U.S. DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

PUBLIC REGIONAL HEARING ON
NEGOTIATED RULEMAKING

Monday, June 22, 2009
9:00 a.m. – 4:00 p.m.

Community College of Philadelphia
Center for Business & Industry
C2-28 Lecture Room
18th & Callowhill Streets
Philadelphia, PA
MR. MADZELAN: Good morning, everyone. My name is Dan Madzelan. I am the currently Acting Assistant Secretary for Postsecondary Education in the Department of Education. I want to welcome everyone here today for this hearing where we are here to get your ideas around this next round of Negotiated Rulemaking.

Before I go any further, I want to introduce my colleagues here at the table. My immediate left, also from the Office of Postsecondary Education, Carney McCullough, and far left, from our Office of General Counsel, Steve Finley.

So, today we have on our end a very simple protocol: you talk; we listen. And this is the start of our Negotiated Rulemaking process. I recognize a number of people in the audience today, so I know you are as familiar with this as we are at this end of the room. But basically we have a statutory requirement that when we regulate in the HEA Title IV Student Aid Programs, that we engage in a process of Negotiated Rulemaking to develop
the proposed rule. Basically, that's where we sit at a table with representatives of parties affected by our regulations--affected by and interested in our regulations.

So, the first step in that process is the convening of public hearings such as this one here today. This is the third that we--third and final for this round of rulemaking. Last week we were in Denver and Little Rock, and today, of course, in Philadelphia. So, we did publish a notice in the Federal Register, not only announcing this round of rulemaking, but also the topic areas that we have indicated we think are ripe for rulemaking at this time.

Now, backing up just slightly, we are still in the midst or coming down to the middle of, I guess, the prior rulemaking--Negotiated Rulemaking session. We started this past winter with five teams implementing provisions of the Higher Education Opportunity Act--last summer's reauthorization of the Higher Education Act. And so we went through a process very similar to this with public hearings and then our negotiated sessions which we finished up a month or two ago.
And so now we are in the process of getting our Notice of Proposed Rulemaking published, five of those, which I think we are pretty much on schedule to have those accomplished by around July 1st. That might slip slightly, but again, we have to have final rules in place by November 1st.

So, again, we're still continuing an existing process as we kick off this new process. Well, why are we kicking off this new process or a second round now? Well, when we looked at the Higher Education Act and what the Congress had passed last summer, we basically divided the amendments into two parts--two buckets--Column A and Column B. Column A being the items that we needed to do right away to get implemented quickly, and Column B was those items that could wait perhaps a little bit. And we've indicated in the notice at least some of those Column B items. The provisions related largely to foreign institutions whose students participate in our student loan programs.

Of course, a big change in Washington over the fall and winter, so with a new team in place, with addition to Column B, we got a Column C. And
so some additional items that we've identified back at the Department and again as we've published in the notice.

And these—if you want to put a single label on it, it's really about program integrity. So, you've seen—and some of these actually bled out a little bit from some of the discussions that we had in the round of Negotiated Rulemaking that we just ended. So, a couple around, you know, satisfactory academic progress and, you know, definition of a credit hour for purposes of the Pell Grant—the two Pell—year-round Pell Grant. You know, we had that notion of acceleration, accelerating your program of study for eligibility for the two Pell in one year. So, again, that kind of touches satisfactory academic progress. So, there's a couple of things that, you know, in conversation in the last round and some of our own thinking we thought we might take another look at.

A couple of others around state authorization and of institutions as part of the eligibility for Title IV programs. And also, another item in that area within the definition, you know, gainful employment that, you know,
eligible institutions need to provide their students for gainful employment.

A couple of other items that have been out there for a while and we've had some experience now and maybe take another look at some of our incentive compensation. You know we developed some safe harbors in rulemaking several years ago. We have six or seven years of experience under our belts now. It's probably not a bad idea to take a look at how those safe harbors have worked.

Also, sort of in the same vein as something we hadn't looked at in a while are verification rules, so part of some of our ongoing efforts around simplification of the financial aid application process. Possibly, you know, better use of IRS data, those kinds of things, maybe not a bad idea to take a look at our verification rules again.

And, lastly, you know, the definition of a high school diploma for purposes of our student aid programs. Now, you know, to be eligible--a student to be eligible for aid programs has to be a high school graduate or possess the recognized equivalent, generally GED. Not only have we seen,
obviously, online education expands in recent years in the postsecondary area, evidently it's expanding a bit in the secondary area as well. So, we've had some questions around, you know, just exactly what is a high school diploma for purposes of a student establishing eligibility for Title IV programs.

So, again, those are the things that we've identified. And we are hopeful that you will share with us your ideas as well. If you want to comment on what we are proposing, you're welcome. If you want to suggest to us additional items, we certainly welcome that as well. Process-wise, we will take the information we have gotten here today, as well as at Denver and Little Rock, and the written comments that we will have received by the end of the week, and put together--take a little bit of time back at the office and put together an initial negotiating agenda. And a little bit later this summer, we'll publish another notice in the Federal Register describing what it is we intend to discuss, to negotiate, as well as the schedule for the actual negotiating committees.

Before I go on any farther I want to welcome Glenn Cummings, also from the Department,
our Deputy Assistant Secretary in our Office of Vocational and Adult Education.

The last point I want to make is remember this is a rulemaking process. We are here to interpret and implement statute. We are not here to make statutory changes nor to undue statutory provisions through the rulemaking process. That's just something we are not able to do. We are not legislators here; we are regulators here.

So, with that I would offer my colleagues from the Department an opportunity to offer any comments they may have.

Glenn?

MR. CUMMINGS: Thank you, David. I'm Glenn Cummings, Deputy Assistant Secretary in OVAE, as we call it.

I just want to thank David for his overview and thank you for being here. I think he has outlined exactly what we need to do today. We're looking for feedback, we're looking for help, and we're looking for working within the parameters of the specified regulation ability that we have.

So, at that point, we're looking forward to learning ourselves and to making sure that we're
clear about where many of you stand. And we're
hoping for a very productive couple of days.

Thank you.

**MR. FINLEY:** I have nothing to add to that except that it's a long way from here to a final regulation, and it's always interesting to look at a final regulation and walk it backwards and see its origins from comments at hearings just like this. So, we're here today to listen and see what develops from it.

**MS. McCULLOUGH:** I also really have nothing to add other than I'm looking forward to hearing your comments about things that we put on the table and maybe some additional items that you would like to see on the table.

**MR. MADZELAN:** Okay, with that we'll begin. Now, you have signed up to speak in 10-minute intervals. It has generally been our experience that you don't take your full 10 minutes, and also you don't see any, you know, red, green, and yellow lights up here. It's not that we're going to time you. But, again, you know, please limit your remarks to right around 10 minutes.
And as some of you don't use your full allotted time, then we'll just kind of speed up the morning a little bit. We'll just continue to march through our list of speakers. And we are scheduled for a 10-minute break right around 10:30. So, again, we'll see. When we get close to 10:30 we'll see where we are and maybe take a break a little bit earlier or a little bit later.

So, with that I want to welcome our first speaker of the morning, Stephen Curtis.

**MR. CURTIS:** Good morning. I'm Steve Curtis, President of Community College of Philadelphia.

And first, let me welcome you to Philadelphia and to our college. We're very pleased, not only to have the opportunity to testify before you, but also to serve as one of the locations around the country where you are hosting these public hearings. So, on behalf of all of us at the college, welcome.

I'm providing written testimony. I'm not going to read it all. I'm just going to try to summarize a few points. But what I would like to do--when I think about the regulatory environment
at the federal level, I'm aware that it has a very
direct impact on students and, in this case,
students at my own institution. So, I'll preface
my remarks with just a couple of statements about
students because I think that's important to
understand in terms of a couple of the suggestions
I'd like to make.

Last year, the Philadelphia Workforce
Investment Board issued a report for our city
called "A Tale of Two Cities." It utilized
substantial research to help establish an agenda
for Philadelphia's economic future. The report
portrayed "a city on the rise"--that's a quote--
focused on the prosperity associated with a world-
class city that has world-class educational,
medical, cultural institutions. We have, for
example, one of the highest concentrations of
higher education students in the United States.

But this same report also depicted
Philadelphia as--and I quote again--"a city on the
decline." We have a public school system taken
over by the state; a ranking atop the nation's 10
largest cities in the percentage of people living
in poverty; a labor force participation rate that
is 96th out of the nation's 100 largest cities; a college attainment rate that places Philadelphia 92nd among the 100 largest cities.

We see Community College of Philadelphia as a bridge that moves residents from "the city on decline" to "the city on the rise." With that in mind, we support an open admission policy, we seek to keep the cost of higher education affordable, and we place a premium on student success outcomes. Our commitment to the twin principles of access and student success is the reason we have such a strong interest in the federal government's support of these same goals and of the regulatory context for that support.

About two-thirds of our students here are women. The same proportion attend part-time, and the overwhelming majority of our students are adults, not the traditional 18- to 20-year-old college student. We are the largest single point of entry into higher education anywhere in the Commonwealth of Pennsylvania for students of color. Seventy percent of our full-time degree-seeking students and approximately 60 percent of all degree-seeking students receive some type of
financial aid. And the last characteristic I want to cite: many of our students are the first in their families to pursue a postsecondary education.

With those facts, let me focus on a couple of things in terms of federal rules. The college supports most of the federal government's current regulations in regards to satisfactory academic progress for students. We appreciate that under the current regulations, Community College of Philadelphia is able to establish our own guidelines for satisfactory academic progress, and we ensure that our policy meets all minimum federal statutory and regulatory requirements.

Among the minimum federal regulatory requirements is that an institution is set a maximum time in which a student is expected to finish a program of study. For undergraduate programs, the maximum timeframe cannot exceed 150 percent of the published length of the program measured in academic years, academic terms, credit hours attempted, or clock hours completed.

Where the college policy, or reality perhaps, and federal guidance on the issue of satisfactory academic progress depart is in
counting withdrawals. Title IV Rules do not currently recognize academic or time amnesty in evaluating a student's eligibility for financial aid. Every class a student attempts is counted towards the maximum timeframe of 150 percent of the college's published length of time needed to complete the credits to graduate from the program of study. Even periods in which a student did not receive Title IV funds must be counted.

However, our college believes it is important to give students a second chance, so our internal academic policy is to allow students one application for academic amnesty and one for time amnesty. We found that a number of our returning adult students were not college-ready immediately after graduating from high school, so they withdrew from college classes they had registered for without understanding that it might make them ineligible for financial aid later on when they were ready to tackle college as an adult.

And this is particularly relevant to my institution because, as I have indicated before, of the adult nature of our students: more than half of our students are adults age 25 or older. Our
College recognizes that sometimes students are unsuccessful academically for a variety of reasons. In later years, despite current high academic achievement, the students may discover that a previous low grade point average is a barrier to entry into occupational fields or further academic progress.

The College's academic and time amnesty policy addresses this issue and ensures that a student's one-time academic poor performance does not have a detrimental effect on a student's long-term ability to persist and complete academic goals. To safeguard against students "gaming the system," so to speak, we've instituted rules for when academic and time amnesties will be permitted. Those rules are delineated in the College's catalogue. And just so I'm clear, the catalogue also states that "federal student aid"—and I'm quoting—"regulations do not provide for time amnesty or academic amnesty in evaluating a student's eligibility for financial aid."

Under our academic and time amnesty policy, the College's Financial Aid Office reviews students' academic progress after each term. A
student deemed not to be making satisfactory academic progress is placed on financial aid probation, and students who do not meet the probationary conditions described in our academic standards and progress policy become ineligible for financial aid.

We would recommend that the Department of Education look at ways to allow students who receive academic or time amnesty to continue to receive financial aid under certain conditions such as those that I have described. Again, I'm trying to focus on something that I think is prevalent in a community college adult environment.

And two other brief comments--so I hope I'll finish well within my 10 minutes--one on Pell Grants and the other on the general financial aid process. I just want to say that we do support the new federal rule that allows a student to obtain two Pell Grants in a year, the year-round Pell Grant. This, again, makes a real difference for our students who are overwhelmingly part-time and use every term to attempt to complete their degree.

Without the year-round Pell provision some students, even full-time students, would find
themselves in danger of using up their Pell Grants in the fall and spring semesters and would be ineligible for Pell Grants in the summer. We view that as very positive. And I can't take--miss the opportunity in any venue to say on the general financial aid process it's no secret that the current process can be cumbersome and difficult to understand for many students.

Again, focusing on this student body, the complexity of the financial aid process is of particular concern to our students because so many are the first in their families to attend college and have no one in their household to offer guidance in filling out financial aid forms. To help our students navigate the financial aid process and to help increase student persistence, our college has begun offering financial planning sessions. These are meant to go beyond the standard "how to apply for financial aid." FAFSA is terrible, but it's not just about FAFSA. It's also so that students will have a broader understanding of higher education costs and long-term financial planning.

But we do support simplifying the FAFSA
application, thereby making the financial aid process more understandable for students and less cumbersome for financial aid managers.

In Pennsylvania, completing the FAFSA is also the key to applying for state tuition assistance as well as many scholarships. Tying the FAFSA to IRS system data is one way of perhaps simplifying the application process.

That concludes my testimony. Thanks for the opportunity to share thoughts. And again, welcome to the Community College of Philadelphia.

**Mr. Madzelan:** Thank you very much.

Barmak Nassirian, American Association of Collegiate Registrars and Admissions Officers.

**Mr. Nassirian:** Good morning. I am Barmak Nassirian with the American Association of Collegiate Registrars and Admissions Officers. Our association is fairly well known to the Department, but I should probably just summarize that we are a non-profit association of more than 2,500 institutions of higher education and represent about 10,000 campus officials, primarily from admissions and academic records professions.

Our members view themselves as
systemically interested in academic integrity. As admissions officers they have an important role in terms of gate-keeping for institutional purposes. They are reliant parties on the credentials and credits earned elsewhere, and spend an inordinate amount of their time—increasingly so over the course of the past decade—trying to detect and expose diploma mills and fraudulent credentials, which are becoming a terrifying problem in this country. There are people cutting patients open that we, at AACRAO, do not believe actually attended medical school. It is that scary. So, increasingly we are combating a problem that is becoming global and that is afflicting U.S. citizens here in terms of their health and safety.

Beyond that, obviously, the registrar profession is in the business of credentialing people. They are in the business of developing and enforcing academic policy for institutional purposes and they are major consumers of other institutions' products in terms of academic credits and credentials as well.

All of this is to explain that our interest in this matter, frankly, transcends
financial aid. And that because we have our own
reasons for seeking systemic improvements to
program integrity, we believe our members would be
very reliable and well-informed partners to assist
the Department in improving the integrity of Title
IV programs.

Now having said that, one of our concerns
is that, candidly, inadequate gate-keeping
provisions for accessing federal financial aid are
now hampering the efforts of our members instead of
helping them. Institutions, including from high
schools all the way to so-called doctoral
institutions, have cropped up all over the place.
And, regrettably, because the so-called triad--
accreditation, state licensure, and federal
recognition--are substantively inadequate--and I'll
go through as to why we think they're substantively
inadequate--some of our members view some
institutions that now have gained access to the--
not only to the billions of dollars available under
federal student aid programs, but more insidiously
the imprimatur--the implied seal of approval that
that carries--as diploma mills. And we are gravely
alarmed at a system that was never designed to do
what we ask it to do today.

So, that's by way of describing our interests. We are very pleased to see that the Department has refocused its attention on these important questions of program integrity.

We have a number of comments. I'm just going to go through on the topics for the agenda that may be assigned to the Negotiated Rulemaking Committee on these matters. But we would very much like to add additional topics that without addressing which we do not believe participation in Title IV can be cleaned up.

One observation on behalf of our members--and I think it relates to the President's remarks before me--participation in Title IV is extraordinarily arduous, but only procedurally so. In other words, if you have enough lawyers and enough consultants and enough time and enough resources, we believe almost any institution can actually manage to gain entry.

Now, this has insidious consequences for both students and the taxpayers. The logic of federal financial aid works for the majority of students who actually gain some benefits. For
those who don't, they are certainly left far worse off than they would have been if they had never gained "access" to the educations they received.

So, that's what happens to the students. Obviously, the taxpayers foot the bill and they are left substantially worse off. And as I mentioned, legitimate institutions are left worse off on two grounds: One, because now they're left to their own devices to sift through credits and credentials that they don't know what to do with; and secondly, because the regulatory noose tightens, again, purely procedurally, but it imposes an enormous burden on institutions to comply with ultimately ineffective but arduous regulations.

One of our hopes is that by focusing on substance as opposed to mere procedure, that we can improve the quality of the regulations that address federal concerns and that we do so in a way that is efficient and effective from an institutional perspective.

I'm going to zip through the topics. Incentive compensation. Both my association and the other associations that represents admissions, NACCAC, vociferously objected to the 12 loopholes
that the Bush Administration decided to fabricate out of whole cloth in the plain statutory language that bans incentive comp.

You pointed out that this is a regulatory proceeding. We would have liked the same philosophy to have governed the previous one. We thought that the Bush Administration jerry-rigged the negotiations leading to that change. And even so, they couldn't get consensus and they decided to retreat and come back with 12 exceptions that you cannot find a trace of in the statutory language that the Department purports to be regulating. We think you should go back to the pre-2002 regulatory language which echoes the statutory ban and simply set a limit of $25.

I have a lengthier statement which I will forward to you. We restate our initial objections in that submission.

An issue that you have not put on the list that I hope you do is the question of accreditation. Accreditation works fabulously if you are actually interested in voluntary self-improvement. And we have no quarrel with people accrediting each other, working together to improve
through a system of peer review. The problem is when it comes to gate-keeping. Accreditation is increasingly looking feeble as organizations with minimal resources--resources that are a fraction of AACRAO's resources--purport to be in the business of policing and overseeing multi-billion dollar entities that are entirely incremensurable in terms of what they can throw at the accreditor.

So, we think you need to look at resources that accreditors have before they become qualified, and we also take note of the fact that accreditation is systemically biased in favor of taking risks in favor of institutions. Accreditors, unlike auditors, suffer no ill consequence when they are consistently wrong. And, in fact, accreditors that develop a reputation for being too tough lose members and revenues, which means saying yes is the safe say to go. And that is no gate-keeping.

We are very alarmed about the extent to which federal reliance and accreditation is fundamentally biased in favor of simply letting people in and seeing what happens.

Definition of high school diploma. You
flag one issue, which is the rise of high school diploma mills, both for Title IV eligibility purposes as well as for NCAA purposes. Our members are increasingly running into high school diploma mills on the Internet. One other variation on it that we are very concerned about are arrangements that appear to be in place between eligible—Title IV-eligible postsecondary institutions, which seem to be referring non-high school graduates to particular high schools with which they have financial arrangements. We think there are things we could do to provide some minimum standards here.

Gainful employment in a recognized profession. We think recognized professions should be indexed to state licensure and that not every activity putatively described as a profession should be taken as such. In addition, we think gainful employment should have a meaning that is indexed to the amount of wage enhancement in relation to debt service. It is insufficient to provide counterterrorism training for $60,000 of outstanding debt and then have people get minimum wage jobs sitting in the lobby of One DuPont.

We think you need to look at the extent to
which wages exceed minimum wage, which after all
doesn't need any particular skills and doesn't
require borrowing. And we think you need to tie it
to the amount of debt that went into it.

State authorization. We think the federal
government should define minimum standards and
define particular attributes for any state agency
that purports to license institutions. We think
when states fail to do that, that institutions in
that state should not be eligible to participate.
As you know, some states are currently operating in
an entirely open system.

Another important topic not on your list
which we would like you to consider is saturation
advertising and deceptive marketing practices. We
think there is a problem here in terms of the
dollar amounts involved. By our estimates, the top
9 Title IV advertisers spent $1.75 billion--with a
B--for the last year, for which complete data are
available. We think they're on track to spend $2
billion in 2009. This is just the top nine
advertisers.

Nothing wrong with advertising Snuggies if
you're doing it with your own money. The problem
is here we have better than 80 percent dependency
on Title IV, which we believe will pay $1.5 billion
for advertising by the top 9 advertisers alone.

Disclosures. We think--and again, I'm
emphasizing things that we think the Department can
do--we think that the Department should actually
generate meaningful disclosures to students,
including cumulative lifetime default rates, the
extent to which students at a particular
institution borrow, and average indebtedness by
student and by borrower cohort. We also believe
the extent of Title IV dependency ought to be
disclosed to students--to prospective students
because they can determine the extent to which
other parties may be willing to spend their money
at the institution.

We have ideas on definitions for credit
hour and for satisfactory academic progress, which
is after all what our members do. We think there
are things you could do that are non-intrusive on
academic policy, but that protect the taxpayers and
the students. We do realize that much of the
significant changes that could improve the system
for the better will require statutory changes and
we're working with committees of jurisdiction in Congress, but I think the lists that are rattled off is a list that the Department could actually work on through a regulatory process.

I appreciate the opportunity. Thank you.

MR. MADZELAN: Thank you very much.

Bernard McCree.

MR. McCREE: Good morning. I'm Bernard McCree. I'm Director of Financial Aid Services at Kutztown University of Pennsylvania here in the Commonwealth. And I'm here representing PASFAA, the Pennsylvania Association of Student Financial Aid Administrators, of which I'm the Vice President and Chair of the Government Relations Committee.

I thank you for the opportunity to share comments with you this morning concerning some of the concerns that we have as a financial aid administration about financial aid as it evolves in the coming months and year.

A couple of things. One, we want to acknowledge the fact that we are very pleased to know that AES/PHEAA was selected as one of the servicers moving forward. And a couple of things we want to make sure that the Department is aware
of concerning their involvement, especially here in Pennsylvania. As a state guarantee agency with public employees, they are fulfilling some important roles which include the administration of student loans, the loan servicing, and loan origination, and other services which include financial literacy, loan collections, default loan collections, and many other services that help students and families considering college.

