

COMMENTS ON THE HIGHER EDUCATION ACT

SUBMITTED TO
THE SENATE HEALTH, EDUCATION, LABOR AND PENSIONS COMMITTEE
BY THE AMERICAN FEDERATION OF TEACHERS AND
THE NATIONAL EDUCATION ASSOCIATION

May, 31, 2005

On behalf of the 4 million members of the American Federation of Teachers (AFT) and the National Education Association (NEA), which includes 300,000 higher education professionals, we submit our recommendations for the Higher Education Act (HEA).

Over the past few decades the HEA has successfully helped millions of financially-pressed students attain access to postsecondary education. However, challenges remain, particularly because of rising costs at institutions of higher education, reductions in state funding, and level funding in federal programs. Further, because of the growing reliance on loans, many students incur massive debts upon completion of their postsecondary education. The HEA reauthorization process represents a tremendous opportunity to improve access and affordability to higher education and reinforce the primacy of the United States system of higher education.

With this in mind, the AFT and the NEA recently came together to develop a document that represents our joint legislative priorities for higher education. This is an effort to represent the voice of college faculty and staff during this reauthorization process. The joint statement encompasses what is important to our members: *Access; Quality, Accountability and Student Services; Diversity; Academic Freedom; and Teacher Education*. Attached for your review is a copy of our joint statement.

In keeping with the principles of our statement, we want to highlight some of our key recommendations for your consideration. Specific legislative language to accompany these recommendations is included.

ACCESS

Pell Grants

The most important program offering opportunity to students is the Pell Grant. A primary reason that students leave or never enter school before completing their studies is a lack of financial aid. To ensure that students have adequate financial support in order to remain in school, we recommend that the Pell Grant be changed to an entitlement program coupled with language that would double the maximum Pell Grant over the next six years.

Make the Pell Grant an entitlement program

Suggested Legislative Language:

Section 401(b) - amend by inserting the following:

(9) All students who qualify and meet the eligibility criteria for the awards under this section shall receive the maximum allowed.

Double the maximum Pell Grant

Suggested Legislative Language (from S. 371):

(b) Authorization Amount and Maximum Pell Grant- Section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)) is amended--

(2) in paragraph (2)(A), by striking clauses (i) through (v) and inserting the following:

- `(i) \$7,600 for academic year 2006-2007;*
- `(ii) \$8,600 for academic year 2007-2008;*
- `(iii) \$9,600 for academic year 2008-2009;*
- `(iv) \$10,600 for academic year 2009-2010; and*
- `(v) \$11,600 for academic year 2010-2011,'*

Student Loans

In addition to grants for the neediest students, federal student loan programs provide critical access to postsecondary education to low and middle-income students and their families. Costs within the loan programs must be reviewed with an eye toward greatest efficiencies and greatest benefits to students. With these goals in mind, AFT and NEA recommend:

- Including legislation to expand direct lending through incentives to participating institutions.

Suggested Legislative Language:

Text of S. 754

- Eliminating excessive subsidies to lenders.

Suggested Legislative Language:

Text of S. 1098, the Student Loan Abuse Prevention Act

- Continuation of fixed rate loan consolidation

Suggested Legislative Language:

Retain current law provisions

- Eliminating origination fees on student loans.

Suggested Legislative Language:

From S. 371, insert text of SEC. 103. ELIMINATION OF ORIGINATION FEES AND ADJUSTMENT OF FEES AND TERMS.

- Expanding loan forgiveness to a broader range of public education employees and make the current Taxpayer Teacher Protection Act permanent.

Suggested Legislative Language:

Section 3(b) of the Taxpayer -Teacher Protection Act of 2004 is amended by striking paragraph (3) EFFECTIVE DATE.

FFEL Loans- Section 428J(g) of the Higher Education Act of 1965 (20 U.S.C. 1078-10(g)) is expanded by applying the “additional amounts eligible to be repaid,” which brings total loan forgiveness to \$17,500, to all public educators.

