

Capital Reporting Company  
Public Meeting on Gainful Employment - Day 2 11-05-2010

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UNITED STATES  
DEPARTMENT OF EDUCATION

PUBLIC MEETING ON  
GAINFUL EMPLOYMENT

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9:00 a.m.

Friday, November 05, 2010

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C.

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1 P R O C E E D I N G S

2 MR. KVAAL: Good morning. Thank you all for  
3 coming. This is the second day of public hearings that  
4 we're having on Gainful Employment. This is a  
5 continuation of our process to get public input on  
6 these rules. It's a very important step. So we're  
7 grateful for the time of those who came to share their  
8 views with us today.

9 I just wanted to go over a few of the ground  
10 rules for anyone who wasn't here yesterday.

11 We are providing each presenter with five  
12 minutes to present remarks. I'd appreciate it if  
13 people would try and hold to that time period to the  
14 extent possible. Actually, not to the extent possible,  
15 appreciate it if people would just hold to that time  
16 period.

17 There is lights on the podium. Green lights  
18 mean you're ready to go. Yellow light means there's  
19 two minutes remaining. The red light means your time  
20 is up. Steve will be our timer. He's going to keep us  
21 on track.

22 There will be a transcript taken of this

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1 session. We hope to make that available through our  
2 website in the next couple of weeks, and we thank you  
3 for your engagement in this process. We look forward  
4 to your comments.

5 I guess I should introduce the panel. My  
6 name is James Kvaal. I'm Deputy Under Secretary. With  
7 me is Steve Finley, who's an attorney in the Office of  
8 General Counsel, and Fred Sellers, who's a policy  
9 official in the Office of Postsecondary Education and  
10 was one of the federal negotiators for this rule.

11 So with that, let's get started and if the  
12 first speaker wanted to come up, that would be great.

13 MR. MURRAY: Good morning. Thank you for  
14 providing me this opportunity to address the panel.

15 My name is John Murray, and I'm the Regional  
16 Human Resource Manager for ABM Security Services. My  
17 region covers the Southeast United States and has 15  
18 branch offices and over 2,000 employees.

19 We provide high-end security to gated  
20 communities, Class A commercial buildings, industrial  
21 facilities, such as petrochemical and pharmaceuticals.

22 I came to talk to you today about all career

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1 colleges. I can't talk to you about all for-profit  
2 colleges, but I can talk to you about Kaiser  
3 University. I've been associated with Kaiser for the  
4 past three years on their Employment Advisory Board.  
5 The Board meets twice a year. It's comprised of local  
6 business men and women.

7           We discuss the curriculum for the different  
8 fields and we advise the faculty on how to mold the  
9 courses to more what the employers are looking for in  
10 the respective fields.

11           I closely work with the faculty to help  
12 students get jobs in their selected fields. My company  
13 also employs numerous graduates of the Criminal Justice  
14 Program and current students in the Criminal Justice  
15 Program.

16           I find these individuals are far better  
17 prepared for the job market than many new applicants,  
18 new employees that we have. I find they have far  
19 better job skills and they're really able to succeed  
20 far better than some.

21           I feel these schools are a great asset to the  
22 community and I'm truly glad to have these students as

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1 part of my company and as part of my community and I'd  
2 truly hate to see that resource disappear.

3 Thank you.

4 MS. DIEHL: Good morning, gentlemen of the  
5 panel. Thank you for having me.

6 My name is Tiffany Diehl. I'm a clinical  
7 physiology instructor at the Pima Medical Institute in  
8 the Radiography Program, Albuquerque, New Mexico.

9 I come before you today to answer any  
10 questions that you may have regarding the questions I  
11 submitted to you in September.

12 Briefly, let me explain myself. In  
13 Albuquerque, there are two radiography programs. At  
14 the community college, students declare their major and  
15 are then put on a list for that major. The student  
16 then starts taking prerequisites for their chosen  
17 program, in this situation radiography.

18 One of the first classes that they may take  
19 is A&P, Anatomy and Physiology. I spoke with a student  
20 from the Radiography Program at CNM on October 28th.  
21 She told me she declared her major in radiography in  
22 2005. She then proceeded to take prerequisites for the

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1 program, including the Anatomy and Physiology. That  
2 program accepts one new class each year. She  
3 petitioned for three years to start her program. Each  
4 time she petitioned, there were more than 100  
5 applicants that petitioned for the program, as well. In  
6 2010, she was finally admitted into the program.

7           It had been so long since she took her A&P  
8 initially that she's forgotten what she's taken.  
9 Obviously this can present a problem when you're  
10 training to image different parts of the body.

11           Pima, where I work, we start classes every  
12 eight months in the Radiography Program. During our  
13 two-year program, students are required to take general  
14 core classes as well as program-specific training  
15 classes within the two years enrolled. There's not a  
16 lag in time when they initially take their A&P until  
17 they apply the knowledge that they have learned.

18           There is obviously a need to provide this  
19 education to the community. Students want to learn the  
20 science and the technology. Gentlemen, I consider this  
21 career education.

22           At Pima, we do have an application process.

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1 Applicants are tested and interviewed and ranked to  
2 find qualified applicants. Students do fill out the  
3 FASFA form. They meet with a financial aid officer and  
4 look at other financing options if there's a gap in  
5 their funding.

6           The students at our facilities are told the  
7 costs of the program, the costs of the attendance,  
8 graduation rates, and placement rates. Students are  
9 provided with small class sizes, tutoring at no cost.  
10 The school has a food bank to help the students that  
11 are in need. So we're very supportive of our students.

12           We have staff to help students find resources  
13 if they're struggling financially. The bottom line:  
14           we help our students succeed.

15           In my program, we have a 100 percent pass  
16 rate on our boards. We are programmatically accredited  
17 by the Joint Review Committee on Education and  
18 Radiological Technology and institutionally accredited  
19 by the Accrediting Bureau of Health Education Schools.  
20 We have community support and our students are learning  
21 valuable marketable skills.

22           The JRCERT makes sure that our program abides

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1 by the policies that our program has set forth. To  
2 maintain our accreditation with ABHES, we are required  
3 to maintain a 70 percent employment rate for our  
4 graduates in their field of study. We are also  
5 required to maintain a 70 percent student retention and  
6 graduation rate.

7           The community supports us by providing  
8 clinical sites for our students to train and provides  
9 our students with real-world experience. A couple of  
10 months ago, one of our sites donated a C-Arm, which is  
11 a fluoroscopy, and a portable x-ray unit which both can  
12 take images to the patient. The C-Arm is usually in  
13 the operating room and the portable you can use  
14 anywhere, as long as there is proper protection from  
15 the exposure. This equipment is estimated to cost  
16 roughly \$60,000.

17           We, myself in particular, search for clinical  
18 sites that will help my students develop their skills  
19 and put them in the area that fits their personality  
20 and their abilities. By working closely with the  
21 community, I hear about job openings as they become  
22 available and alert recent graduates immediately of the

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1 openings.

2           In the case of a student I wrote about in my  
3 comments, the student was interested in learning  
4 cardiac cath. We heard of a few openings at a local  
5 hospital. Because of Pima's good reputation in the  
6 community, I was able to contact the lead technologist  
7 for the department and explain the benefit of having  
8 the student work in their facility. The site was happy  
9 with the student and did hire them after they  
10 graduated. This is a common occurrence in our program.  
11 There are other things with that, as well.

12           My concern is if you take away funding to our  
13 students, that there will be less opportunities. It  
14 could take them a decade to get the education they  
15 need.

16           Thank you.

17           MS. LEARY: Good morning. My name's Kathy  
18 Leary, and I'm the Director of Financial Aid at Rocky  
19 Vista University.

20           Rocky Vista University is located in Parka,  
21 Colorado, and we operate the nation's only privately-  
22 held for-profit Graduate School of Medicine.

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1           Because of the nature of our program and  
2 physician licensing requirements, we are requesting  
3 that the department exempt all graduate medical  
4 schools, including both MD and DO degrees, from these  
5 regulations.

6           The rationale for our request is twofold.  
7 First, we maintain that the medical school education  
8 process is unique and the proposed rules are not the  
9 best way to measure either gainful employment or undue  
10 debt burdens.

11           Secondly, all medical schools should be  
12 required to adhere to the same rules and regulations  
13 for the public nonprofit or for-profit. Requiring the  
14 graduate level medical school to comply with rules that  
15 are targeted at for-profits, certificate and under-  
16 graduate programs is neither appropriate nor do we  
17 believe in the best interests of our country.

18           The rationale for our position is based upon  
19 the nature of medical education. All medical students  
20 follow a common sequence of coursework, clinical  
21 training, internships to residencies, and completion of  
22 national board exams.

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1           Each student doctor must pass at least three  
2 separate examinations before they're even allowed to  
3 graduate from medical school. Upon graduation, medical  
4 students still cannot be licensed to practice medicine.  
5 They first must complete a residency or internship of  
6 three to seven years and during and after this period,  
7 they also have to take additional national board exams  
8 in order to become licensed. Only then can they begin  
9 to earn a substantial salary.

10           During residency, a medical school graduate  
11 will earn an average stipend of \$46,000 per year. Given  
12 the large amount of debt incurred by the typical  
13 student doctor, this income is not sufficient to make  
14 full student loan payments, plus manage their living  
15 expenses.

16           In fact, many medical school graduates who  
17 are eligible under Title IV(a) are going to take  
18 advantage of all the different extended repayment  
19 options that are out there.

20           Salaries during residency are not at all  
21 representative of a doctor's income potential or an  
22 indication of their eventual ability to repay their

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1 student loans. History demonstrates that practicing  
2 physicians do earn good salaries and they rarely  
3 default on their student loans. In fact, we took a  
4 sampling of 56 Title IV-eligible medical schools from  
5 the 2007 Cohort Default Rates and we found that their  
6 default rates were one percent.

7 Underlying the gainful employment proposal is  
8 the assumption that students can easily attend a lower  
9 cost public nonprofit school and thereby accumulate  
10 less debt for the same education. This is not true for  
11 medical school students.

12 Over 3,400 applicants applied to Rocky Vista  
13 for 150 positions last year. There are insufficient  
14 medical school slots to provide an education for even a  
15 fraction of the qualified applicants and this is at a  
16 time when our nation is facing a critical shortage of  
17 primary care physicians.

18 Furthermore, our tuition at Rocky Vista is 98  
19 percent of the tuition of other private nonprofit  
20 osteopathic medical schools. So we submit that our  
21 students do not have a lower cost alternative.

22 We request that our students be treated the

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1 same as students at other medical schools. Our  
2 students utilize the National Medical School  
3 Application System and must meet the same competitive  
4 entrance requirements as all other medical school  
5 students in this country.

6           During and after medical school, our students  
7 have to pass the same licensing exams and they will  
8 compete with their peers for residency slots through  
9 the same system.

10           Appended to our comments you'll find an  
11 analysis of the estimated repayment rate for 59 medical  
12 schools as published by the Department of Education.  
13 Only 57 of the 59 schools or 97 percent would have  
14 repayment rates of less than 45 percent.

15           Some of our nation's best medical schools,  
16 such as Harvard and Johns Hopkins, would not meet the  
17 minimum requirements of the gainful employment rules if  
18 they were implemented to all types of medical school  
19 institutions.

20           Both ACOM and AAMC have submitted comments in  
21 support of this to the department, stating that, "If  
22 these regulations are applied to the nonprofit as well

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1 as the for-profit U.S. medical schools, potentially all  
2 institutions would be deemed ineligible for Title IV  
3 student financial aid programs."

4 So we respectfully ask how can you hold Rocky  
5 Vista, the nation's only for-profit medical school, to  
6 a measurement few, if any, public or nonprofit schools  
7 can meet?

8 We understand that the gainful employment  
9 rules are intended to establish standards to ensure  
10 programs are graduating students who will find jobs and  
11 not have undue debt burdens and we applaud the  
12 department's efforts to hold schools accountable for  
13 the outcome of their students.

14 But for all the reasons I just stated, we  
15 request that the department exempt graduate medical  
16 education, both MD and DO, from these regulations.

17 Thank you very much for your time and  
18 attention.

19 MR. McINTYRE: Good morning. My name is Jim  
20 McIntyre with the McIntyre and Lemon Law Firm here in  
21 Washington, D.C., and I am here today on behalf of the  
22 American University of the Caribbean School of Medicine

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1 or AUC.

2 AUC is located in St. Martin and has been  
3 operating for over 30 years and graduated over 4,500  
4 physicians in that time.

5 AUC's alumni have attained full physician  
6 licensure in all 50 states, the District of Columbia,  
7 the U.K., and Canada. Ninety-five percent of the  
8 student body are U.S. citizens or permanent residents  
9 who return to the U.S. to practice medicine, and AUC  
10 students even perform slightly better than the average  
11 domestic medical student on the U.S. Medical Licensing  
12 Exam, Step 1.

13 AUC's Medical Education Program is cost  
14 effective, offering a tuition at the rate of almost  
15 \$40,000 below the average U.S. private medical school  
16 and slightly below the average U.S. public medical  
17 school, according to the GAO's June 2010 Report on  
18 Foreign Medical Schools.

19 These relatively low tuition costs have  
20 allowed AUC students to pay back their loans with  
21 historically low default rates, which, in the past  
22 seven years, have never exceeded one percent.

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1           The AUC is accredited by the Accreditation  
2 Commission on Colleges of Medicine, whose medical  
3 education standards have been determined to be  
4 comparable to those in the United States by the  
5 National Committee on Foreign Medical Education and  
6 Accreditation.

7           Considering AUC's tuition costs, along with  
8 the fact that AUC does not receive tax subsidies or  
9 allocations that domestic public and nonprofit  
10 institutions receive, AUC offers a much more efficient  
11 means for American taxpayers to increase the supply of  
12 much-needed doctors for the United States, and there  
13 is, indeed, a huge need for doctors in our country.

14           A June 2010 study by the Association of  
15 American Medical Colleges shows that by 2020, the  
16 United States is expected to have a shortage of over  
17 91,000 patient care physicians and 45,000 primary care  
18 physicians. These shortages are expected to increase  
19 dramatically by 2025.

20           AUC is helping to solve this problem. The  
21 GAO reported that 68 percent of international medical  
22 school graduates entered primary care fields in 2009,

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1 compared to only 37 percent of domestic medical school  
2 graduates.

3           We believe that the department's gainful  
4 employment rules should exempt foreign medical schools  
5 because their eligibility to participate in Title IV  
6 programs is based upon specific statutory provisions  
7 carefully crafted by the Congress over the past 20  
8 years which establish alternative standards designed to  
9 measure the success and ensure the quality of these  
10 medical education programs.

11           The proposed rules fail to consider the  
12 extensive regulation of foreign medical schools that  
13 exist independent of proprietary career or vocational  
14 school regulation.

15           While the Department of Education has imposed  
16 unique requirements upon foreign medical schools that  
17 ensure their credibility, including citizenship  
18 standards, comparable accreditation oversight,  
19 evaluation of academic outcomes, including the  
20 performance on national licensure examinations and  
21 required clinical programs in the United States.

22           None of these requirements or similar quality

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1 metrics currently apply to domestic career schools as a  
2 condition to Title IV program eligibility, and, finally  
3 and most importantly, the statutory authority for  
4 gainful employment regulation is in a part of the U.S.  
5 Code, Section 1002(b), that specifically refers to  
6 domestic proprietary institutions, not foreign  
7 institutions, which are regulated under Section  
8 1002(a)(2).

9           Finally, I would also like to point out that  
10 the rules fail to consider the required residency  
11 requirements for physician licensure. Medical  
12 residency is a period of mandatory continued education  
13 where doctors obtain real-life work experience and have  
14 the opportunity to obtain a specialty. A doctor is  
15 required to work as a resident for a minimum of three  
16 years before becoming licensed as a physician and to  
17 obtain a specialty, a doctor can spend up to eight  
18 years as a resident.

19           The draconian results of the gainful  
20 employment formula can be seen when they're applied to  
21 domestic medical schools. As has been pointed out,  
22 Harvard and Johns Hopkins, two of the country's most

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1 prestigious schools, would fail the department's  
2 gainful employment test.

3 American University of the Caribbean  
4 encourages the department to recognize that the  
5 existing regulations and accreditation of foreign  
6 medical schools address the question of whether the  
7 schools are adequately preparing their students for  
8 gainful employment as doctors and to recognize the  
9 distinctions from other career education schools and  
10 properly excluding them from all gainful employment  
11 regulations.

12 AUC urges the department to specifically  
13 exempt foreign medical schools from the proposed  
14 gainful employment rules.

15 Thank you.

16 MS. WHITEHEAD: Good morning. I'm happy to  
17 be here.

18 My name's Rebecca Whitehead. I'm the Dean of  
19 Academic Affairs at the University of Advancing  
20 Technology. We're a second-generation family-owned and  
21 operated university offering Bachelor's and Master's  
22 degrees in advancing technology disciplines.

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1           In my comments, I applauded the department  
2 for holding schools to standards. I think that schools  
3 should deliver on what they promise. Schools should be  
4 held accountable but these proposed changes do not do  
5 this effectively and, in fact, they create larger  
6 issues.

7           Applying this rule only to for-profit  
8 institutions makes it poorly targeted. If you want to  
9 genuinely protect the student and the taxpayer, you  
10 look for performance across the entire sector and if  
11 you do this, you'll find that, while there are some  
12 for-profit schools that don't pass muster, there are  
13 many nonprofits, publics, and community colleges that  
14 do not, as well. So this isn't addressing the issue.

15           In the Estimated Repayment Rates by  
16           Institution, Fiscal Year 2009, as published  
17 by the department, the following was a partial list of  
18 schools that would not meet the proposed standard if it  
19 was applied to them: Columbia University in the City  
20 of New York, Physicians and Surgeons; Drexel University  
21 College of Medicine; George Washington University  
22 School of Medicine in Health Sciences; Harvard

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1 University, Division of Continuing Education, and  
2 Harvard Medical School; Johns Hopkins University School  
3 of Medicine; New York University School of Medicine;  
4 Kentucky State University; Pennsylvania State  
5 University College of Medicine; several schools in the  
6 University of Arkansas System; University of Central  
7 Oklahoma; Virginia State University; and many local  
8 community colleges, both in my region in Arizona, in  
9 Washington, in Texas, and even your local Prince  
10 George's Community College.

11           Those are just a few schools that don't meet  
12 the standard as expressed and yet are not targeted by  
13 this rule, and it should be considered that any rule,  
14 if applied appropriately, that would put institutions,  
15 such as Drexel, Columbia, Johns Hopkins, and Harvard,  
16 in jeopardy is poorly considered.

