Gray, III
President/CEO
The College Fund/UNCF

228708

National Association For Equal Opportunity In Higher Education

NAFEO • Black Higher Education Center • Lovejoy Building • 400 12th Street, N.E.
Washington, D.C. 20002 • Telephone (202) 543-9111 • Fax No. (202) 543-9113

July 16, 1997

The Honorable William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

On behalf of the Nation's Historically Black Colleges and Universities (HBCUs), we are writing to call to your attention a matter of grave concern. During our meeting with you and the Vice President on February 24th, you indicated that your door was open and that we should bring any important matters affecting HBCUs to your attention. Just such an issue has arisen.

In his June 19, 1997 testimony before the House Subcommittee on Postsecondary Education, Training and Lifelong Learning, Secretary Riley indicated that the Department of Education would include in its Higher Education Act reauthorization proposals, a recommendation that a separate part be created in Title III authorizing funds for "Hispanic-serving Institutions" (HSIs). While the HBCU community has long supported institutional assistance for colleges and universities that enroll significant numbers of low income and "first generation" Latino students, we believe this proposal is seriously flawed. There are inherent legal, public policy, and budgetary problems with the proposal advanced by the Hispanic Association of Colleges and Universities (HACU) in testimony before the Congress and embraced by your Administration.

Our serious concerns about HACU's Title III recommendations can be summarized briefly. First, the recommendations would allocate Title III funds to a category of institutions based largely on the race or national origin of **a portion of the enrolled students**. As you know, both the Fourth Circuit Court of Appeals and the Fifth Circuit Court of Appeals have questioned the constitutionality of minority scholarships (Kiran v. Podboresky) and race-based admissions policies (Hopwood v. University of Texas), respectively, i.e. use of race as the factor in making financial aid award and admissions decisions is constitutionally "suspect." The Supreme Court of the United States has also expressed similar reservations in Adarand and more recently in the Miller congressional redistricting case in Georgia. Both your administration and the Supreme Court in Fordice, have recognized the unique historical and legal position of HBCUs -- which distinguishes them from any other category of colleges and universities.

Second, we believe the endorsement of HACU's recommendations to de-emphasize the use of low income and "first-generation" student status in defining HSI institutional eligibility in Title III is mistaken. Repealing the current Title III eligibility requirements -- relative to defining HSIs based on their enrollment of low income and "first-generation" college students -- alters the fundamental intent of the Title III Institutional Aid program. Problems already exist with the HSI program since large, well-endowed public institutions -- **like UCLA and the University of Texas at Arlington** -- are currently eligible for an institutional aid program designed to help poorer colleges and universities which enroll significant numbers of low and middle income students. The proposed amendments further exacerbate the allocation of institutional aid **based on the enrollment of only 25 percent of its students.**

Finally, the proposed modifications would dramatically expand HSI institutional eligibility without providing concomitant fiscal resources to support that expansion. Without sufficient appropriations to support the newly-admitted HSIs, funding for other Title III institution participants will be threatened and undermined. Your administration, in fiscal year 1995, recommended a reduction in Title III, Part A funding. Congress largely adopted that recommendation -- resulting in reduced funding to HSIs and other Part A institutions. We believe the solution to the funding for HSIs can be found in providing additional resources to programs which serve Latino students, e.g. Pell Grants, the TRIO programs, and increased Title III, Part A funding -- not through modifying the institutional definition of HSIs.

As a result of these concerns, we are requesting your intervention and support in facilitating a mutually beneficial resolution of this matter. Consequently, we would very much appreciate and welcome the opportunity to meet with Bruce Reed and Gene Sperling to discuss our concerns and proposals for addressing the needs of HSIs and Latino students. We believe this can be accomplished without compromising the existing Title III program and the policies supporting institutional aid to HBCUs.

Thank you for your consideration of our request. We look forward to hearing from you in the very near future.

Sincerely,

Henry Ponder
President/CEO
NAFEO

William H. Gray, III
President/CEO
The College Fund/UNCF

National Association For Equal Opportunity In Higher Education
NAFEO • Black Higher Education Center • Lovejoy Building • 400 12th Street, N.E.
Washington, D.C. 20002 • Telephone (202) 543-9111 • Fax No. (202) 543-9113

Part D- Strengthening Hispanic-serving Institutions

Sec. 351. (a) Findings. -- The Congress finds that --

(1) A significant part of the federal mission in education is to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans;

(2) The Hispanic community is the fastest growing population in the Nation and has a large percentage of students who are low-income and educationally disadvantaged. In 1995 Hispanics comprised 10.2 percent of the total U.S. resident population. This is projected to increase to 11.3 percent by the year 2000, and to 25 percent by 2050. By the year 2010, Hispanic Americans will be the largest minority group in the United States (over 40.5 million, 13.5 percent of the population).

(3) By the year 2000, Hispanic children will make up the greatest proportion of minority children under the age of 18. By the year 2030, the Bureau of the Census projects that Hispanic students age 5-18 will number almost 16 million (25 percent of the total school population). As the proportion of Hispanics grows in the Nation, so will their educational needs.

(4) Currently, educational attainment for many Hispanic Americans is very low. Hispanics are less likely to complete high school or to enter or complete college. In October 1993, the dropout rate for Hispanic 16-24 year olds was 28 percent, double the rate for blacks (14 percent) and more than three times the rate for whites (8 percent) in the same group. In 1994, the Hispanic dropout rate rose to 30 percent.

(5) From 1973 to 1994, the overall number of high school graduates enrolled in a four-year institution doubled, from 16 to 31 percent. The percentages of both whites and blacks enrolled at those institutions also more than doubled within the same period. Black enrollment increased from 13 to 25 percent and white enrollment increased from 16 to 33 percent. College-bound Hispanics in four-year institutions, however, increased only from 13 to 20 percent.

(6) In the last decade, Hispanic-Americans have increased their enrollment in postsecondary education from about half a million in 1992 (520,000) to just over one million (1,045,600) -- an increase of about 50 percent. Overall, there are about 15 million students in postsecondary education, of which nearly 8 percent are Hispanic-Americans. However, Hispanic-Americans still have one of the lowest college enrollment rates of any ethnic group. Recent studies have consistently shown that postsecondary educational attainment for many Hispanic Americans is also very low and neither enrollment or graduation rates are keeping pace with the Hispanic American presence in the general population nor with the available pool of Hispanic high school graduates.

(7) In 1994-95, Hispanics earned 6 percent of all associate degrees, 4.8 percent of all bachelor's degrees, 3 percent of all master's degrees, and 2 percent of all Ph.D.'s with Hispanics earning even lower numbers in certain disiplines. For example:

(a) Of associate degrees: 2.1 percent of agriculture and natural resources degrees, 3.7 percent of health professions and related science degrees, and 4.3 percent of communications degrees.

(b) Of bachelor's degrees: 2 percent of communications technologies degrees, 2.7 percent of physical sciences and science technologies degrees, and 3.3 percent of health professions and related sciences degrees.

(c) Of master's degrees: 2.4 percent of mathematics degrees and 2.4 percent of library science degrees.

