The Public Hearing was held in the Eighth Floor Conference Room at the U.S. Department of Education, 1990 K Street, N.W., Washington, D.C., with Under Secretary Martha Kanter presiding.
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LYNN MAHAFFIE, Senior Director for Policy Coordination, Development, and Accreditation Service, Office of Postsecondary Education

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ELAINE M. NEELY, Chief Regulatory Officer, Medtech Colleges

STEVE GUNDERSON, President and CEO, Association of Private Sector Colleges and
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ALEXANDRA BRODSKY (speaking on behalf of Laura Dunn, SurvJustice)

GAIL daMOTA, Senior Vice President and Chief Operating Officer, Education Finance Council

DON MROZ, Provost and Dean, Malcolm Baldrige School of Business at Post University

NEIL RIDLEY, Senior Policy Analyst, Center for Law and Social Policy, Inc.

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KARENANN CARTY, Associate Vice President for Academic Affairs, Monroe College

DANA BOLGER AND ALEXANDRA BRODSKY, Title IX Action Network/Know Your IX

S. DANIEL CARTER, Director, 32 National Campus Safety Initiative/VTV Family Outreach Foundation

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Adjourn
DR. KANTER: Good morning, everyone. I am Martha Kanter. I am the Under Secretary of the U.S. Department of Education and I would like to welcome you to the first of four public hearings that we will be holding.

In today's global economy, a college education is no longer just a privilege for some but rather a prerequisite for all. In the last year, 60 percent of jobs went to those with at least a baccalaureate degree and 90 percent to those with at least some college. Over the next decade, as many as two-thirds of all new jobs will require education beyond high school. And this is why the President's plan for a strong middle class and a strong America calls for expanding the availability of postsecondary education for every American who wants the opportunity.

Providing every American with a quality education isn't just a moral imperative but an economic necessity. And we want to make
sure that all students, regardless of income, race, or background, have the opportunity to cross the finish line. And we know that crossing the finish line is just one step along a trajectory of a lifetime.

So today marks the beginning of our public hearings. This gives us an opportunity to begin conversations about higher education with the higher education community, those who have a stake in postsecondary education on the rules that will ensure that colleges and universities are giving students a high quality education that prepares them for the workforce and lifelong success.

These hearings are meant to be comprehensive and will include a discussion of topics like state authorization for online programs, issues surrounding institutions' management of Federal Student Aid Funds and how to define gainful employment. This process builds upon previous steps to develop regulations to protect taxpayer funds and ensure that all students are able to access and
afford a quality higher education.

We know college is one of the best investments anyone could make but we want to ensure that students and taxpayers both are investing in programs that prepare graduates with the skills and knowledge they need to compete for high paying jobs and to be active and engaged citizens.

The work of the people in this room, the contributions and feedback that we have received over the past four years has raised our awareness about a number of issues. And we are interested in learning more through these conversations with all of you.

Last year, the Department held discussions about rules that would be designed to prevent fraud and abuse of Title IV, Federal Student Aid Funds, especially within the context of current technologies.

In particular, the Department announced its intent to propose regulations to address the use of debit cards for disbursing federal student aid, as well as to improve and
streamline the campus-based federal student aid programs.

As our interest in fraud concerns and the use of debit cards continues, we are now considering adding several other very important topics to the regulatory agenda. These include:

Cash management. The Department is interested in looking at the regulations governing when and how institutions disburse federal student aid, how institutions invest and manage those funds, and other issues on this topic.

State authorization for distance education programs. The Department had previously regulated on this issue but a court vacated the rule on procedural grounds in 2011. With that regulation no longer in place, the Department is interested in ideas for how to address the requirement that States authorize the institutions that provide distance education to its residence when an institution is not physically located in the State.
State authorization for foreign locations of domestic institutions, that is another. Similarly, the Department is interested in ideas for how foreign locations of domestic institutions should be treated under the state authorization regulations, since the current rules don't specifically address foreign locations.

Clock to credit hour conversion. Given concerns raised by institutions of higher education, the Department is interested in whether regulations governing the conversion of clock hours in a program to credit hours should be reviewed.

Gainful employment. Last June, a U.S. District Court vacated regulations defining what it meant for a program to provide gainful employment in a recognized occupation, but it affirmed the Department's authority to regulate in this area. The Department is now interested in public input on other potential approaches to distinguish between successful and unsuccessful programs that seek to prepare
students for gainful employment, on what the best measure or thresholds should be and how to best construct an accountability system.

Campus safety and security reporting. The reauthorization of the Violence against Women Act made some changes relating to the information institutions are required to collect and disclose as part of the Clery Act. The Department is proposing to develop regulations to implement these new requirements.

Definition of adverse credit for the Direct PLUS Loan Program. The PLUS Loan Program requires that applicants not have an adverse credit history to receive a loan. What constitutes adverse credit was defined in regulations published in 1994, when credit conditions and consumer markets were different and loans were made through two different programs. Since these conditions have changed, the Department is interested in comments on whether it would be appropriate to modify the definition of adverse credit and if
so, what changes should be made.

Additional hearings on these subjects will be held during the next few weeks in San Francisco, Atlanta, and Minneapolis. Based on the comments gathered at all of these hearings, the Department will draft a list of topics to be considered by rulemaking committees. It is likely that negotiations will begin this fall and, prior to that, we will issue a Federal Register notice seeking nominations for negotiators.

I thank you all for dedicating your time and expertise to this very important process. And I look forward to a fruitful discourse and appreciate all of your contributions.

And with that, I am going to turn this over to Lynne Mahaffie, of the Department of Education. Thank you, Lynn.

MS. MAHAFFIE: Thank you, Martha.

Hi, I am Lynne Mahaffie. I am Senior Director for Policy Coordination, Development and Accreditation Service here in
the Office of Postsecondary Education. And I am here with my colleagues Dr. Kanter, and also Julie Miceli, who is our Deputy General Counsel. We are really pleased to see so many people here and such a great interest here.

We are eager to get started but I just wanted to tell you a couple of things. We have a very full agenda today. There are a handful of spots left. If there is anybody who wants to testify who is not registered, please speak with the women at the table outside the door and they will try and find a spot for you.

Also, we ask that anybody who is testifying limit their testimony to five minutes. This will enable everybody who is registered to have an opportunity to testify and I will keep an eye on the clock and remind you if you are getting close to your time.

And with that, we will start. Is Angelia Millender here?

MS. MILLENDER: I am.

MS. MAHAFFIE: Thank you. You can come up.
MS. MILLENDER: Good morning. My name is Angelia Millender and I am the Vice President for Student Affairs at Broward College. Broward College serves 67,000 students annually and is the third largest community college in the Florida College System. Over 75 percent of our degree-seeking students receive some type of financial aid assistance. As such, several of the proposed regulatory changes will impact our institution.

Numerous institutions, including Broward College, make student-centric decisions in determining which third-party provider it chose to manage the funds that are disbursed to students. Electronic options have taken financial aid money management into the 21st Century and further regulations should not burden these processes or threaten the continuation of them.

Many students appreciate that they have an option to choose their methods of payments, whether ACH, check, or debit card,
and that they get funds sooner using these methods over the traditional check method. The regulations already provide options for students and institutions to manage financial aid funds. Large institutions cannot handle the volume or the cost internally without the option to outsource. Just because voices who speak loudly and often through various stakeholders does not mean there is a global systemic problem that requires regulatory change.

There is another part of this conversation not always mentioned. Not only how the students get their funds using most of these systems, but how they can read to use the debit card correctly and can choose whether or not they incur fees related to POS transaction. Or students can elect to open bank accounts and we certainly want to encourage them to do that, to learn responsible management of their funds. They can manage their own funds through an ACH transfer directly to their bank account or they can make no choice and a check is the default.
How many more options should be provided?

The Department should recognize that institutions bear much of the cost of this set up and do not pass that cost onto students.

Competition through third-party vendors will likely introduce new innovation and improvement for these services to students, whereas regulations may likely restrict creativity and innovation. No doubt, there are those entities who have abuse their responsibilities but, in general, more institutions are handling this correctly and we have enough burdensome regulations. If the Department chooses to modify the regulations, simply add language to sanction those who are bad players and who do not take their responsibilities seriously when leading and making decisions on behalf of our students.

The clock to credit hour conversion impacts Broward College staff who work on behalf of students and is one of the most burdensome, labor-intensive processes and regulations outside of R2T4. The staff left
the workshop provided by the Department in need of heavy sedation in order to return to their job title that required them to manage this area of financial aid processing. Managing clock-hour programs were much more manageable when a simple conversion of clock hours to credit hours was computed. The required formula is complicated and burdensome, especially if the school's financial aid management system cannot perform the calculation, we are doing this manually. If the Department does not seek to simplify clock-hour conversion as part of the negotiated rulemaking process, then don't discuss it at all.

Relative to gainful employment programs, these should be defined as those students who enter with the intent to become gainfully employed upon completion of their training. These are programs that are typically short-term certificate or diploma programs that do not normally lead to a degree at some institution offering that same program.
Community colleges, however, often ladder these certificates to lead to degrees.

Because this structure allows students to continue their education and enhance their career-ready skill set, these ladder programs should not be defined as gainful employment programs. Any tighter definitions may jeopardize institutions' ability or motivation to create or maintain these short-term programs at this time, when many states are encouraging these offerings tied to performance-based funding. Florida is one of them.

Finally, I would like for the Department to consider redefining adverse credit as it relates to PLUS Loan eligibility. This current definition, as Dr. Kanter indicated does not align with current economic conditions, the credit history and the cash management of most Americans. These regulations should consider the present state of affairs, current debt-to-income ratio, or some measure that assesses recency, rather than
the past.

From January 2008 through February 2010, 8.8 million Americans lost their jobs. As of November 2011, one in eleven American workers were unemployed. Many life-long careers were ended and the financial impact on families was enormous. Economic conditions in these past five years inclusive in this window deem one in five Americans ineligible to receive a parent loan for their children, which, in turn, can make financing a college education impossible for some.

Incremental disbursement for loans to ensure that the loans are being used for the appropriate educational use could be an option worth consideration. The current definition assumes that one person is involved, instead of a system that contributed to this crisis. The credit report does not show everything about a person and does not tell the full story of a person's current willingness and ability to repay a loan.

Thank you for considering my
comments.

MS. MAHAFFIE: Abigail Boyer.

MS. BOYER: Good morning. My name is Abigail Boyer and I am the Director of Communications and Outreach for the Clery Center for Security on Campus. The Clery Center was co-founded by Howard and Connie Clery following the brutal rape and murder of their daughter, Jeanne, at her institution by another student whom she did not know.

The Center is the first national non-profit organization dedicated to the prevention of violence, substance abuse and other crimes at colleges and universities. Today, the Center is the non-profit leader in Clery Act compliance and best practices education and is proud to partner with individuals and institutions across a broad swath of industries and geographies to promote safer campus communities. Our organization fosters relationships among campus law enforcement, administrators, students, and families to promote effective partnerships for
campus safety.

We also offer education and support for students, families, and higher education professionals, provide advocacy and referral services to victims of crime and support policy initiatives, aligned with our core goal of building safer campus communities nationwide.

Our unique position in relationship with multiple constituencies in higher education offers both anecdotal and evidence-based information on challenges and success in Clery Act compliance.

As you know, the Campus Sexual Violence Elimination Act was born out of collaboration between advocacy groups in victim services and higher education. And it is our hope that collaboration will continue through the rulemaking process.

The passage of this law reflects the devastating impact of sexual assault, domestic violence, dating violence, and stalking within our nation's campus communities.

What we have learned through
conversations with students, parents, and survivors of campus crime, as well as with colleges and universities to whom we provide training and technical assistance, is that the effective prevention of and response to these crimes requires campus policies and practices that are thoughtful, consistent, and comprehensive, created by institutions who lay a groundwork of accountability and are dedicated to protecting students and supporting victims.

Other training, we need individuals working in campus safety and security, student affairs, and in other departments on campus who are truly committed to student safety and are looking for information resources and direction while dealing with challenges such as limited budgets or staff.

Since the goal of Campus SaVE is to help a victim of campus sexual assault, domestic violence, dating violence or stalking, receive the critical support he or she deserves, regardless of what institution he
or she attends, we find it necessary to keep these challenges in mind.

A crucial piece of the legislation is education for students, faculty and staff about the dynamics of these crimes and the impact on the campus community. Bystander intervention continues to prove to be an evidence-based practice to educate students to help their peers.

On our campuses, safety should be considered a community effort as students play a vital role in both the prevention of and response to victimization. In fact, they are often the first responders.

Institutions should proactively invest in and have a strategic plan for prevention. However, those with fewer resources need information on how they can incorporate meaningful bystander intervention programming on a limited budget.

Institutions have also shared with us that they are looking for guidance, particularly in how to define and classify
domestic violence, dating violence, and stalking, and how to make information most available to students and campus crime victims.

Providing written information is extremely valuable to survivors, as they have many options available to them which can be overwhelming, following a victimization. In addition, a survivor could choose to disclose to a number of different people on campus. So having information in writing helps the entire campus community be better prepared and connected with resources, should someone disclose a victimization.

Colleges and universities benefit from guidance as to what information is most useful to students, faculty, and staff, and the most effective way to share this information. Furthermore, suggestions for resources on how to train individuals who will be hearing cases of student misconduct will aid institutions in implementing a campus process that is thoughtful and equitable.

Institutions vary in size,
geography, and demographics. And these unique needs should be considered when determining regulations and guidance. Conversations with faculty, staff, and students at colleges and universities, as well as with organizations that advocated for Campus SaVE and regularly work with victims, will help ensure the needs of victims are met while proactively identifying solutions to possible implementation challenges at colleges and universities.

The compilation and dissemination of best practices about prevention and response included within the Act will also prove to be extremely valuable, as institutions examine their own campus climate and practices.

Campus SaVE will have a tremendous impact within campus communities and we thank you for allowing us to be a part of this dialogue.

MS. MAHAFFIE: Nancy Zirkin.

MS. ZIRKIN: And good morning, everyone. I am Nancy Zirkin, Executive Vice
President of the Leadership Conference on Civil and Human Rights, our nation's premiere civil and human rights coalition with over 200 member organizations. I am going to address mostly the issue of gainful employment and then talk very briefly about violence on college campuses.

Thank you for the opportunity to speak on why the civil and human rights community strongly urges Secretary Duncan to enact a strong gainful employment rule to improve higher education and career opportunities for all Americans.

The Leadership Conference believes that all students enrolled in postsecondary education programs, whether public, non-profit or for-profit, deserve high quality, affordable education.

In the career and job training sector, this means effectively preparing students for careers that pay competitive wages and enable them to pay off their student loans.