17           In my original comments, I additionally  
18 emphasized that the same two degrees offered at  
19 different institutions should not be held to two  
20 different standards. Regardless of whether these  
21 degrees are completed at a for-profit institution, a  
22 state school, or a community college, if the outcomes

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1 of the degrees are academically similar, then the  
2 repayment rates, same repayment rates should apply.

3 By enacting this ruling as it is, you create  
4 a double standard in the industry that will not take  
5 care of the students and it won't fix the problem.

6 On another point from my comments, I would  
7 reiterate that there is currently no way for an  
8 institution to control a student's debt. It's up to  
9 the student to decide how much money they borrow.  
10 Students use aid to cover expenses unrelated to tuition  
11 and fees, no matter how they're advised by the schools.  
12 Student aid programs are not consumer lending programs  
13 and the proceeds of the former should remain  
14 concentrated on true postsecondary expenses.

15 Implementing the proposed rule without  
16 changing the regulation to allow schools to limit Title  
17 IV borrowing is unreasonable, impractical, and will  
18 lead to practices seen in state and independent private  
19 schools where admissions favors those students who can  
20 pay the full price of tuition.

21 If the department continues to pursue this  
22 rule in the current form, it needs to allow schools to

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1 control individually and per program the amount of aid  
2 students may apply for. Also, recall that an  
3 institution has no control over the debt a student  
4 brings with them from prior institutions but,  
5 currently, schools will still be held accountable for  
6 that prior debt as noted in the debt-to-income  
7 calculations. This will force enrollment decisions  
8 based on debt, not merit. This same will occur in the  
9 relation to students' FICO scores and schools will  
10 admit students with the higher likelihood of repayment  
11 in order to manage their repayment rates.

12           Based on this, the rule will result in  
13 enrollment prejudices against poor-to-middle-income  
14 families. This is counter to the President's goal to  
15 better the middle class.

16           As a matter of social policy, we are better  
17 off providing educational advantages and opportunities  
18 to the economically disadvantaged, to improve their  
19 status and contribution to society through greater  
20 skills attainment.

21           Therefore, the ultimate ramifications of the  
22 proposal as it stands now are contrary to the nation's

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1 education and employment goals and will harm us as a  
2 country. Please don't enact this rule as it stands.  
3 You're going to hurt the students, you're going to hurt  
4 the schools, and you're going to hurt the nation.

5 I thank you for your time.

6 MR. STEINBRUNNER: Good morning. I want to  
7 thank you for the opportunity to come here and address  
8 the department.

9 My name is Adam Steinbrunner. I'm with  
10 Rasmussen College. I'm the Director of Student  
11 Economics there and that sounds like a made-up name for  
12 someone who is dealing with gainful employment. That's  
13 exactly what I am.

14 What we came here to do is really be a part  
15 of the process, right? So we wanted to engage in a  
16 dialogue, engage in a partnership with the department  
17 because we're looking to look out for the benefit of  
18 the student, for the nation, for, you know, our own  
19 institution. We want everyone to come out winners with  
20 this and the way that the proposal is designed right  
21 now, I don't know that that is actually what's  
22 happening.

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1           There's four points that I want to make. I  
2 submitted about 10 pages worth of comments and the four  
3 points kind of summed up into Systems, Visibility,  
4 Control, and Time, and I think all of those issues are  
5 not well addressed in the current NPRM.

6           For Systems, right now we as an institution  
7 can't track progress and I think the issue is again  
8 related to time. This is brand new and we don't know  
9 if what we're trying to do to address the concerns of  
10 the department is actually going to work because we  
11 don't have any way to track that and manage that as an  
12 institution.

13           Additionally, coming down to the programmatic  
14 level, it's something that's brand new and so the  
15 ability of the department to have a system where, you  
16 know, today NSLDS, I have to run a report that it takes  
17 me 24 hours to get. I'm skeptical as to whether in a  
18 year we can have a system where we're integrating  
19 social security data with programmatic data and  
20 servicer data and so I think giving some runway to that  
21 to get the systems right is an important consideration  
22 for the department.

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1           The second piece is Visibility. Right now we  
2 have no clue where we stand on either one of these  
3 metrics at the programmatic level. So as an  
4 institution, we don't know social security data. We  
5 track and place as a regionally-accredited institution,  
6 we track starting salaries for the people that we  
7 place, but again the NPRM is more around a three-year  
8 look at their earnings as opposed to starting salary  
9 and we have no idea if that's an accurate  
10 representation of where we stand compared to their debt  
11 levels.

12           Additionally, LRR, Loan Repayment Rate, is a  
13 black box. I mean, we have not been able to obtain  
14 data either from the department or the servicer in  
15 order to get that and the servicers have indicated that  
16 the department doesn't want us to have special access  
17 to that information, and for us, again trying to work  
18 as a partner with the department, we have smart people,  
19 everyone in this room has smart people that want to  
20 work with you on this and figure out whether loan  
21 repayment is the right way to go. I mean, if it is,  
22 then let's do it, and if it's not, let's figure out a

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1 better way.

2           One of the things that we're suggesting is  
3 using BLS as an interim piece until earnings -- kind of  
4 we can see how that relation works because it's a  
5 targeted number that's published by the Government  
6 compared to the earnings that you can have as you  
7 implement this and integrate it.

8           The second piece for LRR is right now we are  
9 working with CDRs at an institutional level and so our  
10 suggestion is to use CDRs as a phase-in until LRRs are  
11 proven to be representative of not just Pell status and  
12 student behavior but actually of successful outcomes  
13 from the program.

14           The third piece, Control, to the previous  
15 speaker's point, right now the regulations require that  
16 we allow the student to draw down as much as they're  
17 eligible for. So there's a significant portion of  
18 their debt that doesn't go to the actual costs of  
19 tuition and it's more around their discretion on  
20 borrowing against, quite frankly, cheap money.

21           I mean, the debt bets allowed for education  
22 is inexpensive and we can't expect that we can control

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1 student behaviors. In an economic time like this, it's  
2 very likely that, if we are teaching the student to be  
3 financially literate, they're going to subordinate  
4 their student debt. If I have a car payment, if I have  
5 a credit card payment, if I have a mortgage to pay, if  
6 I'm smart about money, I'm going to subordinate debt  
7 because the department offers deferments and  
8 forbearance and it is cheaper money and so because of  
9 that, the loan repayment rate, I think, is just as  
10 influenced by the economy as it is through the outcomes  
11 of the program.

12           The final piece around Timing, right now, if  
13 you're going to measure for 12, that means earnings are  
14 11 and that means that the grads are out and so that  
15 retrospective nature of the actual NPRM is very  
16 concerning for us, again working, trying to work as a  
17 partner with the department.

18           If these are the right outcomes and we are  
19 off on what we're doing, we want time to fix that. We  
20 want the best outcomes for the students and doing this  
21 retroactively is not a way that that's going to work.  
22 It's more of a punitive measure as opposed to a

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1 progressive measure to get good student outcomes.

2           The final piece is that we would recommend a  
3 three-year phase-in period where we are getting the  
4 systems, the visibility, and the control in alignment  
5 so that we can again work towards the best outcomes for  
6 the students.

7           Thanks for your time.

8           MR. GUIDA: Good morning, Deputy Under  
9 Secretary, Mr. Finley, Mr. Sellers.

10           My name's Tony Guida. I'm the Senior Vice  
11 President for Regulatory Affairs for Education  
12 Management Corporation, and I appreciate the  
13 opportunity to be able to testify here today concerning  
14 the proposed Gainful Employment Rule.

15           EDMC's institutions include the Art  
16 Institutes, Brown Mackie Colleges, Argosy University,  
17 South University, and the Western State University  
18 College of Law, and we serve more than a 158,000  
19 students. We're proud of our long and proven track  
20 record of student success, particularly with students  
21 who otherwise may have gone unserved by traditional  
22 models of higher education.

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1           Let me begin by saying that we understand the  
2 department's desire to limit student indebtedness. EDMC  
3 already has in place a number of measures concerning  
4 enhanced student financial literacy to encourage  
5 students to borrow responsibly.

6           We're here today to express our continuing  
7 concern that the proposed Gainful Employment Rule will  
8 have a negative and significant impact on our students,  
9 particularly our low-income students and minority  
10 students.

11           Estimates are that the rule, as proposed,  
12 would deny 400,000 students per year access to post-  
13 secondary education, the majority of whom will be women  
14 and minorities.

15           We are also concerned that the rule  
16 discriminates against high-quality degree programs  
17 which is a significant issue for our students because  
18 94 percent of our students are enrolled in degree  
19 programs.

20           We believe that the rule as written will  
21 worsen an already large Bachelor's degree attainment  
22 gap that exists in this country for many minorities,

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1 including blacks and Hispanics.

2           In an effort to engage constructively with  
3 the department, EDMC has proposed several modest  
4 modifications to the proposed rule that we believe will  
5 substantially improve the rule and limits its  
6 unintended consequences.

7           These modifications will appropriately  
8 refocus the rule on addressing outlier institutions and  
9 outlier programs and will help to ensure that we  
10 achieve our shared goal of lessening student debt  
11 burdens while continuing to provide all students,  
12 especially those from traditionally underserved  
13 populations, with a high-quality postsecondary  
14 education.

15           The problem is, as we sit here today over one  
16 year into the rulemaking process, we have yet to run  
17 data through the -- real data to determine the actual  
18 impact on students and the programs they attend. The  
19 department's regulatory impact analysis falls far short  
20 of providing an accurate window into what students who  
21 attend our institutions will face when the rule becomes  
22 effective.

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1           The department readily admits that the  
2 Missouri data significantly underrepresents minority  
3 students. The department's analysis could not and  
4 accordingly did not address how many at-risk students  
5 will be displaced as a result of the rule, how many of  
6 those students have other realistic educational choices  
7 and whether the negative effects on at-risk students  
8 are justified in light of other regulatory alternatives  
9 that are available.

10           Isn't it absolutely critical that these  
11 questions are definitively answered before a rule of  
12 this magnitude is instituted?

13           It's as if, given this lack of data analysis,  
14 you load up an airplane with people that's been newly  
15 developed and on its maiden flight, you determine  
16 whether it's going to be able to fly.

17           The department's analysis also didn't address  
18 the notable alternative explanation for the performance  
19 of proprietary institutions under the proposed Gainful  
20 Employment Rule, that it is simply a reflection of the  
21 high number of low-income and other disadvantaged  
22 students that proprietary institutions enroll.

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1           Financial aid expert Mark Kantrowitz analyzed  
2 the department's August 13th repayment rate data and  
3 noted "that graphing this data demonstrates an almost  
4 linear relationship between the percentage of Pell  
5 Grant recipients and the average loan repayment rates,"  
6 and he concluded that "a college that enrolls primarily  
7 at-risk students who qualify for the Pell Grant is  
8 extremely unlikely to have a loan repayment rate in the  
9 eligible or restricted zones."

10           Rather than adjust for these correlations and  
11 setting appropriately-tiered thresholds for compliance,  
12 the proposed rule instead creates a perverse incentive  
13 for proprietary institutions to avoid enrolling low-  
14 income students and minority students.

15           This proposed rule -- actually, the financial  
16 aid system is designed to help disadvantaged students  
17 achieve their educational objectives and their highest  
18 potential. This rule does the exact opposite by  
19 limiting access to students who are disadvantaged based  
20 on the very factors that causes them to be  
21 disadvantaged in the first place.

22           The program skills and experience that

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1 proprietary schools deliver to students who need us  
2 most are critical to this country's economic recovery,  
3 to the creation of jobs, and to the attainment of  
4 President Obama's goal of becoming a world leader in  
5 college graduates by the year 2020. The potential  
6 negative consequences of the proposed rule to our  
7 students and to our country, if we get this wrong, are  
8 momentous.

9           We urge the department to make sure that it  
10 has the facts right before launching this unguided  
11 missile. The stakes are too high to do otherwise.

12           Thank you.

13           MR. BARTO: Thank you, gentlemen, for the  
14 opportunity to speak this morning.

15           My name is Christopher Barto. I'm the Dean  
16 of Student Financial Services and Chief Compliance  
17 Officer at LIM College, which is a third-generation  
18 family- owned institution in New York City that focuses  
19 on degrees in the business of fashion, a unique  
20 institution within higher ed in occupying a niche where  
21 the institution was developed to serve women and  
22 provide opportunities for entry into the fashion

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1 industry.

2           At the time we were founded in 1939 that was  
3 a male-dominated industry in New York. We have grown  
4 to an institution of 1,500 students who are primarily  
5 baccalaureate degree students. We have recently  
6 launched an MBA program in the Spring of 2009.

7           Since 1997 we have been a Middle States-  
8 accredited institution. Some of our metrics, just to  
9 share with you, our placement rate historically at six  
10 to 12 months out has been 90 percent and above. That  
11 continues to be the case, even in our current economy.  
12 We think we have a unique formula for success, of  
13 experiential education, paired with a strong liberal  
14 arts core.

15           We have looked at the department's loan  
16 repayment data and are pleased to find that, based on  
17 your information that you've released, our  
18 institutional rate is at 61 percent. Recently in the  
19 2008 Cohort Default Rate, our institutional CDR dropped  
20 to 2.4 percent while, as you know, the national rate  
21 went up to 7.0.

22           We were also recently featured in the U.S.

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1 News and World Report article as one of two proprietary  
2 institutions in the country who had a higher-than-  
3 predicted loan repayment rate, given the fact that we  
4 had at least 20 percent of our students who are Pell  
5 Grant recipients and a graduation rate of over 50  
6 percent.

7           With all of those great metrics, you may  
8 wonder why am I here, why is gainful employment a  
9 concern for us as an institution. On a number of  
10 levels, it's a concern.

11           First and foremost, as other speakers have  
12 mentioned, as we mentioned in our comments, the ability  
13 to predict where we stand on debt-to-income ratios is  
14 very difficult. As others do, we survey our graduates  
15 upon placement. We have self-reported income data on  
16 them. We compare that obviously with median debt  
17 levels.

18           We believe we're okay but clearly we don't  
19 have the ability to predict what social security  
20 information you're going to pull and whether or not any  
21 of our programs might not meet the required eight  
22 percent.

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1           With that said, we also have serious concerns  
2 about the inequity of these measures. If you take a  
3 look at some of our programs, as we noted in our  
4 comments, if you look particularly at associate degrees  
5 in the area of fashion merchandising and you look at  
6 some of our competitive institutions within the New  
7 York marketplace, in particular Kingsborough Community  
8 College, who, in the data released by the department,  
9 had a loan repayment rate, I believe, of 31 percent, if  
10 any of our programs or our associate in fashion  
11 merchandising was deemed to not meet the debt-to-income  
12 ratios, let's say we were in between eight and 12  
13 percent, we would be required to give public  
14 disclosures to prospective students and current  
15 students.

16           Kingsborough College, at the measurement  
17 where they stand right now, would not be required to  
18 make any disclosure to their prospective and current  
19 students. They would be allowed to continue to grow  
20 their program, even if their metrics indicated that the  
21 outcomes of their students, both in terms of loan  
22 repayment rate, debt-to-income ratios, their default

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1 rate were far worse than our institution, there would  
2 be no sanctions to that institution while we would  
3 again be required to release public disclosures and  
4 possibly to curtail the enrollment in our program.

5 We believe that's a serious inequity that  
6 demands the attention of the department. In the NPRM,  
7 the department referenced GAO statement that said,  
8 "Occupation-specific training programs that lacked a  
9 general education component made graduates of for-  
10 profit institutions less versatile and limited their  
11 opportunities for employment outside their field."

12 That statement grossly undervalues what's  
13 happened in the proprietary sector over the last 30-40  
14 years as many of our institutions are primarily  
15 associate, baccalaureate and graduate level  
16 institutions.

17 To apply this rule similarly to our  
18 institutions and those programs really does not address  
19 the department's effort to increase transparency of  
20 consumer information. We support the public disclosure  
21 of all of these measures by all institutions and urge  
22 the department to either make a decision to limit the

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1 scope to certificate and non-degree programs or  
2 appropriately apply these measures to all institutions  
3 and all programmatic levels.

4 Thank you for your time.

5 MS. FISCHER: Good morning. My name is  
6 Patricia Fischer, and I'm the President and CEO of  
7 Dorsey Schools, located in Detroit, Michigan.

8 I am also President of the Michigan  
9 Association of Career Colleges and Schools and have  
10 served as a commissioner with ACICS for six years.

11 My September 8th, 2010, submission to you,  
12 along with 600 letters from students, graduates, and  
13 those who employ them, was intended to show the  
14 department examples of the value and the success of our  
15 programs.

16 My fear is that thousands of students will be  
17 locked out of worthwhile programs if this rule goes  
18 through. This would be particularly detrimental in  
19 Michigan because we have a dire need there to retrain a  
20 number of workers who, through no fault of their own,  
21 have lost their jobs. Their jobs, the positions that  
22 they worked in for years, are gone.

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1           Fifty percent of our students have attended  
2 another educational institution and you can ask why did  
3 they make a decision to take on debt and attend a  
4 proprietary school like ours. Their answers are in the  
5 letters that I sent you and there are three reasons.

6           One, they feel they need smaller class sizes,  
7 and, two, they need instructors who care, who have a  
8 determined attitude to help students succeed, and,  
9 three, they know they need discipline and structure. We  
10 monitor attendance very closely and we call students  
11 when they're absent.

12           Thirty percent of our students come from  
13 referrals. Why would a student refer a family member  
14 or a friend to our institution? Because they know that  
15 they're getting a good thing, they're happy with what  
16 they're receiving, and they want to share it.

17           Dorsey's eight campuses are honor roll  
18 schools with ACICS. We have been in business since  
19 1934. We have achieved a documented and double-  
20 verified placement rate of 70 percent in a state that  
21 has the highest unemployment rate in the United States.

22           In programs, such as patient care technician,

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1 medical assistant, and medical billing, 70 percent. We  
2 have an amazing 91 percent placement rate in our  
3 culinary arts program. In our area, we find a diverse  
4 population that is economically disadvantaged, they're  
5 first-time students, first-time attending a post-  
6 secondary education, single head of household women,  
7 and people with multiple barriers, those that have  
8 never worked or have only worked in an industrial  
9 situation.

10           In the 1980s, the proprietary schools left  
11 big urban city areas. They were driven out by default  
12 regulations. Historically, a high minority population  
13 has a significantly higher loan default in all types of  
14 loans. Schools left, populations struggled, crime  
15 increased, academic scores fell, K through 12, and a  
16 vicious cycle continued.

17           We've seen it in Detroit. It's happened  
18 there, and one is forced to ask really what is the  
19 role, what role was played in the lack of educational  
20 programs for those inner city people?

21           I am here today to urge you to re-evaluate  
22 the proposed Gainful Employment regulations in view of

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1 all that you've heard. Though it is quite clear that  
2 it is not your intention to do harm, the unintended  
3 consequences would in fact lead to a demolition of  
4 worthwhile programs and careers.