(d) Of doctoral's degrees: 1.2 percent of computer and information science Ph.D.'s , and 1.9 percent of engineering Ph.D.'s.

(8) The total proportion of bachelor's degrees from Hispanic Americans has risen only slightly (from 2.8 percent in 1985 to 4.8 percent in 1995) since the 1980s, even though Hispanic student enrollment has modestly increased (from 4.5 percent in 1984 to nearly 8 percent in 1995).

(9) Over fifty percent of Hispanic Americans in postsecondary education are enrolled in institutions with 25 percent or more Hispanic student enrollment. A majority of these institutions are community colleges. In 1994 about half of all Hispanic Americans enrolled in postsecondary education were enrolled in two-year community colleges and one-third were enrolled in less than 189 two-and four-year institutions.

(10) There are a significant number of higher education institutions serving high percentages of Hispanic American students and other students from low-income backgrounds which face problems that threaten their long-term stability because the higher educational needs of these students continue to increase more rapidly than the resources of these Hispanic-serving institutions. Increasing enrollments of Hispanic and other students at these institutions have stretched resources and challenged faculty and staff.

(11) As the college-age population becomes more diverse, the educational needs are changing and services provided must be adapted to reflect this diversity. Hispanic-serving institutions are well-positioned to serve this diverse student body, but need assistance to accommodate increases in the population and diversified educational needs.

(12) In total, Hispanic-serving institutions serve more than one million students, of which over 65 percent are minorities. This diversity reflects Hispanic-serving institutions' commitment to serving a diverse student body and improving access to postsecondary education for low-income and educationally disadvantaged groups. Enrollment in Hispanic-serving institutions is open to all students. Therefore, these programs benefit students from all racial and ethnic groups.

(13) These institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them as such institutions provide access and quality education to low-income and minority students; and,

(14) Providing targeted federal resources would impact the viability, fiscal stability, and academic excellence of these institutions that serve large numbers of low-income and educationally disadvantaged students.

William R. Kincaid
08/05/97 07:57:00 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Michael Cohen/OPD/EOP, Ananias Blocker III/WHO/EOP
Subject: Higher Ed Act Title III

Bruce and Elena--

The Education Department is preparing to submit the portion of the Higher Ed Act reauthorization that deals with aid for improving postsecondary institutions such as Historically Black Colleges and Universities (HBCUs). Currently the law allows for assistance to both HBCUs and other institutions that serve traditionally under-represented populations, such as Hispanic-Serving Institutions (HSIs) and Tribal Colleges and Universities. **However, as the law is currently structured, HSI's and Tribal Colleges are bunched in with other kinds of needy institutions, whereas HBCUs have their own separate section of the law.** Ultimately a much smaller share of HSIs (25%--about $10.8 million per year, going to 37 institutions) and Tribal colleges actually receive aid compared with HBCUs (100% -- I think -- of 98 institutions, receiving $110 million per year). At the same time, the educational challenges facing Hispanics and Native Americans are certainly compelling, and by some measures (like dropout and college-going rates) at least as daunting as those facing African Americans.

The Department's proposal, as announced in testimony by Secretary Riley, would create two new sections within the program, one for HSIs and one for Tribal Colleges. This is something that has been sought by Hispanic groups, in particular. The proposal would also substantially increase the authorization levels for both HBCUs and for HSI's and Tribal Colleges.

In discussions with the staff of the Congressional Black Caucus, and now in a letter to the POTUS from former Congressman Bill Gray and Henry Ponder on behalf of the National Association for Equal Opportunity in Higher Education, it has been made clear that **many in the black community are strongly opposed to this change.** The biggest issue, it seems, is (especially in the tight budgetary environment) that they are concerned that HBCUs would now have to more directly compete with HSIs and Tribal Colleges for money, and will wind up with less than they have had in the past. Two other arguments have been made by opponents. The first is that, by giving HSIs and Tribal Colleges the more prominent set-aside, they will place all such assistance (including that to HBCUs) at risk to legal (Adarand) challenges, because the HBCU provisions are more strongly rooted in a unique historical background and mission for these institutions. I have asked the counsel's office to look into this issue, and folks at ED are as well, but at first blush I'm a little skeptical given that HSI's already had their own line-item. The other concern raised is that the changes would repeal certain targeting provisions and open up non-needy institutions such as UCLA to the Title III program, something which the Department feels isn't true, because even institutions with 25% Hispanic enrollment (the basic criterion for being an HSI) would have to meet other targeting provisions applicable to all schools that receive aid under Title III . The Black Caucus has asked ED to delay sending the bill up so the CBC can work something out with the Hispanic Caucus.

Despite the concerns raised, the Secretary is conscious that he has already publicly indicated the path the Administration expects to take on this and, in general, continues to feel that establishing the new provisisions for HSIs and Tribal Colleges is the right way to go. However, we have slowed down the expected timeframe for transmitting the legislation a little to allow for additional analysis of the issues raised and for a meeting next Tuesday at ED involving the Secretary, Mike Smith, and others to carefully review Hill strategy. The bill remains under review by both DOJ and OMB for clearance purposes (OMB will require special sign-off because the bill includes specific authorization levels for each of the types of institutions assisted, as well as an overall increase from FY 98 budget levels (from about $205 million to $275 million; this will be a critical part of a successful Hill strategy on the measure).

The letter to POTUS requests a meeting with Bruce and Gene Sperling to discuss these issues. They argue that the needs of Latino students can be met without such a signifiant impact on HBCUs. **I will need some guidance from Bruce on whether this is something he wants to be involved with, or whether he would prefer that Riley and/or Mike Smith, perhaps together with Cohen, should handle this.** One complicating factor is the Bruce is scheduled to leave town (the 19th) about the time Cohen gets back, although Mike C. will be in town the latter part of next week and could attend a meeting here if necessary. Another complicating factor is that the Department feels that it has tried to be responsive to a general effort that the Administration overall has been making to insure that Hispanics are getting a fair shake from education programs. I did check today with Riley's scheduler, who said that the Secretary had not met with Gray or Ponder anytime recently, certainly not on this issue. In any event, everyone seems pretty clear that a meeting, not a reply letter (especially from the POTUS), is the correct next step.

Cathy has a copy of the Ponder/Gray letter, but I will re-fax over to you both, along with an ED-provided summary and proposed authorization levels, and then I will red-dot over a copy of the legislation in the a.m.

Thanks.

Cathy--

This is a very tough issue, because it pits Blacks and Hispanics against each other.

Leslie Thornton, chief of staff at ED, is on top of this issue, more so than anyone else. She should be asked to:

1. Draft a response
2. Recommend who ought to sign it (I think Bruce rather than POTUS)
3. Advise as to whether Bruce/Gene ought to met with them (I think they should)

Unfortunately, Leslie is on vacation this week (and maybe next week too, I'm not sure). So is just about everybody else in Education who we can deal with on this (Riley, Mike Smith, Terry Peterson, on down). So at least for the week, there isn't much we can do.