Despite the ever increasing
importance of higher education, college has become prohibitively costly. Today, student loan debt totals over one trillion dollars nationally. Currently, two-thirds of students who graduate with a four-year degree have more than $25,000 in loan debt. College affordability is particularly important to the communities that the leadership conference represents. The burden of the increasing cost of college is keenly felt by communities of color. In the 2007-8 school year, 81 percent of African-American students and 67 percent of Latino students who earn bachelor degrees graduated with debt, compared to 64 percent of white students. And for women, attending college is increasingly difficult since the student loan burden significantly impacts their finances due to the issue of unequal pay.

The need for strengthening the Gainful Employment Rule is particularly urgent for students enrolled in for-profit colleges. Students enrolled in these institutions make up only 13 percent of all postsecondary students
in the United States but they account for 47 percent of all student loan defaults.

Furthermore, students who earn bachelor's degrees at for-profit colleges have far more debt on average, $31,000 than do students who graduate from public institutions with an average debt of $8,000 or from non-profit with an average debt of $17,000.

The failure of for-profit colleges has been even worse for students of color, low-income students, women and armed services members and veterans. African-Americans and Hispanic students are disproportionately represented at for-profit college. They make up 28 percent of all undergraduates but they represent nearly half, 46 percent of undergraduates, at for-profit college.

And according to the Senate Health, Education, Labor and Pensions Committee, 20 for-profit colleges pulled in $520 million in taxpayer-funded, military and veterans' tuition assistance in 2010. That is nearly eight times more than in 2006.
The high concentration of students of color, low-income students, women, nontraditional students and veterans at for-profit colleges is not an accident. Rather, it is a product of pernicious recruitment practices that actually target vulnerable populations to capture taxpayer financed federal tuition aid. We recognize that our country's future depends to a large degree on how well we educate the next generation. However, permitting for-profit institutions to charge exorbitant tuitions and collect a disproportionately high volume of federal dollars with little return on our collective investment is a travesty and a recipe for disaster.

For these reasons, we urge the Secretary to strengthen the gainful employment rule and to take all other necessary steps to enforce current laws and to improve higher education and career opportunities for all Americans.

Let me just say a couple words about
the Violence Against Women Act, which was passed by Congress, as all of you know, signed into law by the President earlier this year. But we are concerned, given the recent reports of the failure of colleges and universities to actually take strong action in a variety of cases of sexual assault and other types of violence against women. It is critical that the Department of Education issue strong guidance to implement the new requirements in VAWA, with specific attention to traditionally under-served communities such as students of color, and LGBT students. We also urge the Department of Civil Rights and the Office for Civil Rights to strongly enforce these provisions and ensure accurate collection of the data and audit the reporting requirements. These actions --

MS. MAHAFFIE: Could you wrap up your comments, please?

MS. ZIRKIN: Yes. These actions will assist colleges and universities to fully implement the legislation.
Thank you.

MS. MAHAFFIE: Thank you.

Tom Snyder.

MR. SNYDER: Good morning, my name is Tom Snyder. I am president of Ivy Tech Community College of Indiana. Indiana has a statewide community college system, singly accredited. We have 200,000 students, 175,000 for-credit and 25,000 non-credit.

I am also here speaking on behalf of RAMC, Rebuilding America's Middle Class. It is a coalition of ten states and individual community colleges from across the country. We represent over 120 colleges and 1.5 million students in support of the activity with RAMC.

We share a common belief that community colleges are one of America's primary solutions for building a strong more competitive workforce and, therefore, a strong middle class. The Department has proposed a number of issues for negotiated rulemaking that will impact community colleges. As the Department embarks upon this new round, it is
important to keep in mind that these demands may place burdens on colleges from a compliance and paperwork perspective. And on behalf of the member colleges, we urge the Department to keep this in mind as we move forward.

I am going to comment on three areas: distance education and the state authorization; gainful employment; and Title IV studies over the coming years.

With regard to state authorization for distance education, the Department's original regulations in this area vacated by the court placed large burdens on institutions seeking to serve students in multiple states. Our review of these regulations raise questions on the value of the additional burden that it would have placed upon these institutions. It seems overly complex that the institutions would have to seek authorization to operate in each state for which their students are studying and placing a lot of burden on the institutions.

At Ivy Tech, we offer over 350
online courses, 12 online programs, serving over 40,000 students this semester. Many of the students come from the home state of Indiana. But of course, they are increasingly mobile so they may start in Indiana but they may move to other states. And then we think, as the prior speaker just addressed, that the cost of college would actually make it much more useful if students from all states could take online from community colleges from across the country, fitting their own schedule and fitting credits that need to be.

So as the Department proposes additional regulation, we would hope that the Department would not require institutions to seek authorizations through multiple states for online programs.

Gainful employment. RAMC members certainly appreciate the goal of the Department in promulgating its regulations on gainful employment and making sure that graduates do have a meaningful career once they have graduated. Our goal at Ivy Tech is students
find employment and will be able to afford their student loan payments.

Programs at community colleges did not drive the need for gainful employment regulations but would be significantly impacted had not the courts intervened. Particularly, the focus was on short-term certificates (one year) and, of course, that is being increasingly important as we strive to achieve the Lumina goal of competitive college attainment by 2025.

So, as the Department of Education goes forward on the new set of gainful employment regulations, community colleges wish not to be treated in exactly the same fashion, given that their role in workforce development is so critical.

And the final thing I would like to comment on is Title IV and the studies in the upcoming years.

First, we want to add our support that the Department of Education does need to propose regulations through negotiated
rulemaking process to address the fraud that
was uncovered by the Inspector General. Not
addressing Pell Grant fraud will make it harder
for Congress to fund the program and address the
financial needs of the students, especially
those attending community colleges.

Next, we want to make sure that we
study the maximum Pell and the tradeoffs that
may be necessary not this year, not next year,
but perhaps in coming years. We believe that
max Pell is not critical to the community
college or its students. Indiana is typical in
the data. Half of our students, 49 percent
receive Pell but only 16 percent of those or
less than 10 percent of the entire student body
receive max Pell.

When we look at our four year
schools, they range from 20 percent Pell
recipients at IU Bloomington to 35 percent into
more open access schools. But only one-third
of those, that's less than ten percent of the
student body, receive maximum Pell.

In the past, there have been
tradeoffs that have impacted the most needy students, typically those going to community colleges. That would be those graduating from high school, free and reduced lunch, low-income, and those low-income adults seeking to build a second career at a community college.

So we respectfully submit these three items for your consideration. Thank you, very much.

MS. MAHAFFIE: Rory O'Sullivan.

MR. O'SULLIVAN: Good morning. My name is Rory O'Sullivan. I am the Policy Director at Young Invincibles. And we are a young organization whose mission it is to expand opportunity for 18- to 34-year-olds across the country.

I wanted to start with a story this morning. Someone who wrote in in response to a recent survey of ours at Young Invincibles, and she is talking about going to a for-profit college. She said, “I accumulated over $150,000 in debt. The school I went to
defrauded students in Denver, Colorado and did not have the practicum and internships in place that it had marketed and promised. So, I had to switch to another university.

I am very concerned about my financial future and the potential financial devastation now due to the actions of the for-profit university. My payment, and I am assuming she is talking here about her student debt payment, will be estimated to be more than my mortgage and my earning potential will likely not be enough to handle both payments.”

So stories like this continue to come in to us every day. And you could understand why. Our generation knows that getting a college degree is more important than it has ever been. Eight out of ten young people across the country will tell you that they need education and training nowadays to succeed in the 21st century economy.

When someone holds out a key to the door of higher education and sells you a key to the door of higher education, that road to
opportunity, and it doesn't work, people are angry and frustrated. The career college ought to prepare you for a career, not mire you in debt that you can't repay. And so it is under this idea of basic fairness that compels us to ask the Department to force a strong gainful employment rule, provide some protection to students like these, like the one I just mentioned.

We need basic standards to ensure that students are able to repay their loans and that their incomes they receive after graduation are high enough to finance the debt that they frequently incur. Otherwise, we are going to continue to go on like we are. So for-profits right now, even though they just have ten percent of students in all of higher education take in over a quarter of Pell Grant and Stafford Loan dollars. They also take 38 percent of GI Bill dollars, costing taxpayers twice as much to educate each veteran as public universities and community colleges.

Now, despite this enormous and
disproportionate level of investment, more
than half of the students who enrolled in these
colleges in 2008 and 2009 left without a degree
or diploma within a median of four months.

For-profits are expensive. They
cost six to eight times more than the high
quality of public universities and community
colleges up the road. Because of the cost,
students lucky enough to earn bachelor degrees
from a for-profit leave with almost four times
the debt of students at public universities and
almost double the debt of non-profit private
colleges. And that is the ones that are lucky
enough. Remember, most of the people don't
graduate.

More than one in five students who
attend a for-profit default on their loans
within just three years of entering repayment.
And that is compared to just ten percent at a
public college and 7.5 percent at a non-profit,
private colleges.

So the status quo just isn't good
enough right now. The incentive is to enroll
students and take Title IV dollars, but there is no incentive in the system to ensure student success. And so, again, we urge the Department to include strong new gainful employment standards, as part of the upcoming negotiated rulemaking.

The other one thing I wanted to mention is that we are also pleased to see the parent PLUS Loans on the agenda. As you know, hundreds of students are dropping out of HBCUs after a Department switch in underwriting and we appreciate the opportunity to negotiate publicly on these standards. Including the student and consumer perspective is going to be key in these negotiations. And, as all of us know, representatives from different types of schools and often different offices within schools are included in negotiations. And so we think it is fair that the student population, which is similarly diverse, that we would also have adequate slots for negotiators representing students from all different types of backgrounds.
As I said, our generation is very aware that the road to economic opportunity runs through the halls of higher education. So it is essential that we have fair rules of the road and keep it open and safe for everyone.

Thank you again for the opportunity to speak today.

MS. MAHAFIE: Carrie Wofford.

MS. WOFFORD: Hi, I'm Carrie Wofford with Veterans Education Success, a new non-profit founded by the major veterans groups in town to focus exclusively on the promise of the GI Bill.

We are here to urge you in the strongest terms to institute a strong, meaningful gainful employment rule and to stop the manipulation of the cohort default rate and the 90/10 rule.

I want to remind you that as the New York Times reported, there was, the lobbyists for the for-profit spent 12 million dollars lobbying you only on this gainful employment rule. That wasn't to mention the lobbying they...
did to Congress on other issues. You are going
to be under a lot of pressure but I think you
have to keep in mind the taxpayer interest and
the veteran's interest.

For the past two years, veteran
advocates and Senate staff have met multiple
times with the Departments of VA and DoD. And
guess what VA and DoD have told us for two years
running? That they are not the ones to make
judgment calls about educational quality.
That only you, the Education Department, know
where to draw the line. So we need you to draw
that line.

Take a look at this from the point
of view of a vet. He has just come back from
Afghanistan. Maybe he lost his leg. He can't
go back to his job on a construction site. He
needs a new career. Good news! We have the GI
Bill. It is the ticket to the American dream.
It is the promise of a high quality education.
Maybe he can become a businessman, a lawyer.
But here is the kicker. Our loyal vets trust
the government to protect them from being
scammed. They assume that you would not let them go to a school where graduates can't get jobs.

Now look at this from the point of view of a taxpayer. Taxpayers assume that you are not going to waste their hard-earned dollars on schools whose graduates can't find a job. They expect a little old fashioned return on investment. In the GI Bill, it costs taxpayers twice as much to send a vet to a for-profit college as it does to send a vet to a public university or community college. And I am going to submit to you the Senate data and all the studies that have been out there.

And where does that money go? On average, 20 percent gets set aside for Wall Street profit. That doesn't happen, obviously, at community colleges and public universities. A quarter gets set aside for marketing and advertisements, which is really these high-pressured call centers where they train recruiters to engage in emotional manipulations and pain points. And I am going
to show you the pain funnel and pain puzzle, four different of the big for-profits use these things. They use fear and pain to create urgency. It is ugly stuff. Ugly, ugly, ugly.

And then what else do they do with their money? They give their CEO's an average of eight to nine million dollars a year. That is the average. Non-profit college presidents, on average, is under $400,000. And the education? They spend less than one-fifth of what they get from the federal spigot, a tiny fraction of what community colleges and public universities spend. When Bridgepoint bought St. Mary's, which was a legitimate school, they slashed spending on education from $5,000 per year per student to $700. Seven hundred. What kind of an education is that? That same year they paid their CEO $20 million, almost 20 times the amount that the President of Harvard gets. Now, was the educational college as good as Harvard? Not so much.

They take 38 percent of GI Bills but educate a much lower percentage of GI Bill
students. Eight of the ten schools raking in the most GI Bill dollars are for-profits. Only two public universities even make that list, the University of Maryland and UT, Texas. The entire U-Cal system and Cal State don't even make the list.

They also take half of all DoD tuition assistance and 60 percent of the MyCAA funds for service member spouses. And what do we get? Dropout rates of 50 to 60 percent of those for-profits in that top ten, compared to only 13 percent at Maryland and 26 percent at Texas.

The fifth largest recipient of DoD MyCAA funds is an online animal behavior college. An online animal behavior college. And do you know why for-profits are targeting GI Bills and DoD? Because of the 90/10 loophole. You are familiar with that. As Holly Petraeus says, vets and military are nothing more than dollar signs in uniform.

Why are vets signing up? These massive call centers. Vets receive literally
hundreds of phone calls and emails by the recruiters. One of our colleagues at the VFW decided to test the system. So he put his name in to see what would happen. He got 350 emails and phone calls in a week, harassing him. And he still gets them. He got one during a meeting with for-profits and showed them.

Now I am going to surprise you.

Some students who actually graduate from these for-profits then find out that they are not even eligible to sit for the licensing exam for the jobs that are part of licenses. You think of lawyers, electricians, plumbers, most of the medical field. Kaplan was just nailed just last year by an NBC affiliate in Charlotte, North Carolina for convincing students to attend a dental assistance program. And they knew that the graduates would never, ever be able to get a license as a dental assistance. You have got to weed these programs out. You have got to create a stronger rule this time. You know more now. You have got the Senate investigation, DOJ filing lawsuits, you have
got CFPB complaints, and you have 32 states Attorney Generals investigations. And you have got data from the first round. You see schools failing miserably on two out of your three tests and yet they continue on. You have to do better than nine strikes and you are out. Taxpayers would be outraged if they had any idea that GI Bill dollars are being spent on millionaire salaries, fancy TV ads, and predatory call centers. The vets groups who have learned it are beyond outraged. VA and DoD have said you are the only ones equipped to know where to draw the line to weed out sub-par career colleges. Please draw that line. Vets should not be coming home and getting scammed.

Thank you. Should I submit, all the papers, later?

MS. MAHAFFIE: If you could give them to the women at the table.

Dr. Lomax.