5 I respectfully request a modification of the  
6 proposed Gainful Employment Rule proposed by the U.S.  
7 Department of Education and, if I can be a further  
8 resource with my 30+ years of experience, it's my hope  
9 that you'll call upon me.

10 The lifeline of many depend upon the decision  
11 that you make as you continue to guide us towards  
12 educational excellence and accountability to the  
13 taxpayers. I encourage you to develop a uniform method  
14 of evaluating educational outcomes for all  
15 institutions, require uniform reporting of retention  
16 and placement percentages and graduation rates. These  
17 are really the things that count. Take a broad look at  
18 the outcomes for all and judge us all by the same  
19 standards.

20 I thank you for your time.

21 MR. GOPLERUD: Good morning. My name's Peter  
22 Goplerud. I'm Dean and Professor of Law at Florida

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1 Coastal School of Law, a bricks and mortar for-profit  
2 American Bar Association-accredited law school in  
3 Jacksonville, Florida.

4 I'm here on behalf of the Infolaw system, the  
5 operator of our school, and two of other ABA-accredited  
6 schools in Phoenix and Charlotte. We share the  
7 concerns of the department and the Senate HELP  
8 Committee about abusive practices and student debt  
9 loads.

10 In my experience in American legal education  
11 over the last 30 years, I've had the honor of being  
12 dean at three other law schools, two public schools,  
13 and one private not-for-profit. I've been involved in  
14 ABA accreditation site visits and evaluations for over  
15 20 years.

16 At Florida Coastal, our mission is providing  
17 a student-centered outcome education, narrowing the  
18 chasm between law school and the realities of law  
19 practice, and serving the underserved.

20 How do we do that? We do it by attention to  
21 metrics and by being accountable to our students. We  
22 have Bar pass rates consistently above the statewide

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1 pass rates and above the ABA accreditation standard  
2 threshold.

3

4 We have placement rates consistently over 90  
5 percent. In the last two years, Florida Coastal and  
6 Phoenix School of Law have both been honored by the  
7 American Bar Association with its Prestigious Gambrell  
8 Award for Professionalism for programs that we offer to  
9 students.

10 Florida Coastal has been ranked in the top 10  
11 in the country in moot court competition in the last  
12 two years and our three-year cohort default rate is  
13 right at two percent currently.

14 The one size fit all approach of the NPRM  
15 unfairly and unreasonably targets professional and  
16 postgraduate educational programs. It does not  
17 consider the fact that law schools are unique. It  
18 ignores law students, that law graduates typically  
19 consolidate their loans and amortize them out to 20-to-  
20 30-year periods.

21 A national study conducted by the National  
22 Association of Legal Professionals indicates that

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1 lawyers rationally defer payment of principal while  
2 studying for the Bar exam and that most, as with  
3 physicians, don't reach true earning potential until at  
4 least year seven after graduation. It's been pointed  
5 out by several speakers that the rule would not allow  
6 many not-for-profit law schools, including Harvard and  
7 Duke, to comply with the rule and that medical schools  
8 would have equal difficulty complying with the rule.

9           The proposal does nothing to address the  
10 abusive tactics. ABA accreditation standards, however,  
11 do. They regulate marketing and admissions practices.  
12 They prevent schools from admitting those who they deem  
13 cannot succeed and from continuing those enrolled who  
14 have already demonstrated that they can't succeed. They  
15 require all of us to have academic success programs, to  
16 provide debt counseling and consumer information to  
17 meet Bar-passed metrics and to have meaningful career  
18 services programs.

19           The rule, as has been pointed out, will have  
20 a very adverse impact on underserved communities.  
21 Florida Coastal is currently populated with over 30  
22 percent students of color. Indeed, the first year

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1 class this year has 236 students of color. That's more  
2 than the entire first year classes at my three previous  
3 institutions.

4 We urge the department to consider that  
5 there's a major conflict between gainful employment and  
6 other legislatively-provided programs allowing for  
7 deferral, allowing for additional borrowing through the  
8 Grad Plus Program.

9 We urge the department to look to accrediting  
10 bodies, such as the ABA, for rigorous accreditation  
11 standards that can be adopted as best practices. We  
12 urge the department to deem law schools and other  
13 professional schools that demonstrate quality outcomes  
14 in compliance with the best practice level  
15 accreditation I just referred to as being in compliance  
16 with the final rule.

17 We urge the department to account for income-  
18 based repayment in its metric and to include all loan  
19 payments in the metric. We urge the use of a 30-year  
20 payback in the debt-to-income ratio and years 7 to 10  
21 in the income calculation for law schools and  
22 professional schools and, as others have done, we

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1 suggest a three-year phase-in period.

2 I'd be happy to answer any questions. Thank  
3 you.

4 MR. BURTON: Good morning. My name is Ben  
5 Burton. I'm the Chief Student Financial Resources  
6 Officer for Ivy Tech Community College of Indiana.

7 Ivy Tech is Indiana's largest public post-  
8 secondary education institution and the nation's  
9 largest singly-accredited statewide community college  
10 enrolling more than 200,000 students annually.

11 As a statewide open access community college,  
12 Ivy Tech provides the residents of Indiana with  
13 professional technical transfer, lifelong education for  
14 successful careers, personal development, and  
15 citizenship opportunities.

16 Ivy Tech has 29 campuses throughout the  
17 state, is within a 30-minute drive of most Hoosiers'  
18 homes.

19 At Ivy Tech, we agree that no student's  
20 financial aid situation should be worse for attending a  
21 postsecondary educational institution. However,  
22 hopefully we can agree that all individuals should have

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1 the opportunity to attend a postsecondary educational  
2 institution and, further, these regulations unduly  
3 affect the low-middle-income and, importantly, the  
4 adult learn.

5 Both the Gates and Lumina Foundations have  
6 stressed the need for new creative approaches to help  
7 students successfully contain postsecondary education  
8 credentials. We believe the use of stackable  
9 credentials is one such approach that is extremely cost  
10 effective for both the student and the taxpayers.

11 Thus, we ask that when a certificate or  
12 diploma programs that are part of a stackable  
13 credentials track leading to an associate's degree at  
14 the same or state-approved public or not-for-profit  
15 affiliated institution be excluded from the Gainful  
16 Employment regulations.

17 Although building on successfully-completed  
18 credentials should be a common practice at all  
19 institutions of postsecondary education, the first step  
20 starts with the attainment of their certificate or  
21 diploma certification.

22 An April 1st, 2010, document by Jamie

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1 Merisotis, President of Lumina Foundation, identifies  
2 stackable credentials as a "promising practice in  
3 helping adult learners complete their educational  
4 objectives."

5           At Ivy Tech, 73 percent of our students are  
6 independent, 60 percent of our students that receive  
7 financial aid are over the age of 25, 20 percent are  
8 single mothers, over 10,000 are on some sort of public  
9 assistance, and 35 percent of our students report  
10 earning under \$16,000 a year.

11           Life circumstances often get in the way of  
12 these individuals meeting their goals. In many cases,  
13 the one-year program is the individual's only realistic  
14 approach to restarting their education and we believe  
15 they deserve that opportunity.

16           Again, to quote Lumina, a recently-published  
17 Lumina document, "for many adult degree-completers  
18 returning to college means overcoming past failures and  
19 fears of contemporary learning environments,  
20 remediation of essential skills and developing  
21 effective study habits and time management. Successful  
22 completion of the certificate program builds

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1 confidence, encourages the students to continue their  
2 education. Successful completion means the student is  
3 well on their way to completing their associate's  
4 degree, starting their Bachelor's degree in a third  
5 year or junior status. Success does generate success."

6 Not only does this approach beef up self-  
7 confidence in the student's ability to succeed, but it  
8 is also extremely cost effective. Neither the student  
9 nor the taxpayer should be forced to repay tuition  
10 costs nor should be academically stymied by being  
11 forced to retake courses that should be integrated into  
12 a well-thought-out academic plan that includes building  
13 upon prior successes.

14 I would also like to briefly address the  
15 program approval. As a public institution, we  
16 recognize our fiduciary responsibility not only to the  
17 Department of Education but to the State of Indiana and  
18 their taxpayers.

19 We also recognize that the significant role  
20 community colleges play in helping build a strong  
21 economy and providing a trained workforce. To quote  
22 Indiana Governor Mitch Daniels, "Indiana's economic

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1 future depends heavily on doing all we can to increase  
2 the numbers of Hoosiers with postsecondary education  
3 and Ivy Tech's role is critical in that part."

4           Requiring additional layers of federal  
5 approvals in the process of offering programs or the  
6 expansion of current programs in unique locations is  
7 unnecessary and redundant and will hamper the  
8 institutions' agility in moving in concert with the  
9 demands of industry and the economic climate of our  
10 state.

11           There are numerous steps that we must  
12 currently complete in order to offer new programs that  
13 are Title IV-eligible at any of our locations across  
14 the state, including obtaining approval from the  
15 Indiana Commission of Higher Education.

16           As a state-funded organization, we are forced  
17 to be very judicious when considering our decisions and  
18 already work diligently with local employers and  
19 businesses in making these decisions.

20           Employers evaluate the state's workforce when  
21 making decisions on where to locate. To be  
22 competitive, we must be able to respond quickly to

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1 their demands, otherwise we will continue to lag behind  
2 other countries in the area of technology and  
3 manufacturing.

4           A recent Lumina study determined that in  
5 order to obtain their "big goal" and in order to meet  
6 President Obama's education goal for the country, we  
7 must look to the adult learner or our economic progress  
8 will continue to be stymied. We are concerned that  
9 these regulations would in fact hinder our adult  
10 learners continuing education and increase in the  
11 marketplace.

12           Thank you.

13           MR. KVAAL: 15-minute break. Thank you for  
14 your time. We look forward to continuing the  
15 conversation.

16           (Recess.)

17           MR. OCHOA: Good morning. We're going to  
18 resume. We have a slight turnover here in this panel.

19           I'm Eduardo Ochoa, Assistant Secretary for  
20 Postsecondary Education. Steve Finley from the Office  
21 of General Counsel and David Bergeron from Office of  
22 Postsecondary Education.

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1           So if we could have our first speaker,  
2 please.

3           MR. LOPEZ: Good morning. My name is Jose  
4 Pedro Lopez. I'm from the Latin Chamber of Broward  
5 County. I also speak for the Latin Chamber of Lee  
6 County and West Palm Beach and some of the other  
7 associations and here we represent everyone.

8           The Latin Chamber of Commerce of Broward  
9 County, we like to express concerns regarding the  
10 proposed Gainful Employment regulation. Our local  
11 Broward County colleges and universities annually  
12 graduate skilled professional adults who contribute  
13 greatly to our state economy.

14           During a recent scholarship lunch, the Latin  
15 Chamber of Commerce of Broward County recognized  
16 several students from the colleges and universities and  
17 the important part they play in advancing Florida's  
18 workforce talent.

19           Florida has a service-based economy and the  
20 aging population relies on graduates in healthcare  
21 education, nursing, culinary services, hospitality, and  
22 business administration.

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1 Florida colleges and universities are  
2 critical resources as Florida develops a class  
3 workforce. As you know in Florida, we have a lot of  
4 minorities, especially where I come from in South  
5 Florida. We do believe that this is going to affect  
6 the people. The people have taken the most advantage  
7 of most of the colleges right now if you look at  
8 minorities.

9 We implore you to think about this because  
10 what's going to happen here is that maybe with good  
11 intentions you're going to really destroy the hopes of  
12 a lot of minority students that usually in a private  
13 college they could do it faster and they could do it  
14 better and they are coming out and making good money  
15 because most of those private colleges make sure they  
16 get employed.

17 If you send them to like Broward County  
18 Community College, I hate to tell you they ain't going  
19 to find no jobs and they're going to take a long time  
20 and we're back to the same old stuff that we want to  
21 fix it but nobody does it.

22 Please rethink this. Thank you.

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1 MR. OCHOA: Thank you. Next speaker, please.

2 MS. FIKE: Good morning, Panel Members. I'm  
3 Lucky Speaker Number 13.

4 My name is Andrea Fike, and I am the Senior  
5 Vice President and General Counsel of Regency Beauty  
6 Institute.

7 Previously, I was the general counsel of a  
8 publicly-traded software and analytics firm and before  
9 that a partner at a major regional law firm in  
10 Minneapolis.

11 I joined Regency in 2008 because of the  
12 company's innovative approach to vocational education  
13 and because of its focus on preparing students for  
14 successful careers.

15 Regency is privately-held and headquartered  
16 in Minneapolis. We have 6,000 students in 80 campuses  
17 in 19 states, all of whom are engaged in cosmetology  
18 certificate programs of about a year in length. We are  
19 committed to providing training in a physical  
20 environment that is convenient, looks and feels like an  
21 upscale and professional salon, and that enables our  
22 faculty to maintain a laser-like focus on student

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1 education.

2           Regency supports the goal of ensuring that  
3 students receive a quality education that prepares them  
4 for employment in their field and at a cost justified  
5 by their earnings potential.

6           In our written response to the second NPRM,  
7 we laid out a number of concerns with the proposed  
8 Gainful

9           Employment Rule. Today, we would like to  
10 highlight the two most important: the construction of  
11 the metrics and the implementation of the timing.

12           First, the two metrics, as constructed, will  
13 restrict access to education for at-risk students and  
14 discourage schools from investing in quality and  
15 addressing tuition rates.

16           Why? Because schools cannot accurately  
17 predict how we will score on the metrics two years from  
18 now and, most importantly, how changes that we might  
19 make today will impact our scores at that time and  
20 beyond.

21           The loan repayment metric gets at the  
22 relationship between program cost and earnings

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1 indirectly at best. The SSA data used in the debt-to-  
2 income metric are not predictable or visible to  
3 schools. Both metrics put schools serving at-risk  
4 students at risk because of the lower average  
5 performance of certain demographic segments on both of  
6 those metrics.

7           By using debt-to-income data and BLS data as  
8 the sole metric, the department could remove the  
9 incentive to abandon at-risk students and provide the  
10 certainties schools need to set tuition rates  
11 appropriately.

12           Using the mean rather than the 25th  
13 percentile, the department could more accurately  
14 reflect career-earning potential and encourage  
15 investment in education that provides a good return  
16 over time.

17           This is particularly important in service  
18 industries, like cosmetology, where 44 percent are  
19 self-employed. Many go on to own salons and guest  
20 bases and earnings are built over time, not immediately  
21 upon graduation.

22           Our second concern with the proposed

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1 regulation is in the implementation timeline. Given  
2 the March 31st, 2011, cutoff for entering repayment,  
3 every student, every student that will be measured in  
4 the cohort on July 1st, 2012, left our schools by  
5 September 30th of this year.

6 Therefore, we have no ability to impact  
7 repayment rates by improving our programs, modifying  
8 tuition policy or investing and advising, loan  
9 counseling, or career services.

10 In summary, we offer the following amendments  
11 to the proposed rule with the opinion that they are  
12 critical to achieve the department's objectives.

13 1. Make the sole metric a debt-to-income  
14 test based on mean BLS earnings.

15 2. Implement the regulation prospectively  
16 rather than retrospectively to give schools the  
17 opportunity to make necessary changes.

18 Thank you for the opportunity to be here  
19 today. We look forward to continuing to work with the  
20 department to identify common sense approaches to meet  
21 your objectives.

22 MR. OCHOA: Thank you.

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1 MR. ARTHUR: Thank you for the opportunity  
2 today to present comments on the Gainful Employment  
3 Proposed Regulations.

4 My name is Jeff Arthur, and I'm the Chief  
5 Information Officer for ECPI College of Technology, a  
6 privately-held skills-based regionally-accredited  
7 college with 12,000 students, mostly in IT and  
8 healthcare, of which 2,500 are in nursing programs and  
9 a small number of culinary arts.

10 Twenty-five percent of ECPI's students are  
11 referrals and we reject 15 to 20 percent of all  
12 applicants.

13 I have managed financial operations for  
14 multi-campus colleges for 27 years, served on several  
15 advisory boards and been a negotiator in the neg-reg  
16 process.

17 One week ago, final program integrity issue  
18 regulations were published that will provide prominent  
19 and significant information that will result in well-  
20 informed consumers and, given that the department sees  
21 these disclosures are important enough to codify and  
22 develop a master disclosure form, it is only logical

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1 that all institutions should be strongly encouraged to  
2 disclose this information.

3 I disagree that these disclosures are  
4 inadequate, as was noted in the final regulations. A  
5 significant percentage of persons looking at  
6 institutions covered by these regulations are adults or  
7 they have attended other higher education institutions  
8 before. The average age of ECPI's students is 28 and  
9 50 percent have attended other colleges. These  
10 disclosures will ensure that they enroll in programs  
11 and institutions that work for their career goals.

12 Achieving a college degree is a considerable  
13 achievement and those with the aptitude should be  
14 afforded the opportunity to choose their educational  
15 path. Not all will make it, but our programs are often  
16 their best chance, regardless of whether they pay  
17 principal on their loans early in their loan repayment  
18 or what their debt-to-income ratio is soon after  
19 graduating.

20 The collective cost to students not  
21 attempting the program is far greater than the minimum  
22 cost associated with variant repayment rates on non-

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1 dischargeable student loans.

2           We've gone several decades without defining  
3 gainful employment. So let's at least take a  
4 relatively brief time to see the trends from the  
5 disclosures, study the data that is going to be  
6 collected, and dedicate negotiated rulemaking time to  
7 consider whether it's proper and necessary to implement  
8 these formulas and properly vet these formulas, if so.

9           Little time was spent in the neg-reg process  
10 on this formula, mostly at the end, and I think with  
11 the magnitude of this package that we should really  
12 refocus on this and look at it as a group.

13           With regard to the specific proposed  
14 formulas, it's not appropriate to hold institutions  
15 accountable to formulas that are greatly impacted by  
16 student borrowing over which an institution is afforded  
17 little influence.

18           Higher education financial aid offices are  
19 full of expertise in finance and financial aid, yet are  
20 not allowed to implement policies to minimize excessive  
21 borrowing by students. Even an institution's tuition  
22 costs may not affect how much a student can borrow.

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1 Whether a student attends a low-cost highly-subsidized  
2 institution with lower student success rates or an  
3 elite private institution, the adult student often has  
4 access to the same debt levels.

5           For 20 years, I've asked that the experts in  
6 financial aid have the ability to craft loan limit  
7 policies that afford each student the best opportunity  
8 to manage their debt. Yet in the absence of such  
9 policies, we're held accountable for default rates and  
10 now proposed debt-to-income rates and repayment rates.  
11 It's time we all work together to come up with  
12 effective student borrowing policies while affording  
13 each student the opportunity to choose the education  
14 that best meets their needs.