In the meantime, I have asked Bill Kincaid to look into this, and to make sure that the legislation referenced in the letter is not transmitted to Congress before we have a chance to deal with this.

Mike

~~Eric via~~ ~~Rorus~~ Cathy via Keene

- not prudent
- over here -
- mtg good - after talk w/ Congressmen - has spoken w/ folks.
- NAFEO could rally Cong Black Caucus

Cathy Mays -

mtg or phone call Setty

Mike Cohen

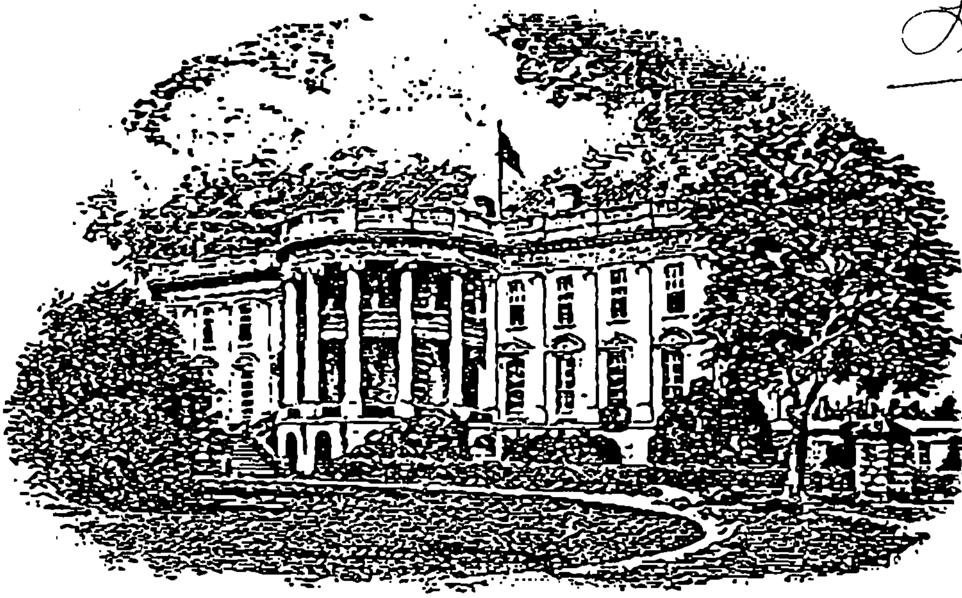
??

Let me know

Thanks

Cathy

The White House
Office of Presidential Letters and Messages



facsimile from: Leanne Johnson
phone: 202-456-5512
fax: 202-456-5426

To: Cathy Mays

No. of pages (including cover): 2 Date: 7·30·97

Phone: Fax: x 62878

Comments: Per my e-mail. Should Bruce respond or POTUS?

Thanks.

URGENT

Total Pages: 35

LRM ID: CJB82

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

Friday, July 25, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

Janet R. Forsgren

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

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

SUBJECT: **EDUCATION** Draft Bill on Higher Education Act Reauthorization - Title III - Institutional Aid

DEADLINE: 5:00 p.m. Tuesday, July 29, 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: The HEA reauthorization legislation will be reviewed, cleared, and submitted informally to committees in separate parts. ED will consolidate the entire bill for formal transmittal later.

DISTRIBUTION LIST

AGENCIES:
61-JUSTICE - Andrew Fois - (202) 514-2141
118-TREASURY - Richard S. Carro - (202) 622-0650
76-National Economic Council - Sonyia Matthews - (202) 456-6630
59-INTERIOR - Jane Lyder - (202) 208-4371
84-National Science Foundation - Lawrence Rudolph - (703) 306-1060
107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700

EOP:
Kathryn B. Stack
Timothy A. Rosado
S. A. Noe
Patricia A. Smith
Barry White
Robert M. Shireman
Jonathan H. Schnur
Michael Cohen
William R. Kincaid
Robert G. Damus
William P. Marshall

Edward M. Rea
Daniel J. Chenok
David Radzanowski
Richard H. Kodl

LRM ID: CJB82 **SUBJECT:** EDUCATION Draft Bill on Higher Education Act Reauthorization - Title III - Institutional Aid

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: Constance J. Bowers Phone: 395-3803 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

TITLE III (INSTITUTIONAL AID) DRAFT 7/25/97

SEC. —. (a) Title III of the Act is amended—

(1) in section 301—

(A) in subsection (a)--

(i) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(ii) by adding a new paragraph (3) to read as follows:

"(3) in order to be competitive and provide a high-quality education for all, institutions must improve their technological capacity and expand their use of technology;

(B) by amending subsection (b) to read as follows:

"(b) PURPOSE.--It is the purpose of this title to assist such institutions to improve their infrastructure and quality of education in order to equalize educational opportunity through a program of Federal assistance.";

(2) by amending section 311--

(A) in subsection (a), by striking out "increase their self-sufficiency and";

(B) in subsection (b)--

(i) in paragraph (2)(A), by striking out "or" at the end thereof and inserting in lieu thereof "and"; and

(C) by striking out paragraph (3); and

(D) by adding at the end thereof a new subsection (c) to read as follows:

"(c) AUTHORIZED ACTIVITIES.--(1) Funds awarded under this section shall be used for one or more of the following activities:

"(A) faculty development.

"(B) funds and administrative management.

"(C) development and improvement of academic programs.

"(D) acquisition of equipment for use in strengthening funds management and academic programs.

"(F) joint use of facilities such as libraries and laboratories.

"(F) student services.

"(G) investing in the technological improvement of the institution's administration of funds made available to students under title IV of this Act.

"(H) establishment or improvement of an endowment fund.";

"(2) An eligible institution may not use more than 20 percent of its grant under this part for any fiscal year to establish or improve an endowment fund.";

(3) in section 312--

(A) by amending subsection (b) to read as follows--

"(b) ELIGIBLE INSTITUTION.--(1) For the purpose of this part, the term "eligible institution" means--

"(A) an institution of higher education--

"(i) that has an enrollment of needy students as required by subsection (c) of this section;

"(ii) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures, per full-time equivalent undergraduate student, of institutions that offer similar instruction;

"(iii) that is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or that is a junior or community college;

"(iv) that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or that is, according to such an agency or association, making reasonable progress toward accreditation; and "(v) that meets such other requirements as the Secretary may prescribe; and

"(B) any branch of any institution of higher education described under subparagraph (A) that by itself satisfies the requirements contained in clauses (i) and (ii) of that subparagraph.

"(2) For the purposes of this section, the Secretary may consider any institution that applies for funds under this part, that is determined to be eligible for such funds but is not funded, to be eligible to receive funds under this part for a total of three consecutive years following the most recent application for which it was found eligible.

"(3) For the purposes of this part, no historically black college or university that is eligible for, and receives funds under, part B of this title shall be eligible for or may receive funds under this part."; and

(B) by striking out subsection (f);

(4) in section 313--

(i) by amending subsection (b) to read as follows:

"(b) PRIORITY.--In awarding grants under this part, the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection, a grant under sections 313(c) or 345(a)(1) shall not be considered a grant under this part.".