Needs Analysis

In addition to changes to the Pell Grant and student loan programs, AFT and NEA are concerned about provisions in the current needs analysis structure that unduly harm some of the neediest students. To correct this problem, we recommend:

- Increasing the Income Protection Allowances to ensure that independent students who must work to support their postsecondary education are not hampered by minimal earnings.

Suggested Legislative Language:

Amend Section 476(b)(1)(A)(iv)(I) to read “\$6,500.”

- Raising the threshold for Expected Family Contribution from \$15,000 to \$25,000.

Suggested Legislative Language:

Amend Section 479(c)(1)(B) to read “the sum of the adjusted gross income of the parents is less than or equal to \$25,000.”

- Diminishing barriers to postsecondary education caused by lack of adequate child care services on campus.

Suggested Legislative Language:

Text of S. 725, legislation to improve the Child Care Access Means Parents in School Program

QUALITY – FACULTY AND SHARED GOVERNANCE

Accreditation agencies are reviewed and approved on the basis of there being reliable indicators of institutional quality. Two critical elements of institutional quality are the presence of a strong corps of full-time tenured faculty with academic freedom and shared governance. Shared governance is particularly important since it is a process that ensures that faculty, staff and administrators all have an equal opportunity to participate in decision-making.

In order to meet these goals, we recommend amending language on faculty in the review of accreditation agencies or associations as well as adding language to promote shared governance on college campuses. We also recommend the inclusion of a program to recruit minority faculty.

Include faculty and shared governance in the review of accreditation agencies/organizations

Suggested Legislative Language:

Section 496(a)(5) –

Amend (B)(C) combining into one and inserting the following: ‘(B) commitment to a strong corps of full-time tenured faculty with primary responsibility for curriculum and instruction’

Amend by inserting the following: ‘(K) shared governance procedures to ensure they are available in writing and are enforceable’

Enhance recruitment of a diverse faculty

Suggested Legislative Language:

Include all language from S. 371 regarding the Patsy T. Mink Fellowship Program

QUALITY - FINANCIAL ACCOUNTABILITY, FRAUD AND ABUSE

The AFT and NEA believe that in order to ensure quality and to curb fraud and abuse, reasonable controls should apply to programs that use technology as their primary mode of delivery and that are funded primarily by federal student aid. To address concerns of fraud and abuse we urge Congress to retain the 50% rule and the 90/10 rule. Over the last few years, both the General Accounting Office and the Inspector General at a recent hearing before the House Education and Workforce Committee expressed their reservations about the promises of distance education programs and urged caution about wholly lifting rules such as the 50% rule. In this vein, we recommend extending the current Distance Education Demonstration Program and using the extension of the program as an opportunity to focus on the quality aspect of distance learning that is called for under current law.

We also urge the retention of the current definitions of an institution of higher education. The creation of a single definition for higher education would make *all* IHEs, including for-profit institutions that are publicly traded, eligible for Title IV programs that currently provide institutional aid to public and private nonprofit colleges and universities serving large numbers of minority and other nontraditional students. The change would have a ripple effect in that references to IHEs in other federal laws would be changed, thus potentially opening numerous other sources of funds intended for public education, such as the Perkins career and technical education program funds, to for-profit institutions.

Suggested Legislative Language 50% rule, 90/10 rule:

Retain current law

Suggested Legislative Language for an Institution of Higher Education:

Retain current law

QUALITY - STUDENT SUPPORT SERVICES

Our members are devoted to helping students succeed. A central part of that mission is to bring educational opportunities to an ever changing college-going population, which includes an increasing number of students from low-income families, as well as working adults, women, minorities, and immigrants. We recommend the retention of support programs such as TRIO, Upward Bound, and GEAR-UP, which are proven programs that provide the educational counseling and assistance needed to succeed. In addition we propose the adoption of a new program specifically tailored to college student persistence for low-income and non-traditional students that will aim to improve retention and graduation through intensive education and counseling.