15           These regulations effectively apply to  
16 certain institutions while pretending that students  
17 attending other institutions are doing so for reasons  
18 other than gainful employment.

19           Congress should decide any laws to be taken  
20 to address the concerns that these proposed rules  
21 address beyond what has been finalized in last week's  
22 regulations.

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1 I'd like to point out a few flaws in the  
2 formulas themselves, in addition to the burdensome  
3 complexity of the package as a whole.

4 Any formula that measures the success of  
5 students repaying loans should not consider any period  
6 that is within three years of graduation. When a  
7 student graduates from college, it is a dramatic period  
8 of maturing and transitioning to a career. There is  
9 much financial and emotional turmoil while we try to  
10 find our way and often financial goals revolve around  
11 paying as little as possible on any debt.

12 I sure didn't concern myself with such  
13 matters as how much principal I paid on my student  
14 loans after I graduated and I doubt it's the focus of  
15 many recent graduates.

16 For me and my wife, car payments and new  
17 family obligations were the top priorities. Paying as  
18 little as possible on a student loan at minimal  
19 interest was our preferred repayment plan.

20 For this reason, repayment rates should look  
21 to the middle of the repayment period, no sooner than  
22 four years after graduation.

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1           The same concern applies to debt-to-income  
2 measurements. Where we should be looking at the 50th  
3 percentile of stable Department of Labor data, an  
4 institution shouldn't be penalized because they happen  
5 to have a population that's most likely to take FMLA  
6 leaves in the periods their wages are being measured  
7 while they start their families. My wife took a few  
8 months off for each of our two children but this  
9 formula would penalize for these scenarios where actual  
10 income earned from work would be measured, nor should  
11 any formula be subject to the economic factors that are  
12 cyclical and greatly impact these metrics beyond the  
13 control of the institution.

14           At a minimum, up to 10 percent of students on  
15 forbearance should be removed from calculations to  
16 accommodate for these economic influences.

17           I appreciate your time and consideration of  
18 these comments.

19           MR. OCHOA: Thank you. Next speaker, please.

20           MR. GASAWAY: Good morning. My name is Kent  
21 Gasaway. My occupation is money management. I work  
22 for a mutual fund company, Buffalo Funds, based in a

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1 suburb of Kansas City.

2 For full disclosure, several of the funds I  
3 help manage own publicly-traded for-profit education  
4 stocks. Also for full disclosure, two of my daughters,  
5 ages 19 and 20, attend a for-profit fashion college in  
6 Los Angeles, California.

7 For a person in my position, I may be in the  
8 minority but let me start by saying I believe the new  
9 rules encompassing gainful employment, while they may  
10 need some changes, are generally a step in the right  
11 direction for the for-profit industry longer term.

12 Why? The new rules will create higher  
13 barriers to entry for the survivors. While they may  
14 not grow as fast or in the same profit margins in the  
15 past, they will be viewed as higher quality and more  
16 sustainable companies.

17 The education programs and degrees they  
18 provide will be viewed with more respect, more valuable  
19 to prospective students and adults and more competitive  
20 with not-for-profit companies.

21 Additionally, the proven ability to serve  
22 working adults and other non-traditional students via

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1 online and flexible hours will continue to fill a void  
2 not well represented by not-for-profits. Under the  
3 above scenario, everyone should win, students,  
4 employers, the universities, and shareholders.

5           However, I want to highlight and expand a  
6 little on the keyword I used above, that word is  
7 survivors. In order for everyone to win under the  
8 proposed new rules, there must be survivors. I'm quite  
9 concerned that the department has not fully considered  
10 the near-term macro economic ramifications of the  
11 timeline chosen for the implementation of these  
12 thresholds.

13           Under the proposed rules, they would be  
14 effective and backward-looking from July 2012. Thus  
15 the rules would effectively bake in periods of time  
16 that are impacted by the highest unemployment rate  
17 since the Great Depression.

18           At the current pace of job growth, it appears  
19 that 2011 may not show much improvement. Some  
20 economists estimate the current underemployment rate,  
21 those unemployed, plus those working part-time, plus  
22 those who've given up working, is near 20 percent.

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1           This clearly is not the appropriate and fair  
2 time to be measuring whether students are gainfully  
3 employed. In reality, most recent college graduates  
4 are lucky to have any job, much less one in a field of  
5 study earning an average starting salary. Most recent  
6 graduates, including working adults, are struggling to  
7 pay their rent, their mortgage, the utilities, the car  
8 payments, and their credit cards.

9           Current high default rates on the above  
10 obligations are well documented. Thus, it would seem  
11 quite illogical that one would expect any kind of  
12 normal or true repayment rate on student loans during  
13 this same period.

14           During difficult times like these, it is  
15 highly likely that students view their loans near the  
16 bottom of their priority payment list. Dare I say they  
17 probably view paying their iPhone bill far more  
18 important than paying their student loan right now?

19           Nor can anyone expect that actual incomes  
20 measured during this period represents anything close  
21 to normal. How could they when some one in five adults  
22 currently are underemployed? This is reality. In my

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1 opinion, something the department must take into  
2 greater consideration.

3 I'm highly fearful that the current timeline  
4 or measurement period proposed for the new rules will  
5 result in far more casualties than projected.

6 For-profit colleges can and will change and  
7 improve their programs and they will reduce tuitions,  
8 but if adequate jobs aren't available, they will simply  
9 fail your test. If current economic trends persist  
10 into 2011 and 2012, and the department must concede  
11 that this is quite possible, the casualty list could  
12 include some very fine institutions.

13 Let me give you a real-life example. One of  
14 my daughters attended Johnson County Community College  
15 last semester. Johnson is one of the most affluent  
16 counties in Kansas and the nation, with a median family  
17 income of over \$76,000. With a student population of  
18 over 35,000, it's a very successful and highly-  
19 respected community college. Yet the department  
20 reported this college had a repayment rate below the 45  
21 percent threshold.

22 If the economy is impacting the ability of

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1 Johnson County graduates and their parents to repay  
2 their federal student loan debts, which are likely much  
3 lower than average, I assure you the impact, the  
4 economic impact today is very widespread.

5           In summary, I can't imagine the intention of  
6 these new rules is to shut down programs with good  
7 results. Thus, what should the department do? If you  
8 intend to move forward with gainful employment near its  
9 current form, I would propose that the implementation  
10 be phased over a longer period of time, perhaps use the  
11 12 percent debt-to-income threshold and/or the 35  
12 percent repayment levels rather than eight percent and  
13 45 percent as the thresholds for continued unrestricted  
14 Title IV eligibility at July 2012.

15           This would provide for some cushion for  
16 programs that might not make it due to the bad economy.  
17 The department could then set a later date, say July  
18 2015 or 2016, to make currently-proposed thresholds  
19 effective.

20           In my opinion, this would be a win-win  
21 compromise for all parties. The tougher rules would  
22 still loom on the horizon, make it imperative that all

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1 colleges begin work towards complying with these new  
2 standards.

3           Also, if the economy remains difficult, the  
4 department would avoid the severe criticism that would  
5 likely have been placed on you for the closing of  
6 programs, if not entire schools, due to the  
7 unreasonable implementation or timing of well-intended  
8 rules.

9           Thank you very much.

10           MR. OCHOA: Thank you. Next speaker, please.

11           MS. KEISER: Good morning and thank you for  
12 the opportunity to speak with you today.

13           I am Belinda Keiser, and I am speaking  
14 against the Gainful Employment Rule.

15           I'm a principal of Keiser University. Our  
16 family started the university 33 years ago. Today,  
17 we're a Level 5 SACS-accredited institution. We offer  
18 two-year Master's, baccalaureate, and Ph.D. programs.  
19 We are also located in Shanghai and Moldova. Our  
20 18,000 students go into diverse different types of  
21 careers.

22           The first point that I would like to make,

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1 I'd like to speak to you about our industry and the  
2 first point I would like to make is that private career  
3 colleges are the creators of talent, are critical  
4 economic drivers which define our nation's ability to  
5 compete, something that I know we hold as a value  
6 that's dear. In fact, I noticed it on your Mission  
7 Statement.

8           There are over 1,500 private postsecondary  
9 schools, institutions, colleges and universities  
10 serving over three million students in diverse fields.  
11 This is the organization known as formerly the Career  
12 College Association and today it's the Association of  
13 Private Sector Colleges and Universities.

14           As the former chair of Workforce Florida, I  
15 have served as a leader in workforce development for  
16 over 14 years. I believe that the Gainful Employment  
17 regulation, as currently written, will limit student  
18 choice and cripple our country's ability to compete.

19           The career college sector is instrumental in  
20 ensuring the competitiveness of our country. I'm from  
21 Florida. We have a staggering unemployment rate of 12  
22 percent. Normally a 120,000 people visit our one-stops

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1 daily. In October, roughly two million Floridians went  
2 to the online system looking for assistance, for job  
3 assistance help.

4 Career colleges are one of the most effective  
5 industries in times of economic distress, creating new  
6 jobs and also resolving the needs as our jobs and our  
7 economy shift.

8 You may find it interesting that Benjamin  
9 Franklin started a printing school. Many of us like to  
10 think of his school as the first career college and  
11 later you would recognize this school as the University  
12 of Pennsylvania.

13 At Keiser University, according to your data,  
14 we are nationally ranked as the third largest producer  
15 of associate degrees in health professions and related  
16 clinical sciences for two-year associate degrees and  
17 nationally 42 percent of all two-year health degrees  
18 and certificates are awarded by career colleges.

19 Keiser University ranks fourth nationally in  
20 the production of associate degrees in criminal justice  
21 and protective services and nationally, since 9/11,  
22 there's been a 35 percent in the need for professionals

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1 in this field.

2           Second point is career colleges, that our  
3 sector is very effective in educating working adults.  
4 Our students are older. They work full time. A  
5 greater percentage of them, 60 percent of them are  
6 female. More than 40 percent are racial minorities.  
7 Most are first-generation students and the first to  
8 achieve a college degree in the history of their family  
9 and many go to school without any sort of family  
10 support.

11           Statistics demonstrate that working adults  
12 are better served by our sector, completing their  
13 program of study more often whether they pursue a two-  
14 year or four-year degree. The Imagine American  
15 Foundation states that 54 percent of African American  
16 students attending two-year career colleges graduate  
17 within three years compared to 23 percent of the  
18 graduates when they attend public institutions, and,  
19 secondly, 63 percent of the Hispanic students graduate  
20 in the same period when they attend our schools  
21 compared to 30 percent at community colleges.

22           Students with two or more barriers to

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1 graduation are twice as likely to complete their degree  
2 in our sector than when they attend public and  
3 traditional colleges. That was from the Imagine  
4 America study.

5 In crafting the Gainful Employment  
6 regulation, we must continue to focus on student needs,  
7 and the third point I would like to make, ladies and  
8 gentlemen, is the proposed regulation respectfully  
9 offered is short-sighted.

10 A program study, even in a career college,  
11 does not always determine the graduate's career path.  
12 All over the country, we have successful people who are  
13 doing something other than they were trained for. We  
14 have music majors who become government analysts. We  
15 have criminal justice majors who become life insurance  
16 salesmen and women. Those iterations take time.

17 Expecting all graduates to enter the field  
18 that they have studied in and stayed there for the  
19 first three or four years is expecting something  
20 dramatically different than the American experience.

21 I know that we would agree that education is  
22 the key to allowing people to seek and obtain their

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1 dreams. Why would we limit an individual's access and  
2 choice as they pursue their personal educational path  
3 that leads to professional goals and their American  
4 dream?

5           In effect, although likely very much  
6 unintended, the rule can be perceived as determining  
7 that the dreams of wealthy children attending the elite  
8 institutions of America and studying art history,  
9 French literature and a wrath of other subjects for  
10 which entry level pay is probably lower than registered  
11 nurses, are deemed good dreams, but the dreams of  
12 single mothers, like my mom, first in household to  
13 attend college, and those in minority communities are  
14 not considered as worthy in terms of their dreams when  
15 they become teachers, medical assistants, and security  
16 workers.

17           The Gainful Employment Rule will have  
18 unintended consequences. Colleges and universities nor  
19 graduates determine starting wage of any career field  
20 and linking students' debt to a starting salary without  
21 considering its propensity to rise in the third, fifth,  
22 or 10 year of the job is a disservice to students

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1 pursuing their dreams.

2           If our concern is generally about wages, then  
3 I ask let's take a longer view of earning and ability  
4 to pay. Yes, sir.

5           Thank you. On behalf of three million  
6 students and the 200,000 Americans our sector employs,  
7 I respectfully request that the department step back  
8 and reconsider the linking of earnings required to loan  
9 debt for students. This rule, if implemented in the  
10 current form, will not serve our country well.

11           Thank you very much.

12           MR. OCHOA: Thank you.

13           MR. GILL: Thank you for the opportunity to  
14 speak here today.

15           I am Ian Gill, President of the International  
16 Academy of Design and Technology in Orlando, Florida.

17           I am concerned about the devastating impact  
18 the proposed rule could have on my students. They have  
19 made informed decisions to pursue their professional  
20 passions and I'm sure that the Department of Education  
21 both underestimates the rigor of our programs and the  
22 efforts of my students.

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1           Many are first in their families to attend an  
2 institution of higher education. Many are single  
3 parents or come from low-income families. Some are  
4 veterans looking to find a career after serving our  
5 country. Many are adults seeking new skills to find  
6 more fulfilling employment. Many have come to us from  
7 first having been enrolled in traditional colleges and  
8 universities where their needs were not met.

9           Our students strive to better themselves, to  
10 improve their lives and to contribute to their  
11 communities. If you don't believe me, then you should  
12 come to one of our graduation ceremonies. The pride of  
13 the parents, spouses, and children as they watch their  
14 loved one walk across the stage is every time  
15 overwhelming.

16           While I applaud the department's interest in  
17 addressing student debt, I don't agree that the right  
18 way to do this is by pushing low-income students,  
19 including a significant number of minorities, out of  
20 school all together.

21           Sure, if these students don't go to school,  
22 they can't over-borrow, but keeping students out of

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1 college downsizes their dreams and damages an economy  
2 in need of well-educated and highly-skilled  
3 individuals.

4           The only outcome of your proposal will ensure  
5 that the President will never reach his 2020 goal.

6           Your proposed definition of gainful  
7 employment departs from the agency's past practice and  
8 that of other government agencies. Further, the  
9 formula appears to have been designed to put the intent  
10 of making our institutions seem more expensive and my  
11 students less successful than they are. Let me  
12 explain.

13           First. The department's proposal relies on  
14 total student debt as a proxy for institutional costs.  
15 This is unreasonable since students are allowed by  
16 statute to borrow amounts that significantly exceed the  
17 costs of tuition and fees.

18           We know that students over-borrow and not  
19 just our students and it's just not for educational  
20 expenses, as well. While we discourage them from doing  
21 so, we are prohibited by law from interfering with  
22 their borrowing rights. Yet the sad reality is that

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1 many of our students don't have parents who contributed  
2 to a 529 plan, you know, or the parents saving for a  
3 child's education or having a parent willing or able to  
4 borrow on a student's behalf.

5 But as bad as the borrowing might be, the  
6 reality is that without borrowing, these students could  
7 not attend school at all.

8 Secondly, as mentioned by previous speakers,  
9 the calculation of debt-to-income ratio is based on an  
10 earnings window that is focused on the first three or  
11 four years of an individual's career. This goes  
12 against every accepted economic model for determining  
13 return on investment.

14 Thirdly, the former includes no mechanism to  
15 address economic downturns which impacts all workers,  
16 not just our graduates.

17 Fourth. The proposal fails to explain how  
18 the department will collect actual wage data or  
19 differentiate between a student who couldn't get a job  
20 and one who chose to take time off to raise children or  
21 pursue additional educational credentials.

22 The department insists that whatever the data

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1 sources ends up being, we have no right to examine or  
2 challenge the accuracy of those data, thereby  
3 forfeiting our right to due process which is very un-  
4 American.

5           And fifth, the department's proposal departs  
6 from past practice in its definition of repayment  
7 rates. It portrays students who are meeting their  
8 legal obligations as deadbeats simply because they  
9 chose to participate in one of the many debt management  
10 programs that Congress created and the Department of  
11 Education promotes.

12           Low-income and nontraditional students do not  
13 need regulations that treat them as second-class  
14 citizens. We deny them level of institutional,  
15 programmatic, and career choice that more advantaged  
16 students take for granted.

17           We need a reasonable discussion on how to  
18 reduce student debt and help our students succeed at  
19 the same time. It's time for the Department of  
20 Education to go back to the drawing board and let the  
21 discussions begin.

22           Again, I'd like to thank you for my time here

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1 today and look forward to, you know, further  
2 improvements and revisions with the proposal.

3 Thank you very much.

4 MR. OCHOA: Thank you.

5 MR. HARDIMAN: Good morning, gentlemen. My  
6 name is Joe Hardiman, and I'm the President of Le  
7 Cordon Bleu College of Culinary Arts in Orlando.

8 We graduated our first class in 2004 and  
9 since then have graduated more than 3,600 students.  
10 I'm here to speak on behalf of those students and  
11 graduates. They are hard-working people who love to  
12 cook and bake, whose lifelong dream is to work in  
13 restaurants, resorts, hotels, and need the skills and  
14 credentials that we provide through hands-on learning  
15 and flexible schedules.

16 Many of our students work nights to manage  
17 school, family, and life. They are striving to climb  
18 up the ladder of success and we fear that your proposed  
19 Gainful Employment Rule would pull up the ladder out of  
20 their reach.

21 I know the industry, I know our students, and  
22 I know what we offer. We offer what they need to find,

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1 to keep and move ahead in their careers.

2           Before becoming President of Le Cordon Bleu,  
3 Orlando, my entire career has been in the hospitality  
4 industry, managing chefs and cooks. I worked for 21  
5 years for the Walt Disney World Resort, in addition to  
6 while living in New York City, I was the general  
7 manager of a hotel and a member of the Board of  
8 Directors of the New York State Hospitality and Tourism  
9 Association.

10           My campus currently has 1,230 students. We  
11 serve sectors of the population who many traditional  
12 colleges overlook and underserve. Fifty-six percent  
13 are between 20 and 29 years old, 15 percent are between  
14 30 and 39 years old, and 11 percent are 40 years and  
15 older. Twenty-eight percent of our population is  
16 Hispanic and 13 percent is African American. We have  
17 94 veterans in our population.

18           We offer two Associate in Science degrees,  
19 one in Culinary Arts and the other in Patisserie and  
20 Baking. In 2008, we added a Diploma Program in  
21 Culinary Arts which we deliver entirely in the Spanish  
22 language. Just this month, we began offering a

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1 Patisserie and Baking Diploma Program entirely in the  
2 Spanish language.