(ii) by redesignating subsection (c) as subsection (d); and

(iii) by adding a new subsection (c) to read as follows:

"(c) LIMITATIONS.--An institution awarded a grant under this part, other than sections 313(c) or section 354(a)(1), shall not be eligible for another grant under this part for two consecutive years following the completion of the last grant it received under this part.";

(5) by amending section 314 to read as follows:

"APPLICATIONS

"Section 314. (a) APPLICATIONS.--Each eligible institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 381.

"(b) ADDITIONAL INFORMATION.--For purposes of this part, an application under subsection (a) shall also include--

"(1) a 5-year plan for improving the assistance provided by such institution to students; and

"(2) measurable goals for the institution's proposed activities, including a plan of how the applicant intends to achieve those goals.

"(c) PRIORITY.--The Secretary shall give priority to applications that strengthen the technological capabilities of eligible institutions as determined by the Secretary.";

(6) by repealing sections 315 and 316;

(7) in section 321(4), by inserting " technological capabilities," after "academic resources,";

(8) in section 323--

(A) in subsection (a)--

(i) by striking out "section 360(a)(2)" and inserting in lieu thereof "section 390(a)(2)";

(ii) by redesignating paragraph (12) as paragraph (14); and

(iii) by inserting after paragraph (11) new paragraphs (12) and (13) to read as follows:

"(12) Investing in the technological improvement of the institution's administration of funds made available to students under to title IV of this Act.

"(13) Establishing or improving an endowment fund.";

(B) in subsection (b), by amending paragraph (3) to read as follows:

"(3)(A) An institution may not use more than 20 percent of its grant under this part for any fiscal year to establish or improve an endowment fund.

"(B) In order for an institution to use its funds under this part to establish or improve an endowment fund, it shall provide an institutional match, using non-Federal funds, that is at least equal to one dollar of institutional funds for every two dollars of the grant funds.";

(9) by amending section 324(f) to read as follows:

"(f) SPECIAL MERGER RULE.–(1)(A) An institution otherwise eligible to apply for a grant under this part in any fiscal year prior to the fiscal year 1986, shall remain eligible even if such institution has merged with another institution of higher education that is not so eligible

"(B) An institution eligible to apply for a grant under this part that merges with an institution eligible to apply for a grant under parts A or C shall, for purposes of being funded under this title, be considered as a single institution.";

(10) by amending section 325(c) to read as follows:

"(c) GOALS.–An application for a grant under this part shall describe measurable goals for the institution's proposed activities, including a plan of how the applicant intends to achieve those goals.";

(11) in section 326–

(A) by amending subsection (a)(2) to read as follows:

"(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides an assurance that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that–

"(A) the institution shall not be required to match the first $500,000 of its award from the Secretary; and

"(B) the Morehouse School of Medicine shall receive at least $3,000,000."; and

(B) in subsection (b), by striking out the second sentence;

(C) in subsection (e), by amending paragraph (1) to read as follows:

"(1) IN GENERAL.--Independent professional or graduate institutions and programs eligible for grants under subsection (a) include–

"(A) Morehouse School of Medicine;

"(B) Meharry Medical School;

"(C) Charles R. Drew Postgraduate Medical School;

"(D) Clark-Atlanta University;

"(E) Tuskegee University qualified graduate program;

"(F) Xavier University qualified graduate program;

"(G) Southern University qualified graduate program;

"(H) Texas Southern University qualified graduate program;

"(I) Florida A&M University qualified graduate program;

"(J) North Carolina Central University qualified graduate program;

"(K) Morgan State University qualified graduate program;

"(L) Hampton University qualified graduate program;

"(M) Alabama A&M qualified graduate program;

"(N) North Carolina A&T State University qualified graduate program;

"(O) University of Maryland Eastern Shore qualified graduate program;

"(P) Jackson State qualified graduate program; and

"(Q) any professional or graduate institution or program that meets the requirements of this section.";

(D) in subsection (f)--

(i) in paragraph (2)--

(I) in the matter before subparagraph (A), by inserting "but not to exceed $19,606,000" after "$12,000,000"; and

(II) in subparagraph (B), by striking out "(e)(1)." at the end thereof and inserting in lieu thereof "(e)(1); and"; and

(ii) by adding a new paragraph (3) at the end thereof to read as follows

"(3) any amount appropriated in excess of $19,606,000 shall be available--

"(A) for the purpose of making grants in equal amounts not to exceed $500,000, to institutions or programs described in paragraph (Q) of subsection (e)(1); and

"(B) secondly for the purpose of making grants to instituions or programs described in subparagraphs (A) through (Q) of subsection (e)(1).";

(12) by amending part C to read as follows--

"PART C -- HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

"FINDINGS

"SEC. 331. The Congress finds that--

"(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans; ?

"(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical ~~skills, and~~ honing ~~their social and political skills~~ through higher education; ~~enhancing~~ their ability to participate in our democracy or citizenship skills ("not social" "political skills")

citizenship?

"(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect or deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

"(4) due to their small enrollments, limited endowments, and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

"(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities lack the financial resources necessary to gain access to traditional sources of capital financing, such as bank loans and bond financing; and full

"(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education. ?

"DEFINITIONS

"SEC. 332. For the purposes of this part:

"(1) The term "eligible institution" means a "part B institution" as that term is defined in section 322(2) of the Higher Education Act of 1965.

"(2) The term "loan" means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

"(3) The term "qualified bond" means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 333(b).

"(4) The term "funding" means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 333.

"(5)(A) The term "capital project" means, subject to section 334(b), the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of--

"(i) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

"(ii)(I) facilities for administration of educational programs;

"(II) maintenance, storage, or utility facilities essential to the operation of a capital project;

"(III) facilities designed to provide primarily outpatient care of students and faculty;

"(IV) student centers or student unions; or

"(V) other essential service facilities;

"(iii) instructional equipment, research instrumentation, and capital equipment or fixtures related to facilities described in clause (i);

"(iv) any other facility, equipment or fixture that is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

"(v) any real property or interest therein underlying facilities described in clauses (i), (ii), or (iv).

"(B) The term "capital project" shall not include--

"(i) any facility intended primarily for events for which admission is to be charged to the general public;

"(ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other "capital projects" included under this part is required to carry out the objectives of this part;

"(iii) any facility used, or to be used, for sectarian instruction or as a place for religious worship; or

"(iv) any facility that (although not a facility described in the preceding clause) is used, or to be used, primarily in connection with any part of the program of a school or department of divinity.

"(6) The term "interest" includes accredited value or any other payment constituting interest on an obligation.

"(7) The term "outstanding", when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

"(8) The term "designated bonding authority" means the private, for-profit corporation selected by the Secretary for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

"(9) The term "Advisory Board" means the Advisory Board established by section 337 of this part.

FEDERAL INSURANCE FOR BONDS

"SEC. 333. (a) GENERAL RULE.--Subject to the limitations in section 334, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c), and (d).

