**M E M O R A N D U M**

Date: June 16, 2011

To: NACAC Board of Directors

From: AIRC Board of Directors

Re: Proposed Ban on Commission-based International Student Recruitment

The American International Recruitment Council (AIRC) appreciates the opportunity to comment on the proposed ban on commission-based compensation for international student recruitment agents currently pending consideration by the NACAC Board of Directors.

AIRC was founded in 2008 by a group of U.S. accredited universities to develop and enforce high professional standards and increase transparency in international student recruitment. AIRC is a 501(c)(3) non-profit membership organization officially recognized by the United States Department of Justice and the Federal Trade Commission as a Standard Development Organization. AIRC's membership now includes 135 U.S. accredited colleges and universities, representing all sectors of higher education from community college to Ivy League. AIRC has developed a rigorous process of certification for international recruitment agencies wanting to work with U.S. colleges and universities that is closely patterned on the U.S. higher education accreditation process and to date has certified forty-two agencies.

AIRC agrees with NACAC that "it is in the interests of institutions of higher education, as well as the public diplomacy of the U.S. itself, to maintain high standards for the recruitment of students." We also agree that there is potential for misrepresentation, fraud, and other unethical behavior in an "unregulated" international student recruitment environment.

However, AIRC is convinced that the proposed ban on commission-based international recruitment would not be an effective way to achieve these goals. Instead, we believe that the professional recruitment and admissions community's efforts should focus on developing and promoting best practices and ethical standards for commission-based international recruiting. We urge the NACAC Board to reject the proposed ban. We invite NACAC to join with AIRC in setting and enforcing high professional standards for all recruitment agents, including those working on a commission basis.

On initial consideration it may appear that extending NACAC's existing ban on commission-based domestic recruitment to include international recruiting is a straightforward, logical step for the association to take. However, this does not take into account the substantial differences between the domestic recruitment context within the United States and today's global higher education marketplace.

Unlike the situation within the United States, in the international context the proposed ban would not be effective in strengthening professional recruitment standards. It would not be in the best interests of students seeking access to NACAC member institutions because it would have the effect of restricting students' access to information regarding NACAC member institutions. It would also not be in the best interests of NACAC member institutions seeking to enroll qualified international students because it would place them at a strategic disadvantage in relation to their global competitors.

Outside the United States commission-based recruitment has been accepted as standard business practice for many years. It is inaccurate to say that commission-based recruitment is accepted practice "in certain areas outside the United States," as NACAC has suggested. Commission-based recruitment is accepted business practice virtually everywhere. Highly respected universities throughout the United Kingdom, Australia, New Zealand, and in many other nations have no reservations about the propriety of retaining recruitment agents on a commission basis and they focus their efforts on making sure these agents conduct themselves according to high professional standards. For this reason, the domestic U.S. and international recruitment contexts are fundamentally different, and the proposed extension of NACAC's prohibition on commission-based recruitment to international recruiting would be counterproductive.

The rationale for NACAC's proposed ban argues that commission-based compensation of agents poses an *inherent* ethical challenge because the financial incentives involved invite misrepresentation, conflict of interest, and fraud. However, the case of commission-based recruiting is not essentially different than the way practitioners are compensated in most professional fields that generally operate on a fee-for-performance basis. For example, doctors, dentists, and lawyers are all compensated on the basis of specific services provided, not to mention insurance agents, stockbrokers, real estate agents, etc. In all these professional areas there is the potential for abuse because the practitioner's compensation is linked to the services provided. The more services are provided, the more compensation is received by the practitioner. However this does not mean that there is an *inherent* ethical problem in these fields. The public relies on practitioners across the professions to not charge for unnecessary services, and standards of good practice and certification processes have been established in all these professions to protect the public from such potential abuse.