DR. LOMAX: Good morning. I am Dr. Michael Lomax, President and CEO of the United Negro College Fund, which represents 38 private
Historically Black Colleges and Universities and 55,000 students who are disproportionately low-income and the first to represent their families in college.

We have helped more than 400,000 students earn a college degree, moving them from poverty and underemployment to the active workforce and the middle class. I am here to talk about a barrier now being placed in the way of many of those same families, namely the Department's unfortunate decision to change the rules for the parent PLUS Loan Program.

As the UNCF institutions prepare for the 2013/2014 academic year, we fear that thousands of additional low-income and minority students will be harmed this fall. These students rely disproportionately on federal grants and loans to pay tuition and their direct educational expenses, in order to earn a college degree that in today's economy is an essential ladder out of unemployment and poverty and into the 21st Century workforce.

On behalf of these students and
their parents, we urge that: 1) the Department review all parent PLUS Loan applications for the current and upcoming academic year under the credit standards that existed prior to October 2011, while appropriate eligibility criteria are considered and studied under the 2013 negotiated rulemaking process; 2) the Department consider fair, flexible, and reasonable credit criteria for parent PLUS Loans under the 2013 negotiated rulemaking. These criteria should not, disproportionately penalize families who have been impacted by the great recession and the housing crisis. They are hardworking Americans whose credit history may have been disproportionately impacted by devastating job losses that were felt most in low-income and minority communities.

In addition, the Department should consider regulations that do not rely solely on backward-looking past credit history to determine loan eligibility, but reflect a forward-looking balanced approach, one that takes into consideration other factors, such as
current credit status and employment; and 3) should the Department proceed with negotiated rulemaking on this topic, UNCF requests a seat at the table, considering that educational access for students at UNCF institutions, Historically Black Colleges and Universities and minority-serving institutions has been undermined by the Parent PLUS Loan standards.

The actions UNCF recommends are essential and fair. We were stunned that the Department implemented a significant change in Parent PLUS Loan eligibility with no advance notice, no open communication, and no real understanding of the devastating impact of this policy shift. The end result of this terrible policy shift has been the following: More than 28,000 Historically Black College and University students and their families denied access to the parent PLUS Loans; a dramatic one-year drop, over 50 percent, in approved Parent PLUS Loan applications; more than $50 million in revenue losses, which resulted in forced cuts in institutional budgets and
layoffs because of lost enrollment and good
faith efforts to assist new and returning
students who could not now pay tuition.

We appreciate that the Secretary
agreed to reconsider the 400,000 applications
in total that were denied Parent PLUS Loans,
including the 28,000 denials at Historically
Black Colleges and Universities; however, this
process still has not produced significant
results. As of February 2013, fewer than ten
percent of the denied HBCU applications have
been approved.

While UNCF shares the Department's
concern about not burdening families with
excessive debt, we do not believe the answer is
to restrict access to college for poor families
who have been hit hardest by the challenging
economy. These families now face a Catch-22
situation. Their credit history may have been
impaired due to the country's massive job
losses over the past five years. But now the
government says they must have an unblemished
credit history in order to obtain a federal loan
to pay for the education that is necessary to obtain a good job in the economy.

Introducing harsh credit history standards is a perverse solution when other more thoughtful actions can be taken through this rulemaking process to ensure appropriate levels of borrowing and loan repayment.

UNCF and the larger HBCU community are ready and willing to participate in the upcoming rulemaking process. However, rulemaking takes time. Our students and families are in crisis now. Students have been sent home and have insufficient resources to re-enroll. They need relief from the Department's ill-considered credit standards and they need it now. Education is their one sure way out of poverty and into the workforce. That doorway is being slammed in their faces.

Thank you for your consideration of these recommendations and facts. Thank you.

MS. MAHAFFIE: Anne Hedgepeth.

MS. HEDGEPETH: Hi, I'm Anne Hedgepeth. I am the government relations
manager at the American Association of University Women. On behalf of the more than 165,000 bipartisan members and supporters, a thousand branches nationwide, and over 800 college and university partners at AAUW, I would like to thank you for holding this hearing about the upcoming regulatory issues the Department of Education is considering.

We will be submitting detailed written comments as well, but I appreciate the opportunity to speak to you today.

Specifically, AAUW urges the Department to again undertake the issuance of strong gainful employment regulations to protect students and taxpayers. In addition, we urge the Department to quickly negotiate and issue strong regulations regarding the changes to campus safety and security reporting that were included in the Violence Against Women Act.

AAUW has weighed in time and time again about the importance of strong rules to ensure that career education programs that
receive federal funds do not take advantage of
students and taxpayers. AAUW supports this
work in particular because we know that women
struggle with student debt more than men. Loan
repayment is an even more significant burden
for women, who earn less on average over the
course of their lives than their male
counterparts. AAUW's new research,
Graduating to a Pay Gap, found that the median
student loan debt burden was slightly higher in
2009 for women than for men. In addition,
among full-time workers who are repaying their
loans in 2009, nearly half of women one year out
of college were paying more than eight percent
of their earnings towards their student loan
debt. Only 39 percent of men were in the same
position.

Furthermore, just over half of
women were paying a greater percentage of their
income toward student loan debt than we
estimated a typical woman could afford.

The original gainful employment
rule uses sound framework to support the goal
of ensuring that schools offering federal student aid did not saddle their students with unmanageable debt.

AAUW supported the combination of measuring debt-to-income ratios for payment rates, default rates, to understand which schools were failing their students and should be ended, which needed improvement and which are serving students well. The data collected in the initial year of the rule found that 65 percent of the programs failed at least one of the tests and five percent failed all three; 193 programs at 93 different schools.

While the rule was struck down by the court, the decision made clear that the Department can issue these regulations. Indeed, the two concerns that were raised can be easily addressed and we urge the Department to move through the process quickly to remedy the concerns and reinstate the rule.

In the rule, repayment rate of 35 percent is required for a program to pass. And AAUW stands by the need for such a threshold.
and, with support, an even stronger one. The idea that it is acceptable to continue a program where 65 percent of former students cannot pay down their loans year after year is frustrating to those of us who work with or hear from students daily.

In addition, concerns that data collection may be a problem can be resolved by focusing on programs with specifics characteristics. There is a way forward to reinstate these rules.

Overall, there is no reason to weaken the gainful employment rule. With 193 programs where students have borrowed at high amounts relative to their income, are having trouble repaying and are very likely to be in default, we must do something to ensure that federal taxpayer dollars do not continue to flow to these programs.

To respond to another issue that is scheduled to be addressed in the upcoming rulemaking, AAUW urges the Department to quickly move through issuing rules around the
new campus safety provisions, which amend the Clery Act and the Higher Education Act and were passed as a part of the Violence Against Women Act. When campus environments are hostile because of sexual harassment, assault or violence, students cannot learn and miss out on true educational opportunities. AAUW's own research revealed that two-thirds of college students experience sexual harassment. In addition, the Department of Justice found that around 28 percent of women are targets of attempted or completed sexual assault while they are college students.

AAUW supports the changes to the Campus Safety Law. A rulemaking will need to address things like new definitions, which are included in the statute, including use of definitions from the Violence Against Women Act, make clearer to schools how often certain ongoing activities must take place and who is covered. The existing Clery Act framework regarding reporting of crime data is strong in this case. Ensuring the students are covered,
informed, and that schools are already familiar with reporting this type of information.

In addition to reporting, schools will also be making public policies and procedures regarding instances of sexual assault, dating violence, domestic violence and stalking. Key to these rules is the fact that every school may need to institute policies and procedures that are unique to their communities but that must, at the same time, ensure that students are safe and that they are in compliance with the law -- that the school is in compliance with the law. There are many schools that are already doing so.

In addition, there are good examples of existing policies, procedures, and trainings out there. AAUW has developed a program in a box for campus advocacy around this issue. Students Active for Ending Rape works with students in schools to improve campus sexual assault policies. And the Department's own work around Title IX and the resolution agreements that stand as best practices for
schools in dealing with sexual harassment and sexual assault are all places to look.

Additionally, it is important that organizations that represent students and victims, as well as advocates and experts on sexual assault, domestic violence, dating violence, stalking, bystander intervention and Title IX, for example, be included in the negotiated process. These groups may not traditionally be a part of rulemaking on, say, financial aid or other things being discussed today but are an invaluable part of the conversation around the campus safety rules.

Thank you again for the opportunity to speak.

MS. MAHAFFIE: John Ebersole.

MR. EBERSOLE: Good morning. I'm John Ebersole. I am President of Excelsior College in Albany, New York. Excelsior is a comprehensive not-for-profit college serving 37,000 students at a distance. Of these, nearly 40 percent come from under-served populations. I would like to thank the
Department for your time this morning and for the opportunity to come and speak before you.

Of the regulatory issues that are to be considered in the rulemaking process, I would like to speak very briefly to four of these: state authorization, clock to credit hour conversion, gainful employment, and campus safety. In each case, I have offered written testimony which expands upon these particular comments.

Under state authorization, the effort to obtain state authorization in 54 separate jurisdictions, as has been required under the previously issued program integrity rules, has been burdensome and expensive. The result has been both a reduction in access and a source of pressure through increased tuition, without added value for students or institutions.

The President's Forum of Excelsior College, the Council of State Governments, the Commission on Regulation of Postsecondary Distance Education, and the four regional
higher education compacts have, over the past six years, developed an effective framework to simplify and streamline the process for authorizing online degree programs that operate across state lines. The resulting State Authorization Reciprocity Agreement, SARA, as it is now being referred to, is a voluntary approach for both states and institutions. It was jointly drafted by these organizations with funding from the Lumina Foundation. This agreement allows states and institutions to work together to address an existing patchwork of regulations, while strengthening the state's role in protecting students from unfair or illegal practices. It is intended to streamline the regulatory process and to increase access to higher education, while protecting consumers and reducing the compliance costs.

Representatives of the Department have indicated a willingness to encourage and recognize interstate reciprocity agreements for purposes of verifying compliance with state
law and participation in Title IV programs. I ask the Department to encourage and recognize such reciprocity agreements as a means to satisfy the requirements for institutional participation in Title IV financial aid programs. Further, I ask the principles embodied in this SARA approach be considered as the foundation for any other regulatory initiatives in this particular arena.

In regard to the state authorization for foreign locations of institutions located in the state, I believe that there is a need for greater clarity is what this refers to and it is unclear from the *Federal Register* description as to the type of locations involved and to the regulations envisioned.

Now speaking to the credit hour, it is recommended the Department consider alternative procedures for measuring student entitlement under Title IV where seat time is not appropriate. The current focus on clock hours, while customary and convenient, is not
thought an appropriate approach to measuring learning, whether online or as an element of a competency-based program. An alternative would be to request a certification of substantial equivalency, whereby an institution offering new forms of instruction delivery -- and those might include accelerated learning, adaptive learning programs, new forms such as competency assessment and MOOCs -- these would be certified to the Department that the learning outcomes produced equal or exceeding expectations from a traditional approach, based upon some form of valid assessment. Such a certification could be made at either the course or program level by an institution's chief academic officer.

An additional or alternative approach would be for the Department to sponsor demonstration projects that include a variety of post-traditional approaches. Such projects would determine appropriate measures for learning instead of credit or clock hours. Such projects could also measure outcomes as
evidenced by demonstrations of specific competencies or other appropriate forms of measurement.

Relative to gainful employment, while the desire for information related to program costs and return on investment is understood, the ability of institutions to obtain such information as salary data, one of the metrics often mentioned, is by no means assured. The intended use of such data to distinguish between successful and unsuccessful programs needs to be considered against multiple variables to be truly accurate or useful.

The Department is urged to consider the following in arriving at its regulations in this arena. What is the minimum amount of information needed to appropriately ensure that aid is flowing to programs that result in success in hiring? What sources exist for this information beyond the academic institution? And why is it assumed that a college or university actually has this information?
Finally, and perhaps most importantly, fully consider the cost of obtaining the desired information and its impact on tuition.

I will give an example here. Last year, my institution spent over $300,000 to comply with state authorization requirements as they now exist. In the process of evaluating past gainful employment proposals, we estimate that the cost for my institution would be roughly $200,000 to collect, monitor, and report all of the data required by the proposals that have been submitted but not yet put into effect. If these two costs, state authorization plus gainful employment, are applied to all recently accredited institutions, of which there are approximately 5,000, the total cost of higher education increases by some two and a half billion dollars. Most institutions have nowhere to go to recover such costs, except to the student in the form of increased tuition and fees.

MS. MAHAFFIE: Please wrap up your
Finally, in regard to campus security, the intent of this requirement is understood for the traditional brick and mortar campus, however, there needs to be criteria for an exemption. Excelsior and many other post-traditional institutions have no campus and no on-site students. To require the same policies and reporting as for a traditional campus with physically present students serves no purpose and is a waste of our time and resource. Thank you.

MS. MAHAFFIE: Rick Weidman. Is Rick Weidman here?

(No audible response.)

MS. MAHAFFIE: Suzanne Ross.

MS. ROSS: Good morning, everyone. I am Suzanne Ross and I am the new Chief Compliance Officer at Higher One and we welcome the opportunity to submit our comments today. Since 2000, Higher One has provided enhanced services to students to help college
and university business offices manage their operations. We developed the first widely adopted refund disbursement solution designed exclusively for higher education to ensure that students receive financial aid refunds and credit balances securely and quickly. Students are never charged fees to receive their refunds and may have their refunds distributed to a bank account of their choosing. More recently, Higher One added the Campus Labs suites and we provide data analytics to our universities as part of our product offering, and we include tools to help institutions of higher education leverage data to identify at-risk students early in the process and hopefully improve the graduation completion rates. Approximately 13 million students at more than 1,600 campuses nationwide use one or more of our services.

Historically, the disbursement of federal student aid refunds has been paper-based, which is a costly and inefficient way for higher education institutions to
deliver those refunds. The Department of Education has worked to modernize refund disbursements through the use of electronic funds transfers to improve efficiency, mitigate fraud, reduce expense and improve service to the students.

In 2008, negotiated rulemaking of FSA programs, the Department acknowledged the emergence of EFTs in the disbursement of Title IV funds and facilitated their use through regulations. Since that time, the use of EFTs has continued to expand as more and more institutions have come to realize the benefits of these services. We believe that this trend is essential to reinforce a more cost-effective, sustainable and secure environment. Higher One would encourage the Department to ensure that students continue to have these choices for their preferred method of refund delivery. Now that we have entered the 21st century, we encourage the use of electronic distribution of refunds, in line with practices adopted by other federal
agencies. This approach removes the additional cost of potential check cashing fees for those students who do not have a traditional banking relationship. It also provides a more secure platform to reduce the risk of financial aid fraud.