Suggested Legislative Language (from S. 371):

SEC. 318. GRANT PROGRAM TO INCREASE STUDENT RETENTION AND PROMOTE ARTICULATION AGREEMENTS.

“(a) Authorization of Program- The Secretary shall award grants, on a competitive basis, to eligible institutions to enable the institutions to--

“(1) focus on increasing traditional and nontraditional student retention at such institutions; and

“(2) promote articulation agreements among different institutions that will increase the likelihood of progression of students at such institutions to baccalaureate degrees.

“(b) Definition of Eligible Institution- In this section, the term ‘eligible institution’ means an institution of higher education (as defined in section 101(a)) where not less than 40 percent of such institution’s student body receives financial aid under subpart 1 of part A of title IV.

“(c) Application- An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(d) Mandatory Activities- An eligible institution that receives a grant under this section shall use the grant funds to carry out each of the following:

“(1) Offering counseling services to help students cope with the challenges they are facing and identify the services that are available to help them persist in their education {including articulation requirements for a 4-year bachelor’s degree.}

“(2) Making mentors available to all students that are at risk for not completing a degree.

“(3) Providing detailed assistance to all students who request help in understanding--

“(A) the options for financing their education, including information on grants, loans, and loan repayment programs;

- `(B) the process of applying for financial assistance;*
- `(C) the outcome of their financial assistance application; and*
- `(D) any unanticipated problems related to financing their education that arise.*

`(4) Offering tutoring to all students who request assistance with any course or subject.

`(5) Conducting outreach activities so that all students know that these services are available and are aware of how to access the services.

`(6) Making services listed in paragraphs (1) through (4) available in students' native languages, if it is not English, if the percentage of students needing translation services in a specific language exceeds 5 percent.

`(e) Permissible Activities- An eligible institution that receives a grant under this section may use grant funds to carry out any of the following activities:

`(1) Providing intensive ~~remedial~~ academic instruction {particularly for remediation and first year college students.}

~~`(2) Designing innovative course schedules to meet the needs of working adults, such as classes that are concentrated on weekends or over short periods of time.~~

`(3) Designing and implementing online courses or components of courses to allow nontraditional students to obtain an education when their family or professional responsibilities, or both, make it difficult for them to attend class on campus at prespecified, regular times.

`(4) Offering childcare during the hours when students have class or are studying.

`(5) Providing transportation assistance to students that helps such students manage their schedules.

`(6) Partnering with local businesses to create flexible work-hour programs so that students can balance work and school.

`(7) Offering time management seminars or personal coaches to help students improve their time management skills.

`(8) Any other activities the Secretary believes will promote retention of students attending eligible institutions.

`(f) Authorization of Appropriations- There is authorized to be appropriated to carry out this section \$100,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.'

DIVERSITY

Immigrant Students

In recent years, public institutions of higher education have seen a significant increase in the numbers of immigrants attending their institutions. While these students, bring language and cultural diversity that enrich public higher education, they often are educationally and economically disadvantaged as when they enter college.

Institutions such as community colleges are putting additional resources and energy into helping this population overcome their prior obstacles succeed. We recommend specific amendments to Title III that will provide additional funding to institutions serving this growing population.

Support institutions serving large numbers of immigrant students

Suggested Legislative Language:

Section 311(b)(2) – am end by inserting the following: ‘(C) Public institutions experiencing an influx of immigrant students as specified in eligible institutions in Sec. 312 (b)’

(b)(3) – am end by inserting the following at the end of (F) ‘...including services that will assist in the education of immigrant student populations’

(c) Authorized Activities – am end by inserting at the end of (6) ‘...including those serving large immigrant student populations’

(c) – am end by inserting the following: ‘(13) college preparatory support to public secondary schools to facilitate access to college for needy immigrant students with particular emphasis on ESL learners’

Section 312 (b) am end by inserting the following: ‘(3) For the purposes of institutions securing funds to serve immigrant populations, they shall include (1)(A) and (1)(B) and (ii)(iii)(iv). Institutions shall demonstrate additionally (A) that at the time of application they have an enrollment of undergraduate full-time equivalent students that is at least 20% immigrant residents of the United States, (B) an assurance that not less than 40% of their immigrant resident students are low-income individuals who are first generation college students, (C) that temporary undergraduate or graduate foreign exchange students are not to be counted towards the percentage. (D) all undergraduates in such institutions are eligible to utilize support services.

