



Office of Postsecondary Education (OPE)
U.S. Department of Education (ED)

Negotiated Rulemaking for Higher Education 2011

Transcription of Public Hearing held at
The Sciences Auditorium, Room 129, of the
College of Charleston School of Sciences and
Mathematics Building, 202 Calhoun Street,
Charleston, South Carolina on May 26, 2011.

PANEL MEMBERS PRESENT:

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Office of Postsecondary Education

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Counsel

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

2 9:01 a.m.

3 CHAIR MADZELAN: Good morning,
4 everyone. Welcome to this hearing for
5 regulatory issues related to the Title IV
6 Student Financial Aid Programs that are
7 administered by the Department of Education.

8 The first thing we want to do here
9 at this end of the room is to thank our hosts,
10 the College of Charleston for providing this
11 venue today and also some additional space for
12 tomorrow's roundtables.

13 My name is Dan Madzellan from the
14 Office of Postsecondary Education.

15 I am joined on my right by Carney
16 McCullough also of our Office of Postsecondary
17 Education and on my left, by Harold Jenkins
18 from our Office of General Counsel.

19 We are here in Charleston for two
20 days or one and a half days at least and these
21 are two separate activities. What we are here
22 today about is to get input from you, the
23 community, the higher-education community

1 around what we ought to do in our next round of
2 rulemaking.

3 What we will be doing tomorrow for a
4 half day, we have three separate fora or
5 roundtables where we want to have a more in-
6 depth discussion around several of the
7 Department's -- the administration's priorities
8 in higher education: The First in the World, a
9 competition in our FIPSE programs, teacher
10 preparation and also some activities around
11 improving college completion. So, again, three
12 roundtables tomorrow that are really focused on
13 helping us flesh out some of our policy
14 positions.

15 Today though, this is about
16 rulemaking and in particular negotiated
17 rulemaking. I'm sure you all know that
18 agencies when they engage in rulemaking
19 activities are governed by the Administrative
20 Procedure Act which provides for a Notice of
21 Proposed Rulemaking, a public comment period
22 and then a final rule in which the agency
23 either considers what they heard in public

1 comment or does not consider it, but either
2 way, has to inform the public of what they did
3 agree to or not agree to in terms of producing
4 the final rule.

5 What we have for our Title IV--HEA
6 Title IV Programs--is an additional requirement
7 on the front end of the process called
8 negotiated rulemaking and that is where we can
9 convene panels. We meet several times over a
10 several month period to actually hammer out the
11 language of the Notice of Proposed Rulemaking.

12 So, again, the neg reg piece of this is a
13 front-end activity in the rulemaking process.

14 On the front end of the rulemaking
15 process is why we are here today which again is
16 to get input from the community about what we
17 ought to be considering.

18 Now, we did publish a notice in the
19 Federal Register. I'm sure you all read it.
20 That's why you're here today. Otherwise, you
21 would not have known about this. Well, I
22 shouldn't say that. I'm sure you all have
23 friends and colleagues that would have told you

1 about this.

2 But, we did identify a couple of
3 topic areas. We are interested in taking
4 another look at the issue around the discharge
5 of Federal student loans for total and
6 permanent disability. We're also interested in
7 taking a look at some of our alternate
8 repayment plans, income-based repayment,
9 income-contingent repayment and we're also
10 interested in insuring that our regulations in
11 particular with the Direct Loan Program are,
12 you know, independent and free standing.

13 Now that all Federal student loans
14 are originated through the Direct Loan Program,
15 what we have done over the years is that we
16 have regulated Direct Loans in many instances
17 by cross-reference to FFEL Program rules and
18 so, what we're interested in doing is again as
19 I say having our Direct Loan regulations
20 independent and free standing.

21 What my colleagues in the Office of
22 General Counsel say is to have our Direct Loan
23 rules naturally readable so you don't have to

1 cross-reference here and there. I like that
2 term. Naturally readable.

3 So, again this morning and this
4 afternoon, we do have some people who signed up
5 ahead of time.

6 The number of people on this list is
7 less than the number of people I see in the
8 room. If you are not signed up and you become
9 inclined or maybe already are inclined, but if
10 you become inclined to speak, just go out to
11 the back of the room. Our colleague Kathleen
12 Smith will be happy to sign you up.

13 You know, there are time slots that
14 we have. We generally do not keep to a strict
15 schedule. If a speaker takes a little bit
16 longer, that's kind of okay. If the speaker
17 uses a little bit less time, then we typically
18 ask the next speaker to come forward.

19 We likely will get to a point where
20 there is sort of a break where we do not have
21 speakers scheduled or ready to speak and we
22 will take breaks. We will take, you know, a
23 recess until we have another speaker ready to

1 go.

2 We will take a break at noon for
3 lunch approximately 12:00 to 1:00 p.m.

4 Everything that we say here is being
5 transcribed and we will make the transcriptions
6 of this and our other sessions available on our
7 website.

8 I think the last point is again we
9 are looking in this process moving forward. We
10 are interested in what you have to say about,
11 you know, the topics we've identified or maybe
12 some other topics that you think are important.

13 We're less interested in issues related to
14 regulations that are not yet in effect.

15 So, again with that, I'll ask Carney
16 and Harold if they have something to add or did
17 I miss something?

18 MR. JENKINS: I'll just add a word
19 about the framework that we're operating under.

20 Congress, of course, establishes the
21 Student Aid Programs by legislation and in
22 regulating, we are implementing this
23 legislation. Now, for some of the programs or

1 for some of the provisions of the programs,
2 Congress is very prescriptive and very
3 specific. That gives us less latitude. In
4 other cases, we have more latitude, but in all
5 cases, we're limited in our regulating by the
6 specific terms of the legislation which
7 authorizes the programs.

8 CHAIR MADZELAN: Thanks, Harold, and
9 so, we'll get started with our first speaker.

10 Now, we know who you are because we
11 have the list, but when you come up, for the
12 record, please state your name and where you
13 are from, who you represent and our first
14 speaker is Diane Auer Jones.

15 Yes, everyone come up to the podium
16 and the mike is live.

17 MS. JONES: Great. Thanks. Good to
18 see the three of you. Thanks for holding this
19 meeting and thanks for providing me with an
20 opportunity to provide comments.

21 Given the President's January 18th,
22 2011 Executive Order on improving regulation
23 and regulatory review, I would recommend that

1 the Department's future negotiated rulemaking
2 be focused on reducing regulatory burden,
3 eliminating outdated or useless regulations and
4 ensuring that compliance with the remaining
5 regulations not only meets the intended goals,
6 but that such compliance does not cause
7 additional unnecessary harm to an already
8 struggling economy.

9 To do this effectively and for the
10 public to be able to provide informed and
11 relevant comments, we must first see the
12 Congressionally mandated report of the Advisory
13 Committee on Student Financial Assistance
14 regarding Title IV regulatory burden.

15 It is disappointing that despite the
16 significant advance notice of the report's due
17 date the Advisory Committee has opted to wait
18 until the last minute to conduct their research
19 and I use the term research quite loosely.
20 They've decided to distribute brief surveys to
21 university administrators that must be
22 completed in an expedited fashion during the
23 busiest time of the academic year.

1 It is hard to believe given the
2 experience we had inside of the Department to
3 look at regulatory burden that a 10 or 20-
4 minute survey will accurately or adequately
5 inform the Committee's findings. It is hard to
6 understand how anyone who understands rigorous
7 research methodology would consider these
8 surveys to be an adequate way to assess
9 regulatory burden.

10 It would appear that the interest in
11 determining regulatory burden is less than
12 genuine which is disturbing given that there is
13 unanimous agreement among Congress and the
14 Administration that reducing unnecessary
15 regulatory burden is a top priority if we hope
16 to get our economy back on track.

17 A serious effort is required on the
18 part of the Department to fully and adequately
19 assess regulatory burden as well as to examine
20 the efficacy, usefulness and clarity of the
21 current regulations.

22 I do agree with the Department that
23 a realignment of lending and servicing

1 regulations is in order now that the FFEL
2 Program has been eliminated and the Department
3 of Education serves as lender, servicer and
4 guarantor. It is critical that the Department
5 take responsibility for borrower repayment and
6 hold itself to the same standards to which it
7 once held lenders and guaranty agencies
8 regarding borrower satisfaction and reduced
9 default rates.

10 I must say that if the servicing of
11 loans purchased by the Department through the
12 PUT Program serves as a bellwether for
13 servicing to come under an all-DL Program, I
14 have grave concerns.

15 I would encourage the Department to
16 convene an expert panel of experienced loan
17 servicers, guaranty agencies and others to
18 develop regulations that clearly articulate the
19 Department's roles and responsibilities in this
20 regard and will define a set of measures by
21 which the Department's performance in the areas
22 of borrower servicing, customer satisfaction,
23 ease of use and default reduction are

1 rigorously evaluated in keeping with the ways
2 in which FFEL lenders and guaranty agencies
3 have been evaluated in the past.

4 In particular, it is necessary for
5 the Department to explain in its regulations
6 how it will fulfill the provisions of Section
7 422 of the HEA. This section assigns a number
8 of important borrower education servicing and
9 default prevention responsibilities to guaranty
10 agencies.

11 Who will provide these services when
12 all Stafford Loans are Direct Loans? Included
13 in Section 422 are such default avoidance and
14 prevention actions as: partial loan
15 cancellation to reward disadvantaged borrowers
16 for good repayment histories, establishing a
17 financial and debt management counseling
18 program for high-risk borrowers that provides
19 long-term training in budgeting and debt
20 management, establishing a program of placement
21 counseling to assist high-risk borrowers in
22 identifying employment or obtaining additional
23 training and skills, developing public service

1 announcements that detail the consequences of
2 student loan defaults to the public.

3 Clearly, Congress saw these services
4 as critical to meeting borrower needs and to
5 the integrity of the Stafford Loan Program.
6 So, it is necessary for the Department to
7 explain how it will provide these services in
8 an all-DL Program.