They also provide a range of services to colleges and universities that save our schools thousands of dollars each year. Currently, the federal government does not provide for those types of services. These services are funded currently through fees paid to the guarantee agencies and through earnings on FFELP loans. The Administration's proposal to convert to Direct Loans does not provide adequate recognition of or funding of those services.

PHEAA, in essence, would preserve the jobs of state employees, not only here in the Commonwealth, but those jobs that are attributed to the servicing of student loans. They will also preserve quality financial aid-related services for
students, families, and schools, and save states
and schools the considerable cost associated with
replacing current services.

Their proposal would accomplish these
goals by maintaining current services provided by
guarantee agencies and not-for-profit secondary
markets funded by FFEL within DL by recognizing
state-designated guarantee agencies and not-for-
profit secondary markets as the preferred entity to
provide these services.

As these agencies have longstanding
relationships with statewide colleges and
universities and high schools, we propose that they
would be recognized as the entity of choice to
provide these services and receive an adequate fee,
recognizing state-designated guarantee agencies as
the preferred entity to collect defaulted loans as
they already have an established relationship with
the borrowers and schools.

As an addendum to all of this information,
as a state financial aid association we are very
strongly--very strongly--opposed to a single option
for our students in terms of borrowing. Choice is
a factor; this is the American way. And I know the
CBO has conducted their savings analysis, but they did not include in that analysis implementation, the cost of human capital to provide extended customer service to our students, and also for the resolution of technical issues that will arise when you seek to convert 4,000 schools into a system that has not provided sufficient technical resources already. And we want the Department—we're not opposed to a single entity, but we are saying do not rush to judgment, especially in the time allotment that it is being sought to be handled in.

We look at some of the precedents that have been already not fully successful. That was the GAPS program; transferring the paper FAFSA to electronic, even though that has happened. But in doing so we talked about simplification--excuse me--and we go from 6 to 8 to 13 questions on the dependency status, which has made it very difficult for us, as my prior colleague said, procedural-wise to do some of these things. ACG SMART was not a smooth transition for us. And then the Direct Loan Program as it is today was not the Direct Loan Program that it was when it was first initiated.
So, we do urge the Department to proceed with caution as you are making decisions for making the changes that are going to happen as provided through the HEA for financial aid.

Thank you.

MR. MADZELAN: Thank you.

Jackie Curtis, Herzing University.

MS. CURTIS: Good morning. My name is Jackie Curtis, and I'm here representing Herzing University, which is a career-focused proprietary institution. And today I'd like to discuss two of our institutional recommendations.

The first recommendation we have is for schools to have more discretion to limit student borrowing. The way it stands right now, students are eligible for the maximum loan amounts at their grade level, and this is resulting in large amounts of student loan debt. Even with counseling, this is not translating into long-term effects to students. And we as an institution are concerned about our students going into default due to their large repayment amounts.

The second recommendation we have is that schools be allowed to offer incentive to students
who contribute cash towards their educational expenses and who limit their loan borrowing while in school. When we discussed this option with an industry expert, we were advised against such an effort because its general principle went against the regulation that denied schools the right to limit student borrowing. This type of incentive would not only reward student financial responsibility, but it would also mean lower loan debt to students.

The two recommendations I just discussed are being recommended in the best interest of the student and of the school. If institutions of higher education are to be held responsible for default rates, should they not have more discretion to limit borrowing on the front end? Irresponsible borrowing is not something we want to promote or allow.

Furthermore, we would like to see schools have the ability to offer incentives, like scholarships, for students who are financially responsible and who agree and commit to limiting their student borrowing and contributing money towards their educational expenses while in school.
Thank you for your time.

**MR. MADZELAN:** Thank you.

Mike Woods, Embassy of New Zealand.

**MR. WOODS:** *Tena koto, tena koto, tena koto katoa.* Greetings from Aotearoa, New Zealand.

It's a great pleasure to be here. I speak warmly on behalf of the eight New Zealand schools that participate in federal student aid. We have seven of our eight universities. The other university, Lincoln University, is still registered for federal student aid for the purposes of deferment, but it doesn't have sufficient students to warrant being part of the program due to the compliance costs.

The eighth provider is a private training establishment, as we call them in New Zealand, a private school, that specializes in chiropractory. Our schools are very well regarded. Five are in the top Times Higher Education list for international schools; 4 in the top 500 for the Shanghai listing. So we have very, very high quality schools. So, inevitably, we attract a few American students to come down and study in our country.
And our schools have been members of Federal Student Aid for a number of years and have seen various iterations of legislation coming from Congress, but we have ongoing concerns around the compliance costs. We very much appreciate the generosity of the taxpayers of America to allow American students to study abroad. It gives them exposure to other languages, other cultures. These students are in full degrees, so they're typically doing two years at least if they're doing a master's program; three years if they're doing a bachelor's or Ph.D. program as minimum requirements.

So, they come back with very, very good understandings of a foreign culture and extensive networks, which later become important for business networks or government networks. We can't underline enough the value that the program provides in providing finances for American students to study abroad.

However, there are concerns, and it's this balancing of compliance costs with protections for American students. We do understand the necessity to regulate the learning industry as we do
ourselves in New Zealand as a matter of government policy.

Our particular concerns relate to compliance audits and the financial audits. The induction and training—or rather the lack of thereof—third-party contracts and the interpretation around inducements, distance and electronic provision, arrangements in the Higher Education Act. And I want to raise finally some issues around the proposed legislative change by the Obama Administration surrounding direct lending and its particular implications for foreign schools.

So, to begin with, compliance audits and financial statements—audited financial statements. All of our schools are required to maintain audited financial statements of account to the International GAAP. We have continued to provide those reports to UACD, our schools, over the years. This involves putting them into an envelope and posting them because they are already produced. For schools over $500,000 of loans it has been a major headache. Why? Because your rule book. The rule book. Can you imagine this? This is a major
issue for any foreign school. It's bad enough trying to understand your own country's legislation; it's another issue altogether to understand American legislation with nomenclature like Title IV, which, of course, means nothing to somebody starting out in Korea, like me three and a half years ago coming to Washington.

The financial statements, therefore, are not a burden. We appreciate the recent Dear Colleague Letter, which removes the requirement to provide audited financial statements. But I do have a concern personally around whether this makes sense for all foreign schools. I don't think there's a problem finding that information in most cases, but maybe there are some foreign schools that there may be concerns about when it comes to auditing.

The compliance audits are another issue altogether. These typically cost between $10,000 and $15,000 USD per institution. If you have only a few students, and most of our schools only have 6 to 10 students typically--some have a lot more than that--but for a few students this is an excessive burden. It would make sense--I know that the
legislation change provides for flexibility for the
Department. It would make sense to require at
least one audit to start with, but then to provide
some flexibility for small numbers of students who
are receiving federal student aid to not require
those on an annual basis. Maybe every three to
five years you could look for another audit
statement. I would think that the same thing could
apply for financial statements, but we have no
problem with the removal of the requirement.

The second issue of concern is the lack of
any kind of induction and training mechanism. We
know that schools in the United States are able to
access training. Our schools end up paying private
consultants to receive training in federal student
aid, and we think this is not ideal. We wrote a
letter from our Secretary of Education to your
Federal Student Aid Director in 2006, asking for
training. We have not had any response to that as
yet in a positive manner. We would certainly like
to see training available to foreign schools,
perhaps on a regional basis, not necessarily on a
per country basis. That would be of great
assistance.
Inducements. We understand very much the concern around the potential for student loan inducements, but we do have concerns about a current situation which indicates a tightening of requirements. Contracts to third-party providers are now being sought by the Department. Those contracts have been found to be wanting, and we believe this is not appropriate.

All of our providers have third-party contracts with organizations based in the United States. These organizations provide services to students to prepare them to come to our country. This includes services such as arranging travel, arranging insurance cover, providing basic information on the country, providing a welcoming service in-country. Also, they provide advice on course selection, choosing a provider, all sorts of other services which are related to recruitment. And we acknowledge that this is the case.

The only reasonable way in which our institutions can pay for those services is on the basis of a fee-for-service which is linked to volumes of students that arrive. It would be unreasonable to think of any other mechanism. I'm
concerned, though, that the current move will drive down transparency, and we would ask particularly for transparency to be one of your key criteria here in making decisions on rules that apply under the changes from last year's amendment.

If our providers are required to have contracts which are fixed-amount contracts, you can be sure there will be private discussions around volumes which will make this non-transparent, which will work against the interests of students in America and loan borrowers once they return. It would be better to have these transparent.

These third-party program providers do not provide loan services. We cannot see that there is a connection here to any form of inducement. They don't pay their recruitment staff on the basis of bonus payments or payments that are linked to students recruited, so I can't see that there is an issue there with any form of inducement. They may provide access to basic websites with regard to information on federal student aid, but they do not have any loan management responsibilities.

The last issue in this group is the provisions around electronic enrollment and
distance education that are in the Higher Education Act. We're concerned that in an age—in the 21st century where electronic provision is very widespread and students take mixed modes—they take an electronic course, an E-course, alongside a traditional face-to-face mode—that the way that this is currently interpreted prevents students from looking to do a mix of provision. We have no problem with removing any requirement for students to enroll in full electronic provision. This is about risk reduction; we understand the issues there. But to take a mixed mode makes sense to provide the kind of flexibility for students that you would expect in this century. We do understand, also, that the way in which that legislation could be interpreted leaves it open to all sorts of problems, so we'd be very happy to work through that.

On that note, the International Education Council is a recognized body here in the United States. It provides support for foreign schools more generally in all countries, and we would encourage you to include them on the Negotiated Rulemaking Committee.
Finally, direct lending. This has been proposed by the President, and we understand that it is currently being prepared for introduction in both the House and the Senate. We have some concerns about the potential for overlooking American students studying in foreign providers, particularly as direct lending is not currently accessible by foreign schools. Only the FFEL Programs are available. And the--we're also very concerned about the potential for much higher compliance costs for our schools in participating in the Direct Lending Program. Currently, the system is not accessible by foreign schools, and we have questions about whether such a system could be made accessible by the 1st of July next year as well.

So, a number of issues there. I realize they're not part of the current work of your Department, but will be shortly, and we just want to foreshadow those for you.

Thank you very much for the opportunity to speak.

_Tena koto, tena koto, tena koto katoa._

**MR. MADZELAN:** Thank you very much.
MR. CAVANAUGH: Good morning. My name is John Cavanaugh and I have the privilege of serving as Chancellor of the Pennsylvania State System of Higher Education, or PASSHE.

PASSHE consists of 14 universities across the Commonwealth that serves nearly 113,000 students. Our universities are the public universities in Pennsylvania. Other sectors include the state-related institutions and the private institutions. Ninety percent of PASSHE students are residents of Pennsylvania, about 40 percent are first generation college students, and about 80 percent remain in Pennsylvania after graduating with a baccalaureate degree for either their first job as a graduate or for graduate or professional school.

PASSHE strongly supports President Obama's call to be the world leader in educational attainment. In our view, his administration's commitment to Title IV programs heralds a new era in the federal-state partnership for higher education. PASSHE is firmly committed to doing its
part in conjunction with the other states to
gradient or credential an additional 1 million more
students a year in order to meet this ambitious
goal. In truth, we have no other choice if we want
our country to be a true world leader in innovation
and in economic clout.

Certainly this goal will necessitate a
dramatic increase in completion rates as well as an
expanded commitment to reach returning adult
students, underprepared students, and underserved
populations more effectively than we have in the
past. Such commitments and program improvements
necessitate adequate student data and information
systems, collaborative financing mechanisms, more
effective and lower-cost academic and
administrative support, and institutional funding
based on performance.

I'm proud that PASSHE has all of these,
enabling it to provide academic programs of high
quality at the most affordable cost in the state.
Part of a new, more effective partnership between
the federal government and state governments for
higher education is surely to make the many parts
of our complex federal system work together as well
as possible. Rulemaking is an important tool for this purpose, and we welcome whatever role at the table we may be able to be invited to for future sessions.

PASSHE is very interested in the six topics that the Department listed in the May 26 Federal Register announcement. All of them are areas of direct and continuing state involvement or point to new areas where states like Pennsylvania could benefit from additional federal policy guidance.

While today's hearings are intended merely to take a reading of rulemaking interest in these areas, not to actually address the underlying questions, let me make a few comments on the importance of each. And I have provided written testimony as well, so I'll provide just some summaries here.

The first, regulations governing foreign schools, including implementation of the HEOA. The increasing globalization of higher education brings states face-to-face with a set of policy issues that go well beyond the demands of traditional international programs. Both U.S. and foreign-born
students are increasingly mobile, raising questions related to immigration or visa status, financing, liability, consumer protection, and other areas of state interest. Like many U.S. institutions, PASSHE institutions are increasingly engaged in programs abroad, which sometimes occur under unclear jurisdiction. Most important, globalization demands that states compete in a much broader, more complex higher education marketplace, a challenge that some other nations address through national higher education export or import strategies designed to help institutions compete globally. For a combination of reasons, our federal system makes this difficult.

PASSHE institutions to a large extent compete on their own, a situation different than many countries in which they operate. Rulemaking may not be the only mechanism for this, but the fact that many may not be familiar with the new provisions under HEOA suggest the need for direct state involvement and continuing conversation in this area.

Satisfactory academic progress. Like most public colleges and universities, PASSHE is engaged
in a variety of strategies to improve the
preparation of students for postsecondary
education, ensure smooth transition from high
school to college and from one college university
to another, and increase program completion rates.
Satisfactory academic progress criteria for
purposes of federal Title IV programs relate
directly to these efforts. PASSHE has deliberately
increased the range in quality of academic and
other support services and have increased
completion rates significantly as a result.

I am certainly aware of the difficulties
in both defining and holding institutions
accountable for satisfactory academic progress as
well as the concerns the Department has about the
length of time it takes for institutions to take
appropriate action when such action is not
demonstrated. However, I might suggest that the
Department take a look at the way that PASSHE has
held institutions appropriately accountable in its
performance funding approach. So, it is possible
to create such accountability models.

If rulemaking in this area is undertaken,
states' system heads and states' academic affairs
officers would be appropriate participants. And again, I would encourage the Department to take a look at performance funding models around the country to see how satisfactory academic progress can be used as one indicator of appropriate performance.

The third topic of incentive compensation for recruiting and admission activity. States play a variety of roles in preventing fraud and providing consumer protection in higher education as well as in other areas. Whether through state systems or under the authority of the state attorney general, these roles are both a legal obligation and an important component of the regulation of postsecondary education at the state level. The forms of compensation allowable under program participation in Title IV may appear to be outside the boundaries of this state authority. But to the extent that abuses, fraud, or consumer complaints occur, they are likely to involve state as well as federal laws in enforcement. Moreover, federal changes could require changes at the state level or contribute to any consistencies in treatment and enforcement.
So, in order to ensure good articulation, states should be included in any rulemaking in this area and adequate representation will need to take into account the diversity of roles, statues, and structures across the states.

The fourth area of gainful employment in a recognized occupation. Documentation of employment by those who complete federal education and training programs is done in a variety of ways across the states. A growing number of state system offices, like PASSHE, have created more comprehensive tracking of students from postsecondary education into the workforce due to accreditation or accountability requirements.

This may require the involvement of other state offices which operate within differing agency structures. Whether or not the Department determines that rulemaking in this area is required or appropriate, there is a growing need to bring the various federal agencies and the various reporting and accountability requirements into better alignment with state needs and state practices in these areas. For this purpose, state participation would be advisable.
The fifth topic of state authorization as a component of institutional eligibility. This topic raises extremely complex issues due to the variety of roles that states play relative to institutional operation and degree granting authority. For this reason, state authorities need to be included in any rulemaking on this topic, along with a balanced representation of postsecondary providers who enroll students across state lines as well as accrediting agencies and organizations.

The sixth topic of definition of "credit hour" for program and PELL eligibility. The federal government, and the National Center for Educational Statistics in particular, play extremely important roles in establishing consistent definitions for many of the data elements widely used in higher education. Unfortunately, the importance of this federal role may get lost in the technical complexity in obscurity in the issues. Many of these common and critical definitions, though, are used directly by states in funding formulas--and you heard a little bit about that earlier--allocation mechanisms,
program review and approval, and other functional and administrative areas.

So, credit hour definitions under Pell and other Title IV programs are just one of the many factors states typically take into account in providing all kinds of different things like financial aid and accreditation.

Federal and NCES leadership in this area are needed and important, particularly as students and programs use other types of metrics for student eligibility and progress—such as competency assessments—as a substitute for basic contact hour or seat time measures, the more traditional approaches. Maintaining consistency between state and federal definitions will require broad participation by state higher education officials and their chief information officers or research directors in the rulemaking process and other types of policy development.

Let me conclude by saying PASSHE welcomes opportunities to be full participants in the Department's rulemaking actions. I suspect that we all realize, though, that we need to take steps that go well beyond the purposes and realms of
rulemaking. What we need is a recommitment, not just to work together more effectively, but to work together meeting increasingly urgent national, state, and local needs with commitment and collaboration far surpassing that of the past.

Immense progress has been achieved when the federal government marshals the efforts of institutions and leverages the resources of states to expand educational opportunity and provide the basis for growth and innovation in the economy. It is time and it is imperative that we make this partnership even better.

Thank you for this opportunity for PASSHE to testify.

MR. MADZELAN: Thank you.

Richard Dumaresq, Pennsylvania Association of Private School Administrators.

MR. DUMARESQ: Thank you and good morning. Excuse me. My name is Richard Dumaresq. I'm the Executive Director of the Pennsylvania Association of Private School Administrators. And on behalf of the 320 proprietary schools and colleges in Pennsylvania and their 73,000 students, I'd like to offer some comments on the issue of over-borrowing
Title IV loan funds.

Just a few comments about the outcomes of our schools in Pennsylvania. According to the Pennsylvania Department of Education, in 2007-2008, we have--the schools in Pennsylvania have a 59.8 percent graduation rate and an 87 percent placement rate. And that's according to the Pennsylvania Department of Education.

We're concerned--schools are concerned because we may not see that in the future if over-borrowing continues. Increasingly, students attending Title IV-eligible institutions are demanding the maximum amount of student loan money available. Since loans in the Title IV program are an entitlement, colleges and schools by law cannot refuse a student request for all available loans to fund their education.

Colleges and schools must disburse all loan funds to students, if requested by the students, and when tuition payments are current. Financially illiterate student borrowers often spend the money without budgeting and many have to drop out when they run out of money. They are then left with a higher debt burden, while not having
completed the education needed to seek employment
to pay for that education. As a result, many
students in that predicament default on their
loans. Other students incur such a higher debt
burden, often borrowing two times what they need
for their education, that the monthly loan
repayments are beyond their budget.

Educational institutions do not want to
send a graduate or student borrower out with
additional debt when they might have somehow
limited the amount of debt for that student.

Currently, schools are trying to limit
student borrowing legally. But the only tools that
they have are counseling students away from extra
debt and advising students of their costs, their
debt obligations after graduation, and the
importance of being financially responsible. But
we believe these current tools are not enough to
stem the tide of over-borrowing, especially in a
down economy.

We would propose some changes to allow
schools the following authority: Number one,
possibly allow for professional judgment by the
Financial Aid Office to limit loans to the cost of
attendance; or two, allow an institution to set a limit on what reasonable living expenses are by defining them; or three, create a formula for allowable educational expenses.

The Financial Aid Offices in schools and colleges do not want to be in the situation of some of the banks that encouraged over-borrowing for homes.

Thank you for considering our comments on educational over-borrowing.

**MR. MADZELAN:** Thank you.

Susan Saxton, Laureate Education.

**DR. SAXTON:** Good morning.

**MR. MADZELAN:** Hello.

**DR. SAXTON:** My name is Dr. Susan Saxton. I'm the Chief Academic Officer for Laureate Higher Education Group.

Laureate Education's U.S. campuses are members of the Laureate international network of universities, a growing network of over 40 institutions in 20 countries. Laureate's United States presence consists of three accredited institutions: Weldon University, Kendall College, and the NewSchool of Architecture and Design.
I appreciate the opportunity to share Laureate's thoughts with you on a number of issues that we believe the Department should consider during its next Negotiated Rulemaking process.

As I speak today on the specific concepts of incentive compensation, gainful employment in a recognized occupation, and state authorization, I do so with the broader recommendation that any changes take into consideration the success and needs of the non-traditional adult students that we serve.

Regarding incentive compensation, the Higher Education Act's prohibition has proven difficult to implement and regulate. In 2002, the Department reasonably tried to clarify the contours of the prohibition by creating safe harbors to assist institutions in maintaining compliance with the statutory limitation and allowing for salary adjustments under certain circumstances. Even with the safe harbors, however, institutions have had to make good faith interpretations of the provisions. Because the safe harbors list provides only examples of permissible activities, institutions are similarly left to determine on their own what
other compensation practices may be allowed.

Institutions have legitimate reasons under common employment practices to adjust their employees' salaries. Institutions need greater clarity about what appropriate compensation increases to financial aid and admissions employees or their supervisors are permissible. We thus believe that while safe harbors should be preserved, additional clarifications by the Department in this area may be beneficial.

Helping our students succeed in the workplace is a priority for all Laureate schools. Weldon University, for example, offers degree programs based in part on emerging needs and long-term trends in job market and professions. Kendall and NewSchool train students in very specific fields. Laureate, therefore, understands the Department's interests in better understanding what it means to offer a program that leads to gainful employment in a recognized occupation. However, we would also like to raise a number of concerns for your consideration.

First, the Higher Education Opportunity Act's legislative history explicitly stated that
its inclusion of liberal arts language was not meant to affect the eligibility of current programs or alter the method used by the Secretary in determining recognized occupations as currently required by the Act.

Second, it is essential to recognize that the HEA uses the phrase "gainful employment in a recognized occupation" or a similar phrase in sections other than the definition of eligible proprietary institutions. Therefore, should the Department decide that regulations are needed to interpret the phrase "gainful employment in a recognized occupation," these regulations would not apply just to proprietary institutions, but also to many other types of institutions as well.

Third, the Department has indicated a particular interest in considering what the terms "gainful employment" and "recognized occupation" mean. As I mentioned, Laureate supports policy discussions related to institutional outcomes, and our schools spend a significant amount of time obtaining and reviewing student outcomes.