3 We are nationally accredited by the  
4 Accrediting Council for Independent Colleges and  
5 schools, ACICS, and our programmatic accreditation is  
6 from the American Culinary Federation, the ACF. They  
7 have designated the college's program as exemplary  
8 programs.

9 Our graduation rate is 62 percent on all  
10 programs which is substantially above the rate for our  
11 IPEDS comparison group. Our annual placement rate last  
12 year was 91 percent, even in a bad economy. The year  
13 before, it was 96 percent. Our cohort default rate for  
14 2008 is 5.8 percent.

15 Great companies come to our college to  
16 recruit our students: the Walt Disney World Resort,  
17 Hilton, Marriott, the Waldorf-Astoria, the Ritz,  
18 Emeralds, Universal Studios, just to name a few.

19 Permit me to brag about the college, the  
20 honors we've received, for just a minute. In 2007, we  
21 were designated by the Florida Association of  
22 Postsecondary Colleges and Schools as the College of

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1 The Year. We're in the Guinness Book of World Records.  
2 We earned the distinction for the world's largest cr?me  
3 Brule. It tasted good and we invited the health  
4 department. Nobody invites the health department. We  
5 wanted to demonstrate to our students that setting the  
6 world's record and doing it right is important.

7 In September, our Culinary Competition Team  
8 earned the Gold Medal and took the first place in the  
9 State of Florida Culinary Federation Postsecondary  
10 School Competition. Our team is coached by Certified  
11 Master Chef Klaus Friedenreich, who's a member of our  
12 faculty.

13 There are approximately 70 certified master  
14 chefs in the United States. Probably less than 10 are  
15 involved in education. When I go by Chef Klaus's  
16 class, the students are riveted on the chef's  
17 interaction with them.

18 The proposed Gainful Employment Rules could  
19 limit access to programs at our school. The focus on  
20 entry-level wages for evaluating gainful employment is  
21 a misguided measurement. Like most skilled workers,  
22 few of today's students will realize the full economic

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1 benefit of their educational investment during the  
2 first four years of their career. That is why the  
3 Census Bureau in its report, The Big Payoff, looked to  
4 cumulative work life earnings to measure the return on  
5 an educational investment.

6           The focus on early career earnings is  
7 especially harmful to graduates in fields, such as  
8 culinary arts, but most important of all, the  
9 department should ask employers how culinary school  
10 graduates begin their careers in the kitchen. The chef  
11 will tell you they need to arrive for work bright-eyed  
12 and bushy-tailed. They must be ready to work hard,  
13 professionally attired and demonstrate to the chef that  
14 they can work every station in the kitchen, and they  
15 must demonstrate advanced human relations  
16 communications skills, food safety and food cost  
17 knowledge. Then and only then do they begin to earn  
18 more than a highly-skilled cook.

19           That's what the department needed to know  
20 before proposing the new rules that would harm these  
21 passionate professionals' dreams of personal success  
22 and meaningful employment.

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1 Thank you for the opportunity to be here.

2 Come visit my college.

3 MR. OCHOA: Thank you.

4 MR. GUTIERREZ: Good morning. How are you?

5 My name is Allen Gutierrez, and I'm here today to --

6 I'm the National Executive Director of the Latino

7 Coalition, and I'm here to present on behalf of the

8 Latino Coalition, a national nonprofit established to

9 address policy issues that directly affect the well-

10 being of Hispanics in the United States.

11 As an organization, we work to develop

12 initiatives and partnerships that will foster economic

13 equivalency and enhance overall business, economic, and

14 social development to Latinos.

15 My purpose to speak here today is to point

16 out, unfortunately, the proposed Gainful Employment

17 Rule will not expand higher education opportunities for

18 the Latino community. Instead, it stands to restrict

19 them from thousands of career college students across

20 the country.

21 This issue is especially important for us in

22 the Latino community. As minority students are

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1 disproportionately represented in career colleges,  
2 currently over 50 percent of students attending career  
3 colleges are minority students compared to  
4 approximately 34 percent at public and 32 percent at  
5 private not-for-profit four-year institutions.

6           Therefore, if the Gainful Employment Rule  
7 were to take in effect as written, minorities would be  
8 some of the first ones to lose out on their education.  
9 In the Latino community, career colleges are highly  
10 valued as educational institutions. For most students,  
11 attending these schools, the combination of flexible  
12 schedules, career-oriented curriculum, and affordable  
13 tuition makes career colleges a popular choice, and the  
14 quality of the graduates make them popular to would-be  
15 employers.

16           Just take Marcus Gonzalez, a 2004 graduate of  
17 the Art Institute of California in Orange county, which  
18 is not too far from the Latino Coalition's headquarters  
19 in Irvine, California, who is a graphic design manager  
20 for the Walt Disney Parks and Resorts. He credits the  
21 Art Institute for exposing him to more media  
22 preparations for employment in this diverse field.

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1           Or Melody Blue Torres, who also received a  
2 degree from the Art Institute of California in Orange  
3 County. Educated in the art of cooking, she now serves  
4 as an assistant general manager at Wolfgang Puck  
5 Bistro, helping manage the kitchen while assuming  
6 responsibilities for food costs, labor control, and  
7 profit and loss.

8           As you can see, students in these schools,  
9 especially Latinos and other minority students, make  
10 connections, learn skills, and receive degrees in a  
11 dozen of disciplines that help to propel them into  
12 successful careers, careers they want to pursue.

13           The Latino Coalition believes that the career  
14 colleges and their students are holding up to their end  
15 of the bargain by working hard to improve educational  
16 opportunities for students and by encouraging students  
17 to attend higher levels of education.

18           More importantly, we believe that the  
19 department should do the same rather than make it  
20 harder for students to attend college.

21           Unfortunately for students, the proposed rule  
22 could let decisions about an individual's future be

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1 based on a one size fit all debt-to-income ratio. In  
2 our economy, complete with rising college tuition  
3 prices, low-income students must secure to a certain  
4 amount of debt to attend college. However, we should  
5 not limit their educational opportunities in an attempt  
6 to stave off rising student debt with a blanket fix.

7           In short, the Latino Coalition asks that you  
8 reconsider the details in the proposed Gainful  
9 Employment Rule regarding availability of requirements  
10 in Title IV loans to students who attend nontraditional  
11 career colleges.

12           For us and the many Latino students that  
13 would be affected by this rule, the implementation  
14 would create a situation wherein students with  
15 identical financial situations and backgrounds in the  
16 educational achievement would be treated differently if  
17 they applied for federal student aid.

18           While the proposed Gainful Employment Rule is  
19 well intentioned, we fear that inevitably the end  
20 results will be perceived as discriminatory, arbitrary  
21 and unfair to career college students and encourage you  
22 to re-examine the proposed Gainful Employment Rule.

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1 Thank you very much.

2 MR. OCHOA: Thank you. Next speaker, please.

3 MR. STASCHAK: Good morning. My name's John

4 Staschak. I'm the President and CEO of Bryant and

5 Stratton College in Buffalo, New York.

6 Bryant and Stratton is one of the oldest

7 proprietary colleges in the country. We were founded

8 in 1854. We offer 25 Bachelor's programs and associate

9 degrees in New York, Ohio, Virginia, and Wisconsin in

10 the area of health, business, criminal justice,

11 information technology, human resources. We provide

12 courses in a classroom-based manner and also online,

13 and we strive to continuously enhance our curricula and

14 program offerings to ensure that graduates have

15 marketable skills.

16 As a result of what we have done over the

17 past, we continually look at programs and have

18 eliminated numbers of programs that no longer meet

19 employer needs and do not provide graduates with salary

20 growth opportunities.

21 We are proud that over 90 percent of our 2009

22 graduates have commenced careers in their chosen or

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1 related fields.

2           We are accredited by Middle States and a  
3 number of other agencies, including the National League  
4 of Nursing, and given the college's headquartered in  
5 New York State, we're a member of the Association of  
6 Proprietary Colleges or APC. Each of our states we  
7 operate in provides significant regulatory oversight  
8 with New York leading the way.

9           We structure operations to meet the highest  
10 state regulatory threshold which is typically New York  
11 in our system.

12           We share the department's concern over  
13 student borrowing and like to see it reduced. As an  
14 officer of the college, I sign excess loan refund  
15 checks for students and see the large amounts of money  
16 that students borrow beyond the cost of tuition and  
17 books.

18           The college in recent years has reduced its  
19 cost of education, reduced its Title IV aid,  
20 particularly loans, available to students. In  
21 addition, the college, for a number of years, has and  
22 does provide students scholarship aid, which is merit-

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1 based, and institutional aid, which is need-based, to  
2 our students. That amount totaled or exceeded \$5.2  
3 million last year.

4 I would just like to speak on a couple of  
5 issues that we highlighted in our previous comments.

6 Urban campus students. Our campus network  
7 includes four campuses that are located in urban core  
8 areas of Buffalo, Syracuse, New York, Cleveland, Ohio,  
9 and Milwaukee, Wisconsin. These four campuses  
10 represent 26 percent of our student body. Our urban  
11 students utilize a high level of Title IV aid, both  
12 grants and loans.

13 Third party evidence suggests that loan  
14 repayment rates for at-risk students, as measured by  
15 Pell Grant utilization, across all sectors of higher  
16 ed. Our internal data and assessment shows that urban  
17 students have lower outcomes in terms of retention and  
18 graduation and higher loan default rates. However,  
19 upon graduation, urban graduate placement outcomes are  
20 not significantly different than our non-urban student  
21 populations.

22 Given the standardization of systems and

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1 curricula across the Bryant and Stratton system of  
2 schools, one can conclude that the socioeconomic  
3 demographics of urban students is a significant factor  
4 in the number of outcome measurements. The lack of  
5 success, along with higher projected cohort default  
6 rates, has caused the college to hesitate on additional  
7 urban core locations.

8           The implementation of the draft Gainful  
9 Employment regulations will increase Bryant and  
10 Stratton's apprehension of urban locations, including  
11 our existing ones. The end result of implementing  
12 Gainful Employment as drafted is the potential  
13 reduction of educational opportunities for low-income  
14 students.

15           Female population. The college has a rich  
16 history of providing education and training for women.  
17 Our current student population is 75 percent female.  
18 Various students indicate that women in general have  
19 lower incomes than their male counterparts. In  
20 addition, the female in the family unit is the most  
21 likely person to be the caregiver when raising a family  
22 or if illness strikes the family. The result is that

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1 the female is more likely to be the family member not  
2 working in the above scenarios.

3           The lack of income will impact both the  
4 repayment rate and the debt-to-income metrics within  
5 the draft Gainful Employment regulation. The GE Rule  
6 would use actual average annual earnings for students  
7 to determine the debt-to-income ratio. Clearly, the  
8 average income number will be significantly reduced if  
9 individuals not in the workforce for reasons noted  
10 above or because students may have other valid reasons  
11 for not being in the work place, such as disability,  
12 illness, or perhaps they elect not to work at all.

13           Lifetime earnings and macro economics. The  
14 regulation as drafted uses relatively short time frames  
15 of three- and four-year windows after graduation in  
16 which to measure compliance with debt-to-income and  
17 loan repayment rates. Three-year window in particular  
18 is not representative of what a college grad would earn  
19 over a 40-year career.

20           One can also argue the most lucrative years  
21 in terms of earnings is mid to late career. An  
22 investment in debt incurred in the early years should

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1 be assessed based upon long-term income stream of that  
2 asset, in this case a working individual, basic  
3 economic in theory.

4           The proposed regulation ignores the impact of  
5 macro economic conditions, such as the current  
6 recession, high unemployment rates, proprietary  
7 educations covered by this regulation, the effect of  
8 being penalized for general economic conditions.

9           We also have concerns about data integrity  
10 based upon our merger and previous experiences that  
11 we've had with cohort default rates and question the  
12 data integrity of the NSL DL.

13           I'd like to thank you for letting me appear  
14 today. Thanks.

15           MR. OCHOA: Thank you. No more speakers?  
16 Okay. We will adjourn until after lunch.

17           SPEAKER: Just a real quick announcement for  
18 everyone. Some of you all were confirmed just for the  
19 morning session but we invite you to come back for the  
20 afternoon session. Your badges that you have, you can  
21 use those throughout the building. There is a  
22 cafeteria around the corner, so you can go there, and

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1 we encourage you to come back then.

2 Thank you.

3 (Whereupon, at 10:47 a.m., the meeting  
4 was recessed for lunch, to reconvene at  
5 1 o'clock p.m.)

6 AFTERNOON SESSION

7 (1:00 p.m.)

8 MR. OCHOA: Good afternoon. We're going to  
9 begin the last session of this Public Hearing on  
10 Gainful Employment Regulations, and I'm Eduardo Ochoa,  
11 Assistant Secretary for Postsecondary Education.

12 With me here, we have John Kolotos from the  
13 Office of Postsecondary Education and Georgia Yuan from  
14 the Office of Legal Counsel.

15 Could we have our first speaker, please?

16 MR. COLLINS: Greetings. My name is Bob  
17 Collins, Vice President of Student Financial Aid for  
18 the Apollo Group, the parent company of the University  
19 of Phoenix. I've been a practicing aid administrator  
20 since 1981.

21 Thank you for the opportunity to provide oral  
22 testimony today.

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1           The university has formally submitted  
2 comments under both NPRMs as well as the OMB Request  
3 for Information Collection which was transmitted to the  
4 Office of Information and Regulatory Affairs.

5           The university embraces the objective of full  
6 transparency to encourage students to borrow  
7 responsibly. As currently proposed, these regulations  
8 penalize future students for current students'  
9 entitlement to borrow the maximum annual and aggregate  
10 loan limits.

11           Therefore, we are concerned that the rule, as  
12 currently proposed, does not achieve public policy  
13 objectives. The proposed regulation has many  
14 unintended consequences. We believe the unintended  
15 consequences of this action will harm public service  
16 occupations, such as nursing, education, and criminal  
17 justice to the lowest starting salaries critical to our  
18 nation.

19           It will deny access to lower socioeconomic  
20 minority groups. The proposed rules will drive  
21 educational institutions to re-evaluate serving these  
22 segments. It will be discriminatory. Although we

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1 understand the department does not have the statutory  
2 authority, any good public policy should be applied  
3 consistently across all students. What is good for one  
4 student should be good for all students.

5           Additionally, the debt-to-earnings test uses  
6 discretionary income on the poverty guideline for a  
7 single person, yet many nontraditional students are  
8 single parent families. Also, by relying on data from  
9 the Social Security Administration, the current  
10 proposal excludes household income in the debt-to-  
11 earnings calculation, even though the loan may have a  
12 reduced principal balance.

13           Additionally, economists have demonstrated it  
14 takes well beyond three years after graduation for  
15 those with higher degrees to begin to experience the  
16 real financial advantage of additional education. Also,  
17 current and future economic recessions are  
18 unpredictable and adversely affect the debt-to-income  
19 ratio.

20           Finally, post-baccalaureate graduate and  
21 professional programs seem to fall outside of the  
22 concept of training programs. Therefore, post-

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1 baccalaureate degrees and certificate programs should  
2 be excluded from these regulations.

3           The proposed regulation is too vague to  
4 assess the impact or effectiveness. For example, CIP  
5 codes will be used to link specific students with  
6 specific programs at an institution. If an institution  
7 has multiple programs with the same CIP code, how will  
8 the department perform program level calculations?

9           Many institutions have developed unique  
10 student ID numbers in lieu of social security numbers.  
11 How will the department obtain income information from  
12 the Social Security Administration without a social  
13 security number if the student and/or employer paid  
14 cash for the program?

15           Consolidation loans are excluded from loans  
16 paid in full but the proposed rule does not explain how  
17 to treat them and reduce principal balance.

18           The proposed regulation is overly-complex.  
19 Our submitted comments gave examples to demonstrate  
20 how, even if a student may be in good standing repaying  
21 their debt, they would still be counted against the  
22 program's loan repayment ratio.

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1 I want to emphasize, because of the economic  
2 recession and the combination of recent legislation,  
3 the vast majority of current students will require loan  
4 consolidation, deferment and forbearance entitlements,  
5 and/or income-based repayment options, all of which are  
6 unable to be tracked under the proposed loan repayment  
7 calculation.

8 The proposed regulation uses non-verifiable  
9 income information and offers no ability to cure. The  
10 proposal lacks due process because the income data  
11 provided by the Social Security Administration is non-  
12 verifiable.

13 Furthermore, institutions have no ability to  
14 view draft rates and challenge the data integrity prior  
15 to the official public release, unlike the cohort  
16 default rate regulations. Moreover, the time frame has  
17 a retroactive application with no opportunity for  
18 institutions to cure any problem.

19 The proposed regulation is administratively  
20 burdensome. Considering the significant economic  
21 impact of these proposed regulations, the overall cost-  
22 benefit analysis is debatable. As a practicing aid

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1 administrator for nearly 30 years, I firmly believe the  
2 estimated burden is significantly under-estimated.

3           According to a recent GAO study, the  
4 Financial Aid Survey, it was rated the most burdensome  
5 IPED survey. The proposed regulation on Gainful  
6 Employment will only exacerbate the complexity and  
7 administrative burden as reported in the GAO study.

8           Our recommendation. We are concerned that  
9 the rule as currently proposed does not achieve sound  
10 public policy objectives and we respectfully request  
11 the department to withdraw the proposal until  
12 congressional intent has been revisited and  
13 established.

14           Thank you.

15           MR. OCHOA: Thank you. Next speaker, please.

16           MR. SIMPSON: Hello. My name is Jim Simpson.  
17 I'm Associate Vice President for Degree and Career  
18 Programs at Florida State College at Jacksonville and  
19 was the primary negotiator during the department's  
20 recent Negotiated Rulemaking Process for Title IV  
21 Program Integrity.

22           Florida State College at Jacksonville

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1 applauds the department's decision to propose measures  
2 on what constitutes gainful employment for educational  
3 programs. The proposed Gainful Employment regulation  
4 is a significant departure from existing federal  
5 student aid policy that required little accountability  
6 for the use of funds or the outcomes of students.

7           Formally acknowledging the link between  
8 training and earnings is an important codification of  
9 the promises about jobs and salaries that all  
10 institutions highlight in their marketing materials.  
11 Establishing a clear connection between jobs, wages,  
12 and training-oriented programs is a welcome way of  
13 thinking about education, not just in terms of quality  
14 but also in terms of value.