9 At a time when the Federal Reserve
10 has set interest rates at near 0 percent, the
11 high interest rates and fees charged to student
12 borrowers should provide adequate resources to
13 support the development and implement of a
14 robust Department-led or GA-led and Department-
15 funded default reduction program.

16 Along those lines, I urge the
17 Department of Education to align its
18 regulations regarding the calculation of cohort
19 default rates to the language found in the
20 statute. For example, Section 462 of HEA
21 states that CDRs should not include as
22 defaulted loans those on which the borrower has
23 made six consecutive payments, voluntarily

1 caught up on past-due payments, repaid in full
2 the amount due on the loan, received deferment
3 or forbearance based on a condition that began
4 prior to the default period or if the loan has
5 been otherwise rehabilitated or cancelled.

6 Meanwhile, the Department's
7 regulations as articulated in the Handbook are
8 contrary to statute in that the Department's
9 calculation of CDR includes as defaults loans
10 in which the borrower has entered into
11 repayment and subsequently obtained a deferment
12 or forbearance, loans that have been
13 consolidated as part of the Loan Rehabilitation
14 Program and loans that have been paid in full
15 without rehabilitation but within the cohort
16 default period.

17 These inconsistencies must be
18 resolved so that loans that have been paid in
19 full or are back in lawful repayment--including
20 through consolidation programs authorized by
21 Congress required of borrowers who want to
22 benefit from the programs created by CCRAA and
23 frankly promoted by the Department--are not

1 counted in the numerator.

2 Statute requires as much and rightly
3 so given the significant consequences that the
4 Department's artificially inflated CDRs have on
5 institutions and students.

6 The Department's lifetime default
7 estimates should similarly take the percentage
8 of loans that are ultimately rehabilitated out
9 of the equation. It is disingenuous to cite
10 statistics that focus on the number of
11 borrowers who default since the uninformed
12 media and public assume that those loans are
13 never repaid. Lifetime default numbers should
14 exclude from the calculation defaulted loans
15 that are rehabilitated.

16 By the way, it would also be helpful
17 if the Department's website included on each
18 page where loans or debt management programs
19 are discussed a button that would link the
20 student to the loan calculator. So that, at
21 every step of the way, they could accurately
22 learn exactly how much borrowing, consolidation
23 and debt management will cost them. Right now

1 the calculator is buried several levels in and
2 the student almost has to be in the debt
3 management and repayment page before they find
4 the calculator.

5 Similarly, the Department's website
6 should include ample warnings that few students
7 will actually benefit from public service loan
8 forgiveness or Teach Grants given the small
9 print conditions that are embedded in those
10 programs.

11 Perhaps the most tragic
12 misrepresentation in higher education is the
13 language used on the Department's own website
14 including on college.gov. These websites make
15 loans seem like a simple way to pay for college
16 and they imply that consolidation, IBR or
17 public service loan forgiveness will make
18 repayment a snap.

19 By the way, it would also be helpful
20 if in the student guide, Funding Education
21 Beyond High School, you accurately cited the
22 Department of Labor's projections about future
23 job growth. It isn't the first table from the

1 Occupational Outlook Report that matters. The
2 number one field -- that table cites data about
3 job rate -- growth in job rate. The number one
4 field on that table is biomedical engineering
5 and while the rate of growth approximates 70
6 percent, the field is so small that a 70
7 percent growth translates to only 11,000 new
8 jobs over ten years. So, clearly, it's not the
9 rate of growth that matters.

10 Instead, it is the second table that
11 shows where most Americans will work over the
12 next ten years. This is the table that shows
13 where the largest numerical growth will take
14 place and this table shows that the majority of
15 new jobs over the next ten years will not
16 require a college degree. Instead, they will
17 require a certificate or apprenticeship-like
18 training.

19 Finally, since there seems to be
20 unanimous agreement that student's are
21 overborrowing and frequently for activities and
22 purchases that are not related to higher
23 education enrollment, institutions of higher

1 education must be given the tools necessary to
2 limit student borrowing to reasonable levels
3 based on the cost of tuition, fees and books.

4 One way to do this is by
5 interpreting the statutory definition of cost
6 of attendance, as a ceiling rather than as a
7 floor. Just because Congress allows
8 institutions to include a long list of indirect
9 costs in the cost of attendance calculation
10 should not mean that an institution is required
11 to include all of these costs if it determines
12 that inflated COA numbers are leading to
13 overborrowing. This is especially the case for
14 institutions whose students are demographically
15 at high risk for default.

16 Similarly, the Department should
17 support the strategy proposed or employed by
18 many community colleges that disallow students
19 to borrow through the Stafford Loan Program.
20 It is inappropriate to hold institutions
21 responsible for borrower behaviors when, in
22 fact, these institutions have no ability to
23 influence or determine who borrows or how much

1 they borrow.

2 The Department cannot continue to
3 encourage students to overborrow while then
4 placing the blame for overborrowing on the
5 institutions these students attend.

6 In closing, I want to reiterate that
7 the focus of future negotiated rulemaking
8 should be on compliance with President Obama's
9 Executive Order 12866 on improving regulation
10 and regulatory review.

11 It is imperative that the Department
12 improve the way its regulations are written and
13 I think, Dan, you used the term naturally
14 readable.

15 The public as well as administrators
16 and students and frankly, the Department's own
17 staff should be able to easily read and agree
18 upon the interpretation of these regulations.
19 I know all too well that even within the
20 Department there's often times disagreement on
21 how to interpret a regulation.

22 I also know that it is a strategy
23 employed sometimes to intentionally write

1 regulations that are vague and subject to
2 changing interpretation. This must end because
3 it violates both the language and the spirit of
4 the Executive Order.

5 I encourage you to follow the
6 President's Directive to base regulations not
7 in speculation or personal opinion, but instead
8 in scientifically collected data. It is
9 important for the Department to consider the
10 academic literature about the lengths between
11 student demographics, student risk factors and
12 various higher education outcomes such as
13 graduation rates, retention rates and loan
14 repayment. We all know what those data say and
15 it's time to develop policies that are based on
16 and respond to reality rather than our outdated
17 vision of a higher education system that once
18 exclusively served advantage-dependent
19 students.

20 Finally, it is absolutely critical
21 that the Department facilitate a full review of
22 existing regulations, including the supporting
23 data to determine which are ineffective in

1 meeting the regulatory objectives they were
2 written to achieve. It is time to look at the
3 regulations we have before embarking on yet
4 another round of actions that will potentially
5 expand regulatory burden, potentially with no
6 positive results.

7 I thank you for this opportunity to
8 provide public comment.

9 CHAIR MADZELAN: Thank you very
10 much. Jennie Rakestraw.

11 MS. RAKESTRAW: Good morning. My
12 name is Jennie Rakestraw and I'm Dean of the
13 Richard W. Riley College of Education at
14 Winthrop University and I serve as President of
15 the South Carolina Association for Colleges of
16 Teacher Education, the state affiliate of
17 AACTE.

18 I appreciate the opportunity to
19 comment at this hearing and my comments are
20 mainly going to be about teacher preparation.

21 There seems to be agreement and
22 ample research attests to the fact that in
23 order for student achievement levels to

1 improve, highly effective teachers are needed
2 and their schools need highly effective
3 leaders. These teachers and school leaders
4 need to be fully prepared for the challenges
5 faced by our country's schools.

6 In South Carolina, 53 percent of
7 children are from low-income families and in
8 half of South Carolina's schools, more than 70
9 percent of their students live in poverty.
10 Kids Count 2010 reports a 54 percent increase
11 in children from migrant families in South
12 Carolina and school data continue to reflect 20
13 to 30 percent gaps in the achievement of white
14 students and that of minority and poor
15 students.

16 High poverty, high need schools are
17 less likely to have a shared vision, commitment
18 to problem solving, effective leadership or
19 ongoing professional development and this
20 inferior work environment leads in turn to
21 higher rates of teacher and principal
22 attrition, which compounds the problem of
23 providing quality teaching and learning

1 environments in high poverty schools and it
2 reduces their ability to recruit good teachers
3 and leaders.

4 Currently, in South Carolina, most
5 of our core academic courses are taught by
6 teachers who are certified and qualified to
7 teach in those fields. However, we have over
8 5,000 core classes that are taught by teachers
9 not certified to teach those subjects and of
10 those, twice as many core classes are taught by
11 non-qualified teachers in high poverty schools
12 than in low poverty schools.

13 When you look at the test scores by
14 racial ethnic groups, socioeconomic status and
15 English proficiency, there is consistently a
16 serious achievement gap.

17 For example, in South Carolina's
18 Palmetto Assessment of State Standards, the
19 PASS examination of students in grades 3
20 through 8, I looked at the 2008/2009 data, but
21 if you look at most tests given in South
22 Carolina and nationally, there's at least a 20
23 point gap between achievement of white students

1 and African American students and Hispanic
2 students and between students who fully pay for
3 their school meals and those on free and
4 reduced meal plans.

5 In addition, between 1990 and 2006,
6 there's been an increase of over 700 percent in
7 the Latino population alone in the up-state
8 region of South Carolina which includes the
9 counties surrounding Winthrop University in
10 Rock Hill and according to our State Department
11 of Education, there's been an increase of
12 almost 1,000 percent in the number of English
13 language learners enrolled in South Carolina's
14 public schools since 1990 and that's using 2010
15 data.

16 In our local area, English language
17 learners are clearly under served and
18 disparities among districts are evident when it
19 comes to trained and certified teachers to work
20 with those students and typically, you'll see
21 at least a 10-point achievement gap between
22 English proficient and non-English proficient
23 students.

1 To address these serious issues in
2 schools, teachers and school leaders must be
3 sufficiently prepared. I believe that it is
4 critical for the Federal Government to continue
5 to play a key role in supporting educator
6 preparation reform.