AIRC recognizes that the potential for abuse exists in the recruitment field. There would be no reason for AIRC to exist if such abuse did not exist. But the existence of cases of abuse does not mean that there is an *inherent* ethical problem regarding commission-based recruitment. AIRC believes that it is far better to use well-established tools, such as professional certification, to prevent and punish abuse. This approach has proven effective at professionalizing practice across many industries, and there is no reason to assume that it will not obtain positive results in this case.

Ban proponents liken the situation of commission-based recruitment to the case of bribery which, they argue, was also accepted business practice in international commerce at one time. But they utterly fail to establish the analogy between a university paying a fee to a recruiting agent who provides a legitimate service to the institution and to the students seeking admission to it, and an illicit payment made to circumvent legitimate decision processes. Throughout the world respected universities view paying agent commissions to be a legitimate, accepted business practice, not an illicit payoff.

A key consideration of those arguing for a ban on commission-based international recruitment is that "many agents are compensated by institutions based on the number of students recruited." In fact, this

is hardly ever the case. In most cases, agents are compensated based on the number of students recruited who are found by the institution to be admissible, and who actually enroll and pay tuition. The distinction is very important for two key reasons. First, the institution maintains full control over the admission of students, ensuring that applicants are admissible and that an appropriate degree program is offered to them. Second, the students have found that the educational program offered is appropriate and worthy of paying the institution's tuition and fees.

NACAC has focused its concern on commission-based recruiting, and has suggested that hiring agents on a fixed-fee contract basis is acceptable. AIRC believes that the pressure on agents to provide student applicants is actually greater on such a fixed-fee basis of compensation. If a university enters into only fixed-fee contracts with agents, it will only be able to maintain a limited number of such contracts around the world due to the upfront, fixed costs involved. Universities will be more demanding in their renewal criterion for such contracts, and, therefore, the agents holding them will be expected to produce applicants or they will be dropped. The pressure to perform is actually greater than commission-based arrangements. If, on the other hand, an agent on a commission-based contract has few or even no students for an institution during a recruitment cycle, this will cause less concern because the institution has incurred no costs.

Furthermore, suggesting that NACAC members adopt only fixed-fee relationships with recruiting agents will exacerbate issues of inequality of access to U.S. higher education. Institutions, with increasingly limited funds for recruitment, will only enter into such costly agreements with agents in the largest and most lucrative international student markets, leaving students in smaller markets without access to information and assistance in seeking admission to NACAC institutions.

Another argument those supporting the ban put forward is that agents' "business practices have been the subject of debate for more than a decade, including a recent investigation by the government of Australia into unethical/illegal recruiting…" As stated above, AIRC acknowledges that abuses can and do take place. When they do they understandably produce a lot of attention. On the other hand, the agents who opponents acknowledge "have helped many international students secure admission to a postsecondary institution" do not make very interesting news. Media attention and anecdotal reports are not a good measure of the reality of the situation. What is lacking is solid research regarding the actual extent of abuse by recruitment agencies. Surely an organization of NACAC's standing should insist on solid information regarding the extent of agent abuse before it acts to ban such a widely accepted business practice. Further, the Australia case cited above was not only focused on potential agent misconduct but equally on an overly generous immigration policy in Australia and on unethical/illegal practices by the Australian institutions that have contracted with these agents, such as trade schools rather than respected universities.

Those proposing NACAC's ban also cite the "State Department decision not to work with agents through its EducationUSA advising centers due to problems with agent practices." Those familiar with the situation of the EducationUSA centers are aware that this small program's funding is under constant threat in the Congressional appropriations process. The State Department is concerned that the growth in use of recruiting agencies by U.S. universities threatens to undermine the base of support for funding EducationUSA and thus it must be recognized that there are political considerations in the State Department's position. Further, it should be noted that the position of the Department of State is in sharp contrast to that of the Department of Commerce's U.S. Commercial Service which is strongly supportive of recruitment agencies and works closely with them. AIRC believes that problems with

agent practices should be a reason for EducationUSA centers to work with AIRC to improve the practice standards of agents, and to provide agents with accurate and reliable information about U.S. higher education.