Provide access to higher education for immigrant students

Suggested Legislative Language:

Whole text from S. 1545 introduced in the 108th Congress (see attached)

Drug Provision

Current law bars students with drug offenses from receiving student aid. The AFT and the NEA agree with the Congressionally-appointed Advisory Committee on Student Financial Assistance that the question on the student aid application about drug convictions is irrelevant and can have the effect of deterring individuals from applying

for student aid. The opportunity to attend college offers those who are trying to overcome past mistakes with a pathway to becoming productive members of society.

Suggested Legislative Language (text from H.R. 1184):

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Removing Impediments to Students Education Act' or the 'RISE Act'.

SEC. 2. REPEAL OF PROVISIONS PROHIBITING PERSONS CONVICTED OF DRUG OFFENSES FROM RECEIVING STUDENT FINANCIAL ASSISTANCE.

Subsection (r) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091(r)) is repealed.

Creation of Asian Pacific Islander Institute

As Asian Americans and Pacific Islander Americans are one of the fastest growing populations in the nation, legislation is needed to help low-income AAPI students left behind so that they can have an equal opportunity toward quality education. To accomplish this goal, we support the creation of a designation for schools serving low-income Asian American and Pacific Islanders.

Support a separate program that provides funding for institutions serving a large number of Asian-Pacific Islanders.

Proposed Legislative Language:

Whole text from H.R. 333(See attached)

ACADEMIC FREEDOM

Congress historically has refrained from imposing federal control over the professional operation of our colleges and universities. It also has always understood that setting academic policy is best left in the hands of governing boards of each institution. Our nation's system of higher education reflects great variety among its students, professors, programs and outlook. This diversity has been a key factor in establishing America's primacy in higher education. Furthermore, the internal procedures that higher education institutions have developed to ensure objectivity and high standards—academic freedom, tenure and shared governance—have been an integral part of building and sustaining our world-class reputation for educational quality. To this end, we strongly urge you to retain current law and *not incorporate language promoted as the "Academic Bill of Rights."* Adoption of this language would entangle institutions of higher education in an endless round of public hearings and litigation in which non-academics would challenge whether enough balance was achieved in a

particular department, classroom or campus event. We do not want to impose an ideological litmus test.

Suggested Legislative Language:

Retain current law

TEACHER EDUCATION

The AFT and NEA support the strengthening of teacher preparation programs aimed at building partnerships and bringing higher quality and greater resources to the way teacher education prepares teacher candidates. The passage of the No Child Left Behind Act put an even greater emphasis on the need to better prepare teachers for the classroom. Specifically, we recommend language that supports new teachers in their transition to the classroom, and innovative approaches to helping individuals become teachers. We also recommend a well structured mentoring program and programs that better engage community colleges in the preparation of our teachers.

Suggested Legislative Language (from S.371):

We suggest using Title II of S. 371 as a foundation for teacher education provisions in the HEA reauthorization. As the reauthorization process moves forward, each organization will discuss with Senate staff issues and ideas we have raised previously regarding these provisions.

We look forward to working with you and your staff on the HEA as we continue the reauthorization process. If you have questions regarding these recommendations or on other HEA related issues please contact Gabriella Gomez of the AFT at (202) 879-4452 or Nancy O'Brien of the NEA at (202) 822-7371.

ACCESS – IMMIGRANT STUDENTS

Provide access to higher education for immigrant students

Suggested Legislative Language (text from S. 1545 introduced in the 108th Congress):

SECTION 1. SHORT TITLE.