7 At Winthrop University, we're
8 transforming how we prepare teachers and school
9 leaders through our U.S. Department of
10 Education Teacher Quality Partnership Grant and
11 School Leadership Grant. Initiatives like
12 these propel institutions to rethink how we are
13 preparing teachers and school leaders and to do
14 so in close collaboration with high-needs
15 schools and school districts. Those that can
16 benefit most from this type of partnership.

17 Although alternative routes to
18 teaching and school leadership are touted and
19 there are certainly viable programs in
20 existence that prepare teachers and leaders
21 well and provide them with a more streamlined
22 path into school careers, more than 70 percent
23 of today's teachers are prepared by colleges

1 and universities through standards-based,
2 traditional undergraduate programs, MAT
3 graduate programs and their own alternative
4 programs.

5 The U.S. Department of Education
6 needs to continue to promote innovation and
7 clinical preparation of teachers and school
8 leaders in university-based programs and invest
9 in partnerships between universities and P-12
10 schools, especially high-needs schools.

11 Strong accountability systems do
12 need to be in place for all teacher preparation
13 programs, traditional, transformative, public,
14 private, alternative, all of them.

15 Who are producing the good teachers,
16 the ones who can impact student learning?

17 From my perspective, universities
18 have been anxious to see statewide data systems
19 in place that will allow us to receive good
20 feedback on how well teachers and school
21 leaders we graduate are performing on the job.

22 We also want to see our graduate student
23 learning data used in accountability systems

1 that will allow us to continue to get better at
2 what we do and guide ways in which we work with
3 schools to improve teaching and learning in
4 those settings.

5 I believe that many universities are
6 doing an excellent job in preparing effective
7 teachers and leaders, but the data we have
8 access to for the most part is self-generated
9 although based on state and national standards
10 which is not a bad thing, but they do not
11 provide the level of objectivity and
12 transparency that's needed to ensure the public
13 and the Federal Government that the educators
14 we're producing are doing a good job and are
15 having a strong impact on student learning.

16 There are many, many university-
17 based programs in this country and in the state
18 of South Carolina that are not mediocre and
19 that are contributing to the solutions that we
20 seek in P-12 schools today. The only way to
21 acknowledge that is with credible statewide
22 data systems.

23 The U.S. Department of Education

1 should invest in the development of these types
2 of student learning-based systems.

3 And finally, I would like to lend my
4 support for the notion that states should be
5 empowered and required to recognize good
6 teacher preparation programs and identify and
7 close low performing teacher and school
8 leadership preparation programs as well as any
9 alternative program that is getting weak
10 results in terms of teacher quality and
11 resultant student learning.

12 Just as we feel a moral
13 responsibility to produce highly-effective
14 teachers who are well equipped for the diverse
15 needs of learners in schools today, states
16 should also recognize a moral responsibility to
17 make those decisions through a fair minded and
18 informed process so that our schools will
19 employ truly good teachers who can make a
20 difference in the success of their students.

21 Thank you.

22 CHAIR MADZELAN: Thank you. Anthony
23 Fragomeni.

1 MR. FRAGOMENI: Morning. How are
2 you doing, Dan, Carney?

3 My name's Anthony Fragomeni. I am
4 the Chairman of the Government Relations Team
5 from the American Association of Cosmetology
6 Schools, better known as AACCS.

7 I appreciate the opportunity to come
8 here today and speak to you about some loan
9 issues on behalf of the association.

10 We've long been a supporter of the
11 Federal Direct Loan Program and we believe that
12 among the many strengths, perhaps the greatest
13 strength of the Direct Loan Program, was the
14 direct connection between the institutions and
15 the singular highly effective servicer who
16 served as the sole point of contact for the
17 borrower as well as the institution.

18 We understand that as a result of
19 the congressional actions under both the ECASLA
20 and the HEOA that the Department needed to
21 expand beyond just one contractor in order to
22 have the resources necessary to administer the
23 loan program and the rapidly expanding

1 portfolio.

2 Unfortunately, we believe that the
3 addition of four of the contracted entities as
4 well as the lingering role of outside entities
5 who still service portions of the overall
6 portfolio has blurred the lines of
7 communications and made access to clear and
8 accurate information for both the borrowers and
9 the institutions less transparent and
10 accessible.

11 As a result, it has weakened the
12 level and the quality of the customer service,
13 possibly the overall effectiveness, of this
14 vital, important program.

15 As a result of these concerns and in
16 response to the Assistant Secretary's request
17 for comments and recommendations, AACCS submits
18 the following testimony which is broken down
19 into four categories: Direct Loan
20 simplification, FFEL conversion, borrower
21 benefits and institutional necessities.

22 So, we thank the Department for the
23 opportunity and we offer some suggestions

1 publicly today and we welcome the opportunity
2 to work with the staff and Assistant Secretary
3 and the rest of the higher ed community on the
4 development and revisions and modifications to
5 the regulations.

6 When appropriate, we will be
7 submitting for consideration experts familiar
8 with the minutiae of the loan programs as
9 nominees for participation in the negotiated
10 rulemaking process.

11 Little technical difficulty here.

12 CHAIR MADZELAN: That's why I use
13 paper.

14 MR. FRAGOMENI: You know, it's
15 always a good idea to have it, Dan, and I know
16 we just can't get away from it.

17 Having more technical difficulties
18 than we thought. Yes, I know we've got time.
19 I appreciate the fact that they said that from
20 the beginning that, if we need extra time we're
21 going to take it, and I apologize to the folks
22 here for the disappearance of this document all
23 of a sudden. Here we go. Apologize. Thank

1 you.

2 Okay. First of all, under the
3 Direct Student Loan Program and the Direct Loan
4 simplification, single point of contact, we
5 urge the Department to modify the Direct Loan
6 Program so that, at a minimum, each institution
7 has a single servicer responsible for all the
8 students. One institution, one servicer.

9 Among large groups of institutions,
10 we would encourage the Department to consider
11 broadening the institution/servicer
12 relationship to include all institutions under
13 common ownership or control and we further
14 request the Department to permit institutions
15 to choose which of the servicers is responsible
16 for the servicing of the portfolios based upon
17 the Department's assessment of the various
18 contractors' effectiveness in achieving the
19 requirements detailed in their contracts.
20 Emphasis should be placed on the effectiveness
21 of the contractor in preventing student loan
22 defaults and providing quality customer
23 service.

1 Moreover, if the servicer has a
2 portfolio reduced for failure to meet or exceed
3 its contractual obligations, the Department
4 should be required to take these findings into
5 consideration as part of the review of any
6 negative or adverse institutional eligibility
7 determinations, for example, cohort default
8 rate eligibility, and make accommodations as
9 necessary if the reason for potential
10 noncompliance is based upon the actions of the
11 servicer and not the institution.

12 Real time access to borrower
13 information is key. It compromises the default
14 management efforts of the institutions and the
15 students. We urge the Department to consider
16 ways in which both the borrowers and the
17 institution can have access to real time
18 information maintained by the servicers. That
19 would include information to both held within
20 the Department, as well as access to
21 information contained by external servicers,
22 who continue to participate in the program.

23 Uniform terms and definitions in

1 application to the regulations. We support the
2 Department's goal of developing clear,
3 understandable regulations governing the Direct
4 Loan Program and we urge the Department in the
5 development of these regulations that they
6 eliminate redundant or conflicting terms and
7 definitions; establish a single clear and
8 easily understandable term and definition which
9 is applied unilaterally and ensure that the
10 terms and definitions can and are equally
11 applied throughout the regulations.

12 Under the FFELP Education Loan
13 Program conversion, given the complications
14 that have arisen during the transitional loans
15 under both the ECASLA and HEOA and the prospect
16 of still more outstanding FFELP loan portfolios
17 being transitioned into the Department under
18 various legislative proposals, we urge the
19 Department to develop a single interface
20 between students, schools and servicers.

21 We believe that such a clearinghouse
22 could have helped prevent many of the
23 frustrations experienced by borrowers and

1 institutions throughout the transition and it
2 would help avoid some of the confusion that now
3 exists when the schools attempt to counsel
4 students.

5 The role of external servicers. We
6 support the role of external servicers and
7 their connectivity to the local community. As
8 an emerging role, these entities appear to be
9 financial literacy, default aversion and
10 default management. We hope that these
11 servicers will support the following practices
12 which will seek to clarify the construction of
13 the new regulations: Institutional and third-
14 party access to student borrower information,
15 possible expansion of loan counseling to
16 include counseling at the midpoint of the
17 program as well as entrance and exit counseling
18 and understanding and communicating with
19 institutions to better understand the impact of
20 entrance, exit and loan repayment.

21 Customer service and borrower
22 information transparency and consistency.
23 Customer service, AACS recognizes that the

1 Department has and continues to work vigilantly
2 to ensure the Direct Loan Program maintain a
3 high level of quality of customer service, but
4 the transition, as with all transitions, has
5 not been without some growing pains.

6 We look forward to working with the
7 Department and we welcome any comments.

8 CHAIR MADZELAN: Thank you. Fran
9 Welch.

10 MS. WELCH: Good morning. I am Fran
11 Welch. I'm Dean of the School of Education,
12 Health and Human Performance here at the
13 College of Charleston and welcome to
14 Charleston, for those of you who aren't from
15 here. We're glad to have you and I appreciate
16 this opportunity to discuss the issues that we
17 have in front of us today.

18 I also represent the South Carolina
19 Education Deans Alliance here in South Carolina
20 and several of my colleagues are here.

21 I'd like to ditto what Jennie
22 Rakestraw has said already. Don't need to
23 repeat any of that. Very good comments about

1 our needs and what we face.

2 But I'd like to just comment on the
3 four areas that we're discussing, relative to
4 our future in education and teacher
5 preparation.

6 First, the Presidential Teaching
7 Fellows Program. We have a Teaching Fellows
8 Program here in South Carolina and other states
9 do as well and many of my colleagues here have
10 those Teaching Fellows Programs at their
11 institutions and they're very effective and we
12 have a recent report that demonstrates how very
13 effective they are in terms of persistence in
14 the profession, in terms of success in student
15 achievement, and we also have Project TEACH.
16 And if I understand what's planned here, is
17 that there would be no new money for these
18 Presidential Teaching Fellows, but we would
19 actually divert funding to Project TEACH for
20 the Presidential Teaching Fellows.