Ban proponents also argue that the EducationUSA centers "could help colleges achieve many of the same enrollment goals." While AIRC supports EducationUSA and believes that it should be substantially expanded, the idea that U.S. colleges and universities could attain their international enrollment goals through EducationUSA centers is simply unrealistic. For example, EducationUSA has only one small center with a few advisors in Beijing to cover all of China! How can this office cover all of China and support the recruitment efforts of thousands of U.S. higher education institutions? Besides the inadequacy of the EducationUSA network to serve a primary role in international recruitment for U.S. colleges and universities, the centers' staff only provides information about U.S. higher education in general and cannot advocate for specific programs. As a result, the centers are helpful for U.S. institutions with established international brand recognition and generally do not assist the hundreds of excellent U.S. institutions without name recognition internationally.

The EducationUSA network could serve an extremely helpful role in educating international recruitment agents to strengthen their knowledge of U.S. higher education as a partner in the kind of broad coalition needed to promote best practices for those recruiting on behalf of U.S. institutions. In addition, as an official U.S. agency close to the ground in many countries, EducationUSA can help identify ethical and professional agents who could then be encouraged to pursue AIRC certification, thus enhancing the regulatory reach of this U.S. certification process. AIRC has always been prepared to work closely with Education USA and to publicly support its continuation and growth towards these goals.

Those arguing for NACAC to ban commission-based recruiting seek to define the issue as a matter of principle versus expediency. They ask, "does the principle of restricting commission-based payments for admission and recruiting services outweigh the practical considerations facing colleges, students and families?" AIRC believes that this formulation clouds the issues and lacks logical rigor.

First, the issue of whether or not to use commission-based recruiters is not a matter of principle. As discussed above, commission-based recruitment does not pose any inherent ethical problem anymore than service-based compensation for other professional services does. Should universities abandon the practice of engaging professional search firms to assist with their presidential hires? The fact that many well known and highly respected leaders of international education have adopted commission based payments at their institutions should itself speak loudly that this practice has been found to be both ethical and effective when properly practiced.

Second and most fundamentally, the real issue is what is the best way to attain best practices and ethical conduct in recruiting international students? Today's global higher education marketplace is enormous, involving thousands of institutions around the world. Commission-based compensation of agents has for many years been the accepted norm. The market share of U.S. colleges and universities in this global market has declined by seven percent since 2001. Adopting a ban on commission-based compensation of agents by NACAC members would have the primary effect of disadvantaging the institutions of NACAC members, and further diminishing the competitiveness of U.S. higher education in

the global marketplace**.** AIRC is convinced that establishing a strong certification process to define best practices, establish transparency, and sanction non-compliance is the way to achieve high professional standards and protect students. Finally, AIRC has demonstrated, as NACAC has for many years, that hosting a community consisting of professionals in a conversation over best practice is a highly effective way to move forward. In our case, the 42 agencies that have joined us have demonstrated not only their own commitment to best practice, but also contributed to the improvement of institutional best practice.

For these reasons, AIRC urges the NACAC Board of Directors to reject the proposed extension of NACAC's ban on domestic commission-based recruitment to include international recruitment activities. At its founding, AIRC extended a hand to NACAC and invited it to be at the table as standards were developed. AIRC continues to welcome NACAC as a partner in promoting certifiable best practices and ethical standards in international recruiting. NACAC and AIRC share a common mission – to develop and cultivate ethical practice in the recruitment of students. We invite NACAC's suggestions regarding the strengthening of AIRC's certification standards. We welcome the input of NACAC and its members regarding agencies seeking AIRC certification as well as those who have attained it through our comments process. We would value NACAC's contributions to and support of our research initiative, which is working to collect reliable data on agency activity, student satisfaction, and outcomes. Finally, we welcome NACAC's recommendations regarding individuals to serve on our Certification Board or as on-site reviewers.

Thank you for your consideration of our comments.