Students graduating from all three of our institutions experience similar impressive
outcomes, including their job placement rates. However, we would caution against any federal policy that assumes a uniform meaning of "gainful employment." That term may have different meanings, depending on the institution and each student's personal situation. For example, many students graduate from one program and then immediately enroll in another, whether graduating from the undergraduate to graduate level or from the master's to the Ph.D. level.

Further, Laureate's U.S. students are primarily working adults. Completing a degree might not result in new employment, but in a promotion, an increase in pay, or, as with many students, an entirely new career focus.

In this economy, a degree in one of our programs simply may be helpful in providing job retention for these students or those in other programs. Given the broad range of personal circumstances, regulating what constitutes gainful employment would be very difficult at the federal level.

Weldon University is an entirely online institution based in Minnesota. Kendall has a home
campus in Illinois, while offering online programs. And the NewSchool has its campus in California. With state approvals currently in multiple states, each of our institutions look forward to learning more about the Department's concerns with the state authorization requirements as a component of institutional eligibility.

It is essential to stress the importance of encouraging a flexible state regulatory environment that continues to improve access to students through new delivery alternatives, including online, as well as an option for institutions to add new campuses.

I appreciate the opportunity to speak today on behalf of Laureate, and hope the Department will keep in mind the impact of regulatory changes on the non-traditional student as it begins its next round of Negotiated Rulemaking.

Thank you.

MR. MADZELAN: Thank you.

Nancy Broff, ITT.

MS. BROFF: Good morning. My name is Nancy Broff, and I am here today representing ITT
Educational Services, Inc.

ITTESI is a leading provider of technology-oriented postsecondary degree programs. As of June 1st of 2009, ITTESI operated 116 ITT Technical Institute locations in 37 states, predominantly providing career-focused associate's and bachelor degree programs of study to a total of approximately 65,000 students.

As of June 10th, ITTESI also owns and operates Daniel Webster College, a residential college in Nashua, New Hampshire, that offers associate's, bachelor's, and master's degree programs in the fields of aviation, computer science, management, engineering, and social science. I'm going to talk about a number of the issues in front of us today.

First, gainful employment in a recognized occupation. The HEA requires that a number of different types of institutions demonstrate that they provide an educational program that leads to gainful employment in a recognized occupation. This means the institution must be able to demonstrate that there's at least one occupation that a student who completes the program would be
qualified to enter.

Currently, institutions assign a CIP code to each program, which provides a crosswalk to occupational listings through various databases of the Bureau of Labor Statistics, Employment and Training Administration and the Census Bureau.

However, many educational programs do not fit neatly into a single CIP code, but rather could have one of several CIP codes attached. As a result, the occupations that graduates obtain may not correlate exactly with the occupations in the crosswalk from the CIP code that is assigned to the program.

In addition, it's important to recognize that a significant number of adult students are pursuing higher education for career advancement, not initial job entry. Particularly in the graduate programs, students may be obtaining a credential that will allow them to progress within their current field rather than training for a new occupation.

Most for-profit institutions provide information to prospective students of examples of the types of employment that graduates of the
program have obtained in the past. Because of the possibility that a single program can prepare a student for a number of occupations, ITTESI suggests that any regulation implementing this statutory provision should not be overly prescriptive in requiring direct linkage to one single occupation.

Incentive compensation. In general, the safe harbor approach to the incentive compensation issue has been very helpful. A number of us may remember that prior to the current regulation, the lack of clear guidance made it very difficult for institutions to be confident of their ability to comply with this important rule. Prior to 2002, institutions often obtained advice on a case-by-case basis from the Department of Education, and the advice often conflicted between what the institution was told in one case and another, sometimes varying by region, sometimes from one institution to another.

Under the current regulation, institutions have the ability to fashion compensation programs that are within the safe harbors and are able then to operate with some confidence. Clarity in the
regulatory guidance is especially important in this regulation because the statutory language is so vague.

Definition of a high school diploma. With institution locations in almost every state and students coming from almost every state, ITTESI can attest that there can be difficulties in determining what is a legitimate high school diploma. There have been a number of diploma mill high schools that have begun operating over the last few years, and there's currently no way to know easily whether a particular high school is legitimate.

The Department of Education does not maintain a list of legitimate high schools nor does it maintain a list of recognized accreditors in the K-12 space. The state education agencies also do not keep comprehensive lists of legitimate high schools or high school programs in their states. Some states keep lists of accredited high school programs, but high schools are not required to be accredited in order to be legitimate.

ITT Technical Institutes attempt to ensure that our students have presented legitimate high
school diplomas through a variety of checks and reviews, including having our internal auditors review a sample of diplomas. When we are able to identify a diploma mill, we add it to a list and no longer accept diplomas from that high school. However, to the extent that diplomas from diploma mill high schools or any other high schools look on their face to be legitimate and there's no publicly available database of legitimate high schools from which to check, it would be an unreasonable burden on institutions to require them to research the legitimacy of every single high school from which a student produces what appears on its face to be a legitimate diploma.

Verification. Verification continues to be one of the most common program review findings across all sectors and types of institutions. It's an area on which ITTesi spends a lot of time and effort to ensure compliance.

One area that poses particular challenges is the level of expertise relating to the Federal Tax Code that our financial aid officers need to have in order to resolve surface-level discrepancies, such as determining whether the
student and his or her family filed their income
taxes properly as head of household or married
filing separately, for example.

Another area is data matches.
Certificates of Naturalization for citizenship
always come out as C codes because they can't match
in any of the available databases.

Simplification of the FAFSA is one
important way to reduce the number of items that
require verification. In simplifying the FAFSA,
ITTESI urges that the Department carefully
scrutinize each data element to determine whether
it's really necessary in order to determine
eligibility for student aid funds. For example, if
we're never going to have a data match with IRS, do
we really need to collect parent Social Security
numbers?

ITT Technical Institutes proudly serve a
large number of veterans and active-duty service
members. We appreciate that combat pay was removed
as an addition to income for the 2009-2010 award
year. We suggest that this policy be broadened by
removing all veterans' non-education benefits from
being added to untaxed income.
The more that the Department of Education can do to simplify the data elements that must be verified and provide database matching capability and provide clear guidance to federal aid administrators, the better positions institutions will be for compliance.

Satisfactory academic progress (SAP). ITT Technical Institutes devote significant resources to tracking the academic progress of our students. We track SAP not only for federal aid purposes, but also as a means of determining whether students need additional assistance to be successful in their educational programs.

ITT Technical Institutes provide tutoring and advising to students who appear to be having difficulty with their class work. Students who are not making satisfactory academic progress lose their eligibility for additional federal aid and may be placed on what we term "extended enrollment." During this time, the students are required to take any courses over again in which they have received a grade of a D, F, or W. However, we do find that the majority of our students who lose eligibility for federal aid funds
under Satisfactory Academic Progress tend to withdraw.

As a result, our internal data show that a very small percentage of our students lose aid as a result of Satisfactory Academic Progress. This doesn't mean we're not rigorously enforcing it. It just means they're not showing up as having lost aid as a result because they have withdrawn as an alternative.

SAP is also very complicated with a lot of possibility for error. ITTESI is working to automate the process as much as possible to eliminate errors. But because of the complexity of the current federal requirements, there are a number of points at which individual judgment is required. ITTESI would support changes that would simplify determination of SAP.

One additional item, to echo several of my colleagues who have spoken, that we would like to see added to the table is mechanisms that would help to limit over-borrowing by students. One way that we think this could be done would be to allow institutions to make a policy determination on a broad scale rather than on a student-by-student
basis that certain groups of students could be limited in their ability to borrow.

For example, a lot of the students—a very large percentage of the students at ITT Technical Institutes are working adults. The majority of these students continue to work full-time while attending school. Their living expenses have not changed as a result of their educational attendance, yet they're entitled to the same amount of living expenses as students who are in school full time and are not working at all.

The professional judgment exceptions cannot help this entire class of students, as having a large number of professional judgment overrides is a trigger to a program review, as well as it being burdensome for the financial aid officers to document each case.

It would be a welcome policy change if the Secretary, by regulation, would allow institutions, at their option, to set a zero cost-of-living allowance for students who continue in their current employment while attending school, and, therefore, have no additional costs that are fairly attributable as living costs for educational
attendance. The institution could have a policy that would permit the financial aid official to make an exception on a case-by-case basis that would allow a cost of living allowance for students who truly do have some additional cost-of-living expense attributable to their educational pursuit.

One of the policy forums tomorrow will focus on fostering student educational persistence and degree attainment. This discussion will likely focus on anecdotal and institution-specific comments. As a backdrop to that discussion, it may be helpful to briefly discuss some preliminary findings from a new research study that will be published in final form later this summer.

At the recent Career College Association convention, the Imagine America Foundation presented initial data from a new study on retention and graduation rates. The lead researcher, Dr. Watson Scott Swail of the Educational Policy Institute, examined the factors that have a negative impact on persistence and graduation, including factors like age, parental legacy, and income.

He analyzed data from both the BPS
longitudinal survey and the IPED DAS. Not surprisingly, he found that student bodies at career colleges have more risk factors than students attending institutions in the traditional college sectors.

However, when he examined the outcomes of career college students, he made some interesting findings. Career colleges overall had a lower graduation rate at the four-year level than private, not-for-profit, and public institutions: 48 percent compared to 64 percent for the not-for-profits and 53 percent for the publics. But we did have higher rates at the two-year level: 59 percent for career colleges compared to 55 percent at not-for-profits and 23 percent for public two-year institutions.

However, when you drilled down and looked at institutions comparing those with similar student bodies, career colleges outshone their public and not-for-profit private colleagues. And I'll just highlight a few of the findings.

Among four-year institutions whose student bodies are less than 25 percent white, career colleges graduated a significantly higher
percentage of students: 47 percent compared to 40 percent at private not-for-profits and 33 percent at four-year public institutions. Among two-year institutions that served a similarly high population of minority students, career colleges had a 56 percent graduation rate compared to a rate of 44 percent at the private not-for-profits and 16 percent at public institutions.

Among four-year institutions that are open admissions institutions, career colleges graduated 45 percent of their students compared to 42 percent at the private, not-for-profit four-year institutions and 31 percent at public institutions. And at the two-year level, open admissions career colleges graduated 60 percent of their students compared to 59 percent at private not-for-profits and only 23 percent at public institutions.

So, when you look at comparing institutions on an apples-to-apples basis, when you really drill down and look at the student bodies they're serving, you see that the career college sector is doing a very good job of helping their students with persistence and attaining the degrees that they are seeking.
The student Financial Aid Program regulations are technical and complex. Of necessity, this statement does not cover every issue that is of importance to ITT Technical Institutes. I know I'm standing between the group and their first coffee break.

We very much appreciate the opportunity to have provided input in this initial process and look forward to continuing to participate in the process to the extent possible.

**MR. MADZELAN:** Thank you.

**MS. BROFF:** Thank you.

**MR. MADZELAN:** Thank you.

Let's take a break and come back here at 10:40. We're actually right on schedule.

**MR. MADZELAN:** We'll go ahead and get started now. Couple of things. First, you may have noticed we do have our sign language interpreters. If there's no need for their service, at least for the next few minutes, we can give them a break. So, does anyone need any assistance like that?

Okay. Then we'll--I will--every so often, I will ask again just to make sure, okay?
Second thing is that if, you know, I mangle your name when introducing you, please don't hesitate to correct me. I try to be sensitive to that since I'm one of those people with one of those names, so.

So, we will resume our hearing with Harris Miller of the Career College Association.

**MR. MILLER:** Hi. Well, thank you, Mr. Madziano [sic].

[Laughter.]

**MR. MILLER:** He did get my name right. Thank you very much, Dan.

A couple of preliminary comments. First of all, I'm very sorry that our host, Dr. Curtis, left because I grew up in Western Pennsylvania, and I just have four words for the people here in Philadelphia: Pittsburgh Steelers, Pittsburgh Penguins.

There we go. Okay, good. This is good.

And secondly, as a proud graduate of the University of Pittsburgh, one of the state universities that was mentioned before, all I can say to my friends from Penn State is: Go, Panthers.
Also, I'm very surprised to learn that so many people with MBAs from Harvard and Columbia are interested in major topics such as verification of information included on student aid applications. So, thank you all for being here today.

The President of the United States, John Kennedy, when I was 10 years old made a commitment to the United States. He said by the end of this decade, we will land a man on the moon. And while, unfortunately, the young president didn't live to see that, we all actually—at least many of us in this room—did get to witness that, that grainy picture in 1969 as Neil Armstrong stepped on the moon.

I will mention parenthetically that I once spoke at a conference in Greece and Neil Armstrong was the keynoter and I was the second keynoter. And as I drove up, his name was in letters about five feet tall and mine were in letters about one inch tall, but that was probably appropriate.

On February 26th, President Obama made a similar commitment. He said by the year 2020, this country will once again be number one in the world in terms of people with postsecondary degrees. To
us in the career college world, to employers, to people in society, the fact that this country has fallen in one generation from 1st to 10th or 14th, depending on how you count it, is a real disappointment not just psychologically as many people take it, but as a fundamental threat to the well-being of this country and a fundamental block to growing a middle class in this country. So we are very, very excited about what President Obama has committed.

We're very, very pleased that even though according to the Department of Education data our sector is currently only about 7 percent of higher education, also according to the Department of Education data last year 16 percent of the associate degrees awarded in this country went to students who graduated from career colleges. But our sector is growing by an average of 10 percent a year. And that the number of baccalaureate degrees awarded from our institutions is growing by more than 20 percent a year, though admittedly from a smaller base than traditional higher education.

So, we believe we have a critical role to play in meeting the goals that President Obama set
out in his February 26th speech, and we're very pleased to be working with the Department.

   Dan, we thank you for coming to speak at our convention last week. It was very much appreciated by the almost 2,000 attendees.

   Speaker Cummings--Secretary Cummings--I don't know what to call you yet--I want to thank you for taking the time to spend some time consulting with me. I very much appreciate it.

   And, of course, Steve, we thank you for all the assistance you provide our membership and all the opportunities.

   A few issues have already come up that I just want to mention briefly. There was some concern about advertising. I share that concern. Three times before I got to the train station this morning to leave my home, the University of Maryland, University College had a radio ad running on WTOP. My son got 450 letters from colleges asking him to apply for admissions when he was ready to apply for college. And my next door neighbor told me last week when I went to her daughter's graduation, that she had been contacted by 40 coaches from colleges around the country
because she's a high school water polo player.

The point is that every type of college
and university advertises and promotes. The real
issue is do they educate? And we in the career
college sector are very proud of our success in
taking students, many of whom, as you heard earlier
from other speakers, are older students, often
first generation. Over 50 percent of our students
are first generation, often minorities. About 40
percent of our students are minorities. Often
students who have tried other colleges or
universities and failed at it. Many of our schools
have 20 or 25 percent of their students who have
attended another college, a community college
perhaps, before they have attended our schools.
So, we're very proud of those high completion
rates.

In a perfect world, every student would
complete. In a perfect world, every student would
finish. We're not living in a perfect world. But
we're working in a world where we devote our
resource and our attention, our schools--if you've
heard from speakers previously from some of the CCA
members and other schools that are not members--to
working to complete their education.

So, let me talk briefly just about some of these issues. You’ve already heard quite a bit from other speakers, so I'm not going to spend a lot of time.

One of the issues that has come up quite a bit is the issue of FAFSA simplification, and I know you're having further discussion on that tomorrow. We as an association greatly support that. We think it's critically important. But I'd also mention to you that a recent report that was done by Dr. Mark Kantrowitz of FinAid found that while among the general population—overall student population, a little over 60 percent of students who were Pell-eligible actually get a Pell and while among community college students it's about 55 percent of students who are Pell-eligible actually receive a Pell. Among career college students, it's over 97 percent.

Now, I don't think that necessarily means that our students are better with dealing what everyone admits is a very, very complicated application. I think what it shows, though, if the school was willing to work with the student in a
collaborative manner--starting from day one when that student wants to be admitted--works through the process of how do you get a student aid package together, helps them to understand what a college education is about and ultimately helps that student get a job. That's very important.

I had the privilege on Friday night of speaking to a graduating class in Richmond, Virginia, at--in Stratton College. Ninety-nine students graduated, the overwhelming majority of them African-American, a large percentage of them women. Of the 99 students who graduated on Friday night, 91 percent already have a job in an area for which they were trained. This is in Richmond, Virginia, an area of high unemployment in a very difficult time. And that gives us a great deal of pride.

Let me talk about an issue that's been mentioned several times by Nancy Broff, by Dick Dumaresq, by Ms. Curtis from Hertzing. And that's the issue of over-borrowing.

Let me first of all put this in context, because I think it's important to understand. We in the career college sector represent some schools
that are, frankly, fairly expensive. They have very great expense to run the schools, there's a lot of technology involved, a lot of equipment involved. We run schools that are middle expense, and we run schools that are lower expense.

So, you might say, well, how is it that the Career College Association on the one hand, on behalf of its members is supporting more federal aid—whether it's more Pell grants, whether it's more federal loans—and on, the other hand, supports the idea of restricting over-borrowing.

Well, the answer again is, we do represent such a broad group of schools. In traditional higher education, there are demarcations between not-for-profit private, not-for-profit state-supported, community colleges primarily. And those are different price points and they have different types of approaches to federal aid. And, in fact, most community colleges, I understand, aren't interested in signing up in part for some of the loan programs because they're worried about over-borrowing.

And I think what you were hearing today from Mr. Dumaresq, for example, and from Ms. Broff
and Ms. Curtis, is in some of our lower cost programs, there clearly is over-borrowing. If the program is not that expensive and if the expected earnings are not that high, we believe the schools should have the right--and we support the similar proposal to what Ms. Broff put forward--where on a programmatic, transparent basis--so there's no question of individual discrimination or individual decision. But on a programmatic, transparent basis, say, this program only cost this much and it simply doesn't make sense to allow the student to borrow more than is needed when, in fact, another program or a school may cost a lot more, particularly when there's likely also to be a major earnings difference when the person completes his or her education.

Again, we understand the concerns about discrimination and we think the response to that is to make it very transparent--require to be transparent to the students, to the department, to the accreditors, and to the regulators.

So, we think that's--hope that that would be added to the issues that the Department considers.
On the incentive compensation. Again, it's been said previously by several speakers, in our minds, these things are called safe harbors. I wasn't around in 2002, but I've talked to a lot of people who were and discussed this with a lot of schools and attorneys. And I think the basic problem was, as Ms. Broff and Dr. Saxton, others said, there simply was no clarification.

Our bottom line at CCA is, we're not sure the system is broken. But if the Department feels that this is an appropriate topic, we'll certainly participate in Negotiated Rulemaking. But our bottom line is simple: Give us clear rules. Give us clear details.

These compensation systems are administered by human resource directors. Human resource directors like to have very clear rules because this is a form of labor law. And they like to have very clear rules as to what they're allowed or not allowed. So, we look forward to working with the Department if this remains as one of the issues.

On high school diploma mills, we hate them, you hate them. If we can figure out a way to
get rid of them, we're all for it. When I first came to the CCA, we called the NCAA and said you have any great ideas? And they said we've tried. We can't figure it out. But we look forward to working with you. It's a nightmare for our schools and something that really drives them crazy.

In terms of satisfactory academic progress, I think we're the same place the Department is. In terms of gainful employment, again, you've heard some detailed comments before. But basically, we're all about outcomes. We think everything should be about outcomes in education except for some special schools that maybe it does make no sense. So, we certainly look forward to working with the Department on this.

Again, I repeat some of the comments of the earlier speakers. Let's not be overly prescriptive because it's a complex world out there in terms of educational programs and in terms of employment opportunities. But at the end of the day, I think the more there is in higher education about outcomes, the same way they're being more and more asked about K-12 and that's pushed both through the Bush Administration and now Secretary
Duncan in the Obama Administration, we believe those same questions must be asked in higher education. And we're glad to stand up and talk about our outcomes and hope that other sectors will be interested and willing to do the same.

That's the end of my comments, Dan. And I appreciate you and the others allowing me to present today.

**MR. MADZELAN:** Thank you.

Timothy Moscato, Apollo Group.

**MR. MOSCATO:** Good morning. My name is Tim Moscato, and I work for the University of Phoenix as a Regional Vice President here in the Northeast.

I would like to address one of the specific policy issues on the agenda having to do with the definition of a credit hour.

While the credit hour remains an important medium of exchange and a common benchmark of accomplishment for academic institutions, we hope there will not be a backward trend to so narrowly define it as to stem the tide of important innovations we see flourishing today, such as weekend courses, distance learning, and a variety
of alternative schedules.

These are the innovations that are imperative to serving the broadest majority of students in our country today, working learners over the age of 25 who constitute more than half of all college enrollment.

For too many adults who want to earn postsecondary credentials, the traditional structure and organization of higher education pose powerful barriers to access and particularly to persistence and success. And this is even more significant when taking into account the continued educational disparity based on ethnicity in the United States.

Many in the for-profit education sector serve these working learners who come to us after having tried attending school at other public and private colleges and universities in America. At University of Phoenix, our students have attended an average of four colleges and universities prior to enrolling with us and understand this is a common trend among most institutions that serve working adults.

The reasons for their stopping and
starting at different schools are as varied as the students themselves. Some were simply not ready for school, or their work got in the way, or they became a single mom, or they lost their job. But one thing is clear from all these enrollment patterns and that is there's no one-size-fits-all solution when it comes to education.

America's population needs more education. They need plenty of variety and flexibility to meet the considerable obstacles they face in their lives and to address their assorted interests, abilities, and motivations. The for-profit education sector certainly encompasses variety. And while I'm sure it makes the task of regulation even more difficult, we hope you'll keep this in mind as you proceed through Negotiated Rulemaking.

Our sector comprises four-year comprehensive universities like University of Phoenix, which is regionally accredited and offers associate's degrees through doctoral degrees, as well as other types of good schools that provide everything from test preparation for CPAs to vocational training for medical technologists, graphic designers, and dog groomers. But there is
a reason we're a thriving sector and I will now focus my comments on my own institution because it's one I know best.