Higher One agrees with the Department's decision to explore the ways in which EFTs can be used to streamline operations and mitigate fraud risks. Fraud impacts federal and state governments and higher education institutions, as well as students and their families, with taxpayers assuming the ultimate final burden. We cannot afford or tolerate the abuse of programs vital to our national interest, especially at a time when families around the country are struggling through economic hardships and institutions are facing budget cuts.

For many students and families, the lack of eligibility and accessibility of banking services represents a significant barrier to establishing a financial anchor.
It is important that all students have access to financial services that support them. An electronic refund disbursement service is incomplete if students who are unable to qualify for traditional banking services are denied the means to receive their electronic refunds, essentially shutting them out of the mainstream banking system and depriving them of FDIC insurance and fraud protections. The fees and risks associated with disbursement alternatives, such as check cashers, are not in the best interest of students. The Department should examine how the un-banked and under-banked student population can manage their financial help, which includes financial aid refunds and day to day financial obligations. This approach establishes the foundation for a viable fiscal future and promotes financial literacy.

We agree with the Department's recommendation that the fees, terms, and conditions of a third-party servicer's account should be transparent and clearly communicated.
to students in a way they understand. All financial service providers charge for the services they offer. However, not all banks or financial institutions charge the same for those services. Each affords students a choice of various products that may fit their particular need. Every student must be presented with options that afford them the opportunity to select a product or service that best meets financial needs and budget constraints of those students.

We support the recommendation to recognize the importance of EFTs in the delivery of refunds and the value of accessible student oriented checking accounts. Any new rules should be carefully enacted to prevent unnecessary barriers to the use of EFTs and post-disbursement money management options in such processes. At the same time, we agree that the negotiating committee should explore whether enhanced disclosure of checking account fees to students is appropriate.

We also recommend that the current
time frames in which an institution must be disbursing funds should be shortened, in order to avail students of their funds in a more timely fashion. Higher One has always made the student focus a priority and the issuance of paper checks has, by its very nature, delayed the availability of ready access to funds for all of our students. We call for a change in the regulation.

Ultimately, third-party servicers provide EFT disbursements and we play an important role in helping students avoid more costly and risk-laden alternatives to access refunds and manage their daily finances. These providers also help assist the Department and institutions in the detection and prevention of fraud and reduce overall administrative costs in higher education.

Thank you for your time and attention to this most important matter.

MS. MAHAFFIE: Marvin Silver.

MR. SILVER: Good morning. My name is Marvin Silver. I serve as the Outreach
Director with Americans for Financial Reform, which is a public interest coalition of 250 organizations made up of state, national and local groups, consumer organizations, labor, economic and policy research groups.

We come this morning to express our strong support for an effective gainful employment rule. We recently joined 50 organizations in signing a letter on this particular issue. Since the final gainful employment regulations were issued in June 2011, new information about for-profit colleges' fraudulent conduct have been made clear, as clear as the sky. High tuitions and bad student outcomes have reinforced the urgent need for a strong gainful employment rule. While there are some responsible companies providing quality programs, we believe the latest facts, including the comprehensive report from the Senate Health, Education, Labor and Pension Committee's two year investigation of a for-profit college industry issued last year show that the problems are egregious and
widespread and certainly not limited to a handful of bad actors.

The effects on students are clear. More than half of students who enroll in for-profit colleges in the recent year dropped out within about four months without a degree or certificate. For-profit colleges have 13 percent of the students but 47 percent of student loan defaults and 23 percent of their borrowers default on their loans within three years of graduating or dropping out.

Abuses by for-profit colleges imperil efforts to help Americans to successfully train for careers at prices they can afford. These schools have consumed as much as $32 billion in federal financial aid in a single year, about 25 percent of all such aid. Fifteen big publicly traded companies in this sector receive about 86 percent of their revenue from taxpayers. And at this time of fiscal challenge, we cannot afford to divert so many education dollars to programs that are wasteful and, indeed, harmful to our students.
Many of the organizations in our coalition are concerned about students in career education programs being left with debts that they cannot repay.

Today, I ask that this letter that we signed with other organizations be submitted for the record, as well as a list of news articles and editorials that ran since the gainful employment regulations issued in June 2011 on the need for greater oversight and regulation of career education programs be added to the record.

Also, finally I would say that we ask that you would amend any regulations to prevent schools from evading other current laws designed to protect students and taxpayers, such as laws limiting cohort default rates and the share of revenue that can come from federal student aid.

Thank you for the opportunity to share today.

MS. MAHAFFIE: Aristea Williams.
MS. MAHAFFIE: Anne Johnson.

MS. JOHNSON: Good morning. My name is Anne Johnson. I am the Director of Campus Progress at the Center for American Progress. Campus Progress strives to voice the concern of students and other young people nationwide and to fight for their interests, both here in Washington and in their local communities. We are pleased to see that the Administration remains focused on program integrity in the federal student aid programs. However, we need to make sure that reforms that were pursued in the first term aren’t weakened in the second term.

The strength of our economy depends on the quality of our workforce. Therefore, it is vital that we protect the interests of students by ensuring that higher education is both affordable and of high quality. In order to preserve quality within the framework of gainful employment, we believe that this issue must be pursued carefully, using the best
available data.

Metrics and thresholds should not be set based on what is politically palatable. For example, oftentimes job placement data from certain institutions has depended on loose metrics that skew data inappropriately. This is because of a lack of a clear and standard definition of gainful employment. By focusing policy on clearly defined data matrix, we can effectively change this and ensure that the students that we work with have access to the information that they need to be able to make important decisions about where to pursue an education.

These students need protections beyond what currently exist and gainful employment regulations are a strong step in that direction.

Existing regulations should be reviewed and improved. For example, the 90/10 rule has resulted in too many heartbreaking stories of veterans who have been exploited as a method for schools to avoid hitting the 90
percent cap. We have brought these stories to D.C. many times and further action is needed to be taken.

In terms of ensuring affordable quality higher education, we believe that part of the answer lies in refinancing and lowering student interest rates. On July 1st, the interest rates on subsidized Stafford loans are scheduled to double from 3.4 to 6.8 percent. As a result of this impending deadline, there have been several bills introduced in the House and Senate to address both short-term and long-term fixes that will protect students from incurring thousands upon thousands of additional debt. This topic is especially relevant for students who attend for-profit colleges, since the data clearly indicates that those students have almost double the amount of debt when compared to students who attend non-profit institutions. That is a comparison of $31,000 of debt versus $17,000 of debt. This debt can have a ripple effect on the economy. And we hear frequently from
borrowers that this impact is having -- the debt is having an impact on their daily lives.

Creating sustainable systems for student debt is multifold and must include provisions regarding interest rates, strengthening rather than eliminating the federal grant programs, and ensuring that there are more protections for parents and students who are having difficulty with their debt.

Campus Progress stands ready to continue to help raise the voice of students on these issues. Thank you for your time.

MS. MAHAFFIE: Todd Leatherman.

MR. LEATHERMAN: Good morning. My name is Todd Leatherman and I am the Executive Director of the Office of Consumer Protection for the Kentucky Office of the Attorney General. Thank you for the opportunity to comment on the Department's upcoming negotiated rulemaking, which focuses largely on issues related to postsecondary for-profit institutions.

In addition to these oral comments,
we will be submitting additional written
comments prior to the conclusion of the final
public hearing on June the 4th.

Since 2009, our office has been
investigating and pursuing violations of
Kentucky's Consumer Protection Act by certain
for-profit colleges. We are currently in
litigation against three for-profit colleges
with several other investigations pending.

In addition, Kentucky Attorney
General Jack Conway leads a 32 state working
group of attorneys general who are
investigating issues involving for-profit
schools. We have now heard from hundreds of
dissatisfied students of for-profit colleges
and our experience investigating and
litigating consumer protection cases has
provided our office and other attorneys general
with first-hand knowledge of several abuses of
our laws, as well as federal regulations, by
for-profit colleges and the consumer harm
resulting therefrom. We appreciate this
opportunity to share some of what we have
learned, in hopes that it further informs the Department in this rulemaking process.

Based on our experience, we have several recommendations. First, reduce the time by which an institution must deliver a student's federal student aid credit balance to the student to ensure students are able to access Title IV aid when it is needed, and not allow schools to delay release of those funds merely to serve the purposes of the institution.

Second, require institutions to make specific written disclosures to students which clearly explain the students' entitlement to receive the financial aid exceeding tuition and fees and the students' rights concerning use of those funds.

Third, prevent institutions and their agents from manipulating information provided to students and data to evade the consequences under other Department regulations, such as the 90/10 rule and calculation of the cohort default rate.
Four, adopt strengthened gainful employment regulations.

Five, require institutions and accreditors to better substantiate with independent data and research the extent of the need for postsecondary education for the "recognized occupation" as a part of obtaining approval for a program.

Six, develop a standardized methodology for calculating job placement rates or, at a minimum, define certain factors that must be included or that shall not be permitted to be included in the calculation of job placement rates.

Time restrictions on oral comments prevent me from giving in-depth explanation for all these recommendations. However, I would like to explain the reason for a couple of them.

Our office strongly favors reducing the time it takes an institution to deliver credit balances to students so that students may obtain their books and educational supplies in a timely manner at competitive prices.
Current regulations provide schools an opportunity to delay delivering credit balances, even to returning students, for more than 14 days after the first day of classes. Schools holding onto the students' credit balances until after the term commences are in a position to coerce students into buying their books and supplies from the school at exorbitant prices. While it is a service to students to allow them to obtain their books at the school bookstore by charging books to their accounts, a school delaying the release of a credit balance is free to charge much higher prices than competitors because the student does not have the aid available to purchase books from another vendor.

This very practice led us to sue a company operating schools in four states, including Kentucky. It is clear from our dealings with the school that it purposefully misread the Department's regulations in order to ensure that students had no alternative but to spend their financial aid at the school's own
bookstore for books and supplies that were priced well above prices readily available from other vendors.

The same school also adopted a hyper-technical and manipulative definition of credit balance to unfairly delay delivery of the student's financial aid. The school would draw down the federal student aid and deposit it into the student's school accounts. However, to avoid creating a credit balance prior to the term commencing, the school purposefully did not post its tuition charges to the students' accounts until sometime after the term had commenced. According to the school, a credit balance owing to the student was not created prior to the term commencing because it had not yet paid itself tuition, so there were no federal student aid dollars to deliver to this student. Consequently, students who needed their financial aid to purchase books were forced to buy their books at exorbitant prices from the school's bookstore. This, obviously, is harmful to
consumers because they are incurring more debt than they need but it is also a fiscal issues for taxpayers and the Department because the school obtained more federal student aid dollars than if the students had funds available to purchase items from lower cost vendors.

Finally, in our experience, a major contributor to student complaints, withdrawal rates, and default rates is that students are enrolled in programs for jobs that do not require much, if any, postsecondary education. Thus, students complained the education was useless and a waste of time. Students withdraw because they realize the classes are not substantive and students default because the cost of the education for the career far exceeds the amount of money they can earn because the jobs do not really require postsecondary education. High school graduates without any postsecondary education are hired for the same jobs, yet these programs are accredited and substantial amounts of federal student aid are
available to the schools for providing these expensive and unnecessary career programs.

For example, one large healthcare employer in our state explained that it hires persons with only a high school diploma to train them for a "billing and coding" position and that there is no expectation of any additional certification. This is essentially an entry level data entry position, yet a billing and coding diploma from an accredited Title IV-approved for-profit college in our state cost $27,000 and an associate of applied science degree in billing and coding costs $36,000. ONET describes billing and coding jobs as only requiring a high school diploma.

Obviously, one must question whether such programs truly prepare students for gainful employment in a recognized occupation within the meaning of the statute. To the extent it is able, the Department should consider placing a greater burden on institutions and accreditors to justify and substantiate with independent data and
research the need for postsecondary education
to prepare students for an identified,
recognized occupation as a part of obtaining
approval for the program.

Further, the Department should
adopt regulations requiring that the cost of
the program correlate in a reasonable fashion
to the rate of pay expected from the employment,
including the rate of pay needed for repayment
of loans in a timely manner.

Policy makers and taxpayers are
rightfully concerned about the skyrocketing
amount of student loan debt. Putting an end to
predatory programs that charge students
exorbitant tuition for meaningless,
unnecessary degrees should be a high priority
for the Department.

We hope these comments are useful to
the Department and help guide it through the
negotiated rulemaking process. Thank you.

MS. MAHAFFIE: We will now take a
break until 10:40.

(Whereupon, the above-entitled
matter went off the record at 10:24 a.m. and resumed at 10:40 a.m.)

MS. MAHAFIE: Meg Benke.

MS. BENKE: I am Meg Benke, President of Empire State College, which is part of the State University of New York. Empire State College was founded in 1971 by educational visionary Ernest Boyer, then the Chancellor of the State University of New York, who went on to become U.S. Commissioner of Education.

Dubbed "The College without walls of New York," we continue now, more than 40 years later, to provide flexible, high quality public education at a low cost for 20,000 students. It is within this context I offer my thoughts today about the non-traditional student, state authorization, and cash management.

As you know, there has been growth in the students over 25. The percentage of increase in the number of younger students in this pattern is expected to continue. For
example, between 2000 and 2010, the percentage of students in college age 25 or older increased by 42 percent. Adult students now make up a large portion of students enrolled in higher education.

However, when state and federal regulations are created, it is rarely with the student population in mind; rather, the focus, legislators and regulators continue to treat them as the exception. The regulations authored and approved thus far seem to be based on the idea that most students are full-time, 18 years old, and going on campus. And the statistics that we need to report on these students do not account for part-time students' rate.

While there are many younger students who can stop out and go to school full-time, we need to find ways to continue to help students to go to school while working full-time, tending to family, and meeting civic obligations.

We are seeing a greater number of
students in their twenties working and going to school part-time. Aiding adults to return and finish school is a missed opportunity, particularly those in their twenties who are pursuing this path.

And this is repeated at the state and federal level by an educational bureaucracy that puts a premium on the 18 to 22-year-old student and focuses much of its attention on the needs of that group when crafting legislation.

State authorization for distance learning is an example of how the Education Department hadn't thought through what students are being served by flexible, high-quality, public distance education institutions.

Generally, for working adults with few other options for study, our programs provide an accredited alternative. Through these regulations, many good public institutions of higher education are burdened with the costly and, in some cases, insurmountable endeavor of registering.
If consulted, institutions like ours could have provided more guidance to help solve the problems these regulations sought to improve and, in fact, we have. This past year I served on the SHEEO Commission for Regulation of Postsecondary Distance Education, which was chaired by former U.S. Secretary of Education Richard Riley on distance education and state authorization.

We have produced what I think is a solid recommendation for a way to meet the needs of states without unduly burdening accredited colleges. I believe this report provides an appropriate roadmap forward.