This Act may be cited as the `Development, Relief, and Education for Alien Minors Act of 2003' or `DREAM Act'.

SEC. 2. DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

In this Act, the term `institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

SEC. 3. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL- Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE- The repeal described in subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 4. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR ALIENS IN QUALIFIED INSTITUTIONS OF HIGHER EDUCATION-

(1) IN GENERAL- Notwithstanding any other provision of law and except as otherwise provided in this Act, the Secretary of Homeland Security may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 5, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that--

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien--

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if

inadmissible solely under subparagraphs (C) and (F) of paragraph (6) of such section by reason of a false representation of United States citizenship, the alien was under the age of 16 years when the representation was made and was not the principal applicant in the fraudulent or false application for benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(D) the alien, at the time of application, has been admitted to an institution of higher education, or has earned a high school diploma or obtained a general education development certificate; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(F) The Secretary of Homeland Security may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(2) PROCEDURES- The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD- For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE-

(1) IN GENERAL- An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES- The Secretary of Homeland Security may extend the time periods described in paragraph

(1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to

justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS- Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS-

(1) PROPOSED REGULATIONS- Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS- Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN- The Secretary of Homeland Security shall not remove any alien who has a pending application for conditional status under this Act.

SEC. 5. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL-

(1) CONDITIONAL BASIS FOR STATUS- Notwithstanding any other provision of law, and except as provided in section 6, an alien whose status has been adjusted under section 4 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS-

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE- At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Homeland Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE- The failure of the Secretary of Homeland Security to provide a notice under this paragraph--

(i) shall not affect the enforcement of the provisions of this Act with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS-

(1) IN GENERAL- The Secretary of Homeland Security shall terminate the conditional permanent resident status of any alien who obtained such status under this Act, if the Secretary determines that the alien--

(A) has violated any provision of subparagraph (B) or (C) of section 4(a)(1);

(B) has become a public charge; or

(C) in the case of an alien who received conditional permanent resident status under section 4(a)(1)(B), has received a dishonorable or other than honorable discharge from the Armed Forces of the United States.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS- Any alien whose permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this Act.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION-

(1) IN GENERAL- In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary of Homeland Security, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION-

(A) IN GENERAL- If a petition is filed in accordance with paragraph (1), the Secretary of Homeland Security shall make a determination as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the eligibility of the alien.

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION- If the Secretary of Homeland Security determines that the facts and information alleged in the petition are true, the Secretary of Homeland Security shall so notify the alien and shall immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION- If the Secretary of Homeland Security determines that such facts and information alleged in the petition are not true, the Secretary of Homeland Security shall so notify the alien and shall terminate the permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION- An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional resident status or any other expiration date of the conditional resident status as extended by the Secretary of Homeland Security in accordance with this Act. The alien

shall be deemed in lawful status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION-

(1) CONTENTS OF PETITION- Each petition under subsection (c)(1) shall contain the following facts and information:

(A) The alien maintained good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien continues to be in compliance with subparagraphs (B) and (C) of section 4(a)(1).

(C) The alien has maintained continuous physical residence in the United States since adjustment of status to that of a conditional permanent resident. For the purpose of determining continuous physical presence under this subparagraph, section 4(c) shall apply.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education or has been a student in good standing for at least 2 years in a program for a bachelor's degree or higher degree.

(ii) The alien has served in the Armed Forces of the United States for at least 2 years and, if discharged, has received an honorable discharge.

(iii) The alien has performed at least 910 hours of volunteer community service in a program of an organization that has been determined to be eligible to receive funds from the Combined Federal Campaign administered by the United States Office of Personnel Management or a program approved by the Secretary of Homeland Security in consultation with the Director of U.S.A. Freedom Corps.

(2) HARDSHIP EXCEPTION-

(A) IN GENERAL- The Secretary of Homeland Security may, in the Secretary's discretion, remove the conditional status of an alien if the alien--

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION- Upon a showing of good cause, the Secretary of Homeland Security may also extend the validity period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION- For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 6. RETROACTIVE BENEFITS UNDER THIS ACT.