The University of Phoenix is often rhetorically defined as a for-profit university. It does a lot of marketing. But this isn't how we define ourselves. Our business success is only possible because of our academic success, which is the result of being completely and unswervingly focused on helping our students get through to degree completion.

We are a purpose-driven organization that grew out of a social mission: to serve an underserved population. In the early 1970s, when Phoenix was founded, there simply were no alternatives for working adults. Night classes were possible, but not plentiful, and it took about 10 years to obtain a college degree while working full-time to support your family.

Our teaching-learning model today retains the original founding principles even in its newer online programs: One, that we focus equally on cognitive and effective domain. Two, that class size is small to maximize faculty support. And
three, that collaborative learning methods today
termed social networking is a central component for
keeping students motivated and providing them with
additional support systems.

And finally, to come full circle on the
definition of a credit hour, four, that schedules
should be flexible so working adults can fit their
education into their busy lives. Because what this
means in real terms is that in the last four years
alone, 14,700 nurses, 25,400 school teachers, and
over 20,000 computer scientists have graduated from
the University of Phoenix, contributing
significantly to areas where the nation has
experienced critical workforce shortages.

It is our graduates who define us, and I'm
proud to be one of them.

Thank you.

**MR. MADZELAN:** Thank you.

Stephen Isaac, Education Dynamics.

**MR. ISAAC:** Good morning. I'm Stephen
Isaac. I'm the CEO of Education Dynamics. We are
a company that helps colleges and universities
find, enroll, and retain students.

In addition, I spent four years on the
faculty and staff of Virginia Commonwealth University and two years on the administrative staff of Passaic County Community College. So, I've seen higher education from a couple of different angles and there are a couple of issues that I wanted to touch on this morning regarding the rulemaking process that I feel are interrelated, but have some concerns about interpretation during the process.

The first is, of course, the persistence and completion, which has been brought up several times today, but the actual area of satisfactory academic progress and how that will be talked about and defined in the rulemaking process. And then secondly, which has been talked about a bit, is incentive compensation and the safe harbors and the clarity around marketing practice, which one of the concerns I have is that the interpretation of encouragement gets broadened to all of marketing practice.

And I'd like to address this in a couple of different ways. Bob Shireman recently in a conference call said the overall goal at the Department of Education in postsecondary education
is to make sure that students—potential students, whether young or old—have access to college; they have the information they need to make good choices; and that they have good quality postsecondary education that serves both of them as students and the taxpayers as well. The taxpayer certainly is entitled to a return on their investment in higher education and that return doesn't get realized unless students actually complete the programs that they start.

So, on the one hand, it is important that students have that opportunity to complete. On the other hand, it is also important that students are making a match with the programs that they're likely to be successful at.

I think that though it is important that we have some obvious restrictions around certain practices of encouragement enrollment, it is absolutely critical that students do have an opportunity to be encouraged. I've spent a lot of my work, both on the academic side and through the schools that I work with, with the adult student, who has been talked about several times this morning. And I can tell you quite honestly that
the adult student needs a lot of encouragement to
go back to school in many cases. In fact, the very
populations most likely to be served by Title IV
funds need the most level of encouragement. We
have, through working with several of our schools
for the past three years, run a very successful
scholarship program called Project Working Mom.
And obviously it speaks for itself.

But what we find with the people who write
the essays that apply for that program is that one
of the key factors that daunts them about going
back to school, that prevents them from going back
to school, is a simple lack of confidence that they
can do it. So, I'm concerned a bit that we--and
I've heard it in a couple of conversations this
morning--that we get too far removed from the kind
of encouragement that's necessary to get people to
enroll and go back to school and either complete a
degree, start a degree, finish a degree, et cetera.

I think if we're going to hit the goals
that the President states, the answer to the issue
is not making it more restrictive for people to
have an opportunity to go back to school. The
answer is not making it more difficult for them to
get access to the funds they need in order to be acceptable.

I think the answer is largely in the process of retention. So, it is the completion process that I think the committee should address with greater focus than necessarily the enrollment process. And what I mean by this is that these students will oftentimes need the assistance that a school can provide and often doesn't provide in helping them be successful in the program.

That can translate to remedial activity. It can translate to a retention program.

Dr. George Kuh at the University of Indiana, the National Center for Education and Engagement, has done a number of studies over the years and I'm sure you're familiar with them. Many of the people in this room I'm sure are as well. But there are a number of points on which we engage students. And it doesn't really matter whether they are full-time undergraduate students, part-time working community college students, working adults who have gone back to school, or online students, they need to be engaged in a variety of different ways in order to be persistent and be successful. And the factors
often working against them are pretty severe. Life factors, if you will.

So, I think that as we look at the rulemaking process, one of the things that we should focus on is what the schools are actually doing to help people succeed. Because the highly motivated, the super-qualified student is a relatively small percentage of the population. But as we heard this morning from a variety of different people, there are a number of schools that serve students, particularly working adults, that provide them an opportunity for a leg up, a chance to improve their lives, to make their lives better. And in order to really focus on that, we can't be more restrictive about who goes to school. We need to be more positive and helpful for those who do go to school.

That's basically all I have to say this morning.

MR. MADZELAN: Thank you very much.

MR. MOSCATO: Thank you.

MR. MADZELAN: Elaine Neely, Kaplan.

MS. NEELY: Good morning. Thank you for the opportunity to appear before you here today. I
am Elaine Neely, the Senior Vice President of Regulatory Affairs for Kaplan Higher Education. Kaplan Higher Education is the largest division of Kaplan Inc., which is a subsidiary of the Washington Post Company. Our Higher Education Division serves more than 100,000 students in over 70 on-ground campuses and online through Kaplan University. Kaplan University includes the nation's only completely online law school.

Our students range from individuals who are attending diploma-allied health programs to classroom teachers pursuing master's degrees and business professionals seeking MBAs and law degrees.

Most of our students are women, many are single, working parents. What they all have in common is a need for education and training that they will help advance them economically through courses that have scheduling flexibility and the personal attention that they need.

We have reviewed the possible topics for Negotiated Rulemaking and, today, I will just briefly touch on some of them. And if there are questions or further information is needed, I think
you know where to get me.

We believe that satisfactory progress is an area which could benefit from review. And we urge the Department to consider the standard to the national accrediting agencies as these standards include measurable success criteria.

There has been much public discussion and speculation concerning the Department's intent regarding incentive compensation. With respect to the safe harbors, we urge that the Department strive for clarity. As most of you know, once the safe harbors were issued, the conversations basically dried up between the Department and the community and there are still areas that do need clarification. We would also like you to keep in mind the 21st century outreach, which may include media that we haven't even yet contemplated.

We look forward to learning more about your intent with respect to gainful employment in a recognized occupation. As Nancy Broff mentioned, this is an area that would include not only proprietary schools, but community college, private, and non-profit. We don't believe that the term needs to be defined, so we would like to have
more further discussions with you.

We do urge you to tread lightly with respect to the state authorizations as a component of institutional eligibility. As you know, currently, if a state does not have a state authorizing area agency, your fallback is to accreditation. We believe that this has worked well, and it is evidence of the value of the Department's recognition process for accrediting agencies.

On the issue of credit hours, we support the continuing eligibility of students through the term structure. And we also urged the year-round Pell be awarded according to the current eligibility criteria without imposing additional requirements for recipients who are, as you know, the students who need the financial aid the most.

We support review for the requirements for verification of information submitted on the student aid application, and encourage such review in conjunction with the simplification process. The verification process needs to be streamlined to reduce the burden on both students and institutions.
And finally, we are really happy to hear that you are planning on looking at the definition of the high school diploma as a requirement for receiving aid. We currently have an internal list with over 85 institutions that attempt to extort money from students. And in our opinion, where they charge students between $250 and $500 to receive their high school diploma, only for them to present it to one of our colleges and be told that it's not legitimate and they wasted their money.

We have been asking the regional Departments of Education for assistance in this area, and, of course, the general consensus is that it's a K-12 issue, not a postsecondary issue. So, we will work—we're looking forward to working with you on this. It is really confusing for both the students and the schools.

Kaplan Higher Education appreciates the opportunity to provide input, and looks forward to working with you in the Department as we go further in Negotiated Rulemaking.

With your permission, I would like to include additional information about Kaplan along with comments from students and our employers as
part of the hearing record.

MR. MADZELAN: Sure.

MS. NEELY: Thank you. Thank you.

MR. MADZELAN: Christopher Lambert, Accrediting Commission of Career Schools.

MR. LAMBERT: Hi. Good morning. My name is Chris Lambert. I'm the Director of External Affairs with the Accrediting Commission of Career Schools and Colleges of Technology. We are a recognized accrediting agency with the United States Department of Education. Currently ACCSCT accredits over 780 institutions that serve over 200,000 students across the United States.

I am here this morning on behalf of our Board of Directors and our Executive Director, Dr. Michael McComis, who recently served on Team III of the most recent round of Negotiated Rulemaking, which reached consensus on its 16-item agenda.

A little notice of proposed rulemaking listed several areas in which the Department intends to put forth in the Negotiated Rulemaking process. I intend to only speak on three of these issues, ones which we believe to be the most
relevant to institutional accreditation practices. These issues include satisfactory academic progress, gainful employment, and the definition of a high school diploma.

First, with respect to satisfactory academic progress, we believe strongly that institutions should have a policy to assess student progress through the academic program and to address situations when a student may not be meeting an institution-stated expectation. ACCSCT has specific standards in these areas and understands the value of ensuring that institutions are mindful of and attentive to the needs of their students.

Our standards, like the Department's current regulations, require institutional policies to address factors like integrals of assessment, which are not prescribed but flexible, institutional expectations in relation to graduation requirements, the normal duration of a program and the timeframe within a student is expected to complete that program, and the implications of not meeting an institution's satisfactory academic progress policy.
Bless you for whoever sneezed.

ACCSCT supports the Department's interest in reviewing the manner in which institutions implement these regulations and also how the implementation of new year-round Pell Grants may affect these regulations.

Second, with regard to the Department's consideration of gainful employment in a recognized occupation, we urge the Department to exercise caution to avoid using this longstanding statutory language in a manner which unfairly constricts how institutions might assess outcomes vis-à-vis rates of employment.

Like most measures of student achievement, rates of employment are highly textured and rely heavily on the specific field, the employment opportunities and expectations in that field, and the needs and desires of the student. For example, many students who graduate from ACCSCT-accredited institutions go on to be independent contractors in such fields as commercial art, film, broadcasting, cosmetology, and massage therapy, with highly varied working hours and wages. Thus, we feel it would be inappropriate to narrowly define or to
limit a definition of employment in the federal 
regulations. Instead, determinations of student 
achievement vis-à-vis employment should be left to 
the institutions and their accreditors where 
subjective judgment can be more appropriately 
applied.

Third, with respect to a definition of a 
high school diploma, we welcome the Department's 
objective to provide clear regulations in this 
area. Major concerns affecting the ability to 
confirm the authenticity of a student's high school 
experience include the proliferation of high school 
diploma mills, home schooling credentials, the 
variety of state requirements and definitions of a 
high school diploma, and the allowance for students 
to self-attest that they have earned a high school 
diploma.

A better-defined definition of a high 
school diploma will improve the making of sound 
admissions decisions. Moreover, we urge the 
Department to reassess the allowance for students 
to self-attest as to having earned a high school 
diploma without also being required to take and 
pass an entrance exam, again for the purpose of
making sound admissions decisions.

On behalf of ACCSCT and the 780 accredited institutions we serve, I appreciate the opportunity to provide these brief comments on these important regulatory areas. Moreover, if the Department believes that an accreditor's presence on the future Negotiated Rulemaking Committee will be helpful, ACCSCT would again be willing to serve and to provide our insight and experience regarding these issues.

Thank you.

MR. MADZELAN: Thank you.

Mark Pelish, Corinthian Colleges.

MR. PELISH: I'm Mark Pelish, Executive Vice President of Corinthian Colleges. Corinthian is one of the largest postsecondary education providers in North America. We have more than 84,000 students at 106 campuses in the United States and Canada, and our mission is to prepare students for careers that are in demand or for advancement in their careers.

We support the Department's goals for this regulatory proceeding. We believe that the interest of students, not institutions, should be
paramount in the student financial aid and other
programs administered by the Department. We agree
with Deputy Undersecretary Shireman's recent
comments that the key considerations should be
whether students get the information they need to
select the right institution and whether
institutions, irrespective of their ownership
structure, are effective in producing a good return
on investment for students and for taxpayers.

We think this is especially true during
our recent economic downturn. With appropriate
regulation, the Federal Financial Aid Programs can
support workforce development and help speed
economic recovery. This proceeding will succeed if
it leads to practical steps to help them achieve
the President's goal that every American commit to
at least one year or more of higher education or
career training. Whatever that training may be,
every American will need to get more than a high
school diploma.

To achieve this goal we will need the
capacity offered by all sectors of postsecondary
education, including proprietary institutions.
Indeed, we'll need additional capacity and
additional options for students, and we think we have the ability to provide that capacity and can make a real contribution toward that goal.

With those overarching points in mind, we offer the following comments on the topics listed in the Federal Register Notice. First, satisfactory academic progress. We participated in the recent NegReg to implement the changes made by the Higher Education Opportunity Act, and this subject was highlighted for reform in the discussion of year-round Pell Grants. We support a reexamination of SAP standards to ensure that students are not simply being carried by institutions when all reasonable efforts to help them succeed have failed. This will not only facilitate the implementation of the year-round Pell Grant included in the HEOA, but also ensure that financial aid funds are used efficiently. And we agree with some of the comments of others that the national accrediting agencies have some standards here that might be helpful to look at.

Second, on the topic of incentive compensation, it's important to remember that the whole purpose of the Incentive Compensation Rule is
to encourage the provision of accurate information to students prior to their enrollment and application for financial aid and to encourage a good match between students and institutions. We fully support these aims.

All postsecondary institutions have lived under the Incentive Compensation Rule since the Higher Education Amendments of 1992. In the wake of that legislation in the 1990s, however, ambiguity, confusion, and interpretive problems abounded. This supposedly simple rule could be interpreted in many ways and, in fact, was. These problems were encountered not just by proprietary institutions, but by a number of other institutions, including small liberal arts schools.

In 2002, a NegReg process was implemented to bring much needed clarity to the rule. That process resulted in 12 clarifications or safe harbors. And although these clarifications helped, problems have continued because the Department has declined to provide additional interpretive rulings on how the regulations apply to specific circumstances.

As the Department reviews these
regulations, we would urge the Department, first, not to take any steps back to the uncertainty that existed prior to 2002; and, second, to consider a process for providing guidance on the application of the regulations to circumstances that the regulations, however thorough, can never completely anticipate.

Now some comments on particular aspects of the current regulations. First, we believe that compensation based on successful student completion should continue to be permitted as it has almost from the inception of the rule, because it is consistent with the rule's purposes that I articulated a moment ago.

Second, any new rule should remain focused on those who have direct contact with students and their immediate supervisors. Upper-level campus or corporate officials who don't directly deal with students are not within the rule's ambit.

And third, the Internet was in its infancy when Congress enacted the original rule in 1992, and the circumstances surrounding student institution interaction via the Internet are very different from the face-to-face interactions upon
which the rule was based.

In 2002, the NegReg process resulted in the addition of a clarification related to compensation paid for Internet-based recruitment and admissions activities. Even so, this remains a complicated area to regulate. Today all institutions make use of the Internet to attract, provide information to, and communicate with potential students, not just proprietary institutions, and the current generation of students who use the Internet are very savvy. The Department should proceed carefully if it chooses to revisit this component of the regulations.

One final comment on incentive compensation, incentive compensation would require less regulation and scrutiny if the Department and the Higher Education Act placed more focus on student outcomes for all institutions. If institutions are producing good, measurable outcomes, it would follow that the student enrollment process is functioning as it should.

Now, gainful employment in a recognized occupation. This topic appears to speak to what we advocate: greater focus in the regulations on the
effectiveness of institutions and preparing
students to be productive members of the workforce.
However, we're not sure this is the right vehicle
to address this point. The statutory provisions
here have been in place for many years and we are
unaware of any congressional intent that they be
used to judge institutions by the outcomes they
produce in terms of, for example, placement rates
or income in relation to student debt. Rather, the
provisions are a threshold requirement focused on
the aim of the programs offered by institutions.

Moreover, it's inaccurate to state that
Congress completely rewrote the definition of a
proprietary institution in the HEOA. All Congress
did was add a provision to the proprietary school
definition that permitted such institutions under
certain conditions to provide liberal arts
programs. That provision was addressed in the
just-concluded NegReg and will be handled in the
forthcoming Notice of Proposed Rulemaking on those
and other HEOA changes.

The Gainful Employment Provision was
simply carried forward from previous law with no
change in its meaning intended.
And finally, if the Department elects to pursue elaboration of the Gainful Employment Provision, it will have ramifications not only for proprietary institutions, but also for public and non-profit institutions as well because this provision is utilized in the definitions of postsecondary vocational institution and eligible program in Sections 102(c), 101(b)(1), and 481(b)(1)(A)(i).

State authorization. We understand the inclusion of this topic was a potential area of regulation, it was prompted in part by the expiration of the licensing apparatus in California for proprietary institutions. We would welcome a clarification of how the HEA and the Department's regulations operate in this area since, I might say, not all Department officials have always been on the same page on this one.

Any institution--public, non-profit, or proprietary--must, under the HEOA, be in a state and be "legally authorized within such state."

Section 495 of the HEA establishes state responsibilities in relation to the Title IV programs. And those responsibilities are, in sum,
informational regarding, among other things, the process for "licensing or other authorization for institutions to operate within the state."

The Department should consider three points before regulating this topic. First, Congress did not alter this provision in the HEOA and thus there is no evident congressional intent for striking out in a new direction. Second, the statute does not require licensure. It simply calls for institutions to have such authorization as the state elects to require. And third, if the Department is going to require some type of state oversight or minimum standards as it reinterprets the state authorization requirement, it is going to have to come to grips with the exemptions that many institutions currently get from any state oversight, often based on regional accreditation. If state authorization is to mean some type of oversight or minimum standards, in what sense would these exempt institutions meet the test?

Finally, high school diploma. Like others, we support regulations that would bring greater clarity in this area. The proliferation of high school diploma mills is a real problem for
We have no interest other than admitting qualified students. We suggest, perhaps, that the Department might work with the states to develop a national registry of high schools that have appropriate authorization to award diplomas. A student bearing a credential from a high school not on the register would have the burden of proof that the credential is legitimate.

We appreciate the opportunity to present our views and will provide more detail in our written testimony, and we look forward to working with you constructively as this process moves ahead.

**MR. MADZELAN:** Thanks, Mark.


**MR. MacARTHUR:** Hi. My name is Rob MacArthur. I'm in the investment industry. I've been following the for-profit education sector for over a decade. Over the many years I've watched - the cat-and-mouse game between the Department of Education and the industry. Sadly, despite the claims of being heavily regulated, this industry has been largely unregulated under the Bush
Administration. With a former Apollo lobbyist at the helm of postsecondary education, enforcement was lax despite numerous Inspector General reports encouraging better enforcement.

I personally have no investments in the industry. I am here before you today to bring to your attention an issue which has received some press, but has yet to be properly addressed by the Department. That is the corruption and chronic misbehavior of the for-profit education sector.

There are many issues the Department needs to address, including transferability of credits, default prevention, graduation rates, and, of course, the incentive compensation we've heard about so much today.

Apollo Group, parent company of the University of Phoenix (UOP), that's the largest school in the country, in 1998 they had 71,000 students. Today they have nearly 400,000 students. In FY 2008, the company spent $322 million on advertising and an additional $385 million on enrollment counselor incentive compensation.

In FY 2008, the University of Phoenix received 82 percent of its revenue from Title IV
programs. UOP received only 10 percent of its revenue from Title IV programs in 2001.

Enrollment counselors are being overly incentivized to bring in students with no chance of paying off their loans. There are many, many sad stories I can tell you and recount direct abuse that I've conducted with UOP and other for-profit education sector company students. Many of these documents are also available in a Qui Tam lawsuit with multiple depositions from former employees of the industry against University of Phoenix.

In the now famous February 2004 program review, the author begins, "This report contains serious findings regarding the school's substantial breach of its fiduciary duty." UOP systematically engaged in actions designed to mislead the Department of Education and to evade detection of its improper incentive compensation system.

"The Department interviewed more than 60 present and former enrollment counselors prior to and after the site visit." Most of the recruiters said that when they were hired, UOP told them that their job had tremendous financial potential and that they could "make a lot of money." UOP
promised to "double or triple salaries in three to six months."

In another deposition, an enrollment counselor stated, "I was told to enroll students no matter what, regardless of their qualifications."

Another enrollment counselor complained that the student was illiterate, but they were being forced to enroll that student.

Buried in Apollo's website, they report a graduation rate of 9.77 percent. On the IPEDS website, the online division graduation rate is around 5 percent. With 400,000 students, why aren't there more students graduating? The national average is roughly 55 percent.

Refund calculations. In an OIG report dated December 2005, the Department found UOP applied inappropriate methodologies to determine the percentage Title IV aid earned for calculation purposes. UOP did not have a policy to review accurate payment periods and end dates for the purposes of calculating Title IV. They systematically monitored student's data, progress, readjusting beginning and ending dates of payment periods to accommodate leaves of absence, no shows,
failed courses, or repeat findings--repeat courses. Referring to this process as remapping, UOP readjusted payment period end dates and rescheduled second disbursement dates.

In March of 2005, SFA wrote a letter to WIU, a division of Apollo Group. They found 37 percent of refunds were not made on a timely basis. They found inaccurate refunds or not paid at all. WIU incorrectly calculated 25 percent of the refunds. Many of them had not been paid up to 800 days late.