We were also heartened to read the letter sent to the Department by certain members of the Committee on Education and the Workforce asking the Department to curtail enforcement of certain regulations and defer to the upcoming reauthorization process for the Higher Education Act. We agree with this and thank those Members for sending this letter. We also humbly ask the Department to defer from
any further action until the reauthorization process is fully underway.

I want to take a moment to make a special note of the consideration being given to including competency-based programs for financial aid. We believe that this form of education is valid and necessary to meet the goals of the Obama Administration to increase completion rates and decrease time to completion. We have engaged in this type of education for more than 40 years and can provide evidence of its effectiveness. We thank the Department for its forward thinking on this important issue.

With regard to cash management, one of the topics today is the current regulation of 14 days to assignment of the financial aid resources. We actually think that this is a fair way to approach giving aid to the appropriate students, to giving institutions the time to disburse the aid.

There are ways to deal with the issues related to students buying books.
Colleges like ours provide foundation grants, so that students can purchase their books from any source, our institution where we provide books or others through many grants that are no-interest grants.

So, there are some anomalies that we need to do to give accurate financial aid, and we think there should be a retaining of the 14 days.

In closing, I want to thank you for your time. Institutions like ours, Thomas Edison College, Charter Oak, University of Maryland, and Western Governors have begun working together on issues related to adult learners and public higher education.

We look forward to giving feedback on these proposals as you move forward from Empire State College or from this consortium of institutions.

Thank you.

MS. MAHAFFIE: Thank you.

Rick Weidman.

MR. WEIDMAN: First of all, I thank
the panel for the opportunity to speak here
today and will not dwell as much as others might
have on prescriptive remedies, but rather talk
about why Vietnam Veterans of America was
founded.

We were founded because, make no
mistake about it, our fathers' generation
threw us away and people didn't care, by and
large. It was only a fluke that we had the Cold
War GI bill which started out at 60 bucks a pop
per semester for everything -- or per month for
everything, including tuition, books, fees.

We have, since our founding in 1978,
pushed hard for a GI bill for those who would
come after us like that which my father had
coming from a very poor background where he
joined the military at 16 just to get enough to
eat. And that was not atypical. But he was
able to go to a college, in fact, to a very
prestigious private college, as a result of
that GI bill.

But that was not handed down to my
generation and we were adamant that we hand it
down to this generation, only to see the
guarantees that should be of keeping the
rascals out, those guarantees turn to smoke.

In the seventies, the same problem
that exists now with unscrupulous individuals,
both in the public sector and in the private
sector taking off veterans existed. And yet,
that is why at that time in the early seventies
enough pressure was applied from both students
and from others to ensure that information was
gathered about graduation rates, about course
completion rates -- and that is perhaps the most
important -- as well as progress toward a degree
or certificate.

The course completion rate is
really the one that you need to zero-in on
because people drop out when there is nothing
of value. Essentially, they vote with their
feet, and that doesn't matter whether they are
a veteran or not, although I will tell you that
we are most concerned about the young men and
women who have fought in the two wars our nation
has been waging for the last decade.
They are coming back after having been exposed to much more combat than any of the wars of the 20th century. The average exposure to combat of a combat MOS in World War II was less than 30 days. In Vietnam, it was 271 days.

We have young people that I have met in the Wounded Warrior units at Fort Belvoir and at Walter Reed who have been back on the fifth involuntary tour. And they cannot continue to be soldiers or service persons from this point on because we are drawing down the forces and because in many cases they have been impaired and lessened by virtue of their military service in the name of us all.

So, they have to retrain for what they are going to do with their lives. In many cases, their life changed in an instant literally. They were fine, young athletes one moment, and the next moment, all of a sudden, they will never walk again under their own power.

They need the GI bill. They need this training to be of worth in order to move
forward into new professions. Because, quite bluntly, our society needs them, and it is not just something nice we do for them.

Our organization was founded on this principle that we keep coming back to: never again shall one generation of American veterans abandon another generation. I want to say that one again, because for everybody in this room over the age of 40 -- and there are a few of us -- never again shall one generation of American veterans abandon another, and it should be true of Americans.

And frankly, we don't care whether it is a for-profit or not-for-profit. If there is not value in a particular course of study that an individual has intrinsically acquired from that study, to take from them is to steal their future. It is bad enough to do that to any American, but to do that to the young men and women who have put their life on the line literally in defense of the Constitution of the United States -- and I want to stress, when you join the military, that step forward is
pledging life and limb in defense of the Constitution of the United States, not a particular war, not a particular policy, not a particular government, but of the Constitution which begins with "We, the people...."

And therefore, everyone in this room has a covenant with those young men and women who have placed themselves in harm's way, whereby they have been lessened physiologically, neuropsychiatrically, emotionally, spiritually, or economically, to help make them as whole again as humanly possible. And part of that is to go ahead and do what has already been affirmed in the courts, not to wait for the Reauthorization Act, but to go ahead and promulgate a rule on gainful employment that is needed.

Because VA has walked away from their responsibility. DoD has walked away from their responsibility. And I beseech all of you at the Education Department to not join them in abandoning this generation; and, rather, to stand with them and help safeguard
that education which they have paid for so
dearly in terms of spending their life and in
many cases their blood.

I thank you for the opportunity, and
I would appreciate the opportunity to follow
with a written statement.

MS. MAHAFIE: Thank you.
MR. WEIDMAN: Thank you.
MS. MAHAFIE: Kim Gandy.
MS. GANDY: Thank you for this
opportunity to provide testimony on the
implementation of the Violence Against Women
Act reauthorization provisions regarding
college campuses.

The National Network to End
Domestic Violence is a membership and advocacy
organization representing the 56 state and
territorial coalitions against domestic
violence.

NNEDV is the national voice of these
c coalitions. There are more than 2,000 local
domestic violence programs and millions of
domestic violence survivors who turn to them
for services.

As the Department of Education issues regulations under the campus provisions of VAWA, we recommend that colleges and universities be encouraged to work in partnership with experienced state domestic violence and sexual assault coalitions and their local programs in the community.

VAWA 2013 requires all campus grantees to create a coordinated community response that includes both the relevant divisions of the Institute -- it is still not working.

PARTICIPANT: We can hear it.

MS. GANDY: You can hear it? I will just talk loudly.

The relevant divisions of the institution and organizations external to the institution, the State Domestic Violence and Sexual Assault Coalitions and their local programs are precisely the external organizations that institutions should collaborate with in developing campus-based
responses.

As colleges and universities work to shape their policies and protocols, they should draw on the substantial expertise of State Domestic Violence and Sexual Assault Coalitions not only in victim advocacy, but also in working with law enforcement, healthcare providers, and others.

Coalitions have long experience in working with all of the relevant community stakeholders to shape responses and policies that are victim-centered, evidence-based, and guided by applicable legal standards.

Campuses, in many ways a microcosm of the surrounding community and with many of the same stakeholders, would benefit from the assistance of state coalitions as they bring stakeholders to the table to create and implement internal policies and protocols.

Furthermore, coalitions are ideally situated to be part of these efforts, as they have extensive experience with the Coordinated Community Response Model through
the Violence Against Women Act's STOP program and, thus, are uniquely able to assist campuses as they develop their own coordinated community response.

Additionally, it is vitally important for there to be a strong and collaborative relationship between institutions and programs in the surrounding community of the campus, so that each is aware of the services and resources offered by the other in order to best position both to make needed referrals.

While a student who is a victim of dating violence or sexual assault may choose to access campus-based resources first, it is also possible that a community-based service provider could be a student's first point of contact. In either case, the program that the student initially reaches out to first may not be able to provide all of the needed services. For this reason, institutions should work with state coalitions and local programs for domestic violence and sexual assault to
understand how campuses and students might be able to take advantage of those existing resources.

It is, likewise, important for state coalitions and service providers to be engaged in the campuses' processes as they develop new policies and responses, so that these external organizations can stay up-to-date and informed on the campus resources available for survivors. This kind of ongoing partnership will allow for effective and streamlined referral mechanisms as well as strengthen the ability of both to provide services for students.

As campuses work to respond to the new requirements of the Violence Against Women Act reauthorization, they will benefit from collaborating with, and drawing on the expertise of, state coalitions and local service providers, especially in developing policies and procedures that are coordinated across the campus as well as the surrounding community.
Therefore, we urge regulations issued by the Department to reflect the importance of these partnerships.

And thank you again for the opportunity to testify.

MS. MAHAFFIE: Christine Lindstrom.

MS. LINDSTROM: The trick microphone keeps the witnesses on our toes.

Thank you in advance for consideration of my remarks. I am Christine Lindstrom. I am the Higher Education Program Director for the U.S. Public Interest Research Group. We are a federation of state-based consumer organizations with 75 college campus chapters across the country.

Students are now graduating with an average of $27,000 in loan debt. The country carries $1 trillion in student loan debt, and that has consequences for the individual borrowers as well as for the social and economic health of our country.

Therefore, I ask that during this
round of rulemaking the Department of Education act boldly on several important items that are necessary to drive down costs for our student members and to protect them as consumers.

The first is campus debit cards. The USPIRG Education Fund released a report last May, "The Campus Debit Card Trap," which detailed the extent to which students are using debit cards of many kinds on campus with very little consumer protection.

We estimate that 9 million students now have campus debit cards. Most receive their financial aid refunds on these cards, which hits students with high fees that can be hard for them to avoid and deduct those fees from their student aid.

For these students, access to their federal financial aid is now controlled by a private financial institution which uses monetary controls and imposes other limits on those students to generate their profits. That is their business model.

In the report, we raised a number of
problems that can be solved with stronger rules from the Department of Education, and we look forward to engaging on those concerns, as the Department has already agreed to raise these issues in the upcoming negotiation.

However, students are being overcharged right now to access their aid and simply cannot wait until July 2015 for the final rules to actually be implemented. So, therefore, we ask that the Department act swiftly to further guide rules around debit cards that already are in existence.

Specifically, the rule surrounding the placement of ATM machines on campus states that access should be fee-free and that students should have convenient access. Because these criteria are not defined, financial institutions are able to comply with the letter of the rule; yet, violate the spirit of it.

In one example, a financial institution simply located one ATM machine on one campus, despite the fact that the college
actually has nine campus locations in total. Thus, the campus generates a windfall in profit from foreign ATM surcharges that students, again, are paying with their financial aid dollars. So, by issuing further guidance now, the Department of Education can remedy this problem as soon as this fall for the incoming class.

If the ATM issue can be expedited, then we can spend valuable time in negotiation dealing with new dynamics in the marketplace that aren't touched upon in statute. For instance, companies are engaging in aggressive marketing tactics such as sending debit cards to all students in the mail before they have even made a choice to have one, essentially making the decision for them.

Second, I would like to add USPIRG to the numerous voices you are hearing today praising the Department of Education for its ongoing efforts to rein in student abuse at for-profit colleges by defining the gainful employment criteria through which colleges can
access financial aid dollars.

For-profit colleges leave students with too much debt. Nearly one in five students from a for-profit college default on their loans. So, a strong rule helps to curb the abuse.

USPIRG found the initial gainful employment rule to be weaker than it could have been initially, but we agreed with the overall framework, including the debt-to-income metrics. So, we urge you to stand by that framework, to tweak it slightly to satisfy the courts, and to further strengthen the rule on behalf of student loan borrowers. Another part of the solution is to buttress borrowers from 90-10 rule manipulation by for-profit colleges.

Private loans have become more important over the past decade to finance higher education in conjunction with the rise in for-profit colleges. By law, for-profit colleges can earn up to 90 percent of their revenue from government aid, and the other 10
percent has to come from other sources. So, for-profit colleges are targeting students with little savings or accumulated wealth. And so, "other sources" means private student loans.

For-profit colleges are pushing students into these loan products without taking into account their need or their ability to repay. According to the Project on Student Debt, more than half of private loan borrowers are eligible for more federal loan aid. But these schools needed the 10 percent in private revenue on their books, so that motivates them to push the expensive and risky products onto students.

Given that these loans have very little consumer protections for students, they are more likely to create financial stress for borrowers. In essence, we think this rule needs to be strengthened.

So, in short, the Department of Education has a fundamental role to play in reining in abusive practices that have
contributed to the students' current student debt crisis -- or the country's current student debt crisis. So, please make this upcoming round of rulemaking a defining one in terms of taking bold and necessary action to alleviate that debt.

Thank you.

MS. MAHAFFIE: Daniel Toughey.

MR. TOUGHEY: Good morning.

I am Dan Toughey. I am President of TouchNet Information Systems. We specialize in providing software and software solutions for college and universities to automate business processes, including the financial aid excess credit balance distribution process as well.

One of our products is called eRefunds. Basically, it uses the ACH direct deposit system, much like your paychecks are deposited every day. It is very successful for hundreds of our colleges around the country.

How to do this is very simple. It is easy. It is cost effective for students,
and it is cost effective for schools as well.

But there is kind of a disturbing trend in the market, and that is moving more towards third-party service providers that are banks or financial institutions that are partnered with banks in issuing debit cards for the purpose of distributing these financial aid credit balances.

This process is being sold to schools as the answer to going electronic and eliminating the paper checks, but more often than not, it is creating more problems for both the students and the higher education community in general. This is impacting millions of students around the country right now.

And I testified last year about this time, when this subject was also brought up. I would like to report that things have gotten better, but, in fact, they really haven't. With the recent acquisition by Higher One, the leader in the market in this third-party-service-provider-to-debit-card process, with their recent acquisition of
Sallie Mae Campus Solutions, they now are joining forces. And so, once again, the hearings are very timely.

There are basically four problems with the whole financial-aid-to-debit-card process that we see in the market today. The first one is overly aggressive marketing. At these campuses, many of these campuses I should say, students, new students coming in, everybody is receiving in the mail a debit card with the school logo on it, and it looks like a product that has been endorsed by the school. Of course, it is encouraging the students to immediately go sign up for their new debit card or their bank account that goes with that debit card. Again, it looks like it is endorsed by the schools themselves.

This is kind of an end-around, if you will, from the Credit Card Act of 2010 that the Congress passed that eliminated the marketing of credit card products on campuses like this. But, of course, this is a debit card and, again, it is kind of a loophole in the
process. Unfortunately, the Congress missed the Credit Card Act by one word in not adding "debit".

Once a student goes off to these service providers' websites to select their options or to sign up for the program, what they are finding is they are being heavily steered to the bank product. In one particular case, the leading provider, about 50 percent of the students on their campus sign up for a brand-new bank account to get one of these debit cards.

Now there are plenty of studies out there in the market that show -- in fact, even one that they funded themselves called "Money Matters on Campus" -- that 86 percent of freshmen students come to campus with a bank account. So, there is really no good free market explanation why 50 percent of those students would be signing up for a brand-new bank account just to get their financial aid disbursements.