An alien who, prior to the date of enactment of this Act, has satisfied all the requirements of both sections 4 and 5, may petition the Secretary of Homeland Security for permanent resident status without first becoming a conditional resident.

SEC. 7. EXCLUSIVE JURISDICTION.

(a) IN GENERAL- The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this Act, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this Act, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary of Homeland Security until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary of Homeland Security shall resume all powers and duties delegated to the Secretary of Homeland Security under this Act.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL- The Attorney General shall stay the removal proceedings of any alien who--

(1) meets all the requirements for relief under this Act, except that the alien has not yet graduated from high school;

(2) is at least 12 years of age; and

(3) is enrolled full-time in a primary or secondary school.

(c) EMPLOYMENT- An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States.

(d) LIFT OF STAY- The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien--

(1) is no longer enrolled in a primary or secondary school; and

(2) fails to maintain prima facie eligibility for relief under this Act.

SEC. 8. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this Act and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 9. CONFIDENTIALITY OF INFORMATION.

- (a) *PROHIBITION- No officer or employee of the United States may--*
- (1) use the information furnished by the applicant pursuant to an application filed under this Act for any purpose other than to make a determination on the application;*
 - (2) make any publication whereby the information furnished by any particular individual pursuant to an application under this Act can be identified; or*
 - (3) permit anyone other than an officer or employee of the Department of Justice or, in the case of applications filed under this Act with a designated entity, that designated entity, to examine applications filed under this Act.*
- (b) *PENALTY- Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than \$10,000.*

SEC. 10. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this Act shall provide that applications under this Act will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 11. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives setting forth--

- (1) the number of aliens who were eligible for cancellation of removal and adjustment of status during the application period described in section 4(a)(1)(A);*
- (2) the number of aliens who applied for adjustment of status under section 4(a);*
- (3) the number of aliens who were granted adjustment of status under section 4(a); and*
- (4) the number of aliens with respect to whom the conditional basis of their status was removed under section 5.*

Support a separate program that provides funding for institutions serving a large number of Asian-Pacific Islanders.

Proposed Legislative Language (text from H.R. 333):

SECTION 1. FINDINGS.

The Congress finds the following:

- (1) The population of Asian American and Pacific Islanders (in this section referred to as `AAPI') is an exceptionally diverse population. Characteristics of the AAPI population vary according to ethnicity, immigration patterns, historical experiences, and social group issues.*
- (2) The diversity of the AAPI population includes indigenous Pacific Islanders, well-established populations represented in the United States for several generations, and ethnic groups who may be recent immigrants or refugees, and were forced to leave their home countries.*
- (3) The diversity of the population is reflected in the Federal government's categories for Asian Americans and Pacific Islanders. There are 17 ethnic groups considered to be Asian and 4 ethnic groups considered to be Pacific Islander. Neither definition reflects AAPI's who may identify as `more than one race'.*
- (4) The distinct cultural, linguistic, socioeconomic, and historical experiences that affect educational attainment of different AAPI sub-populations are often overlooked because programs and policies are based on aggregated data and the assumption that AAPI's are a monolithic group. The `model minority myth' assumption adversely affects AAPI youth, who are perceived as being academically successful and not in need of outreach, academic support systems, or other support services.*
- (5) The `model minority myth' and lack of disaggregated data may prevent student services offices from conducting intentional outreach efforts, such as through TRIO programs including Upward Bound and Educational Talent Search, to AAPI students, because they are perceived to not be in need of support.*
- (6) Additionally, disaggregated data indicates that 25.0 percent of Vietnamese Americans, 63.6 percent for Hmong Americans, 42.6 percent of Cambodian Americans, 34.7 percent Laotian Americans, 17.7 percent of Pacific Islander live in poverty. Such socioeconomic disparities within the community are often overlooked, as only 12.6 percent of the total AAPI population lives in poverty.*
- (7) While Asian Americans and Pacific Islanders overall have the highest college graduation rates of any group (44 percent in 2000), certain subgroups have much lower rates of degree attainment. Only 13.8 percent of Vietnamese Americans, 5.8 percent of Laotian Americans, 6.1 percent of Cambodian Americans, and less than 5.1 percent of Hmong Americans had college degrees. Only 13.8 percent of Pacific Islanders had degrees.*