"(b) RESPONSIBILITIES OF THE DESIGNATED BONDING AUTHORITY.--The Secretary may not enter into an insurance agreement described in subsection (a) unless the Secretary designates a qualified bonding authority and the designated bonding authority agrees in such agreement to--

"(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

"(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used--

"(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

"(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

"(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

"(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

"(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

"(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

"(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

"(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

"(8) establish an escrow account--

"(A) into which each eligible institution shall deposit 10 percent of the proceeds of any loan made under this part; and

"(B) the balance of which--

(I) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

(ii) when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit,

"(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

"(10) comply with limitations set forth in section 334 of this part; and

"(11) make loans only to eligible institutions under this part in accordance with regulations prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

"(c) <u>ADDITIONAL AGREEMENT PROVISIONS.</u>--Any insurance agreement described in subsection (a) of this section shall provide as follows:

"(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

"(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8).

"(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

"(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

"(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to--

"(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

"(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

"(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

"(d) FULL FAITH AND CREDIT PROVISIONS.--Subject to section 333(c)(1), the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

"(e) BOND SALES.--Notwithstanding any other provision of law, qualified bonds guaranteed under this part may be sold to any party that offers terms that the Secretary determines in his discretion are in the best interests of the eligible institution.

"LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY

"SEC. 334. (a) LIMIT ON AMOUNT.--(1) At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $375,000,000, of which--

"(A) not more than $250,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

"(B) not more than $125,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

"(2) For purposes of paragraphs (1)(A) and (B), Lincoln University of Pennsylvania is an historically Black public institution No institution of higher education that has received assistance under section 8 of the Act of March 2, 1867 (20 U.S.C. 123) shall be eligible to receive assistance under this part.

"(b) LIMITATION ON CREDIT AUTHORITY.--The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

"(c) RELIGIOUS ACTIVITY PROHIBITION.--No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

"(d) DISCRIMINATION PROHIBITION.--No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), age, or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

"AUTHORITY OF THE SECRETARY

"SEC. 335. In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary--

"(1) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

"(2)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

"(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that--

"(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

"(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(3) may sell, exchange, or lease real or personal property and securities or obligations; and

"(4) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved.

"HBCU CAPITAL FINANCING ADVISORY BOARD

"SEC. 336. (a) ESTABLISHMENT AND PURPOSE.--There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory

Board (hereinafter in this part referred to as the "Advisory Board") which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

valuable?

"(b) BOARD MEMBERSHIP.--(1) COMPOSITION.--The Advisory Board shall be appointed by the Secretary and shall be composed of 9 members as follows:

"(A) The Secretary or the Secretary's designee.

"(B) Three members who are presidents of private historically Black colleges and universities.

"(C) Two members who are presidents of public historically Black colleges and universities.

"(D) The president of the United Negro College Fund, Inc.

"(E) The president of the National Association for Equal Opportunity in Higher Education.

"(F) The executive director of the White House Initiative on historically Black colleges and universities.

"(2) TERMS.--The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that--

"(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years.

"(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

"(C) a member may continue to serve after the expiration of a term until a successor is appointed.

"MINORITY BUSINESS ENTERPRISE UTILIZATION.

"SEC. 337. To the maximum extent feasible in the implementation of the purposes of this part,

?
How does this compare with minority business provision in other legislation?

minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized. 7

"CONTINUATION OF INSTITUTIONAL AWARDS UNDER THE ENDOWMENT CHALLENGE GRANTS PROGRAM

"SEC. 338. The Secretary shall, as appropriate, continue to monitor awards to recipients under part C, the Endowment Challenge Grants program, of this title as it was in effect prior to the enactment of the Higher Education Act Amendments Act of 1997.";

(13) in section 351, by adding a new subsection (e) to read as follows:

"(e) LIMITATION ON MULTIPLE GRANTS.–Any institution, that is otherwise eligible to receive a grant under one or more of parts A, B, D, or E, may not be funded under more than one of those parts in any fiscal year.";

(14) in section 352–

(A) in subsection (a)–

(i) in paragraph (5), at the end thereof, by striking out "or";

(ii) by redesignating paragraph (6) as paragraph (7); and

(iii) by inserting after paragraph (5) a new paragraph (6) to read as follows:

"(6) that is a tribally controlled community college as defined in the Tribally Controlled Community College Act of 1978, as amended; or";

(B) in subsection (b)–

(i) by inserting "(A)" after the paragraph designation "(1)"; and

(ii) by inserting at the end of paragraph (1)(A) a new paragraph (B) to read as follows:

"(B) In making a waiver determination under subparagraph (A), the Secretary may consider one or more of the following factors as distorting an institution's educational and general expenditures per full-time equivalent undergraduate student:

"(i) low student enrollment.

"(ii) the location of the institution in an unusually high cost-of-living area.

"(iii) high energy costs.

"(iv) an increase in State funding that was part of a desegregation plan for higher education.

"(v) the operation of high cost professional schools such as medical or dental schools; and

"(vi) the institution's status as a tribally controlled community college.";

(15) in section 356--

(A) by amending subsection (a) to read as follows:

"(a) ASSISTANCE ELIGIBILITY.--Each institution that the Secretary determines to be an institution eligible to receive a grant under either parts A, B, D, and E of this title may be eligible for waivers in accordance with subsection (b).";

(16) in section 360--

(A) by amending subsection (a) to read as follows--

"(a) AUTHORIZATIONS.--(1) There are authorized to be appropriated $80,000,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding fiscal years to carry out part A.

"(2) There are authorized to be appropriated $130,000,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding fiscal years to carry out part B.

"(3) There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 through 2002 to carry out part C.";

"(4) There are authorized to be appropriated $24,000,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding to carry out part D.

"(5) There are authorized to be appropriated $5,000,000 in fiscal year 1999 and such sums as may be necessary for each of the four succeeding to carry out part E.

"(6) There are authorized to be appropriated $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the four succeeding to carry out part F."; and

(B) by adding a new subsection (f) to read as follows:

"(f) ADMINISTRATIVE RESERVATIONS.--(1) In any fiscal year beginning after September 30, 1998, from the amounts appropriated for each part under this title, the Secretary may use no more than one and one half percent of such amounts to obtain qualified readers and staff to review applications, to increase the level of oversight and monitoring, and to provide technical assistance to potential applicants and current grantees.

"(2) In any fiscal year beginning after September 30, 1998, from the amounts appropriated under this title, the Secretary may use no more than one half of one percent of such amounts to support impact studies.";

(17) in part D--

(A) by redesignating part D as part G; and

(B) by redesignating sections 351 through 360 as sections 381 through 390 respectively;

(18) by adding new parts D, E, and F to read as follows:

"PART D-STRENGTHENING HISPANIC-SERVING INSTITUTIONS

"FINDINGS; PURPOSE

"SEC. 351. (a) FINDINGS.--The Congress finds that:

" (1) Currently, educational attainment for many Hispanic Americans is very low. Hispanics are the most under-educated group in the U.S. Hispanics, compared to other groups, enter school later and leave it earlier. Hispanics are less likely to complete high school or to enter or complete college. Currently, Hispanics have one of the lowest college enrollment rates of any ethnic group.