In 2005, John Higgins, Office of the Inspector General, testified in front of the U.S. Congress 74 percent of their institutional fraud cases involved proprietary schools. Violations occur when refunds are not paid timely, when incorrect calculations result in returning insufficient funds, and when institutions fail to pay refunds at all, which is a criminal offense.

While I understand the Administration's desire to improve college access, the for-profit model is not an efficient way to achieve this goal. Intel came out two years ago--a few years ago, and reported that they would no longer honor University
of Phoenix's graduates; they would not accept their
degrees because of the low quality of that student.
One need look no further than ripoffreport.com or
consumercomplaints.com with hundreds and hundreds
of pages of complaints by former students being
duped by University of Phoenix.

The Department is really ill-prepared,
through no fault of its own, to deal with such
ruthless, sophisticated, and contempt for the law.
Current regulations that are obsolete have been
softened by the industry lobbyists over the years
and need to be improved.

I have three suggestions. Incentive
compensation, I believe, should be based upon the
number of graduates, not on the number of warm
bodies brought in. Clearly there's too much
incentive for enrollment counselors to bring people
in who fail to stay in the school for more than two
or three classes.

Most importantly, I would recommend that
the Department apply the new third year default
rate calculation retroactively, not starting with
the 2009 cohort, which is what's planned as stated
last year. Starting with the 2006 data or the
preliminary 2007 data, I think the Department of Education could ensure taxpayer safety much better if they included the third year defaults.

Through the overuse and abuse of deferments and forbearance, students have been allowed to not pay their monthly payments on their student loans. Those students are dropped out of the calculation. In 2003, December, the OIG did a report showing that the default rate for the third year is roughly 50 percent. So you have many schools that have a six percent, seven percent, eight, 10, 11 percent cohort default rate, first, second year, and then it averages up into the 20s.

Last year, at the end of the Bush Administration, the cohort default rate limit for loss of eligibility was increased from 25 to 30 percent. It was increased because the industry realizes that if the third year calculation is put into place, their average cohort default rate will suddenly double. Many of them are up 50 percent sequentially from 2006 to 2007. So I would strongly recommend that the Department lower the cohort default rate eligibility threshold from 30 percent back down to 15 percent.
Nobody wants to talk about these issues.

I've dedicated the last 12 years of my life examining this industry and I see very similar parallels between this and Countrywide Credit and the predatory marketing practices that have occurred in the mortgage industry. I have similar information on the other for-profit education companies. I just singled out Apollo because I happened to be following the lawsuit most closely because there are so many interesting depositions coming out of that lawsuit.

The quality of education is very low. If you go to the Higher Learning Commission's website regarding transferability of credits, it basically says the schools can make up whatever transferability credit they have. And there are multiple ways that I won't go into as to how this industry brings students in, denies them some of the transfer credits that they believe the students are led to believe, and then forces the students to take additional classes they didn't anticipate.

Thank you very much.

MR. MADZELAN: Thank you.

Tom Netting. American Association of
Community Colleges (AACS).

**MR. NETTING:** Good morning. My name is Tom Netting and I'm here representing the American Association of Community Colleges this morning.

I wanted to start off by telling Mr. Cummings and others that anecdotally similar to the statements that Harris Miller made, I'm here actually because both of the co-chairs of the American Association of Cosmetology Schools couldn't be here today. One is actually involved in the start of another enrollment class and, therefore, couldn't be here as they were actively enrolling students and welcoming them into their campus, and the other just completed a graduation yesterday evening of which 157 students graduated from their class. All but five already have jobs, so a placement rate and a job rate of over 96 percent.

As I said, I'm here on behalf of AACS, an organization that is comprised of over 1,000 institutions providing tens of thousands of students each year with a quality education leading to a licensed credential enabling graduates to enter the workforce and pursue a rewarding,
professional career in an industry generating over $3 billion a year in annual revenue.

While diverse, the vast majority of AACS's membership is comprised of and continues to be anchored by small, sole-proprietor institutions. While they do have a growing number of institutions that are chain-related institutions, they are primarily small institutions of higher education. It bears noting that none of these institutions are publically traded, so for the myriad of individuals here that are market analysts, I guess we're not a part of your discussion or your focus.

AACS is here to let it be known that we support all of the proposals that are being put forward by the Department of Education. We ask that as the Department looks at all of these issues that they take care.

I live in Washington, a world of acronyms. And for us, CARE stands for choice, which means student choice; access, which means student access; regulatory reform, which means that we support reforms that are done for and provided for all institutions of higher education; and equity, equity for all students and equity for all
institutions in the development of any new regulations brought forward.

As I said, we support the initiative and we support the initiatives of President Obama and the new administration. We embrace the challenges that he has put forward on behalf of the new administration and the goals set forward to provide all individuals with a college education by 2020. We also support the recent comments made by Bob Shireman on several different calls, including the quote that the Department is working towards "broadly making sure students and taxpayers are served well whether the schools are public, non-profit, for-profit, two-year, less than two-year, four-year, or graduate."

Today I'd like to spend the time focusing not on the issues that you've heard so much about, but on additional recommendations that the American Association of Cosmetology Schools would like to put forward, and there are four of those.

The first, at a recent AACS student financial aid workshop, our regional Department of Education official stated that the Department had made a determination that 225 hours is considered
the equivalent of six semester credit hours for purposes of applying the new HEOA provision with regard to ability to benefit. We ask that the clock hour--we note that the clock hour to credit hour conversion is 180 hours, is the equivalent to 6 semester credit hours. Therefore, given the inconsistencies in determination of clock hours to credit hour equivalency, AACS requests that the determination of clock hour equivalency, for purposes of new ability to benefit--of the new ability to benefit definition, be added to the list of topics for consideration in the next round of negotiations.

Second, with regard to cohort default rates, AACS urges that the addition of cohort default rate appeals options in the list of topics for consideration in the next round. During the recently completed federal negotiations implementing the HEOA provisions, several non-federal negotiators as a part of Team 2, of which AACS was a part, added a list of additional CDR--attempted to add a number of additional cohort default rate appeals options to the agenda. In bringing their proposals forward, the non-federal
negotiators expressed serious concerns with the anticipated impact of the economy, the corresponding unemployment rates, and the collapse of the federal lending and banking community as part of why the students might be willing or, more importantly, unable to repay their loans.

Unfortunately, the federal negotiators opposed the addition and the inclusion of these provisions as a portion of the Team 2 agenda in the last round of negotiations, suggesting that existing exceptional mitigating circumstances appeals as well as lender deferments and forbearances were enough to provide adequate opportunities for institutions and students to address cohort default rates (CDR).

AACS respectfully disagrees with the Department's assessment in this area and once again requests that the following CDR appeal options be open to federal negotiations. First, institutional fulfillment of their default plan. On a case-by-case basis, institutions who efficiently and effectively implement the default management plans as required in the statute, in coordination with the Department of Education, must be qualified and
eligible to continue participating in the programs.

Second, significant localized unemployment. In areas where the local unemployment rate exceeds the national average, institutions serving students from these populations should be given additional latitude in the application of the eligibility criteria under cohort default rates.

Third, alignment of appeals rights. The regulations should align the appeals provisions so that institutions are eligible to begin seeking appeals rights as established under both the two-year and three-year proposals sooner, not later.

And we also request that the Department consider ensuring that their response time for erroneous data appeals is limited. Currently under erroneous data appeals there is no defined timeline for when decisions will be made by the Department.

Third, prior minor-year charges. A little more than a year ago, AACS first became aware of a shift in interpretation by the Department regarding the awarding of federal student financial assistance under the prior minor year charges regulations. Since that time, we have actively
engaged in dialogue with the Department in an effort to address the unintended consequences we believe negatively impact students and their ability—and our ability to comply. We acknowledge and appreciate steps taken by the Department over the past 14 months to address our concerns, and your willingness to work with us to protect the interest of students in schools in this area.

We believe that our discussions help to bring about an effective solution and have been patiently and eagerly awaiting the publication of a "Dear Colleague" letter clarifying the Department's definitive guidance. To date, this guidance has yet to be published. Therefore, AACS respectfully requests that if such guidance is not published prior to the announcement of the topics for consideration in the next round of negotiations, that this issue be added to the agenda.

And finally, as previously stated, the issue of professional judgment as it relates to over-borrowing of students, AACS urges the Department to work with our community to develop regulations under the Criteria for Professional Judgment which will enable our financial aid
administrators to prevent students from borrowing federal student financial assistance beyond that which is needed directly for their education and training. We are deeply concerned that the emphasis on providing students and their families with information on all of the student financial assistance that they qualify for may present very serious and unintended consequences in the form of increased borrowing, leading to larger than necessary student indebtedness, an increased risk of future defaults for students from lower socio and economic incomes and PACs, and additional upward pressure on proprietary institution's eligibility to comply with the participation under the 90/10 rule.

As I noted prior, we support all of these. We welcome the opportunity to work with the Department in the development of these regulations, and we'll be offering up our opportunity and our nominations for participation once the notice is put forward.

Thank you.

MR. MADZELAN: Thanks, Tom.

Tom was our last speaker scheduled for
this morning, so since it is close to 12:00, we anticipated breaking for lunch anyway, let us break now for lunch, give you an extra 10 minutes or so, and we will reconvene precisely at 1:00 p.m. Thank you.

[Whereupon, at 11:50 a.m., a luncheon recess was taken.]
AFTERNOON SESSION

[1:00 p.m.]

MR. MADZELAN: We'll go ahead and get
started now with our first speaker this afternoon,
Jillian Estes; James, Hoyer, Newcomer, Smiljanich &
Yanchunis, if I have any or all of those right.

MS. ESTES: What's that?

MR. MADZELAN: If I have any or all of
those right of your firm name?

MS. ESTES: You got the point across.

MR. MADZELAN: Welcome.

MS. ESTES: Thank you. Thank you for the
opportunity to speak today. My name is Jillian
Estes and I'm a class action consumer advocacy
attorney with the law firm of James, Hoyer,
Newcomer, Smiljanich & Yanchunis. And yes, I gave
the stenographer a business card so she doesn't
have to spell those.

It's my honor to represent a group of
students who is perhaps the most important people
involved in the entire rulemaking process: the
students of the career colleges.

In the interest of full disclosure, I
currently represent a class of students alleging
deceptive trade practices and unsupervised internal lending against Westwood College, a for-profit career institution based out of Denver, Colorado. As such, much of my investigation into the industry has centered around Westwood. However, I'm confident in my findings that the career college community is a small one and the practices of one school are often reflected very similarly in the practices of the others.

First, I'd like to commend the Department for its continuing efforts in opening these hearings and the rulemaking process to the public. I find few things more troubling than the remarks made at the October 2008 hearings at which Harris Miller, whom we heard from earlier, as President of the Career College Association, requested that negotiating over a certain topic be restricted only to members of his association. With all due respect to Mr. Miller, the implication that allowing many parties to affect the regulations of our government would be like "allowing non-pilots to fly a plane" is so wholly illogical that it would be laughable if not for the alarming insight it shows into the CCA, and assumingly its member
schools, as to how they view the public, including their own students.

Perhaps this is why students of career colleges across the country have come to my firm in droves, crying out for someone to hear their concerns and to help them have a voice. The desperate need for representation was not a reaction I anticipated when I ventured into the for-profit college arena, but the necessity of a unified voice for students is remarkably apparent, particularly given the unbalanced presentations at today's proceedings.

In addition to student victims, I'm contacted on a daily basis by former and current employees of various colleges looking to tell me about their school's practices. While my ethical obligations prohibit discussion with current employees of certain colleges, the simple fact that they continue to reach out speaks volumes.

However, the former employees have no such restrictions and they speak freely about the practices they've witnessed and participated in. While the career colleges may appeal to regulators, they do not pay bonuses in exchange for
recruitment. The environment created at the schools tells a very different story. Employees repeatedly tell me stories of parties and gift certificates, meals out, extra vacation time, and even exotic trips to the Caribbean, all for securing a certain number of student applications. Not graduations, just applicants that stay past the 14-day window needed to secure Title IV funds.

Competitive team environments encourage recruiters to think of potential students as points to be scored rather than individuals that may or may not be suited to a particular learning environment. The safe harbors that have been frequently discussed today are ironic in name and implication. The idea of safety betrays the priority of the administration that created them as the regulations provide safety only to the schools who use them to tow the line of propriety while wholly disregarding the impact on students who are subjected to those recruiting practices.

My first suggestion then is that the Department completely reexamine the practical impact of these dangerous harbors and remove or narrowly define them to consider the elaborate
incentive programs as part of the bonus structure that is weighed in considering Title IV compliance.

I apologize in advance for a slight deviation in getting to my next suggestion for Department regulation. I was educated at the University of Florida, and for 10 years, I have been a devoted fan of the Gator football program. It's been a good 10 years for us. Any diehard fan of college football will tell you that the single most important indicator of continuous program success is strong recruiting. And while Mr. Harris attempted to compare career college recruiting to his neighbor's water polo contacts, he left out the major difference: Because of the critical nature of recruitment, college coaches' recruiting activities are heavily regulated by governing bodies and any misstep is quickly and consistently penalized. Simply, schools that violate the rules of recruiting are forbidden from recruiting in future years with the number of years tied to the severity of the violation. The threat to future seasons encourages accountability and responsibility by all members of the team in ensuring a proper recruiting period.
The financial success of a career college is undeniably similar in that it depends nearly entirely on the continued enrollment of new students, but the current penalties for violations fall far too short of providing a deterrent value. Under the current system, schools that are tapped with admissions violations are largely able to dismiss the issue and continue on with business as usual. By way of example, Westwood College recently settled a federal lawsuit alleging a variety of recruiting and state regulating issues. The $7 million settlement was a mere pittance to a school that brought in over $300 million last year. At that rate, schools are likely to consider the lawsuits or fines simply to be part of the cost of doing business.

But if the Department instills a penalty that would limit the amount of federal funds that can be spent on recruiting, the schools will recognize that there is no other option than to correct any improper practices or risk losing the lifeblood of their financial success. Restricting the federal funds allowed to be used for advertising would make the money into a shield used
to protect the students rather than a sword to
attack uninformed and unprepared potential
applicants.

Schools who are confident that their
advertisements and recruiters are relaying accurate
information should find no objection to this as it
serves only to raise the accountability industry-
wide. Schools will be forced to monitor the flow
of information more closely and to ensure that
potential students are not subjected to boiler room
recruitment tactics that blur the line between
truth and aspiration.

It is tremendously encouraging to see that
the Department of Education has focused its
regulatory sites on the critical issues of program
integrity. It is undeniable that these hearings
are dominated by industry representatives who
encourage loosening regulations and letting the
schools essentially regulate themselves. It is
equally undeniable that the schools should not be
the Department's primary concern. The students
need protection, they need regulation, and they
need to be heard.

As a consumer attorney, I'm committed to
representing the students whose lives have been
destroyed by insurmountable debt created as a
result of misinformation and straight-out lies
about program quality. There is a lot of job
security in that field these days. But the value
of constantly reacting pales in comparison to the
value of proactive regulatory measures, the two
suggestions I've introduced--a broad view of the
incentives included in Title IV compliance
evaluations and the penalties focused on limiting
the amount of Title IV dollars that can be used in
recruiting--will strongly encourage career
institutes to reevaluate their recruiting methods
to make students, rather than profit, their true
priority.
**MS. ESTES:** Certainly.

**MR. CUMMINGS:** What would be some examples?

**MS. ESTES:** I don't have the copy with me, but I will direct your attention to the lawsuit we've recently filed against the college which highlights a large variety of the recruiting practices. A couple that we've seen in particular have to do with faulty misinformation about the accrediting process. We talked a lot today about the difference in regional and national accreditations and the way that representation is made to the students. Oftentimes, as is understandable, national accreditation sounds like it would be the bigger and more commonly accepted accrediting process. And, in fact, we've heard recruiters as recently as December say on the phone that, yes, any national accreditation will be accepted at any other college just like if you went to University of Michigan or University of Florida, to a potential student on the phone.

In addition, we believe that the schools violate a—and I'm speaking, I apologize, but mostly about Westwood because that's where the bulk
of my information has come from—that the schools represent their admissions counselors as having a background in education and being qualified to make enrollment decisions when, in fact, they're sales-related jobs. Their job descriptions strictly define sales positions. They have no background in education. And I think one of the major concerns we've seen, I can—I'll submit a copy of our lawsuit, but as the exhibit to that, there has been e-mails exchanged showing really the way that the recruiters consider the students as simply targets. In one example they use the method of a drive-by shooting as an analogy for having recruiting another student, sending around to the whole company a picture of some gangsters shooting out a window as an indication they've secured a second application that morning. So just a variety of ways that show that the students are being disregarded and it's purely about the sale.

Any other questions?

MR. CUMMINGS: Thank you.

MR. MADZELAN: Thank you.

David Ureña, Community Legal Services of Philadelphia.
MR. UREÑA: Good afternoon, everyone. My name is David Ureña. I'm a paralegal at Community Legal Services (CLS) of Philadelphia. First, I'd like to thank the Department of Education for the opportunity to offer our comments and suggestions.

Community Legal Services is a non-profit law firm which represents and assists low-income Philadelphians in civil matters. Last year alone we represented or assisted over 17,000 clients in matters ranging from employment law to mortgage foreclosure with many practice areas in between.

For decades, we have represented clients in student loan and trade school problems. As a paralegal I have directly assisted clients with student loan issues for over two years. And it is in light of this experience and the experience of Sharon Deitrich, the managing attorney at CLS and my supervisor, that I wish to provide the following comments and suggestions which focus on the impact student loan and trade school problems have on low-income borrowers. Some of the comments and suggestions deal with substantive issues and other with procedural issues.

The first common problem we see is that
trade schools continue to present problems for low-income students. CLS continues to see people who appear to have legitimate complaints against trade schools. For example, the cases that follow are all from the last several years.

Client A attended a casino dealing school for two weeks. Despite believing that he never signed for a loan, he was told that he has a student loan for $8,000. Client B relocated to Philadelphia from the South to attend an airplane maintenance school. Besides being very unhappy with the quality of the training, he was put in the position of being threatened with homelessness by his school. The idea was that he would be permitted to live in student housing temporarily until he found a job and housing, but he was not able to find an apartment within several weeks. He was given two weeks by the school to vacate his student housing by the year's end.

Tough tactics by schools to leverage money from students is a common issue that we see, especially by threatening to withhold a certificate at the time that the training is complete. In particular, such clients have come to CLS from a
cosmetology school. For example, Client C had been
told at enrollment by the cosmetology school that
she would only need to take one loan to finance her
education, but before she graduated she was forced
to take a second loan by the school in order to
complete her training.

Another client expected to get a Pell
Grant, but did not when the cosmetology school
apparently mishandled her paperwork. Instead, the
school forced the client to take out an additional
loan in order to get a graduation certificate and
avoid missing the board exam.

Methods must be identified to better hold
schools responsible for their outcomes. Too many
students are simply borrowing too much money for
programs which they are not likely to complete and
which are not likely to lead to employment if they
do.

Also, trade schools must be monitored to
determine whether they deal fairly with students on
payment issues. Too many students are experiencing
bait-and-switch tactics in which they are quoted
one figure as to the amount of money that they will
owe or have to borrow, but later are told that a
second much higher number is their actual cost. Their completion certificates often are being held hostage in these disputes. Moreover, monitoring for compliance with refund terms of enrollment agreement is needed.

Another problem that we see is that discharge applications--and this is a procedural problem--where they must be mailed to is unclear and confusing. And this might seem to be a minor issue on the surface, but this is a problem which impedes borrowers from successfully submitting discharge applications, leading them to become frustrated with the system and dropping their effort altogether when they could very well be entitled to a discharge.

It is not uncommon to find it exceedingly difficult to find the correct address to which a discharge application should be mailed. This stems from the fact that many online discharge forms do not contain any directions on where the discharge form should be mailed to. Sometimes the information regarding where to mail discharge forms to provided online or over the form is errant or out of date, and discharge forms may be required to
be mailed to a different Department office depending on whether the borrower had previously applied for a discharge. Even we, as knowledgeable advocates, are often in the dark.

As an example, Client F had applied for a discharge based on a total and permanent disability in 2005. This application was denied. Subsequently, he sought CLS's assistance. CLS mailed his discharge application to the San Francisco office of the Department only later to be informed that his application should have been mailed to the Disability Discharge Loan Servicing Center in Greenville, Texas, because the client had previously applied for a discharge. We were also told that the location of the client's application was unknown.

In trying to locate the client's application, I was informed by the Default Resolution Group that it was forwarded to the Department's office in Atlanta, Georgia. I then spoke to the Atlanta office representative who was directly handling the client's application and was informed that his application had been preliminarily approved by herself. However, after
months of inquiries, the client's application was
never transferred to the Disability Discharge Loan
Service Center as was promised by the Atlanta
office representative. Ultimately, a new
application was sent to the Department's
Greenville, Texas, office. This process took
approximately one year.

There is an easy fix for this. The
Department should make publically available a
directory of offices which handle discharge
applications with instructions on which office a
borrower's application should be sent to.

A third issue that we commonly see is that
processing times of discharge forms and transfers
of forms between Department offices is too long. A
Default Resolution Group or Disability Discharge
Loan Servicing Center representatives often inform
us that an individual's application will take
approximately 90 to 120 days--three to four months--
to first appear in their system and be processed.
If, for any reason, an application must be
transferred to a different office, this waiting
period may repeat itself. This often becomes
frustrating for borrowers and sometimes results in
their losing track of where their application is or
giving up on the discharge process entirely.

The Department should implement new
processing procedures to curtail the length of time
that it takes to include a new application in their
system and review it or transfer a form to a
different office.

Another problem we commonly see is that
the disability discharge process is unnecessarily
opaque to both borrower and doctor. And I
understand that the disability discharge process
was addressed during the most recent rulemaking
negotiation session. However, I wish to raise this
procedural issue which continues to impact our
clients negatively in spite of the substantive
changes that resulted and were implemented last
year.