21 I'm totally against that and the
22 reason is, we need those funds and many of our
23 current students are already accessing the

1 Project TEACH funds, and they're particularly
2 effective for students who come to us from
3 outside of our own state, for example, to study
4 and become effective teachers.

5 So, I would encourage you to look at
6 what states are already doing with their
7 Teaching Fellows Programs and then to plan
8 accordingly at the Federal level.

9 We need many pathways to teaching
10 and lots of different pathways to teaching. We
11 certainly need to make sure that every pathway
12 is resulting in effectiveness of teachers as
13 they promote learning, but those multiple
14 pathways need lots of alternative forms of
15 funding.

16 I do agree with Diane Howard
17 Johnson. We do need some deregulation relative
18 to how we approach all of this, but certainly,
19 multiple forms of funding to encourage folks to
20 consider teaching.

21 The second thing I want to talk
22 about is our need for minority teachers and I
23 think there's a proposal for the Hawkins

1 Centers of Excellence and we also have a
2 program to encourage individuals who are from
3 underrepresented groups to go into teaching
4 here in South Carolina. The program is called
5 the Call Me Mister Program, and again, many of
6 my colleagues sitting here in the audience have
7 those programs at their institutions. We have
8 one here at the College of Charleston. It's
9 designed to get African-American males into
10 teaching.

11 And I think we all know that
12 approximately less than 1 percent of our
13 teachers currently are African-American males.

14 Because we wanted to fundraise around this
15 issue, we actually developed a case to learn
16 that young African-American males in grades K-8
17 who have at least one African-American male
18 teacher are three times more likely to graduate
19 from high school. So, we obviously need more
20 African-American male teachers.

21 There are a number of programs
22 designed to encourage underrepresented groups
23 to go into teaching and this Call Me Mister

1 Program here in South Carolina is a
2 collaborative. It's a partnership program.
3 It's not one institution. We have many of our
4 HBCUs who have this program, but then
5 obviously, the College of Charleston and
6 Clemson University are not HBCUs. We also have
7 the program and this type of partnership is
8 what really brings about excellence in
9 teaching, I think. And so, if we go down the
10 path of working to get more minorities into
11 teaching, I would encourage us to look at
12 partnership programs.

13 You know, when you think about
14 streamlining institutional reporting, but also
15 identifying low-performing educator preparation
16 programs, those things are in kind of a
17 competition if you think about it. They don't
18 really fit together too nicely.

19 So, I think one of the things, as we
20 think about streamlining our institutional
21 reporting requirements, we certainly need to
22 make sure that all teacher preparation or
23 educator preparation programs report.

1 Alternative programs, as well as the
2 traditional programs in colleges and
3 universities. So, let's make sure that that
4 happens.

5 Don Stowe is here from our South
6 Carolina Department of Education and I think
7 we've already streamlined to some degree. I
8 would have to look at my colleagues to see,
9 but, I mean, we have a pretty good system here
10 in South Carolina. It's not -- we've been
11 doing this reporting for some time.

12 But, I think the real question is:
13 are we collecting the right data? Second: now
14 that we have that data, are we using it and are
15 we using it in a meaningful way and are we
16 using it in a meaningful way to identify
17 institutions or programs?

18 Many of these programs -- in fact,
19 Don, I'd have to look to you, but my
20 understanding is that our largest teacher
21 education program in South Carolina is, in
22 fact, not housed in any institution of higher
23 education, but it's our alternative program.

1 So, I think, as we look at those
2 programs and we collect the data and we use the
3 data, and then to identify those programs that
4 are performing. There's some way of
5 identifying these programs that are not doing
6 what they need to do.

7 But then I think the real question
8 is: so then what do you do?

9 Don told me this morning that the
10 last time we identified a low-performing
11 program in South Carolina was in 2003. So,
12 what's the consequence once we identify them?

13 Well, I think the consequence should
14 be, so we identify what they need to do to
15 improve and again, we work in partnership, and
16 work in partnership to help all teacher
17 education programs be what they can be and we
18 all can improve. I mean, there's no question
19 about that.

20 So, I do think what Jennie said, and
21 I'll ditto again, having some type of statewide
22 data system to help us answer these important
23 questions, help us show what we are or are not

1 doing, do the things that will help us improve.

2 We pretty much know what those things are. I
3 don't think we need to spend a whole lot of
4 time trying to figure that out, but to then
5 have our programs at the Federal level help us
6 to do this work.

7 Thank you for the opportunity to
8 speak.

9 CHAIR MADZELAN: Thank you very
10 much. Carol Lindsey.

11 MS. LINDSEY: Good morning. My name
12 is Carol Lindsey. I'm the Vice President of
13 Policy and Compliance at the Texas Guaranteed
14 Student Loan Corporation or TG. I'm speaking
15 today on behalf of TG and other guaranty
16 agencies in the National Association of Student
17 Loan Administrators or NASLA.

18 NASLA is a private nonprofit
19 voluntary membership organization that
20 represents the interests of FFELP guaranty
21 agencies. NASLA is organized to ensure
22 consistent and reliable delivery of student
23 loan services to Americas' students, parents

1 and postsecondary institutions. NASLA members
2 are committed to working cooperatively with all
3 postsecondary participants and organizations in
4 fulfilling the promise of successful student
5 loan repayment.

6 First, I want to talk a bit about
7 participation in negotiated rulemaking. We are
8 all aware that postsecondary education loan
9 debt continues to grow and, in fact, now
10 exceeds consumer credit card debt. For several
11 years, we have seen the effects of our current
12 economic condition in the increase of national
13 default rates.

14 A recent study shows that at least
15 41 percent of borrowers become delinquent at
16 some point during the loan repayment period.
17 These factors underscore the need to review
18 several areas in our program for potential
19 improvement to insure successful loan repayment
20 and equitable treatment for borrowers.

21 A core focus of guaranty agencies is
22 education loan debt management services to help
23 maximize the success of borrowers in repaying

1 their loans and also to be an advocate for
2 borrowers.

3 As administrators of the 384 billion
4 FFELP portfolio, guaranty agencies work closely
5 with the Department, students, families,
6 schools, lenders and loan servicers throughout
7 the life of the loan providing education debt
8 management assistance. Inclusion of a guaranty
9 agency voice in the upcoming negotiations will
10 promote broad-based well-informed discussions
11 as rules are developed, amended or removed from
12 the regulations as appropriate.

13 In terms of issues for negotiation,
14 NASLA believes there are a number of important
15 issues the Department should address during the
16 upcoming process. Many of these focus on a
17 single overarching principal. Changes to the
18 regulations should be made to enhance default
19 aversion success and offer comparable repayment
20 options and tools to Federal student loan
21 borrowers regardless of the program or programs
22 from which they obtain their loans.

23 Accordingly, NASLA proposes the

1 following list of issues for negotiation in
2 both the FFEL and Direct Loan Programs.

3 The first focuses on extended
4 repayment and the minimum repayment amount.
5 Under current FFEL regulations, a borrower must
6 have more than \$30,000 outstanding in FFEL
7 loans to be eligible to repay through the
8 extended repayment plan.

9 The same holds true for a Direct
10 Loan borrower. He or she must have more than
11 30,000 outstanding in order to extend repayment
12 from the standard 10-year plan to 25 years.

13 In today's environment of many split
14 borrowers, those who have both FFEL and Direct
15 Loans, these rules place a potential burden on
16 receiving an important program benefit. Some
17 borrowers do not meet the minimum balance
18 requirement in either program separately, but
19 would qualify for extended repayment if their
20 loan balances were considered on an aggregate
21 basis.

22 NASLA believes the Department should
23 address this situation and revise the

1 regulations to permit a borrower with both FFEL
2 and Direct Loans to combine their total loan
3 balances for both programs to determine
4 eligibility for extended repayment. This
5 change would allow split borrowers to have the
6 same repayment options as borrowers who have
7 more than 30,000 outstanding in just one loan
8 program which promotes greater fairness and
9 consistency of treatment.

10 This split borrowing situation
11 should not harm borrowers who meet the minimum
12 aggregate balance threshold across the two loan
13 programs.

14 Similarly, FFEL and Direct Loan
15 regulations specify that a borrower must pay at
16 least \$600 each year under the standard
17 repayment plan. As with the requirements for
18 extended repayment, the regulations do not
19 account for borrowers who have loans in both
20 programs.

21 Therefore, NASLA recommends that the
22 Department change the regulations to permit a
23 borrower with both FFEL and Direct Loans to pay

1 \$600 each year between the two loan programs.
2 So, that the total minimum payment per year is
3 600.

4 I'd like to also address total and
5 permanent disability loan discharge. The
6 process itself, as you have invited comments on
7 specifically.

8 While the statute and regulations
9 generally embrace the electronic exchange of
10 information, the requirements as they relate to
11 a guaranty agency's processing of total and
12 permanent disability applications have remain
13 archaic and cumbersome. Currently, guaranty
14 agencies are required to print and mail
15 collateral documents for each individual
16 applicant including hard copies of promissory
17 notes, indemnification agreements in lieu of
18 the backside of promissory notes, supporting
19 data for electronic signature and paper forms
20 noting any applicable non-zero refundable
21 payments to be made to the borrower upon
22 approval.

23 Most, if not all of this

1 information, is stored electronically. However
2 for total and permanent discharge processing,
3 guaranty agencies must reproduce the
4 documentation in hard copy format to be mailed
5 to the Department's contractor for processing.

6 Additionally, if the application is
7 rejected for any reason, the hard copy
8 documentation is returned by mail to the
9 guaranty agency even though the submitting
10 entity has no need for the paper documentation.

11 This continuous exchange of paper
12 documents via snail mail has lead to frequent
13 mix-ups, unnecessary information security risks
14 and unacceptable processing delays for disabled
15 borrowers needing relief.