(8) Certain segments of the AAPI population face numerous barriers to accessing higher education and would benefit from grants and opportunities similar to those that historically Black colleges and universities, Hispanic-serving institutions, Tribally Controlled Colleges and Universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions receive. The designation of AAPI-serving institution would help institutions of higher education expand their capacity to identify and assist underserved AAPI students.

SEC. 2. ASSISTANCE TO ASIAN AMERICAN AND PACIFIC ISLANDER-SERVING INSTITUTIONS.

(a) Amendment- Part A of title III of the Higher Education Act of 1965 is amended by inserting after section 317 (20 U.S.C. 1059d) the following new section:

SEC. 318. ASIAN AMERICAN AND PACIFIC ISLANDER-SERVING INSTITUTIONS.

(a) Program Authorized- The Secretary shall provide grants and related assistance to Asian American and Pacific Islander-serving institutions to enable such institutions to improve and expand their capacity to serve Asian Americans and Pacific Islanders.

(b) Definitions- For the purpose of this section--

(1) the term 'Asian American' has the meaning given the term Asian in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789);

(2) the term 'Pacific Islander' has the meaning given the term 'Native Hawaiian' or 'Other Pacific Islander' in such Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity;

(3) the term 'Asian American and Pacific Islander-serving institution' means an institution of higher education that--

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

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Asian American and Pacific Islander students; and

(4) 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.

(c) Authorized Activities-

(1) TYPES OF ACTIVITIES AUTHORIZED- Grants awarded under this section shall be used by Asian American and Pacific Islander-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Asian Americans and Pacific Islanders.

“(2) EXAMPLES OF AUTHORIZED ACTIVITIES- Such programs may include--

“(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

“(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

“(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

“(D) curriculum development and academic instruction;

“(E) purchase 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 laboratories and libraries;

“(H) academic tutoring and counseling programs and student support services;

“(I) establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue post-secondary education;

“(J) establishing or improving an endowment fund;

“(K) academic instruction in disciplines in which Asian Americans and Pacific Islanders are under-represented;

“(L) conducting research and data collection for Asian American and Pacific Islander populations and sub-populations; and

“(M) establishing partnerships with community based organizations serving Asian Americans and Pacific Islanders.

“(d) Application Process-

“(1) INSTITUTIONAL ELIGIBILITY- Each Asian American and Pacific Islander-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Asian American and Pacific Islander-serving institution as defined in subsection (b), along with such other information and data as the Secretary may by regulation require.

“(2) APPLICATIONS- Any institution which is determined by the Secretary to be an Asian American and Pacific Islander-serving institution may submit an application for assistance under this section to the Secretary. Such application shall include--

“(A) a 5-year plan for improving the assistance provided by the Asian American and Pacific Islander-serving institution to Asian American and Pacific Islander students; and

“(B) such other information and assurance as the Secretary may require.

“(3) SPECIAL RULES-

“(A) ELIGIBILITY- No Asian American and Pacific Islander-serving institution that receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

“(B) EXEMPTION- Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

“(C) DISTRIBUTION- In awarding grants under this section, the Secretary shall--

“(i) to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions; and

“(ii) give priority consideration to institutions that serve a significant percentage of Asian American and Pacific Islander students who are low-income individuals.’.

(b) Authorization of Appropriations- Section 399(a)(1) of such Act (20 U.S.C. 1068h(a)(1)) is amended by adding at the end the following new subparagraph:

“(D) There are authorized to be appropriated to carry out section 318, \$30,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 4 succeeding fiscal years.’.