As the Department is well aware, the most
difficult stage of the disability discharge process
is the medical review stage. Time and time again,
our clients' disability discharge applications are
rejected due to one specific problem: a gap in
communication between the Department, the doctor,
and the borrower. In our experience, if the
Department does not receive what it wants from the doctor, it merely follows up by sending the same black supplemental information request form to the doctor without feedback as to what information the Department wants in addition to what the doctor has already provided.

It is already difficult from the outset to get doctors to cooperate and assist clients by completing discharge forms because they're providing a service free of cost to their patient, which takes time away from other important facets of their practice. As a result, they commonly become agitated with the multiple responses they are asked for whenever the Department requires further information and they easily give up on the process.

The borrower is also left in the dark about the status of their disability discharge application until they receive a letter stating that their application was rejected due to medical failure.

As an example, Client G applied for a disability discharge a total of three times before coming to CLS for help. For each of the past
applications, the client's application was denied due to a medical review failure which resulted because the doctor's office did not know what additional information to submit to the Department. The client's doctor no longer wishes to assist the client with the discharge application out of frustration and the client is now looking for a new doctor who may be willing to help him.

It remains to be seen whether the new discharge form helps to fix this issue. Nevertheless, borrowers should be notified in writing by the Department if their doctor is being unresponsive or has provided insufficient information and documentation to support their application or allow a complete assessment to be made.

If it is a matter of insufficient information and documentation, the borrower should also be informed of what additional information and documentation is necessary to allow the Department to completely assess the borrower's application. In addition, doctors should also be informed clearly in writing what additional information or documentation is needed.
Yet another problem we see is that collection agency tactics mislead and antagonize borrowers to the detriment of both borrower and loan holder. Collection agencies frequently convey misleading and incomplete information regarding options available to borrowers, leading borrowers to believe their options are more limited and unaffordable than they actually are. In addition, agencies often employ tactics which intimidate borrowers such as verbally berating borrowers, contacting borrowers at irregular hours, contacting borrowers' relatives, and even contacting borrowers' employers.

With low-income borrowers who are in financially vulnerable positions, these collection tactics are especially counterproductive to the aim of collecting on debts. In fact, these tactics often result in borrowers avoiding contact with collection agencies and ignoring collection notices they receive, initiating a cycle detrimental to both the borrower and loan holder.

Furthermore, collection agencies frequently fail to follow Department of Education regulations, especially with respect to allowing
low-income borrowers access to reasonable and affordable repayment plans and rehabilitation through reasonable and affordable payments.

Even when we, who are knowledgeable advocates, negotiate for those borrower rights, we are often told that these options are not available. For example, one client was contacted by a collection agency which threatened to garnish her wages and contact her employer if she did not make payments on her student loans. During the course of assisting her, she explained to me that she had been contacted by the collection agency at her workplace, which had attempted to reach her supervisor. When we contacted the collection agency, it claimed wrongly that she could not rehabilitate her student loans through income-sensitive payments and that she was ineligible to reconsolidate her student loans.

Another client who came to us for assistance in rehabilitating his defaulted student loans we assisted, and during a conversation with the lender the representative repeatedly--I'm sorry, during a conversation with the collection agency a representative repeatedly denied that the
client could rehabilitate his loans through income-sensitive payments despite my citing the Department regulations multiple times.

These issues appear to be the result of insufficient training of collection agency representatives, economic incentives which are inherent in how the collection agencies make profits, or the result of latitude individual collection agents sense they have in dealing with individual borrowers without fear of repercussions.

Ideally the Department should scrap the use of collection agencies altogether and directly handle debt collection. A benefit of doing so would be having a single debt collector with uniform standards and training across the board so that individual representatives will have a better ability to navigate an individual borrower's rights. However, barring that outcome, more stringent standards concerning the information these agencies must convey to individual borrowers should be imposed. There should also be greater oversight over the collection agencies and penalties to deter the agencies from misleading borrowers with respect to their rights and the
options available to them. Finally, borrowers should be better informed as to what their rights are and whom they may contact to report collection agency abuses.

Finally, the problem that we commonly see is that rehabilitation is not a viable option for low-income borrowers. A lot of low-income borrowers seek rehabilitation in order to primarily improve their credit, but not necessarily to renew eligibility for student loans. Rehabilitation is becoming a more important option for borrowers with defaulted student loans. For example, outside of the areas in which consumer credit history has traditionally been relied upon for the purpose of making lending decisions, consumer credit history is becoming increasingly important for hiring and employment. CLS has seen an increasing number of clients who are concerned that negative notations on their credit reports, which have arisen in connection to their student loans, will limit their ability to find employment.

One downside to rehabilitation for low-income borrowers is that the loan payments may become unaffordable upon successful rehabilitation.
As it stands, if a borrower rehabilitates his or her loans through income-sensitive payments, once a borrower has rehabilitated their defaulted student loans, the required monthly payment amounts revert back to 10-year standard repayment schedule. This is almost always unaffordable for low-income borrowers and greatly increases the risk of the loans lapsing back into default, thus nullifying the effects of rehabilitation, which then becomes unavailable after the second default.

The second downside is that the negative notations on the borrower's credit report remain after rehabilitation has taken place. Although the default notation is completely removed after rehabilitation, any delinquent payment notations, as recent as seven years ago, remain, thus making the benefit of rehabilitation to one's credit negligible.

As an example, we assisted a client with bipolar disorder who was diagnosed while attending college, and he dropped out as a consequence of his condition. The client was left with a high amount in student loan debt to repay, which he wasn't able to do because his condition prevented him from
obtaining employment. Consequently, his loans defaulted.

When he came to us for assistance, he did so because of concern with his credit, and we proceeded to assist him in trying to obtain a rehabilitation of his student loans. Upon completion of the rehabilitation requirements, the client was told that he could not rehabilitate successfully because the lender had changed the rules regarding rehabilitation. Eventually we found out that the lender was willing to allow him to rehabilitate. However, he had to make $500 monthly payments while the lender sought out a new buyer of his student loans, which was completely unaffordable.

So, I'll just finish up by saying that upon successfully rehabilitating their student loans, borrowers should be allowed immediate access to the income-based repayment program which takes effect on July 1st, thereby allowing them to avoid the risk of defaulting on their student loans a second time. Additionally, all negative notations on a borrower's credit history related to the borrower's student loans should be removed upon
rehabilitation.

Thanks again for this opportunity.

**MR. MADZELAN:** Thank you.

**MR. CUMMINGS:** I have a question.

Mr. Ureña, could you describe your institutional concerns of whether you found that there were a small density of high violators or whether you thought it was pervasive?

**MR. UREÑA:** Based exclusively on the stories our clients come in with, it seems to be more of a pervasive problem rather than a high density problem. There do appear to be a couple of agencies which seem to be better at what they do, but, for the most part, a lot of agencies aren't, and sometimes these agencies even subcontract with other companies which themselves are pretty bad.

**MR. MADZELAN:** Thank you.

Lauck Walton, Westwood College.

**MR. WALTON:** Good afternoon. I'm Lauck Walton. I'm a Regional Vice President for Westwood College; work in the Northern Virginia area. On behalf of Westwood College, I thank you all for the opportunity to testify today.

Before I get into Westwood's substantive
comments, I have to very briefly respond to the comments made about Westwood College and career colleges in general. On behalf of our tens of thousands of graduates, our current students, and our faculty and staff, we're deeply offended by the accusations made a few moments ago. The plaintiff's firm does not represent a class of students. They represent four students seeking to represent a class. Westwood does not think this is the appropriate forum to litigate this matter. Suffice it to say that we think their allegations are frivolous and we will demonstrate that in the appropriate forum in due course.

Westwood is provided--is 100 percent committed to providing students with the knowledge, skills, and credentials to enable them to launch, enhance, or change their careers, and that commitment informs our comments today.

So turning to the issues at hand, they're important and I would like to speak to the Department's proposed issues based on my hands-on experience working two Westwood campuses for 850 students today.

Current regulations call for satisfactory
progress to be evaluated one time per year. At Westwood, we evaluate five times per year, once each term. We do that because we believe the additional evaluations benefit students and it far outweighs the administrative costs. Students that need extra assistance get it quickly and efficiently and have an improved chance of graduation or will end a program of study even earlier. Both of these are in the public interest.

The current regulations with respect to admissions compensation simply aren't clear. No reputable college wants to incent representatives to enroll unqualified students who aren't going to graduate. Currently the regulation is just unclear to the point where institutions are afraid to provide a Starbucks gift card to their admissions reps. You know, let's just get the rules down. Whatever they are, we can abide by them. It would be no problem. Spell out the regulations, what's permitted and not prohibited, and give the colleges an opportunity to correct minor issues when they are challenged.

We commend the Department for considering the definition of gainful employment. This is a
key component of Westwood's mission. The Department has a great deal of program data already sorted by the CIP code. We certainly recommend collecting appropriate employment information by CIP code and allowing recognized accrediting agencies the ability to work with the institutions to evaluate those in subjective cases.

Similarly, Westwood believes that our current regulations with respect to the definition of credit unit are properly determined in conjunction with those recognized accrediting agencies, and that no additional regulations prevent students from--preventing them from taking full advantage of the year-round Pell program. This is a benefit to all eligible students.

Westwood supports simplification of the verification process. We think it adds credibility and integrity to the award of Title IV, however, pretty complicated. Heard from a number of speakers today, anything we can do to simplify it would be great. We'd like to get it right. The easier we can get the information, if we can share it with the IRS, that'd be great. If we can simplify the forms, that'd be great. But if we can
reduce the burden on the students and the families, we will have made progress.

Finally, Westwood applauds the Department for working on the definition of the high school diploma. As a member of the State Council of Higher Education of Virginia's Diploma Mill Task Force, this is a very complicated issue. Like one of the other speakers earlier today, Westwood has a list of over 100 fraudulent high school providers. We won't accept those as a matter of policy. But with the advent of more and more home school options, international education, so many possibilities in a world that's expanding every day, we need to have clear definitions of what's permitted, what kind of institution is going to qualify, and it's a great topic for the federal government to help us sort out and make right.

Thank you so much for your time.

**MR. MADZELAN**: Thank you.

Theodore Levitt, Miami-Dade.

**MR. LEVITT**: Afternoon, everyone. I'm Ted Levitt from Miami-Dade College. I am the Director of College Communications there, but in my other duties as assigned, I spend a good deal of time in
the areas of persistence and completion. And, for
the most part, my recommendations here are around
persistence and completion, but I'm really here for
the--primarily for the forum tomorrow, so most of
what I have to say I can hold for the forum there,
but I have a couple of other things I'd like to
address.

As most of you know, community colleges
around the country offer associate degrees in
science, associate degrees in the arts, short-term
certifications, and many of us now are offering
four-year degrees. Miami-Dade is presently
offering degrees in nursing, degrees in education,
K-12, exceptional education, and the STEM areas in
high school. And we have a four-year degree in
public safety management and several others that
are on the way.

And what the institution tries to do,
particularly around persistence and completion, but
as an entity in the community, our effort is to be
in the fabric of the community, and the community
depends on community colleges across the country.
And the population of students that attend, as most
everybody knows, in our case, we are big and our
door is open to the community. We have over 70,000 credit students and 170,000 students overall at 8 campuses. And with a bow to Phoenix and probably several others, we are the largest place-bound institution in the country.

We have the largest number of Hispanics and African Americans. Over half of our students are the first in their families to attend college. In our case, 39 percent of our students live in poverty. Sixty-one percent are low-income and that sounds extreme, but I'm willing to guess that the statistics at other schools around the country are similar. Seventy-five percent of our students are underprepared for college.

When they arrive, they are greeted with as best as possible an environment that helps them to succeed. We put a tremendous amount of effort into persistence and retention. And, at this point, we're gratified because the statements made just a few days ago by the Chief of Staff to the President that there would be the possibility of resources for community colleges as an untapped resource in the educational system is quite welcome.

The state funding, as everybody knows, is
weak. The tuition at our school is around $1,700 for a full load. Community colleges around the country average around $2,300 for a full-time yearly cost. But state funding, in many cases, we are--our funding is easily a third of what the state university receives. So the comments of Mr. Emanuel are heartening to us to see that the efforts, particularly around persistence and retention, will be--we might get some help there.

I did want to make one comment around an issue beyond persistence and completion, and that has to do with the verification of information on student aid applications. As everybody knows, this is cumbersome--it's a long application--and we would like to recommend a tie-in with IRS and Social Security databases to provide verification information. And if discrepancies are apparent, then other steps can be taken, but that data can help a great deal.

And I want to make reference to communication that was sent to Secretary Duncan and to Under Secretary Kanter about a platform that we've come in contact with, that's active in several states, that integrates personal information, tax
information, and then distributes it electronically to a range of state and federal benefits, and exports the information to the FAFSA, simplifying the FAFSA. And I believe at some point later in the day, someone is going to make some presentation on that kind of an operation, on that kind of a platform.

That's really all we had to say today and I look forward to tomorrow, and thank you for the chance.

**MR. MADZELAN:** Yes, thanks, Ted. I'm looking forward to tomorrow as well since I'll be chairing the--or at least leading the persistence and completion forum. Thank you.


**MR. WADSWORTH:** Thanks very much. My name is Harrison Wadsworth. I'm Executive Director of the International Education Council (IEC), a non-profit association of the international institutions who participate in the Federal Family Education Loan Program. And we thank you for this opportunity to offer suggestions for streamlining the process for international study, while
maintaining the necessary safeguards to avoid fraud and abuse.

Many American students who study in the U.S. or abroad depend on student loans to finance their education. And I'm sure everybody is grateful that I'm not talking about program integrity issues. We're talking about the other committee, the Foreign Schools Committee.

The IEC represents and assists institutions of higher education outside of the United States that wish to participate in the U.S. federally supported student loan program. The members of the association believe that international friendship and understanding between people of all nationalities is best built on a foundation of personal relationships developed during academic studies, friendships that often remain strong for life.

On June 10, 2009, the House of Representatives approved the Senator Paul Simon Study Abroad Foundation Act as part of the Formulations Authorization Act for Fiscal Years 2010 and 2011. This bill is intended to establish an innovative public-private partnership to create
a more globally informed American citizenry.

The bill was just one of over 20 pieces of legislation that has been introduced in the last six months to encourage and enhance America's global leadership in opportunities through the international education experience. However, this effort is undermined by the sometimes unreasonably difficult rules that continue to be applied to foreign schools that are willing to participate in the U.S. Federal Student Loan Programs.

Congress and the Higher Education Opportunities Act approved certain changes in the law designed to ease these impediments. Other improvements, we believe, can be achieved by changing administrative policies. We urge the Department to negotiate commonsense changes in the regulations that will implement the HEOA and, in general, expand the ability of foreign schools to serve American students.

As you know, the foreign school loan default rate is extremely low: 2.2 percent for the 2007 cohort, there's a draft rate--that's the draft rate, and that's the lowest of any category of institutions and far lower than the 6.9 percent
overall rate. Clearly, students at foreign schools are doing well and deserve to have the support they need to finance their education.

The foreign school community is committed to working cooperatively with all postsecondary industry participants and representative organizations and, most importantly, with the Department in fulfilling the promise of educational access and choice.

The foreign schools community is grateful for the opportunity to focus on regulations affecting our constituency. I think this may be the first time. Is this the first time that I--in my memory, at least, which isn't that long. This community is, however, in the unique position of having few local experienced representatives within a reasonable travel distance of the proposed hearings and meetings.

IEC has been an effective advocate for foreign schools in Washington for a number of years, and we encourage the Department to approve IEC and foreign school representatives as participants in the Negotiated Rulemaking Committee on foreign school issues.
IEC has some specific proposals for the negotiation that I'm going to go into now. First, regarding distance learning, technology has become an integral part of all aspects of higher education. There are few programs available to students that do not use some form of online communication or learning. While we appreciate the Secretary's goal of encouraging students to experience foreign cultures through residence abroad, we feel that some students meeting that expectation are being unfairly restricted in their educational goals by the prohibition on taking any distance education coursework within a program of study at a foreign school.

We believe that there are internal conflicts within the law that should be resolved in regulation, and we encourage the negotiators to consider alternative approaches that recognize as legitimate a situation where a student may have to travel or take a class, even a single class, via distance education to complete a degree.

Financial and compliance audit requirements is the second area I wanted to raise and propose for the agenda. The Higher Education
Opportunity Act allows the Secretary to waive financial and compliance audit requirements for international institutions participating in the Federal Family Education Loan Program whose loan volume per year is less than $500,000, and to modify the requirements for schools with more loan volume. These audits can be extremely costly to obtain on an annual basis: $100,000 or more for the financial audit and, as was mentioned earlier, $10,000 to $15,000 for the annual compliance audit.

A school quickly finds it cost-prohibitive to participate in the U.S. Federal Loan Programs due to these requirements alone. Meanwhile, foreign schools maintain, by far, the lowest lifetime default rate of any sector on these same loans, the bottom line indicator that these students are obtaining a quality education.

We propose that the negotiations include waiver and/or modification of the compliance and financial audit requirements and, specifically, we suggest modifying the regulations as follows:

Waive the requirement for annual compliance audits for foreign schools with less than $1 million in loan volume or require that the
audits be submitted less often, such as every 5 years. And modify the requirement for financial audits so that institutions of any size are permitted to submit an audit that is done according to their home country's accounting standards. And that last is, of course, critical to continue participation of foreign schools in many countries around the world.

Turning to the Multi-Year Master Promissory Notice, as mentioned earlier international institutions boast the lowest cohort default rates of all institution types, a proven indication of successful oversight of the Federal Loan Programs by the financial aid staff at these institutions. We request the regulations reflect this by allowing all institutions that wish to do so, domestic or foreign, to participate in the serial feature of the NPN, unless individually prohibited by the Secretary.

Turning to medical school eligibility, changes were made to the rules regarding the eligibility of foreign medical schools for loan programs. These changes include increasing the required passage rates for students who take the
U.S. Medical Licensing Examination and modifying the rules regarding the establishment of a clinical training program in the United States. We also expect that a study by the ECFMG may be available for review by the time these negotiations commence sometime in September or whenever that may be.

Foreign medical schools provide an important means of training U.S. doctors to ensure that there are enough of them to meet the health care needs of the United States. I think this is particularly true in the case of general practitioners, where we are facing a shortage in this country and are going to be dependent on doctors that are trained in foreign medical schools. Clearly these issues should be included on the agenda for the negotiations and I think I'll just add to that about the shortage. I think it's desirable to have Americans able to go abroad and get training and come back rather than be dependent on foreign nationals, who are foreign trained, in this country for our future need for physicians.

Nursing schools. Foreign nursing schools are permitted to be eligible for participation in the Federal Loan Program subject to certain
conditions. The exact parameters of these conditions should clearly be a topic for negotiation. And of concern is the possibility that some currently eligible schools may lose their eligibility, and that clearly ought to be a topic for discussion.

Finally, the last topic I'll want to raise for now is future changes to the Federal Loan Programs. The Obama Administration has proposed major changes to the student loan programs in the budget for Fiscal Year 2010. We know that Congress is currently in the process of considering legislation that could adopt some of these proposals, including requiring that all student and PLUS loans be originated via the Ford Direct Loan Program, as of July 1, 2010. If Congress acts before the completion of this Negotiated Rulemaking, we ask that that committee agenda be modified to include regulatory changes that will permit continued participation of foreign schools in the loan programs. As you know, currently, foreign schools are only permitted to participate in the FFEL Program, and so they need eligibility yet to--legislative issue to make them eligible for
the Direct Loan Program. There will be a number of administrative issues, though, involved in allowing them to be able to participate.

I'll associate myself with remarks that Mike Woods from New Zealand made earlier with that regard. We also suggest that the Department make provisions for extending the negotiations by an extra session, if necessary--sorry, Dan--to smooth foreign schools' transition to the new loan program. In other words, better to go ahead and do and take care of this problem now rather than have to have yet another Negotiated Rulemaking next year that's--or additional sub-regulatory guidance, or whatever, that needs to be done to take care of these schools.

In conclusion, IEC appreciates the Department's consideration of this testimony and offers itself as a resource to the Department on these and other issues that the Department may consider in the Negotiated Rulemaking process. And thank you for listening.

MR. MADZELAN: Thanks, Harrison.

Pauline Abernathy, the Institute for College Access and Success.
MS. ABERNATHY: Good afternoon and welcome to Philadelphia. My name is Pauline Abernathy and I'm Acting Director for Policy and Strategy at the Institute for College Access and Success, a non-profit policy research organization working to make higher education more available and affordable for people of all backgrounds. Thank you for the opportunity to testify today. My comments summarize our more detailed written comments.

We believe the program integrity issues proposed by the Department are important and would benefit from the review to protect both the investments of taxpayers and students. However, our specific comments focus on financial aid communication and process issues in which we have particular expertise.

First, we encourage the Department to examine current verification policies and practices to ensure students receive the aid for which they are eligible when they need it and to reduce the burden of verification for both students and schools. We've heard a lot about this today already.

Although no school is required to verify
more than 30 percent of its applicants, some schools verify 100 percent. While this practice may reflect genuine concerns about compliance and stewardship, an extensive process can reduce access to needed aid and reduce a student's odds of academic success. We encourage the Department to consider both the extent and processes of verification used by colleges and look at ways to reduce the burden on both students and schools while still protecting program integrity.

For example, as others have testified today, pre-populating the FAFSA with data that applicants have already provided through the tax system would dramatically simplify the verification process for both students and schools.

Next, we urge the Department to review the financial aid information that schools are required to provide with the goal of making the information much more useful for students and families while also reducing the burden for schools.

The Department currently requires colleges to provide a wide range of financial aid information to current and prospective students. However, despite the large number of required
exposures throughout the aid process, the timing,
volume, and content of all this information is not
necessarily helpful to parents and students. We
urge the Department to review all of these
requirements with the goal of providing the
information students and parents really need to
make informed decisions, and doing so in a truly
consumer-friendly way.

We also urge the Department to revise the
Student Aid Report, or SAR, to provide clear and
prominent answers to the most basic questions
applicants have, such as how much aid they are
actually eligible for. We understand that last
month the Department began providing Pell Grant
estimates and loan eligibility information on the
Student Aid Report, which is an encouraging step in
the right direction.