16 So, NASLA suggests that the
17 Department allow and encourage guaranty
18 agencies to file total and permanent disability
19 claims electronically in the manner currently
20 utilized by the Title IV Additional Servicers,
21 or TIVAS, and further into this concept and the
22 efficiency, consistency and improved service to
23 borrowers that would result, we advocate for

1 the addition of explicit permissive or
2 supportive language in the regulations.

3 And finally, on the topic of teacher
4 loan forgiveness, permissible breaks in
5 service, as a consequence of continual
6 nationwide budget shortfalls, many elementary
7 and secondary schools and school districts that
8 serve low-income families have laid off
9 qualified teachers and some of these schools
10 are closing also.

11 To qualify for forgiveness under the
12 Teacher Loan Forgiveness Program, a borrower
13 must be employed as a full-time teacher in an
14 eligible Title I school for at least five
15 consecutive complete academic years. However,
16 Federal regulations permit a break in
17 qualifying teaching service if the teacher
18 returned to postsecondary education in some
19 cases, had a condition covered under the Family
20 Medical Leave Act or was called or ordered to
21 active duty military service.

22 Like some of these current
23 exceptions, a permissible break in service for

1 teacher layoffs would address a circumstance
2 that may be beyond a teacher's control.
3 Without a permitted exception to the
4 consecutive complete academic year requirement,
5 teachers whose qualifying service is
6 interrupted by a layoff, including a layoff due
7 to school closure, must start their qualifying
8 service all over again. They receive no credit
9 for their years of service prior to being laid
10 off.

11 The combined challenges of being
12 laid off coupled with losing already completed
13 teaching service for purposes of loan
14 forgiveness may greatly weaken a teacher's
15 incentive to return to the profession thus
16 undermining the objective of this provision and
17 denying the teacher the anticipated relief.

18 There has been a long-standing sense
19 of a low compensation and high job security
20 trade off in the teaching profession that will
21 be in question going forward because of
22 economic challenges.

23 Having a sufficient number of

1 qualified teachers will always be critical to
2 the nation's interest. Becoming a TLF eligible
3 Title I school teacher is an arduous
4 undertaking in itself. Perspective teachers
5 generally understand the associated challenges,
6 but are willing to follow that path to achieve
7 meaningful rewards including teacher loan
8 forgiveness relief.

9 This proposed change would better
10 fulfill the intent of the Teacher Loan
11 Forgiveness Program which is to encourage
12 individuals to enter and continue in the
13 teaching profession.

14 Therefore, NASLA recommends that the
15 Department create a new permissible break in
16 teacher loan forgiveness qualifying service
17 requirements to accommodate qualified teachers
18 who are laid off, but subsequently resume
19 teaching at a Title I school within a
20 reasonable period of time.

21 In conclusion, NASLA appreciates the
22 Department's consideration of this testimony
23 and offers itself as a resource to the

1 Department on these and other issues that the
2 Department may consider in the upcoming
3 negotiated rulemaking process.

4 Thank you.

5 CHAIR MADZELAN: Thank you. Betsy
6 Mayotte.

7 MS. MAYOTTE: Good morning. My name
8 is Betsy Mayotte and I am the Director of
9 Regulatory Compliance and Privacy at American
10 Student Assistance.

11 I speak to you today on behalf of
12 ASA and to show our support of our fellow
13 guaranty agencies at NASLA and the testimony
14 that Carol just recently provided.

15 American Student Assistance is a
16 private nonprofit organization whose public
17 purpose mission is to help college students and
18 their families fulfill the promise of higher
19 education by successfully managing their higher
20 education debt.

21 We encourage the Department to
22 include an education debt management voice at
23 the negotiated rulemaking table to promote a

1 broad-based well-informed discussion as student
2 loan rules are developed.

3 Just like NASLA, ASA's comments
4 focus on changes to the regulations that should
5 be made to enhance default aversion success and
6 offer comparable repayment options and tools to
7 Federal student loan borrowers regardless of
8 the program or programs for which they obtain
9 their loans.

10 Accordingly, ASA proposes the
11 following list of issues for negotiation for
12 both the FFELP and the Direct Loan Program.

13 The first is in regards to the
14 deadline for deferment processing and
15 delinquent loan repurchases.

16 The Higher Education Act defines
17 default for both the Direct Loan and FFEL
18 Programs as the failure of a borrower or
19 endorser to make installment payments for 270
20 days. While the regulations reflect this
21 definition, operationally, borrowers in the
22 FFEL Program are treated very differently from
23 those in the Direct Loan Program.

1 Based on our experience, FFELP
2 borrowers are unable to have deferments
3 processed on loans that are 270 days or more
4 past due. While Direct Loan borrowers are able
5 to have deferments processed up to the
6 delinquency day of 359 days in order to prevent
7 default.

8 Our ombudsmen have had numerous
9 cases where borrowers who began school or were
10 deployed in the military after becoming 270
11 days delinquent but before a default claim was
12 filed with or paid by the guarantor had their
13 loans default or received denials from
14 servicers when repurchases were requested.
15 This situation causes much confusion for
16 borrowers with loans in both programs and
17 certainly creates an inequitable situation for
18 those borrowers within the FFELP.

19 It is a request that the regulations
20 specifically require eligible deferments to be
21 processed on a FFELP and/or a Direct Loan
22 borrower's account if eligibility begins prior
23 to the date a default claim was paid in the

1 FFEL Program or by day 359 in the Direct Loan
2 Program. This would also align the process of
3 default with the current cohort default rate
4 calculations and help standardize industry
5 requirements for mandatory repurchases of
6 defaulted loans in cases of military
7 deployment.

8 On a related issue, borrowers who
9 requested discretionary forbearance after their
10 loans have become 270 days or more past due are
11 also treated very differently between the two
12 loan programs. The Direct Loan Program will
13 process a verbal forbearance for any eligible
14 borrower not more than 359 days past due.
15 While the FFELP borrower in a similar situation
16 will be denied that same forbearance request.

17 Recently, the Department provided
18 guidance to its servicers saying that a FFELP
19 borrower whose loan has been put and is in a
20 Department held asset is allowed to receive a
21 verbal forbearance after reaching 270 days
22 delinquent. This default aversion tool is
23 already in place for Direct Loans and the

1 Department agreed to extend it to FFELP loans
2 that are held by the Department to allow for
3 consistent treatment of borrowers.

4 In contrast, FFELP regulations
5 require that a written agreement between the
6 lender and the borrower be in place in order
7 for forbearance to be granted after the
8 borrower becomes more than 270 days delinquent.

9 Having such a requirement creates delays that
10 worsen an already difficult situation for late
11 stage delinquent borrowers who are taking steps
12 to avoid default.

13 We believe the FFELP regulations
14 should be revised to provide the same benefit
15 to FFELP borrowers as is available to Direct
16 Loan borrowers in regards to granting such
17 verbal forbearances after the 270th day of
18 delinquency. The holder of one's loan should
19 not dictate the action that can be taken to
20 assist them with averting default. This
21 default prevention tool needs to be applied
22 consistently across the loan programs not just
23 among Department held loans.

1 It becomes particularly important
2 for borrowers who have loans in both the FFEL
3 and Direct Loan Programs. Such a borrower is
4 required to obtain a written agreement on his
5 FFELP loans held by a commercial lender while
6 simply requesting forbearance over the phone
7 with the Department on his Direct or Department
8 held FFELP loans. ASA urges the Department to
9 include this item on the negotiated rulemaking
10 agenda to resolve the disparate treatment of
11 borrowers.

12 My remaining comments surround the
13 Income Based Repayment Program which I believe
14 was the topic that you had requested comments
15 on.

16 The Income Based Repayment Option is
17 a power tool for helping borrowers successfully
18 repay their loans. It is well designed to
19 assist borrowers managing loan debt in good and
20 bad economic situations. ASA applauds Congress
21 and the Department for creating and structuring
22 the program in such a way that it can assist
23 the greatest number of at-risk borrowers.

1 However, there are two
2 clarifications that should be added to current
3 regulations to improve borrower utilization of
4 this benefit. These clarifications are
5 designed to insure that a borrower with both
6 FFEL and Direct Loans will experience a common
7 set of requirements and procedures for both
8 types of loans.

9 The first clarification deals with
10 documentation that is required to verify a
11 borrower with income if he did not file a tax
12 return and therefore, has no reported adjusted
13 gross income or AGI. The current regulations
14 provide latitude for each loan holder to
15 determine the documentation that a borrower
16 must submit to verify income in this situation.

17 This has resulted in inconsistent instructions
18 to borrowers and often a delay in determining
19 eligibility for IBR.

20 Anecdotal information indicates that
21 a borrower with loans being serviced by the
22 Department servicers is only required to
23 provide a self-certifying statement to show

1 that he or she does not have any income when
2 applying for IBR. However, a FFELP servicer
3 may require the same borrower to wait until he
4 or she has filed that year's income tax return
5 before determining the borrower's eligibility
6 for IBR.

7 Clarifying in the FFELP regulations
8 that a self-certifying statement from a
9 borrower is sufficient to show that he or she
10 does not have any income when applying for the
11 program would align the process for making IBR
12 eligibility determinations and assist borrowers
13 who have loans with more than one holder,
14 particularly those with loans in both programs.

15 A second clarification is requested
16 because of confusion surrounding the repayment
17 options for a borrower that leaves IBR. When a
18 borrower leaves IBR, current regulations
19 require the borrower be automatically placed in
20 a standard repayment plan calculated based on
21 the term remaining in the 10-year repayment
22 schedule.

23 However, these regulations do not

1 clarify that after leaving IBR a borrower
2 retains the ability to change the selection of
3 a repayment plan to anything other than the
4 standard 10-year repayment plan.