Seems a little condescending

patronizing?

"(2) Hispanic student enrollment and graduation rates are not keeping pace with the Hispanic American presence in the general population nor with the available pool of Hispanic high school graduates.

"(3) In 1994 there were 30 million Hispanic Americans living in the Continental U.S. By the year 2000, Hispanic children will make up the greatest proportion of minority children under the age of 18. By the year 2010, Hispanic Americans will be the largest minority group in the United States (over 40.5 million, 13.5 percent of the population). By the year 2030, the Bureau of Census projects that Hispanic students age 5-18 will number almost 16 million (25 percent of the total school population). Projections for the year 2050 predict that Hispanic Americans will comprise 25 percent of the total population of this country, and will therefore be the largest population group in the Nation. ? check

"(4) One-third of all Hispanic American students in higher education are enrolled in less than 189 two-and four-year institutions of higher education in the United States and Puerto Rico, know as Hispanic-serving institutions.

"(5) In 1994 about half of all Hispanic Americans enrolled in postsecondary education were enrolled in two year community colleges.

"(6) From 1973 to 1994, the overall number of high school graduates enrolled in a four-year institution doubled, from 16 to 31 percent. The percentages of both whites and blacks enrolled at those institutions also more than doubled within the same period. Black enrollment increased from 13 to 25% and white enrollment increased from 16 to 33 percent. College-bound Hispanics in four-year institutions, however,increased only from 13 to 20 %.

"(7) The total proportion of bachelors degrees for Hispanic Americans has risen only slightly (from 2.8% in 1985 to 4.8% in 1995) since the 1980s, even though Hispanic student enrollment has modestly increased (from 4.5% in 1984 to 7.9% in 1995).

"(8) In 1994-1995, Hispanics earned 6% of all associate degrees (earning 2.1% of the agriculture and natural resources degrees, 3.7% of the health professions and related science degrees, and 4.3% of the communications degrees), 4.8% of all bachelor degrees (earning 2% of the communications technologies BA degrees, 2.7% of the physical sciences and science technologies BA degrees, and 3.3% of the health professions and related sciences degrees), 3% of all masters degrees (earning 2.4% of the mathematics MA degrees, 2.4% of the library science MA degrees, and 2.9% of the agriculture and natural resources degrees), and 2% of all PhDs (earning 1..2% of the computer and information sciences Ph.Ds, 1.9% of the engineering Ph.Ds, and 2.1% of the mathematics Ph.Ds).

"(9) In October 1993, the dropout rate for Hispanic 16-24 year olds was 28 percent, double the rate for blacks (14%) and more than three times the rate for whites (8%) in the same group. In 1994, the Hispanic dropout rate rose to 30%.

"(10) Increasing enrollments of Hispanic and other students at these institutions have stretched resources and challenged faculty and staff.

"(11) Steps must be taken to help Hispanic-serving institutions of higher education increase the quality and condition of higher education opportunities for their students.

"(12) Enrollment in Hispanic-serving institutions is open to all students. Therefore these programs benefit students from all racial and ethnic groups.

"(b) PURPOSE.–It is the purpose of this part to improve the academic quality, technological capacity, institutional management, and fiscal stability of eligible Hispanic-serving institutions of higher education in order to strengthen their ability to make a substantial contribution to the higher education resources of the Nation.

"PROGRAM AUTHORIZED

"SEC. 352.(a) IN GENERAL.–From the sums available for this part under section 390(a)(4) for any fiscal year, the Secretary may award grants to Hispanic-serving institutions of higher education that have an application approved under section 356 in order to assist such institution to plan, develop, and implement activities that promise to strengthen the institution.

"(b) DURATION.--Grants under this part shall not exceed five years.

"(c) LIMITATIONS.–Hispanic-serving institutions awarded a grant under this part, other than under sections 355 or 384(a)(1), shall not be eligible for another grant under this part for two consecutive years following the completion of the last grant it received under this part.

"(d) SPECIAL CONSIDERATION.--In making awards under this part the Secretary shall give special consideration to any Hispanic-serving institution–

"(1) that has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions, and

"(2) that has expenditures, per full-time equivalent student, for library materials that is less than the average of the expenditures for library materials, per full-time equivalent student, by other similarly situated institutions.

"DEFINITIONS

"SEC. 353.(a) IN GENERAL.–The definitions of terms in section 312(a), (c), (d), and (e) of this Act shall apply in this part, as appropriate.

"(b) PROGRAM SPECIFIC DEFINITIONS.--For the purposes of this part–

"(1) the term "Hispanic-serving institution" means an institution of higher education that–

"(A) is an eligible institution under section 312(b);

"(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students; and

"(C) provides an assurance that ~~not less than 50 percent~~ of its Hispanic students are low-income individuals who are first generation college students;

"(2) the term "first generation college student" means--

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with, and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(3) the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"AUTHORIZED ACTIVITIES

"SEC. 354. (1) Funds awarded under section 352(a) shall be used by Hispanic-serving institutions for one or more of the following:

"(A) acquisition of scientific or laboratory equipment for educational purposes, including research and instructional purposes.

"(B) the renovation and improvement of classroom, library, laboratory, and other instructional facilities.

"(C) the support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(D) curriculum development and academic instruction.

"(E) the acquisition of library books, periodicals, microfilm, and other educational materials.

"(F) funds and administrative management, and the acquisition of equipment for use in strengthening funds management.

"(G) joint use of facilities such as libraries and laboratories.

"(H) academic tutoring and counseling programs and student support services.

"(I) establishment or improvement of an endowment fund.

"(2)(A) An Hispanic-serving institution may not use more than 20 percent of its grant under this part for any fiscal year to establish or improve an endowment fund; and

"(B) In order for an Hispanic-serving institution to use its funds under this part to establish or improve an endowment fund, it shall provide an institutional match, using non-Federal funds, that is at least equal to one dollar of institutional funds for every two dollars of the grant funds.

"PLANNING GRANTS

"SEC. 355. The Secretary may award a grant under this part to an Hispanic-serving institution for a period of one year for the purpose of preparing a technological needs assessment, plan, and application for a grant under section 352(a).

"APPLICATIONS

Section 356. (a) APPLICATIONS.--Each Hispanic-serving institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 381.

"(b) ADDITIONAL INFORMATION.--For purposes of this part, an application under subsection (a) shall also include--

"(1) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low income students; and

"(2) measurable goals for the institution's proposed activities, including a plan of how the applicant intends to achieve those goals.

"(c) PRIORITY.--The Secretary shall give priority to applications that strengthen the technological capabilities of Hispanic-serving institutions as determined by the Secretary.

"PART E --STRENGTHENING TRIBAL COLLEGES AND UNIVERSITIES

"FINDINGS; PURPOSE

"SEC. 361. (a) FINDINGS.--The Congress finds that:

"(1) Indian tribes are domestic dependent nations under the protection of the United States, and that as governments, Indian tribes have the authority to administer educational institutions.

