Draft Proposal on Marketing, Recruiting and Advertising Spending
September 30, 2013

Reporting and Disclosure. Require any school at which a *majority* of its programs are subject to the HEA's gainful employment requirement to report to the Department consistent data on: the share of the school's revenue spent on marketing, advertising and recruiting; and average per student expenditures on marketing, recruiting and advertising. Many colleges are already reporting these data to the Department, but they are using inconsistent definitions so the data are not comparable.

This proposal should be applied only to colleges that spend more than 10% of their revenues on marketing, advertising and recruiting. The rationale for this trigger is three-fold. By necessity, schools that spend a higher share of their revenues on marketing, recruiting and advertising have less to spend on instruction, and are therefore at greater risk of not preparing students for gainful employment. They also may be more likely to misrepresent their programs. In addition, schools that spend more than 10% of their revenue on marketing, advertising and recruiting may in fact be spending federal student aid funds on these activities since colleges may receive up to 90% of their revenues from Title IV funding. This alternative would reduce the reporting burden for schools that are spending less than 10% of their revenues on marketing, recruiting and advertising.

Definitions: "Advertising, marketing, and recruiting activities" would be defined as in the Harkin-Hagan bill S. 528.

Accuracy of data: The President, CEO and CFO of the institution (and its parent company if applicable) would certify the accuracy of the submission, and attest that the submitted information is true and complete, and that there is no substantial contrary internal information or relevant and material planning documents on any of the requested data points that are being withheld. If the 10% trigger were used, schools that do not spend more than 10% of their revenue on these activities, would only have to certify that they do not spend more than 10% on these activities (i.e., they would *not* have to determine or report the precise percentage—just certify that it is not more than 10%).

Justification:

- The Department Inspector General's July 2013 audit report found that proprietary schools do not report to the Department consistent or meaningful information on instruction and marketing expenses, and urged the Department to collect this information to help target and improve its oversight.[1] The report states, "For example, a school with low instructional expenses could be at higher risk of misrepresenting the nature of its programs or facilities. Similarly, a school with high marketing expenses could pose a higher risk of paying incentives to recruiters in violation of the ban on incentive compensation." A school with higher marketing expenses may also be at more risk of misrepresenting its programs, including its job placement rates.

[1] Education Department, Office of the Inspector General, "Transparency of Proprietary Schools' Financial Statement Data for Federal Student Aid Programmatic Decisionmaking," July 23, 2013. http://www2.ed.gov/about/offices/list/oig/auditreports/fy2013/a09l0001.pdf.

- Consistent and comparable information on marketing and instruction expenses could also be of interest to students in deciding where to enroll. The Senate HELP Committee report found that many of the largest for-profit colleges, almost all of whose programs are subject to GE requirement, are spending taxpayer dollars on advertising, recruiting and marketing, and are spending much *more* on these activities than on instruction. For example, the Senate HELP Committee investigation found that the 15 publicly traded for-profit college companies spent on average 23% of their revenues on marketing, recruiting and advertising in 2009. By comparison, McDonald's typically spends 3% of revenues on marketing and advertising, and Target spends 2% on these activities.
- The requirement would apply only to schools at which a majority of its programs are subject to the GE requirement in order to reduce the burden on schools were a majority of their program are not subject to the requirement.