5 In presentations at the FSA
6 conference and in private guidance, the
7 Department has clarified the process for a
8 borrower choosing a new repayment plan after
9 leaving IBR. ASA requests that this
10 clarification also be codified in the
11 regulations so that all loan administrators
12 will clearly understand that a borrower may
13 choose any repayment plan for which he or she
14 is eligible upon leaving the Income Based
15 Repayment Option.

16 My final comment is in regards to
17 Income Contingent Repayment. Similar to Income
18 Based Repayment, we believe that the Income
19 Contingent Repayment Option is an important
20 tool for assisting some borrowers in managing
21 their Federal student loan debt. With a
22 modification to current rules, borrowers in
23 need of this type of relief will more easily be

1 able to utilize this option. To the extent
2 allowed by statute, we believe the regulations
3 that align the IBR and ICR Repayment Options
4 for married borrowers who file separate Federal
5 tax returns.

6 Unlike IBR, ICR generally requires
7 married couples to include both spouses' tax
8 information when applying for this repayment
9 option even if the individuals filed separate
10 tax returns. The only exception to the rule is
11 for a borrower who is separated from his or her
12 spouse.

13 Aligning ICR with IBR regarding how
14 the rules address spousal income for married
15 borrowers who file separately will assist
16 borrowers who may not qualify for IBR, but are
17 still in need of a repayment option to address
18 this current economic challenge.

19 As a personal aside, I recently
20 counseled a borrower who was strongly
21 considering going through a divorce with her
22 husband in order to be eligible for ICR. It
23 was becoming the difference between whether

1 they were going to be able to afford their
2 mortgage payment. But, having to include both
3 incomes would not have provided them enough
4 relief to afford both their student loan
5 payment and their mortgage. They were
6 considering divorce.

7 That concludes my comment. Again, I
8 thank you for the time and I thank you for
9 providing this forum. We look forward to
10 assisting the Department with these and other
11 issues.

12 Thank you.

13 CHAIR MADZELAN: Thank you. We have
14 come to at the moment the last of our speakers
15 this morning. We'll take a minute here to
16 check up front to see if we have anyone else in
17 the queue. So, hold on for a minute please.

18 First, a reminder. If you do have
19 or did have written testimony that you wanted
20 to submit, you can provide that up front at the
21 desk or if, you know, you have it
22 electronically and you want to send it to us
23 via email, again see Kathleen up front and

1 she'll give you the email address.

2 At this time, we have no one in the
3 queue to speak. So, we'll take a break until
4 we have someone who wants to speak or it
5 becomes the lunch hour whichever comes first.

6 (Whereupon, the above-entitled
7 matter went off the record at 10:11 a.m. and
8 resumed at 10:59 a.m.)

9 CHAIR MADZELAN: Good morning again.
10 We'll reconvene at this time with Chuck
11 Knepfle and again, when you come to the podium,
12 if you could again identify yourself and who
13 you represent, where you're from.

14 MR. KNEPFLE: So, I dragged everyone
15 back from Starbucks. I feel bad about that.
16 I'm sorry.

17 I'm actually on the agenda for later
18 this afternoon and I appreciate you taking me
19 early.

20 Good morning. My name is Chuck
21 Knepfle. I am the Director of Financial Aid at
22 Clemson University and Chair-elect for the
23 National Direct Student Loan Coalition.

1 I bring you my greetings to South
2 Carolina from the upstate.

3 I speak to you today on behalf of
4 the National Direct Student Loan Coalition a
5 grassroots organization comprised of schools
6 dedicated to the continuous improvement and
7 strengthening of the Direct Loan Program. Its
8 members are practicing financial aid
9 professionals working at participating
10 institutions.

11 I'd like to thank the Secretary for
12 the opportunity to provide the Department of
13 Education with comments on Federal student loan
14 programs that may be addressed in the
15 negotiated rulemaking process later this year.

16 First and foremost, the Coalition
17 wants to extend its thanks and congratulations
18 to the staff at the Department of Education and
19 especially at Federal Student Aid for the
20 tremendous success in moving all 5,000-plus
21 schools to the Direct Lending Program this
22 year.

23 While some in our industry predicted

1 that this would be an impossible task, the fact
2 is that there has not been a report of even one
3 student who was denied access to Stafford Loan
4 funds this year as a result of schools making
5 the transition to Direct Lending. This
6 transition could not have been more successful
7 for schools or for students.

8 To insure that the Federal Direct
9 Loan Program continues to be a strong and
10 viable source of funding for students, I wish
11 to address regulatory issues in four different
12 areas.

13 First, the simplification of
14 origination regulations. The Healthcare and
15 Education Affordability Reconciliation Act of
16 2010, HR 4872, requires that all new Federal
17 loans beginning with 2010/2011 academic year be
18 originated in the Direct Loan Program. The
19 Direct Loan regulations continue to cross-
20 reference regulations with the Federal Family
21 Education Loan Program, FFEL, which Congress
22 ended with HR 4872.

23 With so many new administrators in

1 the Direct Loan Program needing quick, easy to
2 read regulatory language to insure compliance
3 with the origination regulations for Direct
4 Loans, it is important to simplify the Federal
5 Loan regulations by negotiating a clear,
6 concise, standalone set of Direct Loan
7 regulations that eliminate any cross-reference
8 to the FFEL Program.

9 Second is servicing. One of the
10 trademarks and richest features of the Direct
11 Loan Program prior to this year was that all
12 Direct Loans were serviced by the same
13 servicer. Every Direct Loan borrower and
14 school staff member knew exactly where a
15 student's loans were held and knew who to call
16 with questions.

17 The National Direct Student Loan
18 Coalition recognizes that the Department of
19 Education now uses multiple contractors for the
20 servicing of Federal student loans, but we
21 encourage new regulatory language to address
22 the following issues that are inherent when
23 multiple servicers compete for servicing

1 contracts.

2 First, a single interface between
3 students and schools and all servicers to avoid
4 the confusion that now occurs when schools
5 attempt to counsel students with loans held by
6 multiple servicers.

7 Next, transparency of borrowers and
8 their families about the contractor that is
9 serving their loans and repayment.

10 Third, the Department's vigilance in
11 monitoring the servicing contracts to insure
12 accurate data is provided by the servicer to
13 the Department for the calculation of cohort
14 default rates.

15 Next, loan terms that are consistent
16 for all borrowers regardless of their servicer.

17 Currently, issues like capitalization of
18 interest for borrowers and the date income-
19 based repayment is calculated are not always
20 the same with different servicers. Terms need
21 to be consistent with the historical Direct
22 Loan methodology that is favorable to most
23 borrowers.

1 And lastly, exit counseling
2 requirements that insure the providing of
3 helpful information about consolidation options
4 that benefit borrowers with multiple loan
5 types.

6 Further, we urge the Department to
7 retain the role of assigning students to
8 servicers. A topic we've heard on more than
9 one occasion that there could be a change that
10 would allow either the students or the schools
11 to choose their servicer. Even though the
12 current servicers do not profit in nearly the
13 same way as lenders did under the FFEL Program,
14 there would still be a financial incentive to
15 encourage schools to recommend an individual
16 servicer.

17 This would inevitably lead to a
18 situation that we finally left behind this
19 year, inducements and incentives to steer loan
20 volume to particular companies.

21 The Department is the only entity
22 that should be making those servicer
23 assignments.

1 Third, on the topic of total and
2 permanent disability, the Coalition requests
3 that the Department of Education negotiate
4 rules with a final result that is fair to both
5 permanently disabled borrowers and Federal
6 taxpayers. Currently, students are required to
7 submit multiple applications for loan discharge
8 and are monitored for up to three years after
9 being granted the permanent disabled status.

10 We encourage the Department to
11 develop a less intrusive and simplified process
12 that retains the integrity of the current one.

13 And lastly, operations. Regulations
14 for the Direct Loan Program encompass both the
15 policy and operational aspects of the program.

16 With all Federal loans and grants processed
17 through one system, the Common Origination and
18 Disbursement System, COD, student aid
19 processing and delivery have now focused on the
20 student rather than on each individual aid
21 program as it was in the past.

22 It is absolutely critical that the
23 Department insure that regulations address the

1 need for a system concept like COD. Any
2 solution that does not retain the ease of use
3 and understanding of our current COD process
4 will set students and schools back
5 significantly.

6 This standardization of the common
7 record file formatting in such a system is
8 essential for the following reasons.
9 Standardization of the common record format
10 streamlines student eligibility changes for
11 funds and insures students receive their funds
12 on time. Standardization of the common record
13 format simplifies and enables quick programming
14 that is required by software vendors to deliver
15 funds for new programs that Congress develops.

16 For each program in COD, a school or
17 third party servicer is assigned the same
18 customer service representative team to
19 facilitate origination of the disbursement
20 process and issue resolution thus providing
21 more time for financial aid professionals to
22 counsel students about all aspects of their
23 financial aid.

1 Before COD, schools did not have any
2 online capability to make corrections or
3 changes, process emergency requests, check
4 processing status to help resolve issues for
5 students quicker or to get their aid disbursed
6 immediately.

7 The COD system provides
8 accountability because funds for all programs
9 are processed through one system: G5. Monthly
10 and annual reconciliation processes decrease
11 fraud and abuse by insuring that all funds are
12 accounted for in a timely basis. Every
13 disbursement record for a student's funds is
14 recorded in the system to insure
15 accountability.

16 The COD system now contains
17 information about the servicer to which
18 student's loans have been assigned under our
19 current multiple servicer format.

20 And finally, over multiple academic
21 years and institutional enrollments, a
22 student's record remains in a single record
23 within COD to insure greater ease in the

1 school's compliance with Federal regulations.

2 In closing, I want to thank you
3 again for the opportunity to present this
4 testimony on behalf of the National Direct
5 Student Loan Coalition. Many of our members
6 were the first schools to implement the Direct
7 Loan Program over 15 years ago and have years
8 of expertise in operational and policy issues
9 as well as compliance with the regulations.
10 The Coalition looks forward to participating in
11 the negotiating rulemaking process that will
12 occur later this year.