We also encourage the Department, also, to
develop recommendations to approve financial aid
award letters, so recipients can easily compare the
cost of attending different colleges. We have
analyzed more than 100 award letters and too many
do not provide the basic information students and
parents need to understand and compare their
financial aid options. For example, some aid award letters don't include the entire cost of attendance or don't clearly distinguish gift aid from loans, or federal student loans, from non-federal private loans.

We also urge the Department to use the certification process to ensure that students considering risky private loans make the most of their federal aid options first. About one-quarter of American students with private loans do not receive Federal Stafford Loans, which are more affordable and have more repayment options and consumer protections.

Anecdotal evidence suggests that counseling students that are considering private student loans is an effective way to ensure that they use federal loans before turning to private loans. For example, after Barnard College began requiring financial aid counseling for prospective private loan borrowers, private loan utilization dropped a staggering 73 percent in one year. And that was before the financial problems in the markets.

Although we strongly support legislation
to further strengthen the certification process, the self-certification process mandated by HEOA has a potential to help reduce the use of risky private loans. The Department, we urge you to encourage colleges to counsel students about private student loans, to ensure they take out federal loans first. And we urge the Department to work closely with the Federal Reserve to develop the self-certification form for private loans as specified in the HEOA.

In addition, we urge the Department to improve and integrate the income-based repayment and Public Service Loan Forgiveness loan regulations. All current rules and regulations related to federal student loans need to be reviewed and updated in light of the availability of IBR and public service loan repayment and forgiveness options. This includes rules governing disclosures and entrance and exit counseling.

We appreciate the Department's efforts to ensure that the new IBR and Public Service Loan Forgiveness Programs function as Congress intended. However, there are a few areas of the regulations still that need to be addressed to fulfill this objective.
One, to avoid penalizing borrowers who enroll in IBR and later decide to leave the program, we encourage the Department to revisit the regulatory language to ensure that individuals leaving IBR will not pay more than they would have under a standard 10-year plan and will not be forced to repay their loans in less than a 5-year payment period as prohibited by statute. This will remove an unfair penalty for borrowers who enroll in the IBR program and later need to exit. It will also remove an unnecessary administrative burden by simplifying the process of enrolling in repayment plans upon exiting IBR.

We also encourage the Department to simplify and remove the inequity in the definition of full-time employment for public service loan forgiveness. The CCRAA defines a public service job specifically as a full-time job, but does not define "full-time." In its final regulations governing the program, the Department defined full-time as the greater of an annual average of at least 30 hours or the number of hours the employer considers full-time. This dual definition creates both unnecessary administrative complexity and
inequity for individuals whose employers consider
full-time to be more than 30 hours. Borrowers will
have to submit proof of their employers' definition
of full-time and the Department will have to
collect and verify this information for each
borrower. There's no statutory language that
requires this dual definition. Defining full-time
as 30 hours per week for all applicants would
greatly simplify program administration and ensure
that all borrowers are treated equitably.

Our next recommendation regards confirming
employment and loan payment for eligibility for the
Public Service Loan Forgiveness Program. The
program is supposed to encourage people to serve
their country and community in government and non-
profit jobs. However, the final rules published by
the Department do not provide a mechanism for our
borrowers to find out up front if a particular job
will count. Instead, the rules require borrowers
to fully document 10 or more years of employment
and loan payment history, and then submit it to the
Department after the fact. This is an unreasonable
burden on borrowers and undermines the purpose of
Public Service Loan Forgiveness.
Giving borrowers clear information up front will provide an incentive to continue in public service and ultimately meet the forgiveness requirements. It will also reduce the number of borrowers applying to the Department for loan forgiveness before it is appropriate.

The term "standard repayment plan" is one that is used differently in various contexts, which has created a tremendous source of confusion for borrowers and, based on our recent inquiries, even for some customer service staff at the Department and major lenders. Ensuring that the term "standard repayment plan" is defined clearly and used consistently will minimize confusion and questions by borrowers and make the Federal Loan Program run more smoothly.

To ensure that IBR is an avenue to rehabilitation, as CLS—Community Legal Services—just testified, the same rights for borrowers in default that are available through the Income Contingent Repayment Program should also be available through income-based repayments, so that IBR's affordable payments can provide an avenue to rehabilitation.
Finally, we recommend the Department provide technical assistance to schools on cohort default rates. Our research has revealed that some colleges do not participate in the Federal Student Loan Program out of fear that their cohort default rate would be, or appear to be, high. In fact, almost a quarter of all community colleges enrolling at least 1 million students do not participate in the Federal Loan Programs, forcing needy students to resort to riskier, more expensive options such as private student loans and credit cards.

We understand the Department plans to change the way cohort default rates are displayed to address the fear of appearing to be subject to sanctions beginning with the Fiscal Year 2007 cohort default rates. This would be a significant step towards ensuring all students have access to federal student loans. We recommend that the Department also provide technical assistance to schools that are close to the minimum sanction levels and working to lower their default rates, as well as to community colleges interested in learning more about the rules.
Thank you for the opportunity to provide input today.

MR. MADZELAN: Deanne Loonin, National Consumer Law Center?

MS. LOONIN: I guess it's the right height.
Yep, okay.

Good afternoon and thanks for inviting all of us, I guess, to the public hearing. I'm Deanne Loonin and I'm an attorney with the National Consumer Law Center, and I also direct our Student Loan Borrower Assistance Project.

Basically, we're a non-profit organization and we focus on consumer issues that affect low-income consumers. And the project that we have, the Student Loan Borrower Assistance Project, has a number of components. We have a website, we have publications, but what I want to focus on today and, actually, what I'm going to focus on mostly in the short time I have here, is the work that we do directly with borrowers and what we hear from those borrowers.

We do direct representation work, mostly through Legal Aid offices near where our office is, which is in Boston. We have a website that has
general information. It's really meant to be self-help information to help fill in the gap in resources for borrowers. And then we also have a LISTSERV with most of the legal aid lawyers that are out there that actually handle student loan cases, government lawyers, private lawyers. And we do case consultations with those lawyers on a regular basis, so we hear from them and consult with them on their cases as well.

We also submitted detailed written testimony, so I'm basically just going to summarize a few things and, first of all, say we support the items that were in the agenda and also have some additional items we would like the Department to consider. We hope--certainly hope--to participate--either us or somebody else representing Legal Aid, but certainly to have the Legal Aid client's voice at the Negotiated Rulemaking table.

I wanted--even though I have a number of issues I want to focus on program integrity and then mention just a couple of other issues. And really, coming from--sort of speaking for my clients here, I wish that my clients could be here. I wish that more borrowers could come and speak.
We, frankly, don't have the resources to bring them and it's very difficult for them to come here. I hope that there is a way, perhaps, that the Department can speak to more borrowers in some sort of other forum and hear their voices.

I did submit some statements from some of my clients and some of the other former students as part of the testimony, and there are a lot more where that came from.

One of the things, really, that sort of—and this is where the connection to program integrity—a common denominator in my work over the years with Legal Aid-eligible clients who have student loan debt is that a large percentage of them attended proprietary schools, proprietary vocational schools. And, you know, what I actually did to test that, also, is just my--look through my most recent files from the last year, and about half of the clients I've seen, as I've said, in the greater Boston area, Legal Aid-eligible clients, had attended proprietary schools. And, you know, they have a range of issues, but they come in generally because they cannot deal [with] their student loan debt. All of them are in default with
their student loans.

When I thought about that, none of those clients had obtained a job in the field that they were trained for or supposed to be trained for. Some of them had completed the program and some of them hadn't, so it's a mix. But I thought back to my years, also, in Legal Aid in Los Angeles. And just from my direct representation of clients--I represented hundreds of clients--I've never had a client who went to a proprietary school and got a job in the field that they were supposed to be trained for.

So, one of the recommendations connected to that, clearly, in our recommendations is to focus on outcome data to figure out a way to, first of all, make information about job placement and salaries more transparent. And we did a report a few years ago--and we've done this in other situations where we've had testers basically go--not to sign up for schools, but just to get, you know--see if we can get the information about completion rates and job placement rates. In most cases, we were unable to get--our testers were unable to get information. I would think that transparency
should be, hopefully, the least controversial topic of all the topics here, that borrowers should be given information about the outcome data.

But just being given the information isn't enough. We want transparency and some sort of standardization of the definition, including the definition of gainful employment, auditing of the data to make sure that the data's actually accurate, and the enforcement of penalties when there are problems.

Otherwise, what we run into is a really haphazard picture where people are given random information. I put some information in our testimony. Just as one example, this is a client I recently had who signed up for a beauty school and instead of being given average salary information for students who had attended that school, she was given a packet of information about the kinds of salaries that certain hairdressers make. There was an article about Julia Roberts' hairdresser. You know, there was an article about $300 haircuts. And my sense is, I'm not completely well-versed in the hairdressing field, but that those are the outliers, generally, in terms of the salaries that
people make. So it's an effort to give some salary information, but what I'd like to see is standardization.

And, I guess, really in response to the comment about encouraging people that somebody made earlier, we certainly agree that our clients should be encouraged, but we also need a dose of realism here. Realism about what the stakes are if they do sign up for particular courses because this is where we come in. There is just almost no margin for error when you sign up for a high-priced school. If you don't succeed, either because of the school or because of situations of your own, you're not going to be able to deal with the debt. And the private loans have added a whole new wrench, really, to that, really raised the stakes even just that much further.

So, we mentioned some other issues in our testimony that I won't get into here that we support looking into, including incentive compensation. The high school diploma issue, interestingly, we agree with the idea of defining it in a standardized way. We also would like to have the Department consider having admission requirements
beyond a high school diploma, requirements that are
tied to particular fields, so that, hopefully, we
can sort of help address the problem of borrowers
who are not able to benefit, but who do have high
school diplomas, are sort of not admitted
improperly to schools.

The other issues that I just wanted to
mention briefly that are not related to program
integrity are, again, presented in more detail in
the testimony, but I want to echo the Community
Legal Services about collection agencies. What we
would like to see is the Department of Education to
take the same--the lead from the IRS in this case.
I wouldn't always say that, but in this case they
just terminated their contracts with private
collection agencies recently, ruling it to be a
failed experiment, and we think that the Department
should do the same.

We find--I could give you example after
every example and I won't do that now, although I will say
that I did alert a number of Department staff
recently to an experience that I had. This is, you
know, me calling on behalf of my client to a
private collection agency that is contracted with a
number of guarantee agencies as well as with the Department, that after they--a representative hung up on me the second time, you know, I'd had it. And I was really--I was just calling to help figure out whether we could set up a repayment plan in lieu of a hearing for my client. And I know it's not something that I relish doing, having to deal with the initial sort of reactions I get from collection agencies, but I can handle it much better than my clients can, and most clients don't have representation.

The main principle here is that we've let the collection agencies do a lot of what I consider to be really the more inherently government functions, like really doing some of the dispute resolution work. And we have found that that has just been a failed experiment. It doesn't work.

The other--we'd like to see really--if I could say there's one thing I've learned from working with clients over the years, for the federal student loans there is almost always something that we can do for most of our clients, but the communication is the biggest barrier. And actually being able to assert their rights is the
biggest barrier, getting them to learn about their rights and being able to get them to exercise those rights.

The other two points, the non-program integrity points that we mention in our testimony, is to revisit some of the fair hearing procedures for the various collection actions. Standardize them so that, for example, for wage garnishment, your borrowers are specifically allowed to raise hardship as a defense. However, if they want to request a hearing in response to offset, sometimes hardship is considered and sometimes it’s not. So, basically, we want to see that standardized in the regulations so that regardless of the type of collection action, borrowers have the same rights. And the last issue—which, again, the community legal services David mentioned very eloquently, so I'll just mention briefly—which is rehabilitation. We did, I know, in the last session of Negotiated Rulemaking addressed some rehabilitation issues and there are some issues I think perhaps need statutory amendment, but we believe there are some that can be addressed through regulations. And I also understand that
perhaps legislatively there might be a solution to
the current problem with there being no buyers for
rehabilitation. But we also feel like, you know,
we'll see and if it's not addressed through
legislations, that that is something that can be
addressed through the regulatory process. It
really is a travesty that there's all of these
borrowers who've successfully rehabilitated their
loans are really stuck in limbo through no fault of
their own, through the credit conditions, and we'd
like to see them get back on their feet financially.

The other main point with rehabilitation
is to have some standardization in the definition
of reasonable and affordable. I've mentioned this
in previous sessions, but we haven't gotten to it
yet so I'm mentioning it again. We just feel like
it's connected to the collection agency problem
where often we're dealing with a collection agency
in terms of trying to figure out what is a
reasonable, affordable payment amount for our
clients. And if there was some presumption of
tyng reasonable, affordable, for example, to the
IBR formula, that we wouldn't have to have such a
haphazard process in that situation.

So, again, I hope that you'll have a chance to look through the rest of our testimony and I appreciate the opportunity to speak. Thanks.

MR. MADZELAN: Thank you.

Yvonne Oberhollenzer, Australian Education International (AEI). If you could help me with your last name, I'm not--

MS. OBERHOLLENZER: You had it the first time, sir.

MR. MADZELAN: Oh, I wasn't quite sure about how many accents I needed. How many syllables.

MS. OBERHOLLENZER: Good afternoon. My name's Yvonne Oberhollenzer, and I'm here representing Australian Education International North America, from the Australian Embassy in Washington, D.C.

AEI North America's role is to promote a greater awareness of the quality of Australian education and to assist American and Australian institutions in the development of relationships that may include one or all of student mobility, faculty interchange, and research linkages.
AEI North America appreciates the opportunity to testify on behalf of Australian universities and in consultation with the British Council, the Embassy of Canada, and the Embassy of New Zealand, who have all attended these hearings today.

Every year some 15,000 Americans exercise an option to study in Australia. The majority of these students study for a semester or less. However, many of these students undertake full degrees at both the undergraduate and postgraduate levels.

The full-degree students often study in Australia because the education they undertake represents a closer match to their research interests than might be available in America. Many of these students use support provided through the Federal Student Loan Program. An option to study in Australia or other international destinations expands the range of study programs available to American students and often enables a closer match with the student's academic interests.

American students who have undertaken an Australian education experience, similar to their
Australian counterparts who have studied in America, represent a pool of knowledge about each country that underpins the Australia-America bilateral relationship and often promotes educational research, commercial or people-to-people linkages that continue throughout their lives.

AEI North America recognizes the efforts made by the U.S. Department of Education to assist foreign schools with the implementation of the FFEL Program and, particularly, the implementation of the foreign school's team. AEI North America also appreciates the administrative flexibility extended to foreign schools through the exemptions included for foreign schools in the Higher Education Reauthorization Act. Those exemptions that waive requirements for crime statistic reporting, tax verification, and adhering to U.S. financial audit standards recognize the different situation faced by foreign schools, while nonetheless maintaining appropriate levels of accountability for funds provided through a U.S. Government program.

AEI North America encourages the U.S. Department of Education to ensure that American
students wishing to study overseas continue to have access to loans under all Federal Student Loan Programs. Approximately 21,000 American students are enrolled in full-time, full-degree undergraduate and postgraduate programs at international universities of which 2,409 are enrolled in Australian institutions—or were enrolled in Australian institutions in 2008.

Federal loans provide these students with the opportunity to study at their school of choice. The Obama Administration has proposed to eliminate the FFEL Program and move completely to the William W. Ford Federal Direct Loan Program. At present, American students are able to use FFEL loans to attend international institutions. However, they are not able to receive such loans from the Direct Loan Program.

As such, should the proposed reforms be implemented, we ask the U.S. Department of Education to ensure that American students wishing to study in Australia and at other international destinations continue to have access to federal loans through the Direct Loan Program.

In addition, the Direct Loan Program uses
the common origination and disbursement system to originate and disburse student loans. Given that international institutions are not familiar with this system, we encourage the U.S. Department of Education to provide support to international universities to ensure a smooth transition to the new system and uninterrupted access to loans to those American students already studying overseas and to new students for whom the overseas study option represents the greatest academic and research return.

In summary, we ask that the U.S. Department of Education ensures that American students are able to access loans through the Direct Loan Program to study overseas by providing international universities with access to the program and maintaining the current exemptions for foreign schools; and also provide that the U.S. Department of Education provides training and support to international universities on how to administer federal student loans through the Direct Loan System, similar to the training provided to U.S. institutions.

AEI North America appreciates the
Department of Education's consideration of this testimony and we would be very happy to follow up with the Department on these and other issues raised through the Negotiated Rulemaking process.

Thank you very much.

MR. MADZELAN: Thank you.

Tom Netting, HEAHL Coalition.

MR. NETTING: Good afternoon.

MR. MADZELAN: Hello.

MR. NETTING: I want to start my comments this afternoon by actually asking that we can make sure that amend this morning's presentation. I inadvertently said that I was, in one instance, representing the community colleges and in the other instance representing the Cosmetology School Association. My testimony this morning was on behalf of the American Association of Cosmetology Schools. I hope David Baime, a colleague and friend of mine, will get a kick out of the fact that I was inadvertently representing their crew as well as my own.

This afternoon I'm here representing the Higher Education Allied Health Leaders (HEAHL) Coalition, one of the organizations in Washington,
D.C., that represents the interests specific to the proprietary institutions of higher education offering allied health-related education and training.

I’m proud to be here today on behalf of the HEAHL Coalition and want to again express the desire on behalf of my portion of the proprietary community in support of all of the program integrity provisions that the Department has put forward in their May 26 notice to the entities.

We are very much in support of the President’s and the administration’s ambitious, yet attainable goal of having the highest proportion of college graduates in the world by 2020, and the President’s acknowledgement that in order to achieve this goal that our workforce will indeed need to reinvent itself.

Even more importantly, HEAHL and its membership share in the belief that through the process like this addition of Negotiated Rulemaking, that we must make sure that potential students have choice and access to the information which will enable them to choose the best educational program to meet their individual
educational needs. Not surprisingly, HEAHL and its membership believe that the best way for students and taxpayers alike to achieve these choices is not to pigeonhole them into programs or specific educational tracks, but to provide students with the broadest array of academic choices upon which for them to make their own individual decisions.

In our view, data and information provided to the potential student, their families, and the taxpayers are a critical portion of the equation. And we should all want to know which institutions and programs stand the best chance of providing significant return on investment. These returns should be quantifiable in terms of both time and expenses for the students, the taxpayer, and the federal government. And must be bolstered by the most important consideration: the realistic employment expectations upon successful completion of the program.

These expectations must be based upon reliable placement data and verification of the ability of the graduates to meet the workforce demands of employers. HEAHL can assure you that our membership has the capacity and the capability
to assist the President and the administration in their pursuit of these goals as long as we are not limited or prohibited from doing so. To that end, HEAHL is looking forward to partnering with the Department and the administration in the development of regulations through this process and in broader public policy discussions and subsequent negotiations to ensure that the regulations help achieve these intended goals.

My colleagues have talked specifically about the issues that have been presented by the Department. I have those in my prepared testimony, but I will not discuss them today. What I will discuss is the addition of four additional issues that we would like to see included in the next round of Negotiated Rulemaking, two of which have been presented earlier today by myself and others.

One, the inclusion of cohort default rate appeals as a portion of this round of Negotiated Rulemaking. As stated earlier by myself and others, there is significant concerns with regard to the economy and with regard to employment rates and the ability for individuals to find qualified employment right now as well as the collapse of the
lending markets that are going to lead to problems with cohort default rates. We would urge the Department to consider once again reviewing possible economic and other appeals rights under cohort default rates.

Second, a new issue, financial responsibility. HEAHL respectfully requests that the Department consider revisions to the financial responsibility regulations, either in whole or in part. Our membership recognizes that the Department has limited resources at the current time and is looking for contractors with expertise to assist with this process. We would like to discuss whether or not it is appropriate to add this topic to the current round of negotiations and, if not in its entirety, consider the possible consideration of de minimis smaller provisions, with the goal of looking to a broader review and Negotiated Rulemaking on financial responsibility in the future.

As previously noted, professional judgment and the ability of institutions to help prevent borrowers from borrowing beyond their needs has been discussed on a considerable basis today. We
echo the sentiments of a number of individuals and their presentations earlier today.

My final issue is regarding provisional certification and change of ownership. HEAHL highly recommends the Department consider adding the review of provisional certification regulations to the list of topics for consideration. Our membership would respectfully recommend that the time has come to reevaluate several areas of these regulations in light of changes brought about by both the HEOA and also the changes that have come about in terms of the way in which institutions seek to make good on changes of ownerships and the ability to expand institutions.

Thank you.

MR. MADZELAN: Thanks, Tom.

Well, we are scheduled to take a break in about 5 minutes or so, so why don't we do that now and still come back at 2:40? That will give you a little bit more than a 10-minute break. See you at 2:40.

[Brief recess.]

MR. MADZELAN: Okay. We'll reconvene this afternoon with Albert Gray, ACICS.
Did you leave a copy out front, too?
Okay.

MR. GRAY: Good afternoon, Panel and ladies and gentlemen. My colleague, Tony Beda [ph.] has just handed you our written testimony, which I will summarize briefly this afternoon for you.

I am Al Gray. I'm the Executive Director and the CEO of the Accreditation Council for Independent Colleges and Schools (ACICS). I'm relatively new to ACICS. In fact, I just recently learned how to spell it. I don't always get it right even now. But I'm not new to accreditation. For the past 15 years, I've been involved in leading accreditation programs, national accreditation programs that impact or have an impact on public health and education.

ACICS represents quality assurance and institutional integrity for nearly 600,000 students in 46 states who are enrolled in approximately 760 institutions around the country that are accredited by ACICS. We're recognized by the Department of Education as well as by the Council on Higher Education Accreditations.
We have substantial resources to support in a very robust manner our high-quality accreditation programs. Those resources include a professional staff of over 37, headquartered in Washington, D.C., working with over an $8 million budget to accomplish our objectives. But more importantly, we work with over 750 professional educators, people who work in the education business and who act in a role of what we call evaluators for purposes of accrediting programs and institutions for ACICS. Those are highly trained professionals and practicing educators. And interestingly, they not only serve ACICS, but many of them are involved in accreditation roles in other accrediting organizations such as some of the regional accrediting organizations. So it's a significant resource, but a resource that's cross-trained and that works broadly in the accreditation world.