"(2) Historically, the education system in the United States has encouraged American Indian and Alaska Native students to forgo their Native language and culture in favor of Western language and culture, and those educational practices have been damaging Indian students and their communities.

"(3) In general, American Indian and Alaska Native students have a lower economic status than students in the Nation as a whole; and roughly twice as many American Indian and Alaska Native youth live below the poverty line as youth in the general population.

"(4) In general, American Indian and Alaska Native youth have a lower educational attainment level than youth in the Nation as a whole, and only 8.9% of American Indian and Alaska Native students earn a four-year bachelor's degree or higher compared to 20.3% in the Nation as a whole.

"(5) Tribal Colleges and Universities have been established by tribal governments to make post-secondary educational opportunities available in Native American communities, including GEDs; remedial instruction; and academic, vocational, and technical programs similar to those offered by public and private colleges and universities.

"(6) Tribal Colleges and Universities are well-suited to serve Native American communities because they are physically located in the communities that they serve and are attuned to Native languages and cultures.

"(7) Tribal Colleges and Universities are important centers for learning Native languages and cultures that fulfill a vitally important mission in preserving unique and valuable information concerning Native languages and cultures.

"(8) Tribal Colleges and Universities have been hampered by a lack of adequate and stable funding resources because, unlike State land grant institutions, they do not have large resource bases to draw on, and they generally do not receive State funding. This lack of funding seriously threatens the continued viability of some of these institutions.

"(9) Based on the United States' unique trust responsibility to Native Americans, financial assistance to establish, support, and strengthen the physical plants, financial management, academic resources, and endowments of the Tribal Colleges and Universities is appropriate to enhance these institutions and to expand their capacity to serve Native American students.

"(b) PURPOSE.--It is the purpose of this part to improve the academic quality, technological capacity, institutional management, and fiscal stability of eligible Tribal Colleges and Universities in order to strengthen their ability to make a substantial contribution to the higher education resources of the Nation.

"PROGRAM AUTHORIZED

"SEC. 362.(a) IN GENERAL.--From the sums available for this part under section 390(a)(6) for any fiscal year, the Secretary may award grants to Tribal Colleges and Universities that have an application approved under section 381 in order to assist such institutions plan, develop, and implement activities that promise to strengthen the institution.

"(b) DURATION.--Grants under this part shall not exceed five years.

"(c) ELIGIBILITY.--To be eligible to receive assistance under this part, a Tribal College or University must--

"(1) be an eligible institution under section 312(b); and

"(2) meets the definition of Tribal College or University under section 363(3).

"(d) LIMITATIONS.--A Tribal College or University awarded a grant under this part, other than under sections 374 or 384(a)(1), shall not be eligible for another grant under this part for two consecutive years following the completion of the last grant it received under this part.

"(e) SPECIAL CONSIDERATIONS.--In making awards under this part, the Secretary shall give special consideration to any Tribal College or University--

"(1) that has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; and

"(2) that has expenditures, per full-time equivalent student, for library materials that is less than the average of the expenditures for library materials, per full-time equivalent student, by other similarly situated institutions.

"DEFINITIONS

"SEC. 363. For the purposes of this part--

"(1) The term "Indian" means a person who is a member of an Indian tribe as defined herein;

"(2) The term Indian tribe means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act, 25 U.S.C. 479a;

"(3) The term "Tribal College and University" means an institution--

"(A) cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note);

"(B) any other institution that qualifies for funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.); or

"(C) that is a Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978 (25 U.S.C. 640a note); and

"(4) The term "institution of higher education" means an institution of higher education as defined by section 1201(a) of this Act.

"AUTHORIZED ACTIVITIES

"SEC. 364. (1) Grants under this part shall be used by Tribal Colleges and Universities for one or more of the following:

"(A) the acquisition of scientific or laboratory equipment for educational purposes, including research and instructional purposes.

"(B) the renovation and improvement in classroom, library, laboratory, and other instructional facilities.

"(C) the support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(D) curriculum development and academic instruction .

"(E) the acquisition of library books, periodicals, microfilm, and other educational materials.

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(G) joint use of facilities such as libraries and laboratories.

"(H) academic tutoring and counseling programs and student support services.

"(I) investing in the technological improvement of the institution's administration of funds made available to students under title IV of the Act;

"(I) the establishment or improvement of an endowment fund.

"(2)(A) a Tribal College or University may not use more than 20 percent of its grant under this part for any fiscal year to establish or improve an endowment fund.

"(B) In order for a Tribal College or University to use its funds under this part to establish or improve an endowment fund, it shall provide an institutional match, using non-Federal funds, that is at least equal to one dollar of institutional funds for every two dollars of the grant funds.

"PLANNING GRANTS

"SEC. 365. The Secretary may award a grant under this part to a Tribal College or University for a period of one year for the purpose of preparing a technological needs assessment, plan, and application for a grant under section 362(a).

"APPLICATIONS

Section 366. (a) APPLICATIONS.--Each Tribal College or University desiring to receive assistance under this part shall submit an application to the Secretary in accordance with the requirements of section 381.

"(b) ADDITIONAL INFORMATION.--For purposes of this part, an application under subsection (a) shall also include--

"(1) a 5-year plan for improving the assistance provided by the Tribal College or University to Indian students; and

"(2) measurable goals for the institution's proposed activities, including a plan of how the applicant intends to achieve those goals.

"(c) PRIORITY.--The Secretary shall give priority to applications that strengthen the technological capabilities of Tribal Colleges and Universities as determined by the Secretary.

"PART F--MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS

"PURPOSE, PROGRAM AUTHORIZATION

"SEC. 371. (a) PURPOSE.--It is the purpose of this part to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 304(a)(1) of the Department of Education Organization Act.

"(b) PROGRAM AUTHORIZED.--The Secretary shall, in accordance with the provisions of this part, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities, particularly minority women, in scientific and technological careers.

"GRANT RECIPIENT SELECTION

"SEC. 372.(a) ESTABLISHMENT OF CRITERIA.--Grants under this part shall be awarded on the basis of criteria established by the Secretary by regulations.

"(b) PRIORITIES.--The Secretary shall give priority to applicants that have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

"(c) CRITERIA.--In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

"(1) plan of operation.

"(2) quality of key personnel.

"(3) budget and cost effectiveness.

"(4) evaluation plan.

"(5) adequacy of resources.

"(6) identification of need for the project.

"(7) potential institutional impact of the project.

"(8) institutional commitment to the project.

"(9) expected outcomes.

"(10) scientific and educational value of the proposed project.

"USE OF FUNDS

"SEC. 373.(a) TYPES OF GRANTS.--Funds under this part may be made available as--

"(1) institutional grants (as defined in section 1046(6));

"(2) cooperative grants (as defined in section 1046(7));

"(3) design projects (as defined in section 1046(8)); or

"(4) special projects (as defined in section 1046(9).

"(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.--(1) The authorized uses of funds made available as institutional grants include (but are not limited to)--

"(A) faculty development programs; and

"(B) development of curriculum materials.