15           We do suggest a clarification to the proposed  
16 rules is needed in the following areas. Regarding  
17 actual wages, what would be the lag time in calculating  
18 the data? How will small programs of only a few  
19 graduates be regulated under the proposed regulations?  
20 Will continued Title IV eligibility for small programs  
21 be based solely on repayment rates? What is the  
22 definition of a small program? How will payment on the

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1 principal on a student's debt be calculated when the  
2 student has loans from multiple institutions? And how  
3 will the repayment rates be calculated if loans from  
4 more than one institution are consolidated by the  
5 borrower?

6           In our filed comments to the department's  
7 proposed rules, we agree with the American Association  
8 of Community Colleges' recommendation that the final  
9 regulation should not apply to certificate programs at  
10 nonprofit institutions of higher education that are  
11 fully embedded within and lead to an existing associate  
12 degree.

13           It's common for a community college to  
14 structure programs so that the students are encouraged  
15 to continue pursuing their studies by gaining  
16 incremental credentials as they progress towards their  
17 degree attainment.

18           Our college experience shows that students  
19 who complete an incremental credential are 33 percent  
20 more likely to graduate from an associate degree within  
21 three years. Therefore, the certificate programs  
22 should not be classified as a program of gainful

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1 employment under the regs.

2 In closing, the Gainful Employment standard  
3 proposed by the U.S. Department of Education is a gain  
4 for students as consumers. Requiring institutions to  
5 publish repayment rates, debt ratios, and cost warnings  
6 give potential students information that can be  
7 compared across all types of institutions.

8 The greatest consumer benefit with the  
9 Gainful Employment standard is providing students with  
10 information on a program by program basis rather than  
11 aggregating information across the institution.  
12 Potential students will now be able to see how an  
13 institution program actually performs without getting  
14 the results that are compromised by dissimilar programs  
15 within that institution's program mix.

16 Florida State College at Jacksonville  
17 supports the accountability these new rules will  
18 provide and the additional consumer protection that the  
19 proposed new rules will offer to students.

20 Thank you.

21 MR. OCHOA: Thank you. Next speaker, please.

22 MR. RUSSELL: Hello. I'd like to thank the

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1 Department of Education for hearing us today.

2 My name's Brian Russell, and I'm a small  
3 business owner in Florida.

4 I'm here to express my concern regarding the  
5 Gainful Employment regulations that are proposed by the  
6 Department of Education.

7 I believe that enacting this rule against  
8 for-profit career colleges, based on the arbitrary  
9 debt-to-income thresholds, is unrealistic. I think  
10 typical starting salaries do not accurately reflect the  
11 value of one's income potential.

12 My company, Computer Input, provides computer  
13 services ranging from low voltage cabling to networking  
14 and installing small phone systems. In general, what  
15 we do falls under the heading of Information Technology  
16 or IT.

17 As can be demonstrated, starting salaries in  
18 high-tech fields are not a true measure of one's income  
19 potential. Employers, such as me, will always pay more  
20 to the candidate who has the most relevant work  
21 experience.

22 In addition, starting salaries do not include

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1 benefits, such as health insurance or 401(k) matching  
2 and their equations. To an employee, these paid  
3 benefits may be the equivalent of hundreds of dollars  
4 extra to their monthly income, yet not appear as  
5 salary.

6           There could be other perks that are included  
7 which could be having a company vehicle or even  
8 performance bonuses based on sales or performance which  
9 do not appear as the base salary for your calculations.  
10 All these serve to increase a graduate's overall  
11 standard of living above their base listed salary.

12           So there's many factors that need to be taken  
13 into account but the one I'm most familiar with is the  
14 work experience. Computer Input and Keiser University  
15 have been business partners for over nine years and we  
16 are proud to be associated with them.

17           IT and the related fields are just one of the  
18 high-growth areas that colleges, such as Keiser,  
19 specialize in. IT also happens to be one of those  
20 careers where actual experience in the field is  
21 invaluable.

22           IT is such a fast-evolving field, it requires

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1 successful employees to constantly update their skills.  
2 I know at Keiser, they strive to stay ahead of the  
3 curve by introducing new courses of study, such as  
4 computer security, to ensure that their students have a  
5 relevant education.

6           Unlike many public institutions who, due to  
7 budget cuts, cannot obtain the new hardware, private  
8 career colleges incorporate latest technologies into  
9 their classrooms. Their goal is to place as many of  
10 their students into good jobs as quickly as possible.

11           There's basically two groups of students who  
12 pursue degrees at career colleges: those looking to  
13 enhance or update their skills and those who are  
14 seeking out new careers. Neither group would probably  
15 be there if they already had high-paying jobs. So both  
16 groups are there for the same reason: to establish  
17 themselves in a long-term career.

18           A student's prior work experience can greatly  
19 affect his starting salary, especially in IT. The  
20 focus of employers today is on skills. Not  
21 surprisingly, starting salaries are lower for graduates  
22 with no experience than for one who has spent a few

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1 years in the field, but without the IT training that  
2 Keiser and others offer, doors would never open for  
3 these new technicians in the first place.

4           So the end result of being trained in current  
5 technologies is a better-prepared student that may be  
6 gainfully employed quickly. Does this mean they will  
7 receive high salaries immediately? Not necessarily. No  
8 one starts at the top. Actual experience in any field  
9 of endeavor is valuable, but it does mean that they are  
10 more likely to be successfully employed in a dynamic  
11 field that will serve them well for the rest of their  
12 lives and with that experience, higher pay will follow.

13           In my business, IT technicians with three  
14 years' experience make about one-third more than a  
15 fresh graduate. Therefore, I suggest a more realistic  
16 plan might be based on a graduate's third year salary  
17 or by which time he is earning closer to his true  
18 market value. Another possibility might be to use the  
19 average of the first three or first five years of  
20 income.

21           I strongly feel that basing this proposed  
22 Gainful Employment regulation on today's starting

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1 salaries is misguided. In these tough economic times,  
2 we know that starting salaries are not at an historic  
3 high, but the scarcity of high-paying jobs should not  
4 deter those who wish to pursue their dream.

5 The economy will turn around and these high-  
6 tech jobs will need to be filled. I applaud those  
7 individuals who are willing to learn a valuable new  
8 skill or to return for certifications and emerge as  
9 successful, productive members of our community.

10 I ask you to reconsider this regulation as  
11 many livelihoods are at stake, and thank you again for  
12 this opportunity.

13 MR. OCHOA: Thank you. Next speaker, please.

14 MS. MAISON: I'd like to thank you for  
15 letting me come here today and speak to you in regards  
16 to the proposed regulation for the Gainful Employment.

17 My name is Carolyn Maison, and I am a  
18 personal chef. I am the Executive Sous Chef at My  
19 Secret Chef in Tallahassee, Florida, and wanted to  
20 speak to you guys in regards to two things that really  
21 bother me about this legislation.

22 The first is I'm a graduate of a career

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1 school. After being an at-home mom for five years,  
2 found myself with two children that I needed to feed by  
3 myself. Going to a four-year university was not an  
4 option. Time, you know, starting out and getting into  
5 a new field, trying to find a way to feed my kids and  
6 myself. So I went to a career college and became a  
7 chef, graduated top of my class and went to London,  
8 England, to work in a restaurant where I learned lots  
9 and lots and lots of really wonderful things, brought  
10 back to Tallahassee and got right into the career.

11 I was an executive chef at a retirement  
12 community in Tallahassee and then moved on to being  
13 executive sous chef at My Secret Chef.

14 We cannot hire your average chefs. We need  
15 chefs that have real hands-on educational training. We  
16 need them to be educated in nutrition. We need for  
17 them to be educated in sanitation. We also need chefs  
18 that we don't train in the sense of we work alone. We  
19 go in alone. Nobody is there making sure that these  
20 people do what they're supposed to do.

21 So that being said, taking away, you know,  
22 funding for these chefs to go to college, there are no

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1 other options. If somebody is passionate about  
2 pursuing their career as a chef, most of those classes  
3 are offered at a career college.

4 So by doing this, I think that it's going to  
5 be detrimental to the culinary profession, the food  
6 service industry because it will really provide a sad  
7 lack of really qualified applicants for the jobs that  
8 we offer and for our business, as well as restaurants  
9 everywhere, it takes the average person who walks in  
10 off the streets to become a chef 10 to 20 years to work  
11 their way up to an executive chef position.

12 After I graduated from a career college, I  
13 managed to do that in three. So I really feel that it  
14 would be terribly wrong and tragic to deny basically a  
15 whole career rights to an education, and thank you.

16 MR. OCHOA: Thank you. Next speaker, please.

17 MS. MIRACLE: Good afternoon. My name's Lisa  
18 Miracle. I represent Madison Adult Career Center which  
19 is an Ohio postsecondary adult vocational program, and  
20 I'm here representing my school but also the other  
21 postsecondary adult vocational education programs, the  
22 public schools, in Ohio. Thank you for having me.

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1 I would like to speak to the effect that this  
2 regulation could have on our small public postsecondary  
3 vocational schools in Ohio.

4 Our postsecondary vocational education  
5 programs in Ohio are on the cutting edge. We continue  
6 to forge articulation and concurrent enrollment  
7 agreements with our local community colleges. WE feel  
8 that degree completion is an important attainment in  
9 students' lives and our program completion rates are  
10 over 80 percent in our schools.

11 We have skill attainment or certification  
12 credential rate attainment of over 80 percent for our  
13 students. Every day we see more of our completers  
14 enrolling in college through programs. Our schools  
15 collectively are encouraging students to move on the  
16 education train but often we are the first step on that  
17 education train.

18 Students who may not otherwise step foot on  
19 to a college campus will come to our schools looking  
20 for skills, looking for some help to get started and a  
21 lot of support which we're able to provide to them.

22 Our schools are located centrally to serve

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1 our students in communities who may not ever realize  
2 that a college education could be a reality.

3 I would like to see some consideration added  
4 for programs that have concurrent enrollment or  
5 articulation agreements forged with our local colleges  
6 to encourage those college degree attainments.

7 I would like some consideration and further  
8 definition into what encompasses a small school. Many  
9 of our schools in Ohio are public postsecondary  
10 vocational schools are small. We have responsible  
11 enrollment rates of 10 to 16 students per program for  
12 most of our programs and we feel that we don't flood  
13 the local market with too many of our graduates.

14 Our local labor market data are used when we  
15 plan our programs and they have to be approved as such  
16 at our state level. So we feel that our public schools  
17 are very well regulated in the State of Ohio.

18 We would like to add some consideration to  
19 this regulation for small schools. In some of the  
20 reporting data, if you have three years of data with 10  
21 to 16 students per program, you're basing those numbers  
22 on 30 to 48 students and a couple students that may

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1 have to file forbearance in a tough situation,  
2 depending on at what point in time you're collecting  
3 that data, could have a big impact on your numbers. So  
4 I would like to see some consideration to small  
5 schools.

6           And also, if we could add some consideration  
7 for -- I know in Ohio, our state has lost over 400,000  
8 jobs and it's been a very difficult economy. In my  
9 local area, we've had quite a few. We lost the GM  
10 plant, things like that. So our economy's constantly  
11 churning and it's going to take awhile to get out of  
12 that, but at a point in time when education is the most  
13 important, I don't want to see us lose our programs  
14 that can help turn our economies around, and I don't  
15 want to see the legislation penalize students who are  
16 responsible when they do come into a tough situation  
17 filing forbearances and economies that are very, very  
18 depressed.

19           And in a lot of cases in small schools, your  
20 financial aid staff is one person. This regulation can  
21 add an immense reporting burden on those institutions  
22 and I would like to see some consideration for those

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1 smaller schools where there's reporting and also -- I'm  
2 sorry.

3 Our public schools have lower fees, greater  
4 access, and I don't want to see our schools be out of  
5 business if, by a couple of students who would miss the  
6 reporting deadline or the reporting -- I'm sorry. I  
7 would hate to see our schools lose programs at a time  
8 when it's essential to have programs in our communities  
9 based on reporting regulations and employment income-  
10 to-debt ratios at a time that we need those programs to  
11 be in existence.

12 Thank you.

13 MR. OCHOA: Thank you. Next speaker, please.

14 DR. SMITH: My name is Dr. Peter Smith, a  
15 licensed psychologist in both Washington, D.C., and the  
16 State of Maryland.

17 Thank you to the Department of Ed for the  
18 chance to speak regarding Gainful Employment.

19 Currently, federal law requires career  
20 education programs that receive federal funds, federal  
21 student aid to "prepare students for gainful employment  
22 in a recognized occupation."

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1           The department's proposal would finally  
2 enforce the statutory requirement. Covered programs  
3 include most for-profit programs and all public and  
4 nonprofit programs of at least two years.

5           The urgent need to protect students and  
6 taxpayers from programs that may promise a lot and  
7 struggle to deliver is well documented by the July  
8 26th, 2010, Notice of Proposed Rulemaking. Everyone  
9 loses when taxpayers subsidize programs that routinely  
10 saddle students with debts they struggle to repay.

11           Students of minority status are particularly  
12 vulnerable because they disproportionately attend for-  
13 profit programs, accounting for at least half of all  
14 students enrolled.

15           As the NPRM notes, the career education  
16 industry's own research indicates its graduates default  
17 on federal student loans at twice the rate of other  
18 sectors, even after controlling for demographic  
19 differences.

20           When these programs do not prepare for jobs  
21 that enable them to repay their loans, the resulting  
22 debt can literally haunt these students for the rest of

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1 their lives, resulting in subjecting them to harassment  
2 by collection agencies, ruining their credit, making it  
3 difficult to buy a car or to qualify for home  
4 mortgages, and also making it difficult to begin to  
5 return to school in the future.

6 I urge that the regulations set a higher  
7 student loan repayment standard for programs receiving  
8 federal aid, that they require poor performing programs  
9 to improve to keep receiving student aid, provide equal  
10 protection for families with children, and start  
11 protecting students effectively next year.

12 Thank you for your time.

13 MR. OCHOA: Thank you. Next speaker, please.

14 MR. ALFORD: Harry C. Alford, National Black  
15 Chamber of Commerce.

16 Good afternoon. I am President and CEO of  
17 the largest black business association in the world,  
18 and I'm very grateful to have this opportunity to come  
19 here and speak today about a concerning rule that, on  
20 behalf of the National Black Chamber of Commerce, I  
21 believe will limit education and economic opportunities  
22 for thousands of African American and other minority

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1 students throughout the nation.

2 Unemployment rates have hovered around 10  
3 percent for the past two years. What is more  
4 disconcerting is that black unemployment numbers are  
5 even higher. The latest figures show 16.1 percent in  
6 September.

7 Today's workforce is more competitive than  
8 ever and it's harder and harder for people to get jobs.  
9 The National Black Chamber of Commerce represents  
10 200,000+ black-owned businesses with a 160 affiliated  
11 chapters operating internationally to sustain black  
12 communities through opportunity.

13 Some of our local chapters have weighed into  
14 this debate, including the 22 chapters of the Illinois  
15 State Black Chamber of Commerce, from Secretary  
16 Duncan's home state.

17 We recognize that opportunity is built  
18 largely on getting a good education and obtaining the  
19 skills necessary to gain employment. We recognize the  
20 department's desire to act in the best interests of  
21 students while ensuring that they fulfill their  
22 obligation to repay government loans.

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1           However, we believe that the rule will have  
2 the opposite effect and in reality will discriminate  
3 against the students, particularly those of minority  
4 and lower income and other at-risk backgrounds.

5           We need financial aid to get a good education  
6 and get a job. Gainful Employment is an inappropriate  
7 response to a very complicated issue that will have  
8 serious repercussions in the black community. Students  
9 who receive Pell Grants often have less payment  
10 resources and face a tougher time paying back loans  
11 than many of their peers.

12           If you look across the board, the default  
13 rates based on background, regardless of the school  
14 they attend. Because private sector schools enroll  
15 more low-income and minority students, there are higher  
16 default rates, making entire programs ineligible for  
17 Title IV financial aid if they fail to meet two  
18 arbitrary formulas derived from a debt-to-income ratio  
19 and loan repayment rates is overly-simplifying a  
20 problem that is rooted much deeper.

21           Minority students, as a group, tend to use  
22 student aid to meet their college expenses and are far

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1 more likely to fall short of the gainful employment  
2 guidelines.

3           This rule is aimed at career-oriented schools  
4 but if the same test were run on students at  
5 traditionally not-for-profit black colleges and  
6 universities, 93 percent, 93 percent would fail the  
7 gainful employment test rule to unacceptable payment  
8 rates.

9           As a country, we should be working to open  
10 the doors for students to go to college and pursue  
11 degrees in fields about which they are passionate. We  
12 should be looking for every conceivable pathway to get  
13 African Americans off the unemployment lines and into  
14 the classroom. Unfortunately, this rule is going to  
15 serve as a roadblock, limiting options and access.

16           Career colleges are a success story when it  
17 comes to minority students. At private not-for-profit  
18 colleges, 17 percent of the graduates are minority. At  
19 public not-for-profit institutions, the percentage is  
20 better higher than one in five. However, at career  
21 colleges and universities, 39 percent of all students,  
22 of all graduates are minority students.

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1           These schools are able to cater to  
2 nontraditional students and help them to acquire skills  
3 that will translate into a job. Many local businesses  
4 and businesses that the NBCC represents really rely on  
5 students who attend career colleges. For example,  
6 Illinois, Jared Elliot, the Vice President of  
7 Operations for americaneagle.com, relies on graduates  
8 of the Illinois Institute of Art-Schamburg, because he  
9 believes that art institute students have become  
10 fantastic assets in his organization and that the areas  
11 that the students are exposed to within the program are  
12 very well suited for the real world workflow.

13           americaneagle.com has been hiring several  
14 students from many institutions over the last several  
15 years and he is more pleased with the students coming  
16 out of the Illinois Institute of Art who are always the  
17 students at the top of the list.

18           Although there are thousands of stories like  
19 Jared's, the press is busy telling a different story,  
20 casting a dark shadow on these schools, making them out  
21 to be much worse than what they are. While there may  
22 be bad actors in the field, there are numerous schools

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1 that provide quality training and skills to help  
2 African Americans succeed and businesses count on them  
3 year after year when recruiting for new positions.

4 I urge you to reconsider the Gainful  
5 Employment Rule and to help our struggling minority  
6 communities get degrees that will better their lives.

7 Thank you very much.

8 MR. OCHOA: Thank you. Next speaker, please.

9 MS. RIVERA: Good afternoon. I'm Veronica  
10 Rivera, Legislative Staff Attorney with the Mexican-  
11 American Legal Defense and Educational Fund.

12 On behalf of MALDEF, I'm here to provide  
13 testimony in support of the regulations. Founded in  
14 1968, MALDEF is the nation's leading Latino Legal Civil  
15 Rights Organization. MALDEF promotes social change  
16 through legislative and regulatory advocacy, community  
17 education, and high-impact litigation in the areas of  
18 education, employment, immigrant rights, political  
19 access, and public resource equity.