The fact of the matter is direct deposit that you and I get our paychecks through
is being difficult to choose for students. They have to print a form and either mail it or fax it back to that service provider. Of course, students don't probably know fax machines today and, of course, carrying stamps is not very easy, either. So, there is a steering process that is taking place once they get to the website.

Then, once a student has the card, which 50 percent of these students have this card in this particular case, once they have it, they begin to understand what capitalism is all about because the fee schedules are extremely complex and confusing. I would just highlight three different fees very quickly here.

One is what I call a pay-to-pay fee where a student is charged 50 cents per transaction if they enter a pin number at the point-of-sale. This is kind of a historic thing in the debit card market. It is very unusual, but it is still in effect there.

ATM machines, the same thing happens there. If they have to go to
out-of-network ATM machines, they are charged $2.50 to check their balance, $2.50 to withdraw money, or $2.50 if they are declined on a transaction, that together with the cost that the ATM owner charges them as well.

And then, the third area is inactivity fees or monthly account service fees that also begin to add up.

So, we have aggressive marketing, we have steering to bank products, and we have high fee schedules that our students are faced with.

And then, the fourth item is exclusive contracts with schools. The schools can't get out of these contracts and they are stuck with them, typically, for five years. And five years in the banking and financial service industry is a very long time to be stuck with a particular product.

So, the result out there is students are protesting. They are pushing back on many campuses. You can check the blogs. You can go out there and do the research. Just hit Google
and hit this topic and you will see what is going on in the marketplace.

And just in the last year, there were six class action lawsuits filed by students against one of the providers. So, it is really time for federal action. I mean the market forces are not going to take care of this, especially with the recent acquisition of Sallie Mae Campus Solutions by Higher One, now making them by far the largest provider in this space.

And the result of this is taxpayer money is being harvested and students are being coerced into bank accounts and debit cards that they don't want and they don't need.

And so, we respectfully ask --

MS. MAHAFFIE: Your time is running out.

MR. TOUGHEY: Okay. Thank you.

We respectfully ask the Department to proceed with a negotiated rule committee on this and to bring the rules forward faster than two years, which is a long time in this market.
Thank you very much.

MS. MAHAFFIE: Thank you.

Jeff Keith.

MR. KEITH: I appreciate the opportunity to speak today.

Good morning.

My name is Jeffrey Keith. Before I begin my brief remarks, let me first describe my background a bit.

I have had the unique opportunity to understand higher education through a variety of lenses: as a peer evaluator, administrator, student, investor, and trustee. I have worked in both non-profit institutions, where I was the chief architect of an innovative system with independent non-profit colleges known as the TCS Education System, and proprietary institutions.

I am currently the Chairman of the Board of two institutions, Spartan College of Aeronautics and Technology in Tulsa, Oklahoma, and Tribeca Flashpoint Media Arts Academy, located in Chicago, both of which are
proprietary institutions.

I am also a member of the Board of two non-profit institutions, the University of Dubuque in Iowa and Calumet College of St. Joseph in Indiana, which is a Catholic institution.

In addition, I am a member of the Board of Educate Online, a private company that provides students with personalized online instruction, both at the K-12 and higher education level, and is really concentrated on preparing students for college.

I also work for Sterling Capital Partners, an investor group with an established history of owning and operating institutions, including Spartan and Tribeca, Florida Coastal College of Law, Phoenix International School of Law, and the Charlotte School of Law.

I believe that my experiences working with these various educational institutions, both non-profit and proprietary, provide me with a comprehensive understanding of some of the issues that will be discussed
during this negotiated rulemaking. Briefly, I will address the following topics: regulation of clock-and-credit hour programs, state authorization issues for distance education, and restrictions on the use of certain bundled services resulting from the interpretation of the incentive compensation rule.

With respect to any new regulation regarding clock-to-credit-hour conversion or clock-hour requirements, I am firmly behind Secretary Duncan's push to expand competency-based learning opportunities to more students. The Secretary said, and I quote, "The century-old practice of awarding degrees based on seat time in the classroom rather than on demonstrated competence is now at odds with the world in which the internet offers perpetual opportunities for learning and gaining skills at your own pace."

I couldn't agree more. Programs that allow students to progress at their own pace after they have demonstrated mastery of the required subject matter, rather than by
their age or amount of time in class or seat
time, are an important element of higher
education going forward.

A competency-based system puts
students at the center, replacing rigid
time-based structures with flexible learning
environments that ensure students receive the
support and time that they need to successfully
master content standards. This highly
personalized approach provides clear
individualized pathways to student proficiency
with the ultimate goal of graduating highly
skilled, career ready students.

One of the most significant
barriers to more fully developing a
competency-based learning system is the
Federal Student Aid Program’s reliance on
time-based accountability and assessment
systems that conflict with the core elements of
competency education.

The most recent changes to clock and
credit-hour regulations have required more
programs than in the past to be measured for
federal student aid purposes solely based on seat time, even while Secretary Duncan has advocated for the expansion of competency-based learning. These recent regulatory changes have created conditions where the Department has substituted its own interpretation of state agencies and educational program approval and licensing requirements for that of the state, resulting in the imposition of clock-hour assessment methods for federal student aid purposes, even where a state considers a program to be a credit-hour program.

The Department should, instead, show proper deference to state education agencies' interpretation of their own laws and regulations, particularly where doing so is consistent with the Secretary's push to implement more competency-based learning into existing curriculum.

With respect to state authorization for distance education programs, to the extent that the Department decides it remains
necessary to implement such requirements, any new regulations must provide states with the flexibility to enter into reciprocity agreements on both a regional and national level, and must also provide incentives for states to do so.

I understand the Department's reliance upon the regulatory triad includes a robust oversight system that is administered by state education agencies. However, any implementation of state authorization regulations must balance effective state oversight with recognizing that certain state regulations of schools with a very light footprint in state due to distant education activities could be ineffective and duplicative.

In my experience working with a variety of schools, and the aftermath of the final program integrity rules that were published in October 2011, there was a great deal of confusion among schools and state education agencies with regard to what state
authorization regulations required. This affected not only distance education providers, but also schools that offer course and programs with clinical placements, externships, student teaching, faculty mentoring of students, and other outside classroom activities that occur outside of the school's home state.

The communication that we have with the state agency staff confirmed that they were confused by what was expected of them, very much overwhelmed by the large number of inquiries that it received from schools regarding state authorization regulations.

Further, due to understaffing at some state education agencies as a result of state fiscal crises, some schools waited for up to two years to receive responses with regard to what states require from out-of-state schools.

There are currently some state education agencies that are still trying to address and clarify the requirements for
schools with some sort of limited physical presence in their states, including those that offer distance education. Therefore, based on my past experience, I recommend that any state authorization rulemaking more fully involve state agency education policymakers, as the ability to successfully implement a state authorization regulation in this area is dependent upon the ability of states to administer such a process.

I would also like --

MS. MAHAffIE: Wrap up your remarks, please.

MR. KEITH: Oh, I have to wrap it up?

(Laughter.)

Sorry.

So, in regard to one other thing, which is the bundled services on the program integrity rules, I just want to say that the way that they are structured now is actually inhibiting the ability of non-profits to work with a variety of institutions. And I believe
that the intent of the rule is not being fulfilled by the way it is being structured right now. So, I would encourage a review of that as far as allowing non-profit institutions to work more closely with a larger variety of organizations out there to launch and enhance online programs.

But, again, thank you for the ability to speak today. Thank you.

MS. MAHAFFIE: Thank you.

Vickie Schray.

MS. SCHRAY: Good morning.

Can you hear me back there? Okay.

My name is Vickie Schray, Senior Vice President for Regulatory Affairs and Public Policy for Bridgepoint Education. Bridgepoint Education is a higher education company which has re-engineered the modern student experience with innovative solutions that advance learning. Its academic institutions, Ashford University and the University of the Rockies, provide progressive online platforms and have traditional
The majority of our distance education students are independent, working adults that represent the non-traditional students and those that historically have been underrepresented in higher education.

Thank you for the opportunity to offer recommendations on the proposal to hold negotiated rulemaking. When the Department originally announced its intent to launch rulemaking last year, I offered testimony and commended the Department for their approach in responding to the Inspector General's Investigative Program Advisory Report regarding student identity theft and fraud.

Rather than immediately launching into rulemaking, the Department sought to better understand the issue by meeting with institutions and creating an internal task force to explore the issue.

I encourage the Department to continue this collaborative approach to addressing important issues that affect
taxpayer investment in higher education and our nation's students, and ask that you postpone the negotiated rulemaking session until after Congress reauthorizes the Higher Education Act.

Rather than initiating negotiated rulemaking at this time, the Department could use this opportunity to engage the broader higher education community and key stakeholders in a national, not federal, dialog regarding regulatory challenges and seek to identify areas for improvement to help improve both policies and practices aimed at improving student access and success.

The announcement proposing another round of rulemaking comes at a time when government regulation of colleges and universities has grown exponentially. Since the last reauthorization of the Higher Education Opportunity Act in 2008, the Department has published 19 final or interim regulations, totaling 779 pages in the Federal Register, and has distributed a plethora of
sub-regulatory guidance that continues to be issued as recently as this week.

In the April 16, 2013 Federal Register, the Department announced that their intent to hold negotiated rulemaking over the next several years will be to address more directly access to and the affordability of higher education and possible steps to improve the quality of higher education in the United States and to better encourage students to complete their education.

We support the need to address these important issues, as there is a growing demand for higher education, especially from non-traditional students who want even greater options in the delivery of high quality education.

The need to increase access and affordability and find more cost-effective solutions in every aspect of higher education is critical at the institutional, state, and federal level. There is a continued call for increased accountability for all institutions,
and we are witnessing a major shift in policy
from access to success with an emphasis on
education and employment outcomes.

Finally, there is the changing
structure and delivery of higher education,
including new types of educational
institutions and the increasing use of distance
learning that allows institutions to operate
not only on a national, but a global scale.

Again, I recommend that the federal
government use this time and the bully pulpit
to convene, collaborate, and to help
rationalize the work underway by institutions,
states, and accreditors as a means to identify
promising practices that can inform the
reauthorization discussions to the benefit of
our nation's students and families.

Development of burdensome
regulations that lack best practices would be
detrimental to the promise of innovation and
access to our nation's students, especially
those that have been underserved by
traditional institutions.
If the Department decides to move forward with negotiated rulemaking, I have included a number of specific recommendations that I will submit as part of my written testimony for your consideration.

Again, thank you for the opportunity to share my comments today.

MS. MAHAFIE: Megan McClean.

MS. McCLEAN: Good morning.

Thank you for this opportunity to comment on the need for negotiated rulemaking on areas of concern. On behalf of our nearly 3,000 member postsecondary educational institutions, the National Association of Student Financial Aid Administrators, NASFAA, extends strong support for the negotiated rulemaking process.

We have always found that negotiators, including those represented by the Department of Education, are strongly motivated to achieve consensus and that this process results in far better proposed rules.

In terms of specific topics, we...
believe Return of Title IV Funds when a student withdraws is a complex set of issues that needs its own negotiating team devoted to all aspects of that topic, with a mandate to simplify it and think in larger terms about how we can decrease burden for schools rather than simply chasing down pennies.

For example, institutions must make post-withdrawal disbursements even to a student who lived at home and only attended for one day. For a student who received more funds than he or she earned based on time in school, the current order of return is not always the most beneficial to the student.

The last time that the Return of Funds topics were slated for revision, the negotiating team had so little time to discuss the issues that the resultant rules were not truly negotiated. There is still a great deal of confusion on the treatment of modules, as a result.

The relationship between course load reduction and subsequent withdrawal needs
to be examined, and the issue of liability for funds paid based on registration data, when the student fails to begin attendance in all of those classes, is a related issue with broader implication.

We still hear from our members about the classification of on-campus daycare centers for students and faculties as non-community service. We would like to see a conversation about changing that interpretation related to the community service requirement of Federal Work Study.

We agree with the Department's suggestion to tune up the cash management rules, so long as they remain flexible enough to balance institutional and student needs in our technological world.

We believe that one of the issues under student notifications that should be revisited is a payment of prior year charges. Schools should be permitted to provide notice of the school's policies regarding use of a limited amount of current year aid to pay prior
year charges with an opt-out option available to students.

The current adverse credit definition for borrowers is a topic of concern to our members. We agree that a review and possible updating is timely. For example, negotiators might consider some form of debt-to-income ratio assessment for parents and more emphasis on the practicability to repay the loan.

It is important to keep in mind, however, that what is appropriate for a parent borrower might be different from what is an appropriate measure for a graduate student borrower. Any changes to PLUS Loan underwriting standards must be implemented in a way that does not disrupt current student enrollment.

We also agree that the rules governing clock-hour measurements and clock-credit-hour conversions have been confusing to schools and could benefit from review in the negotiated rulemaking setting.
State authorization is a tricky subject. We believe a key factor in successful resolution in this area is knowledgeable advisors and suitable representation from states, especially in the area of foreign locations and crediting agencies.

We urge the Department to tread lightly in matters that are related to state purview and to find reasonable alternatives that do not price a program out of existence or add such administrative burden as to compound, rather than resolve, any true problem that may exist.

We live in an era where electronic and technological communication has become the norm and changes rapidly and sometimes profoundly to alter the educational landscape.

Our members continue to be concerned about the Department's intent to define gainful employment without clearer direction from Congress or giving schools the ability to limit borrowing or require additional counseling.
We would also like to offer a broad comment. The number and complexity of the topics that a single team has been expected to negotiate in recent years has become increasingly unrealistic. Besides time management issues, concentrating widely diverse issues into one negotiating team committee renders the consensus approach difficult. We, therefore, strongly urge the Department to establish multiple negotiating committees, so that each team may, to the extent possible, focus on related issues in-depth.

Finally, in conducting the upcoming negotiations, we urge the Department to regulate only where necessary and only to the extent required to achieve agreed upon goals.

Thank you for your time.

MS. MAHAFFIE: Brad Card.

MR. CARD: Good morning.

My name is Brad Card, and I am a managing partner at Dutko Grayling. I am here on behalf of the Association of Proprietary Colleges in New York.
APC includes 27 accredited, degree-granting colleges and operates on 41 campuses throughout the State of New York. Our institutions enroll over 60,000 students in a diverse range of academic programs and employ more than 6,300 people. APC membership includes small and mid-sized institutions located in urban and rural areas. Uniquely, the majority of APC colleges are still family owned, with several institutions being third- and fourth-generation family members.

Additionally, based on the degree programs, our institutions are approved under a stringent standard of the New York State Board of Regents. Many of our colleges hold regional accreditation from the Middle States Commission on Higher Education.

We appreciate this opportunity to present today.

APC looks forward to being an active participant in the negotiated rulemaking process and delving into the technical issues involving cash management, debit cards, and
other subjects on the agenda. APC was an active member in the 2009 program integrity rulemaking process, submitting comments, hosting campus visits, meeting with Department representatives, and having an Association member serve as an alternate negotiator.