"(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)--

"(A) assisting institutions in sharing facilities and personnel;

"(B) disseminating information about established programs in science and engineering;

"(C) supporting cooperative efforts to strengthen the institution's science and engineering programs; and

"(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

"(3)(A) The authorized uses of funds made available as design projects include (but are not limited to)--

"(i) developing planning, management, and evaluation systems; and

(ii) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

"(B) Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

"(4) The authorized uses of funds made available as special projects include (but are not limited to)--

"(A) advanced science seminars;

"(B) science faculty workshops and conferences;

"(C) faculty training to develop specific science research or education skills;

"(D) research in science education;

"(E) programs for visiting scientists;

"(F) preparation of films or audio-visual materials in science;

"(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

"(H) development of pre-college enrichment activities in science; and

"(I) any other activities designed to address specific barriers to the entry of minorities into science.".

SEC. —. Titles VII and X of the Act are repealed.

###

The Title III programs directly relate to the Department's support of access to postsecondary education as well as high standards and high achievement because these programs enable the improvement and expansion of an institution's capacity to provide educational opportunities for large numbers of needy and underrepresented students. The Department is proposing the following changes to Title III as part of the reauthorization.

Title III reauthorization structure

The revised Title III structure will be as follows:

- Part A: Strengthening Institutions program
- Part B: Historically Black Colleges and Universities (HBCU) program
- Part C: HBCU Capital Financing program
- Part D: Strengthening Hispanic Serving Institutions (HSI) program
- Part E: Strengthening Tribal Colleges and Universities (TCU) Program
- Part F: Minority Science Improvement Program (MSIP)
- Part G: General Provisions

Use of funds

- *New technology initiative*

This new initiative focuses on improving the educational capacity of institutions participating in the Institutional Aid programs by giving priority to those applications that focus on integrating the use of technology and enhancing the institution's technological capacity in their activities. An authorized activity also has been added to encourage institutions to invest in the improvement of their administration of funds made available to students pursuant to Title IV of the HEA.

- *Endowment funds*

Eliminate the Endowment Challenge Grants program and allow institutions participating in each of the Institutional Aid programs the option of using a portion (up to 20 percent) of their awards to establish or expand an endowment fund. Institutions would be required to match the federal funds used for this purpose -- at least equal to one dollar of institutional funds for every two dollars of the grant funds -- with nonfederal funds.

Restructuring

- *Move the Hispanic Serving Institutions (HSI) Program from Part A to a new part*

Move the HSI program into a separate part to be consistent with having a separate part for the Historically Black Colleges and Universities (HBCU) program and our proposal to have a separate part for Strengthening Tribal Colleges and Universities (TCU). The Strengthening HSI program currently exists under Title III Part A: Sec. 316.

In addition, revise the definition of an HSI by eliminating the two low-income and first-generation criteria. To be an eligible Title III institution, sec. 312(b) already requires the enrollment of needy students. This change will lessen the data collection burden on eligible institutions but have a negligible effect on the number of eligible institutions.

Eliminate the current priority of a collaborative arrangement with a local educational agency to create more consistency between the HSI program and the other Strengthening Institution programs, which do not have this requirement.

- *Incorporate the Minority Science Improvement Program (MSIP) and Historically Black Colleges and Universities (HBCU) Capital Financing Program into Title III as separate parts*

Since both programs also serve to strengthen institutions and are targeted to the institutions most served by the other programs in Title III, this incorporation will move the two programs, with minimal changes, to where they most appropriately fit within the HEA.

New part

- *Create a new Strengthening Tribal Colleges and Universities (TCU) program*

In recognition of the important role Tribal Colleges and Universities (TCU) have in educating American Indian and other low-income students, the Department has proposed legislation creating a new institutional development program. The purpose of this program is to improve, strengthen and expand the institution's capacity to serve American Indian and other low-income students.

The Department intends to increase the support to institutions that serve large numbers of Native American and Alaska Natives. Recent research has shown that Native Americans and Alaska Natives require additional assistance and focus to address their postsecondary education attendance and attainment. A recent Carnegie Report also asserts Tribal Colleges have been neglected, unrecognized, and under funded by both the Federal Government and the private sector.

Increased funding

The institutional development programs would have an increased allocation of about $275 million -- nearly $70 million more than the President's FY 1998 budget request. This authorization level reflects the Department's increased commitment to capacity-building for institutions that serve large numbers of needy and underrepresented students. The following section provides a table and a brief description of the fiscal year 1998 and 1999 budget requests for the Title III Institutional Aid programs.

(In thousands of dollars)	FY1998*	FY1999*
Aid for Institutional Development:		
Strengthening Institutions [Part A]	$ 55,450	$ 80,000
Strengthening Hispanic-serving Institutions (HSIs) [Part A: Sec. 316]/[proposed Part D]	12,000	24,000
Strengthening Historically BlackColleges and Universities (HBCUs) [Part B: Sec. 323]	113,000	130,000
Strengthening Historically Black Graduate Institutions (HBGIs) [Part B: Sec. 326]	19,606	26,000
Strengthening Tribal Colleges & Universities (TCUs) [proposed Part E]	0	5,000
Minority Science Improvement Program (MSIP) [proposed Part F]	5,255	10,000
Total Title III program:	$205,311	$275,000

*President's proposed budget

Strengthening Institutions: The authorization level requested for the Strengthening Institutions Program is $80 million. This request would provide the necessary funds for continuing multi-year grants to approximately 108 institutions ($36 million) and funds for about 70 new awards. This authorization level is an increase of $24.4 million (44 percent) over the President's FY 1998 budget request.

Strengthening Hispanic-serving Institutions (HSIs): The authorization level requested for the Strengthening Hispanic-serving Institutions program is $24 million This funding would provide support for approximately 70 (52 percent) of the 130 institutions eligible to compete for the program. This authorization level is an increase of $12 million (100 percent) over the President's 1998 budget request.

Strengthening Historically Black Colleges and Universities (HBCUs): The authorization level requested for Strengthening HBCUs is $130 million. This level of funding would support an average award of $1.3 million -- an increase of $173,000 from the 1998 estimated level -- and reflects an increase of $17 million (15 percent) over the President's 1998 budget request.

Strengthening Historically Black Graduate Institutions (HBGIs): The authorization level requested for this program is $26 million. This level would support an average award $1.4 million -- an increase of about $143,000 from FY 1998 -- and is an overall increase of $6.4 million (33 percent) over the President's 1998 budget request.

Tribal Colleges and Universities (TCUs): The authorization level requested is $5 million to support competitive grants averaging $350,000 to about 14 (48 percent) of the 29 TCUs in the United States.

Minority Science Improvement (MSIP): The authorization level requested for MSIP is $10 million. This level is an increase of nearly 50 percent over the President's FY 1998 budget request and would support the participation of about 110 minority-serving institutions. This level would also provide support for a new initiative in MSIP -- a Faculty and Student Exchange Program -- between minority-serving institutions and among other institutions. This initiative could significantly improve the academic preparation, career experience, and mentoring of minority students for graduate studies.