20 MALDEF has long been committed to ensuring  
21 that Latino students not only have access to high-  
22 quality postsecondary programs but that also

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1 successfully complete these programs, ready to enter  
2 the workforce and apply their newly-acquired knowledge  
3 and skills.

4 As highlighted in Appendix A of the proposed  
5 regulations, a high percentage of Latino postsecondary  
6 students are attending nonprofit and for-profit  
7 institutions, 33.5 and 35.1 percent, respectively, that  
8 offer programs that are two-year or less.

9 Overall, MALDEF applauds the department's  
10 initiative to hold many postsecondary institutions  
11 accountable for suspect programs offered to students by  
12 requiring reporting that should trigger greater  
13 attention by the institutions to curriculum content  
14 and, by extension, career services offered to their  
15 students.

16 However, MALDEF offers the following  
17 suggestions to strengthen the proposed regulations  
18 before they are finalized.

19 First. Regarding the debt thresholds, more  
20 often than not Latino students, due to socioeconomic  
21 circumstances, incur high debt when seeking a post-  
22 secondary education. Requiring programs to

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1 meaningfully measure and report on proxies for gainful  
2 employment will assist prospective Latino students and  
3 their families in making wiser choices and better  
4 inform Latino taxpayers and advocates where certain  
5 programs are failing our students.

6           The department's decision to include options  
7 by which programs can measure gainful employment  
8 provides programs a greater choice to determine what  
9 data they will collect and report back.

10           For example, Section 668.7(a) defines three  
11 tests for debt thresholds which are cast in the  
12 alternative. All three formulations strike us,  
13 however, as invaluable datasets.

14           MALDEF recommends that programs be required  
15 to collect and report on all three calculations to the  
16 department for informational purposes only. The  
17 program, however, would retain the ability to select  
18 which of the three tests they will use to make the case  
19 that they have met the annual debt threshold required.

20           Second. In terms of warning disclosure, as  
21 mentioned in Appendix A, nonprofit and for-profit  
22 institutions offering programs that are two-year or

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1 less heavily recruit and market to low-income students  
2 of color, including Latino students, urging their  
3 enrollment in programs that they may not complete or,  
4 once completed, may not lead to gainful employment.

5 More can and should be done to shed light on  
6 the choices and indebtedness a prospective or current  
7 student faces at nonprofit and for-profit institutions  
8 offering programs that are two-year or less. Requiring  
9 suspect and failing programs that are under restricted  
10 status to include a prominent difficulty in repaying  
11 loans obtained warning and a most recent repayment rate  
12 disclosure and promotional enrollment in registration  
13 materials will greatly assist all students, including  
14 Latinos, make wiser college choices.

15 MALDEF, however, would encourage a slight  
16 additional to Section 668.7(d) that would encourage  
17 plain speak and duty to narrowly tailor interpret  
18 and/or translate the warning and disclosure in an  
19 understandable and uniform format and, to the extent  
20 practicable, in a language that students can  
21 understand.

22 Finally, regarding additional programs,

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1 MALDEF generally agrees with the department's move to  
2 require institutions that are subject to the proposed  
3 regulations to apply to the Secretary for approval of  
4 the programs.

5 We recommend, however, that public nonprofit  
6 institutions be given priority review over pending  
7 private nonprofit and for-profit submissions when  
8 application is submitted to the department.

9 Public nonprofit institutions, specifically  
10 two-year public institutions providing vocational  
11 training programs, are more likely to be subject to  
12 state and local government scrutiny when responding to  
13 market demand by establishing cutting edge programs.

14 To avoid nonprofit institutions from being  
15 stymied from exploring and establishing new programs  
16 that students, including Latino students, could benefit  
17 from, MALDEF recommends that priority review be given  
18 to new programs submitted by public nonprofit  
19 institutions.

20 Thank you.

21 MR. OCHOA: Thank you. Next speaker, please.

22 MR. MODICA: Thank you and good afternoon.

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1 My name is Charles Modica. I'm the Chancellor of St.  
2 George's University. We're based in Grenada. One of  
3 the programs we have there is the School of Medicine  
4 and that has been participating in the federal program  
5 for many years, now over three decades.

6 I was privileged to be a member of Team 2 in  
7 the Negotiating Rulemaking and I have a greater  
8 understanding now of what the department has to go  
9 through in trying to balance all of the interests in a  
10 responsible way.

11 I was one of the few participants that  
12 supported not only the recommendations of the  
13 department but felt they should be made even stricter  
14 in regulating some of the institutions involved.

15 With that and in the spirit of disclosing the  
16 principal concern I have today with the Gainful  
17 Employment, you should recognize that at that  
18 particular meeting, Team 2 did not deal with that  
19 issue, as you know, and we were led to believe, at  
20 least from our discussions there, that it would not  
21 affect our types of institutions.

22 I certainly, after hearing some of the

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1 previous speakers, understand their passions and needs  
2 and even though that doesn't directly concern us, I  
3 support in general what they are asking for and what  
4 they are passionate about and that is access to  
5 education, especially for minorities that in general  
6 could not be expected to have the same default rates as  
7 some of the higher-level institutions. So I certainly  
8 support that, even though it doesn't affect us.

9           With the Gainful Employment provisions, we  
10 went into Team 2, certainly at my institution, St.  
11 George's University, not particularly worried about it  
12 because we have always had a default rate of one  
13 percent or less, some years zero. So it wouldn't be  
14 something that would have kept me up at night, needless  
15 to say.

16           What did happen, though, is when the  
17 regulations were published, instead of the term  
18 "default rate" being used which was that two-year  
19 cohort, it was a repayment rate, and we did not know  
20 ours. In fact, we looked at it when it was published  
21 by the department for the first time and we noticed  
22 that it was lower than the threshold which we thought

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1 was a rather fair one when we heard it was only 45  
2 percent. With a one percent default rate, we didn't  
3 think we would be anywhere near that level.

4           So our rate would not be consistent with  
5 continuing in the program right now as published, but  
6 the reason for that is, particularly with medicine, the  
7 graduation date does not necessarily mean the start of  
8 gainful employment, a day later, and that is  
9 particularly -- this profession -- I assume there's  
10 some other ones similar but certainly with medicine,  
11 you graduate into a residency. You don't graduate into  
12 a profession yet. In fact, there's no state that will  
13 license a graduate of any medical school, including  
14 Harvard, without a residency required from one to three  
15 years, depending on which state minimum and specialty  
16 training even greater.

17           So our default rate kicks way up because our  
18 students go into a period during their residency  
19 training where they can repay interest only and they do  
20 that and that's why our default rate is so low, they're  
21 doing that, but the repayment rate, I presume, needs  
22 some capital paid in to the loan itself and none of

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1 them elect to do that and they are permitted not to do  
2 that. All medical school graduates are permitted to  
3 pay interest only.

4           So this kicks in a situation for our  
5 graduates which doesn't reflect what they will be doing  
6 in terms of rate repayment and in fact is  
7 understandable with all institutions.

8           When we looked at some of the American  
9 schools that report their medical schools separately,  
10 we were within three or four or five percent at most of  
11 Harvard< Yale, Jefferson Medical College, New York  
12 Medical College. In fact, we were better than some of  
13 those schools. So we now know this is just a little  
14 quirk, we believe, in the way it's written and I am  
15 hopeful that the department can rewrite it so that it  
16 reflects the start of the occupation or the profession  
17 itself which would be after residency and so I think a  
18 solution for our institutions would be, for medicine,  
19 that the repayment rate be calculated upon licensure.

20           As you know, a resident is not licensed.  
21 They're permitted to do a residency under the auspices  
22 of a hospital in their residency training program. So

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1 licensure would be the start point and with that, we  
2 will easily comply with any reasonable default rate,  
3 repayment rate.

4 So I'm done with 12 seconds, and I want to  
5 thank you. I appreciate the opportunity.

6 MR. OCHOA: Thank you. Next speaker, please.

7 MR. FERNANDEZ: Good afternoon. My name is  
8 David Fernandez, and I thank the panel and the guests  
9 for allowing me to express my thoughts and position on  
10 this very important position.

11 I wear multiple hats here. My background is  
12 pretty diverse. I went to Georgetown Law School here.  
13 Most of my life has been fighting for civil rights. I  
14 worked for MALDEF and one of my areas of expertise was  
15 education.

16 In that role, I gave testimony on the Hill  
17 approximately 1974 on behalf of maintaining the  
18 Department of Education and its programs. In that  
19 effort, there was a coalition that I represented of 50  
20 minority and women organizations during that testimony.

21 I'm also the former U.S. Hispanic Chamber of  
22 Commerce Legislative Chair. I was in that position for

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1 six years. So I have a pretty good well-rounded, I  
2 think, background.

3 In addition to that, I'm an Adjunct Professor  
4 at one of these institutions that we're speaking of,  
5 and one of the things that I would like to point out is  
6 that education is the pillar of our working class. It  
7 is an opportunity that we need to have for underserved  
8 individuals. The statistics clearly show that many of  
9 these institutions serve our veterans, our veterans  
10 that are coming back from fighting and protecting us  
11 throughout the world. They're coming back to try and  
12 adjust their lives into productive lives here in the  
13 U.S. They're also minority students who can't go to  
14 traditional schools.

15 I was fortunate. I was fortunate to go to  
16 Georgetown and Columbia, but I've seen throughout my  
17 life that many people like me are not. I also took  
18 loans, as well, just like these individuals are, as  
19 well, but it gives them an opportunity. An education  
20 is worth that. Education is worth taking that loan.

21 Now, what we might want to do is look at  
22 other options, look at other options in terms of

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1 internships, forcing better standards to these  
2 institutions and actually recognizing good institutions  
3 that provide good education and not restrict them or  
4 put them down or terminate their programs.

5           Also, we should seek better data collection  
6 throughout the system. We also need to differentiate  
7 good and bad institutions, two-year versus four-year,  
8 what the end result is of these programs, but more  
9 importantly, we need to look at what the repayment  
10 terms are. Why don't we look at getting more creative  
11 repayment terms?

12           Everybody who takes a loan doesn't start off  
13 taking a loan not wanting to pay. They just can't pay  
14 under the circumstances. The circumstances today is  
15 the economy. The economy is hurting all of us and it  
16 reflects on what's going on in terms of some of the  
17 repayment issues, but it also reflects on why we have  
18 unemployment and what we can do to address  
19 unemployment.

20           We need to educate our workforce. We need to  
21 educate our workforce in a way that they can  
22 participate in strengthening the U.S. again and

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1 strengthening our markets and strengthening our  
2 economy.

3           We don't want to close doors. This country  
4 was made on supporting and promoting education. Our  
5 forefathers were not high school students that came  
6 just right out of high school. Our forefathers were  
7 farmers, some were merchants, and they had education.  
8 They had their experience before they went into these  
9 career schools.

10           So let's take what we have and let's make it  
11 better. Don't restrict the system. Don't keep people  
12 out, but let's keep people in and let's work with what  
13 we have to make it a better system. We're not talking  
14 about restructuring the whole thing but just taking a  
15 better view of these items and concentrating on what  
16 the real problems are and not just having these  
17 standards that are not even applied equally on all  
18 institutions. It's not fair that certain institutions  
19 don't have to apply to this and others do.

20           In addition to that, these institutions  
21 actually do affect our economy, do affect and respond  
22 to veterans. For example, at Keiser, we have 14.4

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1 percent that come from the military, 40 percent are  
2 minorities, 70 percent are women, 61 percent are 25  
3 years of age or older, 15 to 18 percent are recent high  
4 school graduates, 76 percent are full-time and part-  
5 time employees, 68 percent have prior college  
6 experience. That's a red flag, also. These  
7 individuals that need these programs need these  
8 programs to continue and we cannot afford to restrict  
9 them.

10 Thank you very much.

11 MR. OCHOA: Thank you.

12 MR. AMADOR: Hello. Good afternoon. I'm  
13 Angelo Amador. I'm the Vice President for Labor and  
14 Workforce at the National Restaurant Association, and I  
15 thank you for the opportunity to testify today.

16 Yesterday, you heard from two of our state  
17 chapters, the South Carolina and Nevada Chapters, and  
18 they gave some specifics as to how some of the  
19 institutions and some of these programs affect their  
20 hiring and their economy in the particular states.

21 I want to talk today about the broader  
22 nationwide perspective that the National Restaurant

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1 Association has been able to gather after listening to  
2 our members.

3           We know, like everybody else, that if  
4 students were able to complete their education with no  
5 student loan debt, we know the subsequent income would  
6 be devoted to home purchases, retirement savings, or  
7 serving the community. However, the availability of  
8 federal student aid not only increases the likelihood  
9 that a student will enroll at an institution of higher  
10 education but it may also be the only way that a  
11 student will be able to afford higher education that  
12 will lead to his dream career.

13           However, at the National Restaurant  
14 Association, we're very concerned that the proposed  
15 regulations call for a consume protection approach that  
16 would result in the elimination of some very important  
17 programs leading to rewarding careers in our industry.

18           Specifically, the restaurant and food service  
19 industry needs the culinary arts programs at for-profit  
20 educational institutions to help provide training for  
21 our workforce.

22           Our industry is composed of 945,000

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1 restaurants and we employ 12.7 million people in the  
2 country. Even those made out of mostly small  
3 businesses, we're the second largest private sector  
4 employer in the country.

5           In the next 10 years, restaurants are  
6 expected to add 1.3 million additional jobs. These new  
7 jobs will be across all occupations in the industry.  
8 Some of the strongest gains will be on some of the  
9 occupations, such as food preparations and service,  
10 expected to be around 15 percent, where postsecondary  
11 education training is very valued.

12           Training is also very important for  
13 management positions where eight percent job growth is  
14 expected. In addition, by 2020, the industry will grow  
15 chef and head cook positions by 11 percent and first-  
16 line supervisors food preparation and server managers  
17 by 12 percent, and again yesterday they talked about  
18 some of the training that goes into that that deals  
19 also with safety.

20           For-profit education institutions serve as an  
21 important training ground for many of those who pursue  
22 a career in our field. For example, for-profit

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1 education institutions award 59 percent of all  
2 Bachelor's degrees in culinary programs, more than the  
3 number of Bachelor's degrees awarded by private  
4 nonprofit education and public institutions combined.

5           If these programs are eliminated or limited,  
6 many of the culinary arts students will not be able to  
7 receive the training they desire and may not have the  
8 careers they want and might not even join the  
9 restaurant and food service industry.

10           Even if formal training is not required to  
11 enter the restaurant and food service workforce, it can  
12 help advance and maintain a career in the industry. The  
13 Department of Labor's Occupational Outlook Handbook  
14 states, "Although certification is not required, it can  
15 help to improve accomplishment and lead to advancement  
16 in higher-paying positions." Now this doesn't happen  
17 overnight.

18           The National Restaurant Association does  
19 support, as most of the speakers have before me, some  
20 disclosure requirements and programs with regards to  
21 potential debt-to-income ratios and loan repayment  
22 rates. I hope you will be able to work with MALDEF in

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1 figuring out what those would be.

2           However, once we assure that students are  
3 fully informed of the potential debt burden, it makes  
4 sense to allow the students the freedom to make an  
5 intelligent decision for themselves and their families.

6           Furthermore, the test metrics used to  
7 evaluate programs should not ignore the quality of the  
8 programs. Many tests being discussed are arbitrary and  
9 bear no relationship to the quality of the education  
10 the student receives. Higher-quality degrees, such as  
11 Bachelor's degrees, versus an associate's degree or  
12 certificate, usually will come with higher costs.

13           For example, just preparing one of these  
14 kitchens that are used for training people for  
15 Bachelor's degree can cost up to \$1 million.

16           We're also concerned with the test metrics  
17 being proposed that would make it extremely difficult,  
18 if not economically infeasible, for our institutions to  
19 offer some of these programs.

20           Now, finally, I would say that another  
21 concern we have in the debate is the repayment of the  
22 loans. In this regard, whether the former student

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1 completed the program or not, I can assure you that if  
2 I had not finished my law degree, it would have been a  
3 heck of a lot more difficult for me to pay my student  
4 loans.

5 Finally, I would just tell you that we are in  
6 agreement that some disclosure could happen, you know,  
7 to educate students, but we think that the rule and the  
8 metrics that would deny education to some of these  
9 students is not something that we could support.

10 Thank you.

11 MR. OCHOA: Thank you. Next speaker, please.

12 MS. MISHORY: Hi. My name is Jennifer  
13 Mishory, and I'm the Deputy Director of Young  
14 Invincibles.

15 As an organization that advocates for young  
16 adults ages 18 to 34, an age range that encompasses  
17 nearly 80 percent of students at for-profit colleges,  
18 we have obvious concerns about the extent to which  
19 career education programs provide value through their  
20 curriculum or, more specifically, the disturbing  
21 frequency that young people leave some career education  
22 programs having received little valuable but saddled

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1 with enormous amounts of debt.

2 For this reason, we support a strong and  
3 effective gainful employment regulation taking effect  
4 in 2012.

5 Our age cohort faced a 13.4 percent  
6 unemployment rate last year and the numbers for the  
7 younger half of that age group are even more  
8 staggering, somewhere around 18 percent. Unfortunately,  
9 the recession is just a high point along a continuing  
10 trendline of employment struggles.

11

12 Wages have stagnated or fallen for entry-  
13 level workers over the past 20 years and job  
14 instability has increased. Our constituency is  
15 struggling and it is crucial that we get federal grant  
16 and loan money flowing through programs that will help  
17 to dig us out of this hole.

18 Indeed, the point may be obvious but it's  
19 nonetheless worthwhile to state the proposed rules are  
20 needed to protect our country's future and reverse this  
21 overall negative trend. Improving higher education is  
22 one of the most important ways that we can address this

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1 problem.

2 Federal investment of grant and loan money  
3 must be a step forward for our generation. I know that  
4 you've heard from numerous speakers, so I'll be very  
5 brief and highlight certain specific points that have  
6 been largely stated but could use repetition.

7 Some have raised concerns about retroactivity  
8 and I just wanted to highlight that the proposed rule  
9 wouldn't start until July 2012 and wouldn't be fully  
10 effective until 2013. It's not retroactive and it  
11 gives schools plenty of time to improve their programs.

12 The proposed rule also doesn't single out any  
13 one sector. It actually applies to more public  
14 programs than for-profit programs. The proposed rule  
15 will increase access to quality higher education for  
16 all while protecting vulnerable students and taxpayers.  
17 Good programs will benefit and only poor-performing  
18 programs will be affected, and, finally, it will ensure  
19 that students are prepared for in-demand jobs and able  
20 to repay their loans.