13 Thank you.

14 CHAIR MADZELAN: Thank you. We do
15 have word that we'll have another speaker this
16 morning, but at this point, we again will take
17 a short break.

18 (Whereupon, the above-entitled
19 matter went off the record at 11:08 a.m. and
20 resumed at 11:13 a.m.)

21 CHAIR MADZELAN: We will continue
22 at this point with Mary Lyn Hammer and again,
23 Mary Lyn, if you can identify yourself and who

1 you represent, where you're from.

2 MS. HAMMER: Morning, everybody. My
3 name is Mary Lyn Hammer. I'm the President and
4 CEO of Champion College Services and we have
5 been in business 22 years doing default
6 prevention.

7 And going back to give you a
8 background, I used to handle foreclosures for a
9 bank in Texas when the oil market crashed and
10 prior to that, I was in the student lending
11 part of the bank back in the old days when it
12 was easy and, you know, \$30,000 a year and you
13 got a loan.

14 So, I got to the point where I just
15 couldn't do any more foreclosures. It was
16 really sad because they weren't bad people.
17 They just had bad circumstances.

18 Moved to Arizona and there was an ad
19 in the paper. It said default manager. I
20 thought what is that and it was when they first
21 made defaults an issue. So, I answered the ad
22 in the paper and they said well, you have the
23 right background. Our default rate's 35

1 percent. Here's an office and a computer. Get
2 our default rate down. So, that was as much
3 direction as I had.

4 I was the first full-time default
5 manager in the history of the country that we
6 know of. Got the default rate down to 9
7 percent within two years. I helped write
8 Appendix D which was the original regulatory
9 criteria for default prevention from 1989 to
10 1996. It's still in the regulations under
11 Subpart M.

12 Been a negotiator three times with
13 the Department. Most recently rewriting
14 Subpart M and Subpart N a couple of years ago.

15 And we've been in business 22 years
16 and on average, our default rates we cut in
17 half for our clients.

18 So, to go back a little further than
19 that, I grew up in an abusive home in Montana
20 and I knew that education was the way that I
21 was going to change my circumstances. So, I
22 went to a proprietary school, graduated when I
23 was 19 and it was that education and the

1 support from those people that changed my life
2 and that's why I go to Washington and do what I
3 do because I'm actually one of your high-risk
4 students.

5 So, that's my background and some of
6 the subjects that I'm going to talk about, some
7 of the Department people are very familiar
8 with. I've been trying to get some of this for
9 18 years.

10 The first point that I wanted to
11 make was about sharing of information for
12 student loans. As a third-party default
13 management servicer, we don't have access to
14 student loan information that's needed to
15 properly educate the borrowers and it's been an
16 issue for quite some time.

17 Congress thinks that the Department
18 already has the authority to regulate it. The
19 Department wants Congressional input on it and
20 we've had our language in three bills so far,
21 but it's never made it all the way through.

22 But, with the emphasis on financial
23 literacy from other parts of the Government and

1 also within the student loan industry, it's
2 becoming more and more important. It has a
3 great effect on default rates. You can only do
4 so much borrower education with general facts.

5 What they really need is the exact details.

6 And the student loan industry has
7 become more complicated than the transition.
8 The loans are being transferred. You know,
9 things have gone wrong and I won't get into all
10 of that right now. Most of us know what those
11 things are. We need to be able to have the
12 detailed information necessary to properly
13 counsel the borrowers.

14 And as I said, we've cut our default
15 rates in half, but I want to give you a true
16 picture of the effectiveness when you do it
17 right and we've been doing it 22 years.

18 With the most recent information
19 that was released by the Department with the
20 increases in default rates from the official
21 2008 to the draft 2009 data, our clients went
22 up .06 percent. The national average went up
23 27 percent and the proprietary schools which

1 are our main client base went up 31 percent
2 compared to our .06. So, basically, a half a
3 percent increase.

4 At the same time last summer when
5 they released the data for gainful employment,
6 our average tenured client was at 45 percent
7 repayment rate.

8 So, we have those statistics and our
9 students are paying and we need access to the
10 information to keep that trend going because I
11 think it could only improve if we have the
12 right information to give them.

13 So, I've provided some written
14 materials and I'll also email them out to the
15 Department people. Kathleen has the copies of
16 where I've quoted all of the laws, Gramm Leach
17 Blieay, FERPA. There's many, many laws that
18 have sections that require the sharing of
19 information and gives authority to do so. So,
20 we just need to outline how that happens.

21 The next point I'd like to make is
22 giving the schools authority to limit student
23 loan debt. This is a very frustrating part of

1 what we deal with everyday because we have a
2 couple of generations of kids that have grown
3 up in an unaccountable -- where the
4 accountability is not really there and the
5 entitlement is there and what's confusing about
6 the Federal programs is that they're called an
7 entitlement and entitlement in the kids' minds
8 these days means they get it for free. So,
9 just by the name of the program, it's confusing
10 to those people. So, they think it's
11 entitlement and they forget the accountability
12 piece and it's not just something that's
13 happening in student loans.

14 It's something that's happening in
15 our country and with all of the electronic
16 processes that are in place, it made
17 everybody's life easy. Paperwork Reduction
18 Act. But, out of sight, out of mind. They're
19 not signing checks like they use to. They're
20 not filling out deferment forms like they used
21 to. It just all magically happens and it's
22 taken the ownership away.

23 So, they don't really understand the

1 debt that they have. They don't understand how
2 much interest accrues when they're in school
3 and they don't really understand the long-term
4 ramifications of all the money that they take
5 out until they're paying it.

6 So, I think we have a responsibility
7 to help them make decisions, make good
8 decisions when you know that taking out that
9 extra \$4,000 or \$6,000 is going to put them
10 over what is an appropriate income-to-debt
11 ratio.

12 So, we ask that you give some type
13 of established regulatory language to allow
14 schools to do this.

15 One of the other things that we run
16 into a lot and I think it's going to become
17 more and more prevalent is in rehabilitating
18 loans. Because as our economy recovers, more
19 and more of these students who have gone into
20 default because of their circumstances are
21 going to want to repair their credit and many
22 of them need to be retrained because the job
23 that they had before is simply not available.

1 The way they can do this is in
2 rehabilitating their loans, but there's a gap
3 in the definition between six months that it
4 takes of on-time payments to get a new loan and
5 nine months of payments to fully rehabilitate
6 the loan and what that does is it promotes bad
7 behavior. They can take out more debt; before
8 they've taken care of their old debt as far as
9 their own credit reports and as far as cohort
10 default rates and all of the other criteria.

11 So, what we are suggesting is that
12 the Department recognizes 0 as a payment.
13 Because when they go into school and have a
14 deferment or they're on an Income-Based
15 Repayment Program or whatever the circumstance
16 is, there are many, many people that are
17 qualifying for 0 as a payment and that would
18 take them through the other three months while
19 they're in school or you can align the
20 definition to be the same number of months.
21 One or the other. It just -- it should be the
22 same. It's better than it used to be when it
23 was 12 months, but there's still a gap.

1 And we have to remember that once
2 they're in default, they have little incentive
3 to keep the next one out of default. So, if we
4 can't get them rehabilitated and they're
5 already in default, they may say well, my
6 credit's already messed up. So, I don't care
7 and I think that promotes bad behavior.

8 I know one of the subjects on your
9 agenda is IBR and ICR Programs and I have a few
10 suggestions for it, but, you know, really it's
11 something that should be worked out in the
12 negotiated rulemaking process. But, it's very
13 difficult for the students to get out of that
14 program once they're in it. My personal
15 opinion in how we cancel borrowers, it's the
16 Standard Repayment Program is the best program
17 for the student.

18 And that goes to another one of my
19 points. The Graduated Repayment Program is an
20 entitlement. The students can qualify for it
21 and ask for it and it is the worst repayment
22 program that there is.

23 If you look at it in comparison to

1 what's happened in the mortgage loan business,
2 you see that all of the people on the ARM
3 loans, they were the same ones I was
4 foreclosing on 25 years ago in Texas. They are
5 the same ones that are foreclosed on now.

6 It doesn't show up in the cohort
7 default rates. It shows up in the life of the
8 loan default rates and the reason why is
9 because when the loan payment goes up, they
10 can't afford it and they go into default and it
11 costs them a ton more money in interest.

12 So, it's in the best interest of the
13 students to not have options for them that set
14 them up for failure and, you know, anybody or
15 most kids are going to say oh, it's cheaper
16 payment. I'll choose this one and they don't
17 think about, you know, it goes up \$200 in three
18 years. So, it's detrimental to their future.

19 So, those are a couple of things.
20 The payment programs that I believe should be
21 taken a look at and then there's a few appeal
22 benefits that I feel are appropriate. Some of
23 them having to do with economic times.

1 I did some research and the average
2 unemployment rate in the country was 5 percent
3 for the ten years leading up to this most
4 recent recession and now, it's in the 9 percent
5 range. It definitely has an effect on the
6 default rates and I believe that that should be
7 taken into consideration and I find it pretty
8 appalling that it is taken into consideration
9 for mortgage loans and for credit cards and for
10 all other credit debt, but in student loans,
11 there's absolutely no regard given to it and
12 that's not realistic. It's not realistic for
13 the students. It's not realistic for the
14 schools.

15 And as a taxpayer, I can tell you
16 that I would rather pay a defaulted loan and
17 have somebody in the workforce than to just
18 eliminate a possibility for education because I
19 truly believe that education is a means for
20 making dreams come true and we need to have
21 some dreams out there in order to turn our
22 country around.

23 So, that's one of the appeals

1 options I believe is fair.

2 Another is that if a school has an
3 approved default management plan and it's
4 documented that they have followed that plan,
5 that there should be some consideration instead
6 of a strict threshold for three years over 30
7 percent or 25 percent or whatever the criteria
8 is going to be in the future.