I do appreciate the opportunity today to visit with you and to present this testimony.

We clearly support the Department's interest in clarifying rules that balance and protect the interest of the taxpayer, students, and
proprietors of career education. Our particular
interests are with three issues at least today that
we want to talk about by the Department and would
like to review with the Department and with
postsecondary education stakeholders in this
audience. Those three being: satisfactory
academic progress, gainful employment in a
recognized occupational field, and institutional
integrity in states that lack licensing authority
for career colleges.

Let me start by talking about satisfactory
academic process. This is an area where you should
be considering the role of national accreditation.
ACICS accreditation assures continuously improving
quality of career college educators. Now, as I
said, I come out of a history of accreditation,
some very strong programs that were very sensitive
to public health and educational issues. And I
realize, as does ACICS, that accreditation is
really a three-legged stool. It's provision of
standards and monitoring compliance with standards;
it's providing quality assurance, and this is an
equally important aspect; and then, of course,
accountability for the educational provider to the
community and to the students. In that regard, ACS enforces clear, rigorous, quantitative standards to ensure that the contact between faculty and student is of sufficient duration and quality to produce a quality educational outcome.

At this point, I was going to read our 126-page set of criteria into the record, but I decided that would be too exciting for this group.

[Laughter.]

MR. GRAY: But in all seriousness, the standards apply to all aspects of the educational program. And keep in mind, we are accrediting programs ranging from certificate, diploma, two-year degree, four-year bachelor's degree, and master's degrees. So these standards have to be very closely tailored to the actual needs that go with providing proper education at those various degree levels. These standards apply to such things as lecture format, demonstrations, laboratories, externships for the students, and mixed modes of delivery of education--distance education, on-ground education. The standards are applied routinely through on-site audits. And any institutions that don't comply go through
sanctions. Ultimately, of course, if they can't come up to the accreditation standard, accreditation would be denied or withdrawn.

More importantly, the institutions are provided strong incentives to modify practices to improve quality continuously so that students gain incremental and continuous maximum benefit for the time and money invested in their educational experience. Furthermore, ACICS standards reflect that as more instructional activity migrates to the online and distance education platforms, we will provoke substantive dialogue about the best way to ensure that students are deriving educational value from these alternative and innovative venues of instruction.

Now let me turn to the second area that we want to just provide some brief comments on, and that is defining gainful employment. Again, national accreditation is key here. We don't believe that it's necessary to have standards by regulation. Rather, by enforcing strong standards and requirements through accreditation, we can ensure outcomes, and we currently do at ACICS and national accreditation encourage outcomes that lead
to job placement in fields directly related to the course of study. We require at ACS mandatory reporting of all annual job placement rates for all institutions, documentation that will withstand audit scrutiny, and enforcement and sanctions in the event placement rates would fall below these ACICS standards.

We send a strong message to our schools that goes beyond compliance and includes substantive dialogue about best practices, sharing best practices, to prevent graduates and job seekers from falling between the cracks, particularly recognizing the economic constraints that we're currently facing and certainly have an impact on how we develop what are considered to be best practices from the placement rate viewpoint.

Thirdly, let me talk about institutional integrity where there are not licensing authority in the states at the present time. ACS is proud of its strong ongoing relationship with the state regulatory interests in California, which, as you know, at this point does not have state oversight and licensing authority for career colleges, although there is a bill to bring that about.
During that timeframe where such oversight does not exist, ACS has continued to work to enforce high standards and work closely with the California regulatory agencies in that regard. ACICS has required all of its accredited institutions in California to voluntary comply with the standards of the expired Vocational Education Act. So even though the act has expired, the standards, in our view, are still appropriate standards and we work closely with the state of California in making sure our accredited institutions comply with those as a minimum standard.

ACICS continues to work with the state policymakers in California and other states in regards to state regulatory authority and the overall state regulatory infrastructure.

In closing, I'll just bring up one more subject which is, we think, very important, near and dear to our hearts in the national accreditation world. I'll reiterate, because we've spoken about this before, the importance of ACICS—or the importance to ACICS of a focus by the Department of Education on the ability of students to transfer academic credit in order to complete
their studies at another institution if they wish to do so.

The lack of transferability of academic credit is a persistent issue and appears to be defiant of resolution by the education enterprise and policymakers up until now. The Department and rulemaking negotiators made good progress on this issue recently, but I would urge the Office of Postsecondary Education to remain vigilant and to remain persistent in requiring fidelity by all institutions to the transfer of credit policies that are articulated in the Higher Education Opportunity Act of 2008.

Again, thank you very much for this opportunity to provide our remarks to the Panel. And let me say we are very willing to serve in the future and any appropriate manner to work with the Department on these matters. Thank you.

MR. MADZELAN: Thank you.

Irv Ackelsberg?

MR. ACKELSBERG: Thank you. My name's Irv Ackelsberg, and I'm a consumer lawyer in Philadelphia. I've been specializing in consumer protection for my entire career, most of which was
spent during my 30 years with Community Legal Services, the publicly funded civil aid organization that you've already heard from earlier this afternoon.

During the last seven or eight years with CLS, I was primarily immersed in protecting low-income communities from subprime mortgage brokers and lenders who were prospecting for home equity. We've certainly heard a lot about them recently. But before the subprime mortgage scandal, in the 1990s, my main professional focus was the on previous consumer fraud pandemic, the one wrought by proprietary trade schools. During those years, I represented hundreds of financially abused individuals, who, having sought the dream of bettering themselves and finding good-paying, satisfying work and trusting the promises of federally financed quality education, signed trade school enrollment agreements only to find themselves at the end without work and burdened with hopelessly unaffordable and non-dischargeable student loan obligations.

The financial aid reforms that eventually emerged following that last fraud pandemic did,
like today, in the aftermath of many investigations and corporate bankruptcies, help some. The rules against commissioned salespeople, the 90/10 Rule, and especially the default triggers for financial aid decertification all provided consumers and the taxpayers with some measure of protection from the proprietary trade school industry. But the risks to both consumers and taxpayers remain very much in play.

As long as we continue to allow the profit motive to coexist with higher education, we will be forced to contend with the overpriced, low-value vocational programs whose marketing and lobbying budgets will always overwhelm their underfunded public counterparts. For that reason, as it considers anew the higher education regulatory framework, the Department must remain vigilant to the new ways that for-profit schools will devise to abuse the financial aid system. I would like to mention two areas that, from my experience and recent conversations, suggest that you should pay attention, two areas in which I believe that warrant your attention.

The first of these concerns the
Department's monitoring of satisfactory progress statistics, one of the measures that proprietary trade schools depend on to maintain the flow of financial aid dollars. During the last year, I've interviewed—I interviewed a former trade school teacher who worked for one of the major chains and who explained to me the way in which he was constantly pressured to pump up the satisfactory progress numbers. He said, and this description to me was based not only on his experience in this—at this particular school, but with another employer as well: Teachers are routinely pressured to mark students present who are absent, to pass students who cannot do the work, and to change statistics after they're already done. A visit every few years by an accrediting commission is useless in catching this.

So, as the Department learned in the 1990s, it cannot assume that the accrediting side or the regulatory structure will deal with this. We need better detection devices and tougher compliance consequences in the financial aid system to address this problem.

The second issue I want to mention is the
growing importance of private, subprime student
loans in the business model of the trade schools.
This was alluded to in earlier testimony this
afternoon. While you do not regulate the private
loans, you must become aware of the ways in which
the federal system is used to facilitate widespread
financial aid abuse of students.

Last year, I interviewed a young former
student who briefly attended a residential
automotive program offered by another chain.
Attracted by the sales pitch offered by the
recruiter, who came to his home, he and his mother
decided to visit the school before he enrolled.
While there, they met with a financial aid
official. The federal portion of the financial aid
package was described in great detail, as it was
supposed to. Forms were signed and disclosures
provided. Very little information, however, was
provided regarding the private loan component,
which actually represented three-quarters of the
aid package.

In response to the mother's explicit
questions about interest rates, the financial aid
officer said she didn't know, but encouraged them
not to be concerned. By the time her son enrolled, details concerning the private loan were still unknown and still undisclosed. When the disclosure from the private lender finally arrived, her son was already in attendance at the school. She was shocked to learn that the $17,000 private school loan carried an adjustable rate starting at 16 percent.

Eventually, the financial weight of that obligation convinced both mother and son that the wisest course was to withdraw from the program. But I'm convinced that this sequence was not accidental and that the school financial aid office used the federal aid as a cover to hide the real facts and to lull the family into enrolling.

While these subprime private loans are themselves outside the Department's regulatory control, the Department can and must do something to require all financial aid packages, if they include federal assistance, to be fully disclosed prior to enrollment, including the contemplated terms of any private loan in the package. Moreover, there should be a right to cancel any enrollment partially financed by federal aid until
after full disclosure is provided.

My final comment goes to the theory and structure of Negotiated Rulemaking itself. I was a participant in the very first Negotiated Rulemaking. I believe it was back in 1992. This was after students and consumer advocates were added to the negotiating table, the table of so-called stakeholders, as a last-minute decision. Most of the tables had already been filled by the schools, the banks, the guaranty agencies, and even the collection companies, in other words, those in the education and financial aid business. Now, obviously we were outgunned at the table and resulting regulations, while an incremental improvement over the past, were not as good as they should have been.

For the students, the supposed beneficiaries of the system, they can't expect a give-and-take among financial stakeholders to produce a result grounded in their best interests. It just can't happen. Now--so while it's important for students and consumer advocates to be at the table, it is also critically important that the Department itself be on their side, not a mere
referee among unequals.

Thank you.

MR. MADZELAN: Thanks.

Michael Golden, Solutions for Progress.

MR. GOLDEN: Good afternoon. I'm not used to not having to push this down.

Thank you for inviting us here today to help discuss ways to help students, particularly mature students, to persist in their education and complete as soon as possible, so that they can help move themselves and their families out of poverty and into more stable economic circumstances. I'm here to talk a little bit more about a single platform that was referred to in earlier testimony to help students file financial aid forms, FAFSA, taxes, and work support benefits.

It has been said that the less time students spend slinging hamburgers means more time for classes and study. It means they complete their education sooner and are eligible for better jobs. It means they move their families up the ladder from sustainability to successful economic integration. I won't spent too much time in describing where students find themselves
currently, but it is worth spending a quick moment just to review that.

A typical community college student, the average age is 24. Forty-seven percent are under 24; 35 percent are over 30. Fifty-nine percent are women. Sixty-one percent are independent—classified as financially independent. Eighty percent work while enrolled and work on average 32 hours per week. Twenty-six percent of students are at or below 125 percent of the federal poverty level. Forty-seven percent receive some financial aid, mainly grants. Thirty percent have dependent children. And two-thirds are part-time students.

As you well know, these students face significant economic challenges, but they are also eligible for a wide range of programs decades old that have been passed and supported with appropriations by many Congresses. These programs were designed to help people with low means to raise themselves out of poverty. They include programs specifically for education, such as Pell Grants, as well as the Earned Income Tax Credit; Supplemental Nutrition Assistance Program, formerly known as food stamps; Medicaid and SCHIP for
children; and child care subsidies.

We all know that, particularly in these times, many community college students are literally one paycheck from disaster. And they cut it even closer with respect to being able to stay in school. I mean, disaster doesn't necessarily just mean complete loss, but it also can just mean a short piece of leaving school, because their margin for error and their margin even for misfortune is extremely thin. Taken together, these programs can substantially increase the resilience of these students in completing their educations.

A typical student, for example, may have income roughly of $14,000 a year at a low-wage job. She faces rent, food, transportation, health care, child care, and taxes—costs that we have estimated for this student at more than $19,000, an immediate deficit of $5,000 before schooling costs can even come into account. The educational institutions do their best to help, of course, but there is currently very little they can do to connect their students with these benefits. It's difficult enough for them just to verify FAFSA information so
these students can receive Pell Grants and other financial aid assistance. But they cannot work around the inevitable delays of paperwork much less bypass the silos in the work support system. But making FAFSA easier and getting these work supports would be two important benefits for these students, substantially aiding them in completing their educations.

We believe that integrating FAFSA, tax filing, and access to nutrition and health benefits with the college registration process will significantly increase both persistence and completion for students by substantially increasing the resources they use to pay for school and to support their families while enrolled. That's why we created the Benefit Bank, a web-based platform service that helps low- and moderate-income people file their taxes, file for FAFSA, and maximize their tax credits and other work supports through an expert system. We estimate that this same student, if she receives the benefits for which she is currently eligible, can dramatically improve her ability to persist and complete her education by increasing her economic resources dramatically.
For the case above, the student begins with about $14,000 in gross income. She will be eligible for the Earned Income Tax Credit, a cash value for her of approximately $4,000. In addition, she is eligible for SNAP with a value of about another $4,000; health care for herself and her children, an actuarial value of about $3,000, but a significant emotional and financial risk benefit; and child care subsidies of about $4,000. She may also be eligible for low-income heating and energy assistance, state tax credits, and others, but this is just an example.

So while she's currently out there working right now on the edge earning $14,000, she doesn't know it, but she's currently eligible for work support benefits that will essentially double her effective income to a value of about $29,000. And in my testimony it has exhibits attached for you to show that.

Integration of these functions will bypass the silos that exist currently in ways that allow institutions to be more efficient with their own resources while helping their students more. In the benefit bank, for instance, once a student has
completed his or her taxes, which are then filed electronically, the information that's already been entered and gathered will be transferred directly over into the FAFSA form. The expert system can then raise to the surface whatever information is still missing. And then once that information is completed, can file FAFSA electronically, reducing errors while increasing speed and confirming that the information is the same as that that was filed with the Internal Revenue Service, eliminating the verification issue.

Integration of these functions through expert technology can support the institutions in their work, making their efforts more efficient and more effective with their own resources. At the same time, they can use their own technological processes that are already existing--their registration process, for instance--to connect their student with educational and other outside supports.

It will increase the resources available to their students, both educational resources through FAFSA, but also other resources for themselves and their children that make them more
stable. They'll reduce the amount of debt they carry to complete their education. They will virtually eliminate the substantial risk of catastrophic debt often related to health care costs. And they'll be able to spend more time in classes and studying, performing better in their classes, and completing their educations sooner. In short, technological integration will result in efficiencies for the community colleges in providing financial aid; will increase student persistence; will enable them to more rapidly compete—complete their educations. The community colleges will increase their success rate where it counts: raising generations out of poverty through education.

Thank you.

MR. MADZELAN: Thank you.

Mary Catherine Scarborough, British Council.

MS. SCARBOROUGH: Good afternoon. My name is Mary Catherine Scarborough and I work for the British Council. We're the United Kingdom's international organization for educational and cultural relations. In the United States, we
increase the availability and quality of resources for students interested in study abroad, undergraduate and postgraduate degrees at U.K. universities. We also serve as the Cultural Department for the British Embassy in Washington, D.C.

Today, I am joined by representatives from New Zealand, Australia, and Canadian embassies. And in Denver, you heard from another Canadian colleague from the consulate there.

For your consideration, we provide the information in support of changes that would enable foreign institutions to become eligible for the Direct Loan Program, ensuring American students enrolled in higher education at foreign institutions can continue to afford the education of their choice. To support the inclusion of foreign institutions we provide the following information.

Currently, foreign institutions are eligible to apply for participation in the Federal Family Education Loan--FFEL--Program. The potential discontinuation of FFEL, allowing American students access to federal aid while
enrolled at foreign institutions, would limit the ability of Americans to experience full-degree international education. According to the U.K.'s Higher Education Statistical Agency, HESA, in 2007-2008, 12,800 American students studied at U.K. universities for undergraduate and postgraduate education.

Currently, foreign institutions do not have the ability to administer federal aid without FFEL. Including these institutions in the Direct Loan Program will ensure that American students can continue to receive federal aid at foreign institutions. Therefore, in the coming months, we will support modifications of the Higher Education Act, which would allow for inclusion of foreign institutions in the Direct Loan Program.

Thank you for your time and consideration.

**MR. MADZELAN:** Bob Collins, Apollo Group.

**MR. COLLINS:** Good afternoon. My name is Bob Collins. I'm the Vice President of Student Financial Aid for the Apollo Group. I've been an active financial aid professional for over 28 years. I've been with the Apollo Group since 2000, March of 2000.
I provided earlier testimony in Denver, which I submitted in writing today. My comments are scribbled on this piece of paper.

The University of Phoenix is one of the most highly regulated schools in the education sector. We operate in 38 states and have a physical presence there, so we have all of the state regulatory requirements. We're regionally accredited by the Higher Learning Commission. And since we operate in all of these states, all of the other regional accrediting agencies have the opportunity to visit our campuses and--located within their regions as well. We have four programmatic accreditations in business, nursing, teachers, and counselors.

We're a publicly traded company, so, therefore, we have the Securities Exchange Commission Sarbanes-Oxley requirements. We have an annual independent compliance audit performed by an external big accounting firm. We have internal audits. We have state program reviews and we have Department of Education program reviews.

Today you heard many of the same tired accusations against the University of Phoenix that
make great headlines, but are lacking in factual integrity. It is unfortunate that as a public company many financial investors make their living from shorting the Apollo Group stock. Apollo Group is the parent company of the University of Phoenix. But to be clear, the University of Phoenix is focused on student outcomes, not on the financial investors who may be trying to short Apollo stock.

Let me start by clearing the record about the University of Phoenix 2003 Program Review Report. There's no question that the report is filled with accusations and strong rhetoric. But not contained in the report is the University's vigorous rebuttal to its contents. We did settle with the Department as we had no desire to enter into a protracted dispute with our primary regulator. However, the settlement did not require that we change any policies or practices because we were, in fact, abiding by the law.

Following our settlement, the Arizona Private Postsecondary Education Board decided to conduct their own investigation to see if the contents of the 2003 Program Review Report had merit. Following their exhaustive investigation,
the State Education Board voted unanimously to
dismiss the matter, finding no violation of statute or rules.

The second issue that frequently comes up are graduation rates. As you know, the IPEDS database requires that institutions report only those students with no prior college experience. As disclosed in our consumer information, this first-time, full-time IPEDS definition is not representative of our student population.

The University of Phoenix student brings a significant level of prior college work. The University of Phoenix completion rates are comparable to conventional four-year colleges and universities: 27 percent of University of Phoenix students graduate at associate degree level, which is the same as the national rate; 38 percent of University of Phoenix students graduate at bachelor's level compared to 43 percent nationally; and 60 percent of the University's students graduate at the graduate level versus 61 percent nationally. And in comparison of students who enter college with risk factors that often contribute to their dropping out, the University of
Phoenix rates of completion for bachelor's degree are substantially higher than for institutions overall. These rates have been verified by external parties again and again.

With respect to the previously mentioned OIG audit, for those aid administrators who are in the room, if you've ever had the participate in one of those, they arrived on campus in March of 2004, spent about an academic year. And this was not a random sample of student files. This was an entire database of all of our student record systems. The period of time that they were auditing was from September of 2002 to March of 2004.

They looked at two areas. The first one was related to disbursements and, in August 2005, a report was issued. The report states, "Except for two areas, we concluded that University of Phoenix had policies and procedures that provide reasonable assurances that the institution properly makes initial and subsequent disbursements to students enrolled in Title IV-eligible programs." Except for two areas, and those were nominal, I think there were six students where we had refunded less than $20,000 back to the programs.
Regarding the return to Title IV, I quote, this report was issued in December of 2005. The OIG, "We concluded that the University of Phoenix had policies and procedures that provided reasonable assurance that the institution properly identified withdrawn students, appropriately determined whether a return to Title IV calculation was required, returned Title IV funds for withdrawn students in a timely manner, and used appropriately methodologies for most aspects of calculating the return to Title IV." For most aspects.

I really get to appreciate the regulatory process because in February of 2004, there as a "Dear Colleague" letter that was issued, a rather extensive "Dear Colleague" letter. And in it there was some sub-regulatory guidance with respect to return to Title IV for non-term programs of which the University of Phoenix is a model. Some would argue that it promulgated new regulation, this "Dear Colleague" letter; I'm not going to go there.

In February of 2004, without any notice, we were heads-down. We were conducting a software system enhancement, which is routine about that time of year. We were preparing for the new aid
year regulations. We had just completed a program review and out comes a 24-page "Dear Colleague" letter.

We did our best to implement that as quickly as possible in light of everything that was going on, and we did. In fact, the OIG did confirm that our new policies and procedures that we adopted in December were compliant, in December of 2004, of that year. So from March 1 to December, that's how long it took to implement this new guidance.

So only to say these--the regulatory process is critical. There's public hearings. There's Negotiated Rulemaking. There's a Notice of Proposed Rulemaking with a public comment period. And then final regulations are posted in the Federal Register. And then there's a master calendar to allow institutions enough time to implement all of these changes.

Finally, I'd like to point out that the University of Phoenix is here for the same reason all of you are: We want to ensure that, in the end, our regulatory processes are fair and balanced for all types of institutions and, most
importantly, that they serve the students who should be able to attend the schools that best meet their needs.

Thank you.

**MR. MADZELAN:** Thank you.

Well, if you'll give me a moment, I will check out—we'll check outside to see if we have anyone additional signed up. That is it for my list at the moment. We are scheduled to be here until 4 o'clock. So if you'll just hold tight for a moment or two, we'll see if we have anyone else.

I'm told we have no one else signed up. So, what we will do is we will recess and rather than reconvene at any particular time, I will just say we'll reconvene at the call of the Chair. And we will be here until 4 o'clock. Okay.

[Recess.]

**MR. MADZELAN:** It is now 4 o'clock and we have received no additional indication or no additional persons have asked to speak this afternoon. So we are now closing this session of the Negotiated Rulemaking Hearing.

Thanks to all who participated.
[Whereupon, at 4:00 p.m., the hearing was adjourned.]