At this stage, however, when the Department is preparing to launch a multi-year series of rulemakings prior to pending reauthorization of the Higher Education Act, APC believes it is useful to take a step back from the details and take a more holistic view of higher education and the federal student aid process.

We appreciate your consideration of these suggestions and we believe that the guidelines and the negotiating process should be viewed as a whole. Regulation of higher education should apply to all sectors. Our higher education system is stronger based on diversity in multiple sectors, including the proprietary sector.

APC, for instance, our proprietary
colleges have developed robust student services, cutting edge programs, and flexible schedules. Our student outcomes compare favorably with our peers in the public and non-traditional, non-profit sectors.

We agree all institutions, including proprietary colleges, should be held fully accountable for the use of federal funds. However, too much of the public recent debate seems to be aimed at tarnishing the proprietary sector. Good rulemaking should start by recognizing that proprietary colleges have brought value and bettered the lives of millions of students.

Consistent with this view, the Department should be encouraging responsible growth in all sectors. We could have a lively debate on the meaning of responsible growth, but, at a minimum, we urge the Department to steer clear of regulations that are targeted at any particular sector. If the Department believes that certain types of institutions should be held to a certain rate of growth or
subject to additional scrutiny, if they need a
certain rate of growth, then it should make a
proposal, and we can discuss that subject in a
straightforward manner. Consumer information
should be transparent and uniform across all
sectors.

We should recognize that students
are the ultimate customers for all of us, the
colleges and the Department. All students
begin as applicants who are choosing whether to
pursue their education and where to enroll. It
is critical to provide these applicants with
clear, simple information about their
enrollment opportunities, including cost of
their program, whether they choose public or
non-profit or proprietary institutions. In
other words, we believe the Department can do
more to encourage and require clear, upfront
disclosures to bring transparency to the cost
of the programs across all sectors as well as
the expected outcomes of those programs.

Simplifying Title IV regulatory
scheme, as I am sure you know, a printout of the
Title IV regulations now produces a 3-to-4-inch-thick stack of paper. A printout of the Department's Federal Student Aid Handbook runs 10 to 12 inches. These regulations and related guidance are incredibly intricate and full of traps for the unwary that can lead to inadvertent violations. I would suggest that we all need to aim for quality with regulations that are simpler and cleaner rather than more voluminous.

Go slow with the rulemaking process. We all went through an extensive rulemaking process three to four years ago, and we are living with a series of new regulations that went into effect in 2011. In many cases the Department has not yet issued promised guidance to clarify important issues under some of those rules, such as questions about state authorization and credit regulations that are vague and troublesome for many institutions.

With all of these unsettled issues from previous rulemaking, and with so little experience with the Department's ability to
enforce those recently-issued rules, we again strongly suggest going slowly. It is always worth asking if the Department can achieve its public policy goals by enforcing the existing regulations rather than creating new ones.

Limit Title IV funding to truly educational related expenses.

In launching a new rulemaking, we also have to recognize the limits of federal funding available to student aid. It is more important to ensure that federal student aid funds are used to pay the core cost of higher education, tuition, and fees, and legitimate living expenses. We believe the Department needs to pay more attention to the fact that the vast amounts of student aid are more available for students to spend for other purposes.

At the same time that the headlines indicate a growing concern over student debt, Title IV regulations force -- yes, force -- colleges to award federal grant and loan funds even when colleges have real concern that those funds are not necessary to support
legitimate living expenses.

    APC colleges would gladly join the
Department in developing responsible ways for
colleges to help their students avoid over
borrowing and avoid trapping into federal funds
for extraneous spending that is not necessary
to support the student's core educational
expenses.

    Do not --

MS. MAHAFIE: If you could wrap up
your comments, please?

MR. CARD: Sure.

    Do not relive the gainful
employment regulation. We have entered into a
series of reruns, it seems. The gainful
employment regulation is complex and
redundant, extends the federal government's
reach into higher education, and looks like a
backdoor to restrict the proprietary sector
based on metrics that do not work.

    We all have a history in gainful
employment rulemaking. We dedicated enormous
time and resources into the rulemaking. We
have participated in the process. We have acted as a negotiator often in the negotiated rulemaking process. And this gainful employment regulation simply does not work. Let's let the Congress act in the new reauthorization of the Higher Education Act, and we stand ready to help you.

Thank you.

MS. MAHAFFIE: Thank you.

Jennifer Blum.

MS. BLUM: Good morning.

I am Jennifer Blum, Senior Vice President of Government Relations and Public Policy at Laureate Education. On behalf of Laureate and our network, Laureate International Universities, I want to thank you for the opportunity to speak.

Laureate is a unique global network of 70 institutions in 29 countries. Together, these institutions share a global commitment to access and quality for students in each of their own countries and localities. We have five distinct institutions in the United States:
Walden University, which is entirely online; Kendall College in Chicago; Santa Fe University of Art and Design, one of the oldest institutions in New Mexico; New School of Architecture and Design in San Diego, with 600 students, and the National Hispanic University in San Jose, California, with 800 students.

With access and institutional accountability as our primary goals here and abroad, we appreciate each opportunity for dialog with policymakers on these issues. In fact, today Laureate and one of its institutions in Spain, is hosting a European Economic Summit on Youth and Jobs with the Clinton Global Initiative, government officials, and employers in that region.

In the U.S., Laureate continues to believe any accountability effort should be applied to all institutions. Recent shifts in higher education and innovation are seismic. These initiatives are largely positive developments for students. However, they underscore the need for ensuring that our laws
and regulations are equitable and consistent.

Before commenting on a number of agenda items, I would first like to mention a couple of concerns regarding the Department's initiative. First, implementation of any new regulations promulgated coincide with HEA reauthorization. We strongly urge the Department to coordinate regarding which issues should be addressed through the regulatory process and which Congress should address.

Second, the range of issues presented by the Department is broad in nature, requiring different types of expertise. Laureate suggests appointing two negotiating committees, one that is focused on the technical changes to Title IV and another to address specific policy issues. This will allow the Department to appoint members with definitive expertise and interest.

I will now comment on specific topics presented.

During the 2010 regulatory process
on state authorization, Walden raised concerns regarding the enforceability of these rules. While we appreciate the Department's most recent time extension, Laureate and Walden expect that HEA reauthorization will provide a better opportunity to provide clarity around the roles of the current statutory triad. Laureate, however, is uniquely positioned to provide insight on distance education and on foreign locations.

On distance education, Laureate and Walden continue to support the concept of reciprocity between states, and the recent work by the Riley Commission should provide helpful input. As an international community of universities, Laureate noted with interest the Department's proposal to examine whether state authorization is necessary for, quote, "Foreign locations of institutions located in a state". Many of our U.S. students, particularly at Kendall, Santa Fe, and New School, benefit from exchange opportunities with our very separate foreign institutions.
It is essential that all institutions continue to provide students with a rich and global education. Laureate is interested in learning more about the Department’s scope and intent in this area, and we look forward to providing our insight and expertise.

With our focus on default rates and outcomes, our institutions share the Department’s interest in an accountability system that improves the ability of students to distinguish between the quality of institutions and programs. However, we firmly believe that the Department remains too narrowly focused on accomplishing the significant policy goals through the lens of gainful employment provisions which are applicable only to a limited subset of institutions and programs.

It is also important to recognize the tremendous steps being taken toward understanding and analyzing how best to use data. This week the House is likely to
consider legislation that would require the Department to study this area.

In response to the Department's request for input, however, Laureate does offer two suggestions regarding existing regulatory tools the Department might better utilize.

First, the Department and the Administration have created several disclosure requirements recently which supplement already existing disclosure requirements under HEA. While Laureate strongly supports the Department's goal of disclosure and transparency, we are concerned that these multiple efforts actually increase student and consumer confusion. Streamlining disclosure requirements should be a critical component of the Department's accountability goals.

Second, Laureate encourages the Department to examine its current new program approval processes and, also, its certification requirements in the context of its existing accountability measures. The Department's guidance in this area has shifted
back and forth, and some processes seem inconsistent with the goal of establishing distinctions in the quality of institutions.

Finally, we are also interested in the Department's discussion of Title IV management. Regarding the issue of fraud, we believe the current regulations on verification and unusual enrollment history have significantly helped institutions monitor and combat this problem when suspected. Laureate is very interested in discussing current practices and learning more about any additional measures available to combat this serious problem.

Laureate's institutions also agree with the need for clarity regarding the definition of adverse credit. Guidance has created confusion and burdens for institutions, students, and parents. Laureate appreciates the Department's inclusion of this issue and is hopeful there will be more flexibility in its appeals process and more consistency and clarity for all.
interested parties.

In conclusion, we hope the Department will consider these suggestions, and we look forward to participating in any such process. Thank you again for this opportunity.

MS. MAHAFFIE: David Baime.

MR. BAIME: Good morning and thanks for having me.

I am David Baime, Senior Vice President for Government Relations and Policy Analysis, American Association of Community Colleges.

We have a little bit under 1100 members. So, unlike Jennifer, I am not going to mention all of them this morning.

I want to talk primarily about the gainful employment issue, but I did want to touch upon a couple of other topics that were mentioned in the notice about this session.

First of all concerns fraud. Community colleges feel that we are, in fact, particularly vulnerable to so called Pell
runners and fraud rings. And as a result of that, we feel a great need to be involved in any process the Department undertakes to try to address this issue.

We would note that the instances of fraud are still quite limited and are a very small fraction of the overall student population. We would not want to see policy being changed too dramatically to address this particular issue. I would say that our institutions are already doing many things themselves for their own reasons to make sure that this does not occur.

The second thing I wanted to talk about is the state authorization issue. It has been mentioned a number of times already here. For our institutions, the Department's new interpretation and proposed enforcement of the regulation -- related institutions that offer distance education programs outside of the state in which they are physically located -- has been extremely problematic for our institutions, precisely because they have so
few resources and in many cases have one or two
or literally just a handful of students
enrolled in a given state.

And what we have found as an
unfortunate outcome of the regulations that
have been currently held in abeyance is that,
in a number of states, institutions have simply
chosen not to offer programs. So, rather than
resulting in enhanced or improved access for
students, what we have seen is actually a
diminishment of access for students.

We are encouraged by the efforts
that have been undertaken to develop
regional/state compacts or arrangements for a
series of institutions, and we think that that
is a process the Department should continue to
develop rather than issuing new regulations on
distance education.

The last thing I wanted to talk
about in a little bit more detail is the gainful
employment regulations. You have heard people
this morning talking about the impact of
gainful employment regulations on the
for-profit sector. And, of course, the for-profit sector received the bulk of the attention as the gainful employment regulations were promulgated and, then, debated in different ways in Congress.

But I would like to remind the Department that community colleges, in fact, have far more programs that qualify under the gainful employment definition than the for-profit sector does, about 30,000, to the best of our count, community colleges compared to 13,000 at for-profit institutions.

And the number of certificate programs that community colleges are offering is growing very rapidly. It is part of the completion agenda and encouraging students to get onto career ladders and career pathways, giving them some tangible sign of academic accomplishment that keeps them enrolled.

We do have high numbers of students who don't complete their programs, and offering more certificates is one of the ways to address that. So, consequently, if the gainful
employment regulations were reinstated in some way, we would probably see even more programs falling under its purview.

I don't want to spend too much time revisiting the past, but we do think it is important to outline my membership's extraordinary frustration over the gainful employment regulations as they were enacted and disclosure regulations that still remain formally in place.

This process has been a debacle for community colleges. The Department, we feel, has acted insensitively, and we don't think it is an exaggeration to say irresponsibly, in the series of issue updates and increased numbers of communications to institutions who have been trying to implement these rules.

If you go on the IFAP website, you now see 44 "Dear Colleague" letters and electronic communications on gainful employment. And again, we think that it is simply irresponsible for a federal agency to expect that institutions of higher education,
certainly not institutions such as community colleges which don't have heavy administrative resources at their disposal, to manage that continual change in implementation procedures. So, we hope the Department learns from this and whatever it does in the future is much more focused in the direction that it gives institutions.

Did I lose this altogether?

Thanks. I guess it is working a bit.

Another unfortunate outcome in gainful employment that we do encourage the Department to look at is to consider the fact that for community colleges only less than a quarter of all the programs for which data were provided ultimately had income earnings generated for them. So, less than about 23 percent of all the programs that institutions dutifully provided data to the Department ultimately received the earnings information that would have been useful to not just the consumers, but to institutions themselves in evaluating program effectiveness.
So, as the Department looks at taking another pass at this, we think that some methods need to be devised, perhaps consolidating some of the programs so that there is greater data reported out on particular groups of programs, and perhaps career cluster areas.

We also, picking up what a number of other commenters have said this morning, it would be foolish for the Department to ignore the broader environment of the Higher Education Act reauthorization that is currently getting underway. We know that Congress will be looking at outcomes across all institutions of higher education for all types of programs. It is very likely that Congress will be looking at ensuring that institutions and the public get better data about the earnings and workforce side of higher education, which is something that my Association supports.

Therefore, the Department should examine very carefully the direction that Congress is going in, as it looks or at least
considers putting forward regulations again on gainful employment. And this is irrespective of whether or not the definition itself for statutory treatment of gainful employment programs is altered at all, and just this broader issue of providing greater information is addressed.

In terms of some of the things that were done in the last regulation, we said it before -- I will say it again -- an on-time graduation rate of 100 percent for community college students, many of whom, about 60 percent on average enroll part-time, says very little about the nature of the program and the quality of the program. We would urge you to use another approach if you go forward in this general area.

There are currently three graduation rates for institutions, as you know, under IPEDS. So, we question whether this is necessary.

We also -- and this relates to the issue I just mentioned about the paucity of data
on earnings -- for more than 75 percent of our programs, we had many of our programs, no data was provided because we either had too few borrowers or too few students in those programs. So, you need to devise a framework in which institutions aren't responsible for providing data for the Department that is never going to be revealed to the public or otherwise used in a way that provides some benefit on the back-end.

In terms of the actual loan metrics that were used for gainful employment -- we, community colleges, thought that they were reasonable ways of looking at public policy. We continue to emphasize the great importance of limiting student debt. We have heard a tremendous amount about this issue. We see defaults arising under a more accurate three-year rate at an alarming amount. And we think that institutions should be given encouragement for ensuring that students limit their borrowing. And we do support giving institutions the ability to limit borrowing,
but also giving them incentives to keep their
tuitions low. And therefore, the policy
should reflect and approve of institutions that
are able to keep student borrowing minimized.

Thank you for your time. We look
forward to being active participants in that
process.

MS. MAHAFFIE: Thank you.

Wagatwe Wanjuki.
(No response.)

Lezli Baskerville.