9 If they're doing everything they
10 can, many of the intercity schools are serving
11 a high-risk population and most of those
12 programs that the high-risk population enter
13 are lower tuition programs. So, we have
14 schools that have moved from the city out into
15 the country because they don't want to serve
16 the high-risk people and those are the people
17 the program is written for. In 1965, it was
18 written for people to get an education who
19 wouldn't otherwise be able to do so.

20 So, we ask that if the right thing
21 is being done and the school has crossed all
22 their t's and dotted all of their i's and the
23 Secretary has approved the default management

1 plan that's used to do so, that it be taken
2 into consideration.

3 And lastly, I can't be here for the
4 roundtables tomorrow. So, I've also put my
5 ideas about something -- an idea that I've had
6 for many years actually and that is in
7 rewarding good behavior. To have a program
8 like that.

9 So, in our budget, they're talking
10 about getting rid of the interest subsidies and
11 also, they're talking about funding a lot of
12 money to completion programs and retention and,
13 you know, a lot of the programs like that and I
14 feel that we should be using this opportunity
15 to create a program that teaches our kids the
16 accountability that they haven't learned for
17 the last couple of decades so that they can
18 have success long term.

19 So, some of my ideas are to reward
20 them for good behavior by paying 10 percent of
21 the interest that's accrued on the loan for 95
22 percent attendance. Reward them for good
23 grades. Fifteen percent accrued interest is

1 paid when you have a C average. Twenty percent
2 when you have a B average. Twenty-five percent
3 when you have an A average and the rest of the
4 interest 70 percent for completing your
5 program. It gives them incentive to stay in
6 school. It gives them incentives to get good
7 grades.

8 The other part of it is during
9 approved deferment times which are not
10 enrollment because that's covered with those
11 incentives, I believe that the money would be
12 well spent if we are rewarding them for making
13 interest payments. Instead of paying the whole
14 interest on half of the loan that they have, do
15 an interest payment match. If they pay \$50 in
16 interest, the Government matches it. It will
17 get them in the habit of making payments. It
18 will reduce their debt burden and I believe
19 that it would be about the same budgetary cost
20 to the Government.

21 And then the last idea on that is
22 again rewarding good behavior and I have two
23 ideas about it and again, this is all, you

1 know, for negotiation, but you're getting my
2 theme of rewarding good behavior. It would be
3 something like if they've made 11 on-time
4 payments, the Government makes the 12th or if
5 they make 12 on-time payments, the Government
6 makes the equivalent of a payment and it would
7 be the average of what their payments were for
8 that year. That gives an incentive to pay and
9 to pay on time. So, it once again rewards good
10 behavior.

11 So, instead of paying the interest
12 for them during deferments or different things
13 like that, you're taking it to reward good
14 behavior which is going to benefit everybody.
15 It'll benefit the schools. It'll benefit the
16 students and it'll benefit the Government
17 because your default rates will come down. I
18 guarantee it.

19 Because the difference between a
20 high default rate and a lower default rate are
21 those students that just don't understand
22 things and need a little bit of help. Because
23 you're going to have students that will always

1 pay. You're going to have students that will
2 never pay and the difference between the rates
3 are those in between that just need a little
4 bit of help.

5 So, those are my ideas and I look
6 forward to the negotiations. I hope that the
7 Department is open minded and, you know, it's
8 for our kids. It's for our future and I think
9 we can use the opportunity to leverage what we
10 have and we can do because education goes way
11 beyond the classroom. Thank you.

12 CHAIR MADZELAN: Thank you. We have
13 no more speakers scheduled this morning. So,
14 what we will do is break for lunch now and
15 we'll reconvene at 1:00 p.m. Thank you.

16 (Whereupon the above-entitled matter
17 went off the record at 11:32 a.m. and resumed
18 at 1:00 p.m.)
19

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:00 p.m.

CHAIR MADZELAN: Good afternoon. We are ready to resume with John Beckford and again, for the record, please state your name, where you're from and who you represent.

MR. BECKFORD: Good afternoon. My name is John Beckford. I'm Vice President for Academic Affairs and Dean at Furman University in Greenville, South Carolina.

Furman is a 185-year-old private liberal arts college originally affiliated with the Southern Baptist, but for the last 20 years has been an independent college.

This is my 35th year at Furman having started my career in the Department of Music and for the past four years, as an administrator.

Today, I'm not only representing Furman University, but the South Carolina Independent Colleges and Universities and by extension, the National Association of Independent Colleges and Universities.

1 I appreciate having the opportunity
2 to appear here today to suggest additional
3 issues that the next round of negotiated
4 rulemaking should address.

5 Specifically, I'd like to address
6 the regulations dealing with state
7 authorization, 34 CFR 600.9 and the Federal
8 definition of credit hour, 34 CFR 600.2, that
9 are scheduled to take effect on July 1 of this
10 year. These portions of the October 29 Program
11 Integrity regulations are highly problematic.

12 First, with respect to the state
13 authorization and in particular the distance
14 education component, generally speaking,
15 institutions like Furman have been delivering
16 exceptional postsecondary education for decades
17 within long-standing arrangements with our
18 respective states. It seems inappropriate and
19 unnecessary for the Federal Government to
20 require states to second guess the explicit
21 decisions that have already been made in
22 meetings with the authorizations and their
23 responsibilities.

1 Also, the ambiguity of the new
2 regulations raises concerns that state
3 officials may overreach by imposing
4 requirements on private nonprofit institutions
5 that go well beyond the objectives of the
6 regulations. This is particularly of concern
7 to institutions with religious affiliations.

8 But, with regards to the distance
9 education component of the regulation, I
10 personally find this to be onerous for both
11 states and institutions, stifling toward the
12 development of innovative models in education
13 and an unnecessary Federal involvement in state
14 law.

15 Because of the long valued teacher
16 to student relationships embraced by small,
17 private liberal arts colleges, we are probably
18 among the last to explore the possibilities of
19 distance education, but with the advancement of
20 technology in this area, we're seeing these
21 institutions implement effective models of
22 distance education that parallel the quality
23 educational outcomes found on our traditional

1 campuses.

2 The state authorization provisions
3 will layer a bureaucratic obstacle that will
4 smother the creativity required to develop
5 quality distance education programs.

6 For the United States to remain
7 competitive in higher education, we should be
8 adopting policies that unleash the innovation
9 in the delivery of quality education.
10 Otherwise, our foreign competitors will seize
11 the upper hand in distance education if we lose
12 our agility and become mired in needless state
13 authorization regulations.

14 With respect to the credit hour, it
15 is this issue that I have most closely followed
16 for this last year. For me, it represents the
17 most glaring intrusion on the academy during my
18 35 years in higher education. It is the
19 primary reason I am here today.

20 If I might draw though from an April
21 26 letter that was sent to Senators Hart and
22 Enzi from Molly Corbett Broad, who is the
23 President of the American Council of Education,

1 and was endorsed by 70 other higher education
2 associations and accrediting organizations.

3 She says, and I quote, "A credit
4 hour is the most basic building block of any
5 academic program. By establishing a Federal
6 definition of a credit hour, the regulation
7 opens the door to inappropriate Federal
8 interference in the core academic decisions
9 surrounding curriculum. The very kind of
10 interference expressly prohibited in the
11 Department's enabling legislation.

12 "Consistent with our support are the
13 principles and limitations outlined in this and
14 other Federal laws. It is our position that no
15 Federal definition of a credit hour is ever
16 appropriate because it becomes the basis of
17 perpetual regulatory intervention in multiple
18 institutional and accreditation decisions
19 associated with the credit hour."

20 She goes on to say that "As a
21 secondary, but practical matter, the ambiguity
22 of the particular definition at issue and the
23 insufficiency of the guidance about it pose

1 serious challenges for institutions as they
2 review tens of thousands of courses in an
3 effort to insure consistency with the new
4 Federal definition. Accreditors will face
5 similar burdens as they attempt to develop or
6 revise policies and practices to review credit
7 policies of these institutions.

8 "The definition and related guidance
9 also place accreditors in the unprecedented
10 position of being required to force
11 institutions to meet a Federal standard in an
12 academic area as a condition of accreditation."

13 Let me add to her remarks though by
14 saying at my institution, I'm also confident
15 that it is the same as what we find at all of
16 the other National Association of Independent
17 Colleges and Universities institutions, that
18 determining course credit is one of the most
19 carefully considered decisions we make.

20 Numerous variables and factors play
21 into assigning credit. Course experiences
22 ranging from the traditional lecture to private
23 weekly music lessons, service learning projects

1 in the community, spending 15 weeks in a
2 foreign country or a summer in a biology lab.
3 The range of educational experiences recognize
4 the rich diversity of pedagogues we bring to
5 our students. But, that diversity which is the
6 key to a successful approach to education
7 defies any simple formula that might define
8 earned credit.

9 The level of engagement and
10 measurement of student outcomes are complex and
11 truly beyond any Federal regulation of credit
12 hours that could have any kind of meaningful
13 application to all institutions.

14 Let me conclude by saying that I
15 believe I understand what has prompted these
16 regulations, but the Federal intrusion in areas
17 fundamental to core academic decision making is
18 inappropriate and contrary to our shared
19 commitment to strengthening higher education in
20 the United States.

21 These regulations are both ambiguous
22 and inappropriate and should be rescinded.

23 Thank you for your time.

1 CHAIR MADZELAN: Thank you. At this
2 time, we'll take another break and when we have
3 another speaker, we will convene.

4 If you care to speak, again, we ask
5 that you go out to the table and sign up with
6 Kathleen.

7 Thank you.

8 (Whereupon the above-entitled matter
9 went off the record at 1:09 p.m. and resumed at
10 3:32 p.m.)

11 CHAIR MADZELAN: This concludes this
12 afternoon's hearing or today's hearing I should
13 say and we want to thank all of our speakers
14 today and we also want to remind everyone that
15 transcripts from this hearing as well as our
16 other two hearings will be available on the
17 Department's website in the near future.

18 Again, thanks to everyone who came
19 today. Bye.

20 (Whereupon, at 3:32 p.m., the above-
21 entitled matter went off the record.)
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