21 Beyond those points, we believe that more can  
22 be done through these regulations and by the Department

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1 of Education and just two points in particular. We  
2 think that poorly-performing programs should be  
3 required to improve or lose eligibility for federal  
4 aid. Programs should not be permitted to stay in the  
5 restricted category indefinitely, and the department  
6 should improve the discretionary income metric. Using  
7 a family size of one is inappropriate for students who  
8 attend for-profit colleges, many of whom have  
9 dependents.

10 Those are just a few improvements that should  
11 join the chorus of voices that you've heard advocating  
12 for strong, fair, and protective regulations.

13 Thank you for your time and the opportunity  
14 to speak.

15 MR. OCHOA: Thank you. Next speaker, please.  
16 No? We'll take a five-minute break at this point.

17 (Recess.)

18 MR. KVAAL: All right. We're ready to get  
19 started again.

20 The new faces on the panel for anyone who  
21 doesn't know us by now, I'm James Kvall, Deputy Under  
22 Secretary. I'm joined by Fred Sellers of Policy.

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1 MR. DAVIS: So I don't need to whistle to  
2 wake all of you up, I guess.

3 Hello. My name is Lanny J. Davis. I serve  
4 as counsel and public spokesperson for the Coalition  
5 for Educational Success, a group of private for-profit  
6 career colleges with 350,000 students at 478 locations  
7 in 41 states.

8 The Coalition has four concerns with the  
9 Gainful Employment regulations as they are currently  
10 proposed.

11 First. They fail to hold all institutions,  
12 all institutions of higher education to a single high  
13 standard for program integrity and student outcomes.  
14 Currently, community colleges testified and not only  
15 don't want these regulations applied to them actually  
16 asked you to narrow the regulations which is somewhat  
17 ironic.

18 They lack fair, transparent, and public  
19 metrics for measurement. They will cause underserved  
20 groups to lose access to higher education and they will  
21 block, fourthly, a direct path for career college  
22 graduates to in-demand jobs.

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1           Let me address each of these points briefly.  
2 First. Currently, the new rules are directly only at  
3 for-profit institutions, a relatively small section of  
4 higher education. It's as if an abuse in one place is  
5 bad, an abuse in another place is not so bad, which is  
6 the irony of the people who say don't regulate me, just  
7 regulate somebody else.

8           Secondly. There is no reason, as far as I  
9 can determine, why the department has set benchmarks  
10 that select metrics that are not transparent. For  
11 example, they have picked a metric that describes the  
12 Bureau of Labor Statistics as not relevant to determine  
13 income, rather, which is a transparent Internet-  
14 available statistic. It was originally proposed by the  
15 department.

16           Guess what happened. They got rid of  
17 transparency and they went to the Social Security  
18 Administration or IRS data, nontransparent. So we have  
19 DOE regulators favoring nontransparent criteria. We do  
20 not understand that, and I hope that people who have  
21 not read this regulation will ask yourselves why would  
22 the DOE favor nontransparent criteria over transparent

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1 criteria.

2           Thirdly. Career colleges have a higher  
3 proportion of low-income and minority students who rely  
4 on federal loans to pay for their education. Loan  
5 default rates are about the economic status of  
6 students, not the tax status of colleges or  
7 universities.

8           An independent financial aid professional,  
9 Mark Kantor, examined the department's proposed  
10 regulation and concluded that colleges which do not  
11 enroll minority students will generally have loan  
12 repayment rates within the department's proposed  
13 guidelines while colleges that do enroll more minority  
14 students will fail.

15           Isn't that strange in a progressive  
16 Democratic Administration to propose regulations with a  
17 higher proportion of failure the higher the number of  
18 minority students?

19           Finally, and I speak as a liberal Democrat  
20 asking that question, confusing me why this  
21 Administration would want that unintended, I'm sure  
22 unintended consequence.

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1           Finally, the department's regulations do not  
2 take into account the millions of success stories of  
3 career college graduates who have achieved their goal  
4 of finding new jobs, advancing their careers and  
5 earning higher pay.

6           Let me conclude by saying that this proposed  
7 regulation, if unchanged in its present wording, the  
8 DOE will be making a law that will shut out the very  
9 students at the underclass of our society, will  
10 adversely affect them, with the most to gain through  
11 their access to the programs offered by career  
12 colleges.

13           Our schools provide the clearest career path  
14 for nontraditional students, like full-time workers,  
15 working parents and mothers, you heard one of them  
16 today speaking without a script from her heart,  
17 workforce returners, and, of course, minorities.

18           That would explain the broad expression of  
19 unease about the department's plans among progressive  
20 Democrats, such as myself, and including congressional  
21 leaders, such as members of the Congressional Black  
22 Caucus, Alcee Hastings, Ed Towns, Yvette Clark, Donald

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1 Payne, Bobby Scott, Rev. Jesse Jackson, and Rev. Al  
2 Sharpton.

3           What are we missing? If a Republican  
4 Administration proposed these regulations, we Democrats  
5 would be on our feet saying what are you doing going  
6 after the most vulnerable students in our society and  
7 if you're going to do it, why are you leaving out  
8 community colleges? Why are you leaving out not-for-  
9 profits? Why are you leaving out Yale, Harvard, and  
10 elite universities where abuses also can occur and we  
11 know are dependent on federal funds just as career  
12 colleges are?

13           I suggest this is time to put an amber light  
14 on. We think what you're doing is doing a scalpel  
15 approach to regulation and not a broad hatchet.

16           Thank you.

17           MS. HINOJOSA: Good afternoon. My name is  
18 Amy Lynn Hinojosa, and I am representing MANA, a  
19 National Latino Organization. We're the oldest and  
20 largest national organization of Latinos, comprised of  
21 chapters, affiliates, and members nationwide, who share  
22 a vision of actively working to create a better quality

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1 of life for Hispanics.

2 We also administer the only national youth  
3 mentoring program tailored to and specifically created  
4 for Latino youth.

5 I would like to extend my sincere thanks to  
6 you today for the opportunity to provide testimony that  
7 further elaborates our position on the proposed Gainful  
8 Employment Rule.

9 While we appreciate the Department of  
10 Education's efforts to ensure private sector schools  
11 provide a quality education for the students they  
12 serve, we are also encouraged by the work that the  
13 private higher education sector has done to provide  
14 minority students with a career-focused education.

15 As a Latino organization that values the  
16 importance of empowering young women to succeed, we  
17 know all too well the social challenges faced by our  
18 young women trying to achieve milestones many of us  
19 take for granted.

20 In our community, having a higher education  
21 is a way out of poverty and an opportunity to provide a  
22 better quality of life for themselves and their

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1 families. We have a fragmented community consisting of  
2 all ranges of socioeconomic and cultural backgrounds  
3 and thus we understand the need to have different  
4 avenues of higher education available.

5           Considering that current statistics show that  
6 Latinos only make 53 cents on the dollar that white  
7 males make, we are very concerned about the  
8 consequences for Hispanic students from the  
9 department's proposed Gainful Employment Rule.

10           One of MANA's core values is to ensure  
11 quality and fairness for our community. As such, it is  
12 critical to our mission that all students, primarily  
13 Latinos, retain access to all educational, vocational,  
14 and training programs.

15           Implementation of the proposed rule would  
16 adversely affect Hispanic students' ability to borrow  
17 money and limit Hispanic students' access to higher  
18 education. Under the proposed rule, many career  
19 programs would be ineligible for financial assistance  
20 by failing a debt-to-service income ratio standard.

21           We share your concern of students who find  
22 themselves unable to meet their financial obligations.

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1 However, efforts to lift the burden of student debt  
2 should not also reduce educational opportunities for  
3 Hispanic and low-income students.

4           The programs offered by the private higher  
5 education sector meet the needs of students and provide  
6 the skill sets they need to pursue careers in their  
7 chosen fields. This issue is of great concern to our  
8 organization and to other Hispanic organizations.

9           We thank you for your time and urge the  
10 Department of Education to not impose the Gainful  
11 Employment Rule that would limit the ability of  
12 Hispanic students to achieve higher education.

13           Thank you.

14           MR. LOPEZ: Good afternoon. Thank you. My  
15 name is Mario Lopez, and I'm President of the Hispanic  
16 Leadership Fund, a nonpartisan advocacy organization  
17 based here in the Washington, D.C., area.

18           I'm here today out of concern for the  
19 proposed Gainful Employment Rule. I thank you for the  
20 opportunity to be here to express some of the concerns  
21 that we see with the proposed rule and why we are  
22 worried that it has the potential to hurt minority

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1 students.

2 As an organization dedicated to strengthening  
3 working families, we see firsthand the benefits that  
4 proprietary schools offer the Hispanic population.

5 Students today are faced with a barrage of challenges  
6 that make it more and more difficult to go to school.

7 Time and time again, we see Hispanic students

8 graduating from proprietary schools and getting jobs

9 that improve their life. Many of these students face

10 real-life hardships. They come from low-income

11 communities, are working full time and trying to raise

12 a family. Sometimes they may be a single parent

13 raising a family. They don't have time or the

14 resources to attend a traditional four-year university.

15 Even with all these obstacles, students, like

16 Jon Cruz, a 2007 graduate of the Art Institute in

17 Washington, D.C., gain the skills they need to be

18 successful during their career college educations. Jon

19 is currently employed as a designer for AOL Instant

20 Messenger. In his current role, he is charged with

21 serving as a lead visual designer for AIM on the

22 Windows Mobile. Jon credits the Portfolio Show at the

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1 Art Institute of Washington with helping him make a  
2 name for himself.

3 Our focus should be on opening doors for  
4 students that have the potential to improve the quality  
5 of life for themselves and for their families. We need  
6 to create more opportunities, not limit the current  
7 options that are available to them right now.

8 No one wants to see students taken on more  
9 debt than they can pay back, but making broad sweeping  
10 regulations is going to do more harm to students than  
11 it will help. Students have the right to choose the  
12 education and career path that they will pursue and not  
13 have it restricted by arbitrary debt-to-income ratios.

14 The department's own studies show that career  
15 colleges will be the hardest hit by the Gainful  
16 Employment Rule and that means the minorities will be  
17 the hardest hit by its implementation.

18 The President has explicitly set a goal of  
19 having the highest proportion of college graduates in  
20 the world by 2020. In order to do this, we have to put  
21 a special focus on helping students who are considered  
22 at risk and have a harder time not only getting to

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1 college but graduating with a degree. Career colleges  
2 play an extremely important role in helping those  
3 students.

4 Gainful employment is going to have drastic  
5 consequences on helping at-risk students to get degrees  
6 because it will be hurting students who need to borrow  
7 money the most. According to an assessment of National  
8 Center for Education Statistics data, career colleges  
9 are doing a very good job of helping minority students  
10 graduate. "Four-year colleges that are predominantly  
11 minority-serving exhibit a higher graduation rate than  
12 public and private institutions that also serve  
13 minority students, 47 percent versus 33 percent and 40  
14 percent, respectively."

15 Implementing the Gainful Employment Rule is a  
16 step in the wrong direction. It will move our country  
17 further away from the goals set by the current  
18 Administration and the Hispanic Leadership Fund  
19 fundamentally believes that students of all backgrounds  
20 should be able to make their own choices about what  
21 programs are likely to lead to gainful employment.

22 Thank you.

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1 MR. MILLER: Thank you. My name is Harris  
2 Miller. I'm the President of the Association of  
3 Private Sector Colleges and Universities representing  
4 approximately 1,500 institutions. I understand I'm the  
5 last speaker, so I'm the only thing keeping the  
6 audience from going out and having a Friday afternoon  
7 libation. So I will try to be sensitive to the time.

8 I want to thank the department for engaging  
9 in a dialogue recently on this topic. Maybe if it'd  
10 had this much dialogue 10 months ago, we'd be a lot  
11 farther down the path, but I have sensed a lot of  
12 progress.

13 Our concerns with the proposed Gainful  
14 Employment Rule are several.

15 1. We have concerns about the statutory  
16 authority of the department. We've had a chance to  
17 discuss that at length with Ms. Yuan, Mr. Rose, and we  
18 continue to express that concern, even in the most  
19 recent configuration of the proposed rule.

20 Secondly. We still have failed to see any  
21 evidence presented by the department or anybody else,  
22 for that matter, that it really is true that the

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1 programs that have a higher debt-to-income ratio lead  
2 to situations where students have a harder time  
3 repaying their loans.

4           In fact, the analysis we had done by  
5 Professor Jonathan Kurian of Northwestern University,  
6 based on about 600,000 students from our institutions,  
7 showed that students who graduated from institutions  
8 with a higher debt-to-income ratio than schools that  
9 had lower debt-to-income ratio actually had better  
10 default rates on their loans.

11           We asked ourselves why, and I think the  
12 answer is those are often students who go to longer  
13 programs because then they have to borrow more and when  
14 they do graduate, they feel very committed to repaying  
15 their loans because they've seen the value proposition,  
16 but the data are pretty clear and it's not a  
17 statistical fluke as far as we can tell.

18           Third. We still have concerns about the  
19 particular value proposition implicit in the proposed  
20 rule. All the labor economists who study these issues,  
21 including one of the current members of the Council of  
22 Economic Advisors, have written about the value of

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1 education is a relative value in terms of one's  
2 earnings, not absolute. It's where you started from  
3 and where you end up because people who start already  
4 at a high socio-demographic level and end up graduating  
5 and having high salaries have, as was once quoted about  
6 one politician about another, have ended up on third  
7 base and thought they hit a triple.

8           The fact is that those individuals have  
9 already started with massive advantages and the  
10 education has not contributed nearly as much to their  
11 advancement, whereas students who go to our schools, to  
12 many community colleges, to minority-serving  
13 institutions, getting the education is a huge  
14 differentiator in their lives.

15           Also, the regulation fails to consider the  
16 fact that the payback to the student is over a  
17 lifetime. Most labor economists and others estimate  
18 that the payback for every additional year of education  
19 is something like eight percent. So to them, eight  
20 percent as the metric, when that is being covered just  
21 by one year, seems to us to be a bad way to think about  
22 this.

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1           The proposed rule also fails to recognize the  
2 fact that longer-term programs are, by their very  
3 nature, more expensive and require more borrowing for  
4 low-income students and working adults and yet the  
5 eight percent figure, the 12 percent figure run across  
6 the programs, regardless of their length.

7           So we would prefer the department not do this  
8 at all. We do believe it is ultra-biased, as we said,  
9 but at the end of the day, my board decided that in our  
10 comments, which we submitted to the department, we at  
11 least ought to propose an alternative which follows  
12 some of the perspectives the department has but is  
13 workable and is transparent.

14           As Mr. Davis mentioned, one of our biggest  
15 concerns about the proposed rule is this use of actual  
16 wages reported to the Government which, of course, is  
17 private information, is not available. The Bureau of  
18 Labor Statistics data are available, as Mr. Davis said.  
19 So that is one major proposal that we would suggest, if  
20 you are going to use earnings, use something that is  
21 available and transparent.

22           Secondly. We think in terms of the repayment

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1 period, the proposed rule looks at 10 years. We would  
2 suggest that be extended to 15 or 20 years. Number 1.

3 that's the actual time most students take to  
4 repay their loans. Secondly. It recognizes  
5 intellectually again from an economic point of view  
6 that the benefit lasts for a long time and is not  
7 condensed into a very short period of time as is  
8 implicit in the 10-year repayment period.

9 In terms of what type of data point one  
10 should choose from the Bureau of Labor Statistics, we  
11 suggest the 50th percentile, not the 25th percentile,  
12 and the reason we're suggesting that is, as one of the  
13 earlier witnesses mentioned, the fact is you don't get  
14 immediate payoff from your education. Most labor  
15 economists tell us that it's seven to eight or nine  
16 years after your education is completed that you really  
17 begin to see that divergence and advantage for people  
18 with advanced degrees.

19 Someone who has an associate's degree and a  
20 Bachelor's degree, the first two or three years their  
21 earnings may not be that different. In some  
22 professions, again, as some of the other witnesses have

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1 said, particularly in healthcare, the payoff for that  
2 extra education often doesn't even really begin until  
3 the fourth or fifth or sixth year out of school and yet  
4 this proposal looks very much at the first three years.  
5 So we think that moving up to the 50th percentile would  
6 make a lot more sense.

7           The last point I'd like to mention is this  
8 whole issue of share-shifting. The department has now  
9 somewhat conceded that a lot of students will lose  
10 their opportunities to attend career colleges which  
11 will be put out of business or at least their programs  
12 will be put out of business.

13           But the department believes that the 90  
14 percent of those students will end up somewhere else in  
15 the system, only 10 percent will be kicked to the curb,  
16 so to speak.

17           We don't really see that that is accurate.  
18 Our best, most optimistic projection is that 60 percent  
19 will be able to and the reason is that these students  
20 who we're talking about for the most part are truly  
21 community-based students. They're truly community-  
22 based students. So it's not like they're trying to

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1 decide whether to go to Ann Arbor or go to New Haven.

2           A geographical move of even a couple of miles  
3 to go to a different school is very significant, plus  
4 our expectation is if a program fails in one location,  
5 it's going to fail in another location.

6           Thank you very much.

7           MR. KVAAL: And I wanted to thank all of our  
8 speakers for the time and thoughtfulness that they've  
9 put into their comments. I know a number of people  
10 traveled to be here today and I appreciate that very  
11 much. We've heard from close to 70 speakers over the  
12 last two days. We've gotten hundreds of constructive  
13 suggestions on the rules and I want people to know that  
14 we'll be considering them very carefully.

15           Secretary Duncan has said that in his view  
16 the majority of for-profit colleges are providing  
17 valuable services to students and that they're an  
18 important part of reaching the President's 2020 goal  
19 and we're trying to strike the right balance that will  
20 take advantage of the strengths of the for-profit  
21 sector while at the same time addressing some of the  
22 problems that we've heard of at a few of these

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1 institutions.

2           So the suggestions we've heard today will  
3 help us as we try and strike that balance, and I do  
4 appreciate everyone's attending today, especially the  
5 hearty few that are still here on Friday afternoon.

6           Thank you.

7                   (Whereupon, the meeting adjourned at  
8                   2:18 p.m.)

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, JEFFREY MICKLE, the officer before whom  
3 the foregoing meeting was taken, do hereby certify  
4 that the testimony that appears in the foregoing pages  
5 was recorded by me and thereafter reduced to  
6 typewriting under my direction; that said meeting is a  
7 true record of the proceedings; that I am neither  
8 counsel for, related to, nor employed by and of the  
9 parties to the action in which this testimony was  
10 taken; and further, that I am not a relative or  
11 employee of any counsel or attorney employed by the  
12 parties hereto, nor financially or otherwise interested  
13 in the outcome of this action.

14

15

16

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JEFFREY MICKLE  
Notary Public in and for the  
District of Columbia

18

19

20

21 My commission expires: June 30, 2015

22

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