MS. BASKERVILLE: Good morning,
Department executives and colleagues.

I am Lezli Baskerville, President
and CEO of the National Association for Equal
Opportunity in Higher Education, NAFEO, which
is the nation's only membership association of
all of the 105 Historically-Black Colleges and
Universities and 50 Predominantly Black
Institutions.

Our institutions are richly
diverse. They are two- and four-year
institutions, public and private institutions.
They are Land Grant institutions, sectarian and nonsectarian institutions; undergraduate, graduate, and professional schools.

Our institutions represent just three percent of the nation's colleges and universities, but they are graduating about 15 percent of African Americans graduating from college today.

In growth and high needs areas, our institutions are doing much better in the areas of STEM. Historically Black Colleges and Universities are graduating 40 percent of African Americans who are graduating with a four-year degree in STEM.

With regard to teacher education, our institutions are graduating 50 percent of African Americans coming out in teacher education today and 60 percent of African American health professionals.

I cite these data at the outset because at the time when the nation is concerned, and we have all been concerned, about cost-effectiveness, cost of college and
effectiveness of college, the College Board's reports indicate that the cost of college at an HBCU, for private institutions is on average 10 percent less than their historically white counterparts. For public institutions, public HBCUs are about $2500 less than their historically white counterparts.

And let me just say, also, that our institutions are economic engines of their communities, $13 billion short-term enterprises.

So, with this significant chunk of America's colleges and universities, without which this nation cannot realize its goal of having Americans with two- or four-year degrees, 60 percent of Americans attaining a two- or four-year degree, our institutions, the fiber, the infrastructure of our institutions was shaken when the Department, without notification, shifted its interpretation of the parent PLUS regulations.

As a result, you heard from my colleague this morning, Michael Lomax, who is
President and CEO of a subset of our 39 private institutions that as a result, tens of thousands of our students were not allowed to return to college, and we lost tens of millions of dollars.

I incorporate by reference the comments with regard to Dr. Lomax this morning, and I would like to add just a few supporting observations.

What occurred was that the Department made adjustments in its interpretation of adverse credit. And again, it did so without notification, without an opportunity for public engagement. It made this adjustment to the adverse credit interpretation at a time when our institutions were already reeling from about four major factors.

The shift in interpretation was unanticipated. Our institutions have disproportionate percentages of low-income and first-generation students. Disproportionate percentages of HBCU have small endowments that
prevented many of our institutions from standing in the gap and offering funding to those students who lost their parent PLUS Loan due to the shift in the regulatory interpretation. And the loss of the parent loan funding came as disproportionate numbers of HBCUs were reeling from the loss of Title III and SAFRA funds, the loss of summer Pell and other Pell funds, the loss of additional funds due to sequestration, drastic cuts in state funding.

And for most HBCUs, they have a majority African American student population, and the financial foundations of the families in our institutions was shaken severely as the result of the great recession. For example, according to the Pew Foundation, the families at HBCUs, primarily African Americans, lost 53 percent of their wealth, as compared with 13 percent of the wealth for white Americans. A combined $200 billion wealth loss for African Americans and Latinos, with a typical African American household with just $5700 in wealth;
Latinos, $6300 in wealth, and white Americans with $113,000 in wealth. This is important because, as you know, wealth is what most of our families draw on to pay for college in times when such things as the loss of a parent PLUS Loan takes place.

The shift of the regulatory interpretation also happened at a time when the net worth, the wealth gap between African-Americans and white Americans increased from $20,000 to $90,000, according to the Bureau of Labor Statistics.

So, with these things going on, the shift had a destabilizing impact. We worked with the Department of Ed from August through October to try to come up with a plan that would return the nearly 20,000 students in good standing that were forced to leave our institutions, but, unfortunately, we have not been able to get most of the students back.

At this point, as we are approaching the next year, we are hoping that the Department will revert back to the pre-October 11th
interpretation. From our perspective and our discussions with the Department, we found that the program was not broken. If the program was not broken, we respectfully request that the program not be fixed.

The parent PLUS pipeline, prior to the shift in regulatory interpretations, had loans evaluated under criteria that were working effectively for most students at the time. If the Department decides to do something, it should clearly define extenuating circumstances to account for major and sustained economic recessions that cause persons who otherwise have good credit histories to experience an anomaly and fall behind as a direct result of such things as recessions. They should take into consideration financial resilience, parents who perhaps lost a house in the great recession, people who lose houses and other things due to natural and manmade disasters, but they are able to rebound. The criteria should be more liberal and allow for considerations of those
Again, I embrace by reference the recommendations of Dr. Lomax, but I want to add one thing, that when the parent PLUS debacle, for lack of a better word, hit the HBCU community, in addition to showing the need for return to the pre-October 11th regulatory interpretation, it pointed out that which NAFEO and the HBCU community has been saying for years; namely, that America needs to invest more of its sparse dollars in those institutions that are graduating disproportionate percentages of low-income, first-generation, traditionally underserved students, the growth populations of today.

Our institutions were able to absorb the students because their endowments are low and their infrastructures, their dollars are few. If we invest of our dollars in those institutions that are doing the lion's share of educating growth and high needs students, we could have a buffer against such huge drops of students who are doing what they
are supposed to do and matriculating on time.

There is a need for the federal government, states, and the private sector to provide greater incentives for other institutions to enroll and graduate large numbers of high needs students as well. Although the details are still scant, it appears as though the Administration's proposal to, quote, "Keep tuition from spiraling too high and drive greater value and to shift aid away from colleges that fail to keep net tuition down and toward those colleges and universities that do their fair share to keep tuition affordable, provide good value, and serve needy students," this appears to be aligned with NAFEO's sense that we must invest more of our dollars in those institutions that are serving the needy, that are underfunded, and that are growing, educating the lion's share of today's and tomorrow's students.

NAFEO looks forward to working with the Department as we continue to think through and come up with a reasonable solution, but the
immediate solution is, and we urge and request, that for the fall semester you respectfully revert back to the pre-October 11 interpretation and afford us an opportunity to be at the table with the negotiators, so that we can have a voice on behalf of all of America's Historically Black Colleges and Predominantly Black Colleges to make sure that our students are doing right, doing what we expect them to do, are matriculating and in good standing; do not have to drop out because of unnoted shifts in policies.

Thank you so very much for affording me the opportunity.

MS. MAHAFFIE: Thank you.

Congresswoman Brown.

(No response.)

We have one more person to speak before lunch. So, we are going to wait a couple of minutes. She is on her way.

If there is anybody scheduled for the afternoon session who would like to speak now, you are welcome to. We have a few minutes
before our next speaker.

MS. HATTAN: I am Susan Hattan. I am here testifying on behalf of the National Association of Independent Colleges and Universities, or NAICU.

NAICU serves as the national voice of independent higher education. With more than a thousand members nationwide, NAICU reflects the diversity of private, non-profit education in the United States.

My comments today address the two topics related to state authorization and the gainful employment issue. In response to a court decision issued last year, the Department is considering developing new regulations relating to state authorization for programs offered through distance education or correspondence education. Given the substantial work being done across the country in this area, NAICU believes it would be premature to develop federal regulations in this area.

Although the prior distance
education regulation was struck down in court, its issuance has had a marked effect in increasing awareness of the breadth and variety of state requirements affecting distance education providers. It has also underscored the complexity of addressing regulatory issues in a manner that is understandable to, and affordable for, institutions seeking to comply with state requirements.

The difficulties in navigating these various requirements have spurred conversation regarding ways in which compliance could be simplified. As we have heard earlier today, the most significant of these efforts is the work being done on the State Authorization Reciprocity Agreement, or SARA. Certainly, the President's Forum, the Council of State Governments, regional education boards, APLU and SHEEO, among others, have been engaged in this effort for some time now.

A SARA framework has been developed and work is beginning to flesh out on how such
an agreement might be implemented. There is still a long road ahead. While being generally supportive of this effort, NAICU is concerned about some of the specific features and will continue to work on behalf of appropriate investment as that process continues.

So, in brief, there is a lot of work going on now by a variety of individuals with deep knowledge of state laws and practices. Given this high level of involvement, it doesn't seem to be an appropriate time to introduce new federal requirements into the mix.

We suggest that the Department defer regulatory action in this area in order to allow the current work to proceed in a manner that will maintain the ability to make adjustments. At this point, it may simply not be possible to develop uniform federal requirements to capture all the moving parts that will be required to establish a better means to regulate distance education providers.
The second state authorization issue raised in the April 16th notice relates to authorization for foreign locations of institutions located in a state. Given the confusion that has been created by the general regulations related to state authorization, we urge that the Department not compound that confusion by trying to regulate foreign locations of U.S. institutions via the states.

Experience with the existing state authorization regulations have shown that states have chosen a variety of ways in which to recognize and regulate the institutions within their borders. Superimposing a vague set of federal requirements over the state activity has led to massive confusion with no discernible impact on improving program performance or integrity.

Equally troubling are the shifting and inconsistent interpretations of what the regulation requires. It is for this reason that NAICU has advocated for the repeal of the existing state authorization regulation. By
the same token, we believe attempts to expand this regulation to incorporate rules related to state regulation of foreign locations would only compound the substantial problems and confusion that we are seeing today.

And finally, with respect to gainful employment, the gainful employment regulations are exceedingly complex and include significant reporting and disclosure requirements relating to the employment and economic success of gainful employment program students.

The Department’s original intent was to publish regulations aimed at eliminating fraud and other deleterious practices of these programs. However, while sanctions under the final regulations were delayed and weakened, the substantial reporting and disclosure requirements require that all gainful employment programs remain in place. These requirements have been made more complicated by recent court decisions.

We urge the Department to take a
comprehensive look at the gainful employment regulations and target them more appropriately on areas of high risk. Specifically, we recommend that certificate programs which meet some sort of a first-test standard that does not require additional reporting by institutions, such as the newly formulated repayment standard, be exempted from the burdensome collecting, reporting, and disclosure requirements.

Under this framework, only schools that fail this first test would be required to gather additional information or meet additional standards, such as the minimum debt-to-earning level, in order to avoid negative action. This would be a simple way to deregulate satisfactorily performing institutions while also targeting enforcement actions at programs that are performing under par.

We appreciate having this opportunity to present our views.

MS. MAHAFFIE: Thank you.
Congresswoman Brown.

REP. BROWN: Good morning.

I am Congresswoman Corrine Brown.
I represent Florida's 5th Congressional District, but, basically, I feel like I represent all of Florida.

I am here concerning the PLUS Loan Program, but let me just give you a little of my background. I have been elected to Congress, the United States Congress, for 20 years. I was the first African American elected from Florida in 129 years, but I have been an elected official for 30 years.

I am very concerned about the PLUS Loan Program. Let me just tell you I represent Jacksonville, Orlando, Gainesville. And so, I am speaking, first of all, about the 400,000 students that are being kicked out of school because of the PLUS Loan Program and, in particular, the 28,000 from Historically Black Colleges.

I don't understand why it is that the Department of Education came up with this
additional or new policy, first of all, without talking to the stakeholders. And I am very pleased that you are having this hearing today, and I want my entire statement committed to the record.

And in the statement, one of the statements pertains to the article that came out in the paper on Friday pertaining to the fact that this PLUS, the educational loan program, has made over $53 billion, wherein the student interest rate from the Department of Education is worse than it was under the banks. I never thought I would be sitting here talking about the Department of Education that has a policy that is worse than the loan sharkers. And I know that the President could not know about this.

When I was first elected in 1992, Ed Waters College had a problem, and President Clinton was the President. And it was one that we were able to sit down and work it out.

Then, when President Bush was the President, Historically Black Colleges had
problems. We was able to sit down and work it out.

And now, I don't understand what is the problem that for six months the Black Colleges, the Presidents, and the Congressional Black Caucus have not been able to work out this problem. We have had numerous meetings with the Secretary, and evidently, the internists are telling them one thing, but my position as far as the internists are concerned, since I educated one, they tell you what you want to hear. And if they are not telling you what needs to be told, then you need to get you a new set. And I told the Secretary that.

We need to work this out. It is unacceptable that 28,000 black students, African Americans, have been kicked out of college, and they were kicked out -- school started in August -- and they were kicked out in September.

Now there is supposed to be a policy that the Secretary of Education can forgive
these students or work it out, but that hasn't been worked out. And so, I am suggesting that the Department of Education, it is just totally unacceptable to continue in this pathway.

Maybe some of that $51 billion or $53 billion needs to go into Pell grants. I like grants. I like grants programs. So, students and families don't have to worry about paying it back.

But one thing I want to say is that failure is not an option. Now I hope that you can work it out with the stakeholders or else I can promise you that I will be joining the majority party in Congress to work it out. Failure is not an option for our children.

Education is the key. This is the worst economic times in the history. And to say that your standard is worse than the banks is unacceptable.

I want to thank you for giving me the opportunity to just say a few words. But all of my statement, I want it put in the record, including the report that indicates how much
money that the Department of Education has made on the interest of the student loans and how many students have been disenfranchised because of this new policy.

Thank you very much.

MS. MAHAFFIE: Thank you.

We are going to take a break now until one o'clock. Thank you.

(Whereupon, the above-entitled matter went off the record at 12:16 p.m. and resumed at 1:04 p.m.)
A-F-T-E-R-N-O-O-N  S-E-S-S-I-O-N

(1:04 p.m.)

MS. MAHAFFIE: James Bologa.

MR. BOLOGA: Do I need to keep a timer on me or --

MS. MAHAFFIE: I will let you know if you go over your time.

MR. BOLOGA: You will? All right.

Let's see, can you guys hear me in the back? You can. Great. Fantastic.

All right. Good afternoon.

Thank you for the opportunity to share my comments with all of you.

My name is Jim Bologna. I am the President and CEO of Porter and Chester Institute. We are a small postsecondary vocational training school with nine campuses, five in Connecticut, four in Massachusetts. We have been in existence since 1946. We offer 10 programs overall, one in transportation, three in skilled trades, two in technology, and four in the healthcare field. We have approximately 3,000 students enrolled in our school.
The main objective of my recommendations is to create a level playing field for all educational institutions regardless of sector, public, private, non-profit, for-profit, regardless of degree-granting or certificate-granting.

I will begin with my remarks around the parent PLUS Loan Program. My objective in addressing the parent PLUS Loan is to promote borrowing caps for parents and to recommend that we offer them the same repayment options that are available to student borrowers. Currently, parents don't qualify for income-based repayment plans, and this has created a financial hardship for many parents. Consequently, we are seeing an increase in defaults because parents are borrowing more than they can afford to pay.

We have an opportunity to significantly reduce defaults if we can offer parents the same repayment options that we offer the students. A student's future shouldn't be limited by the financial resources of his or her
parents, nor should a household budget be jeopardized by loan payments that are out of reach.

I would like to now move on to the clock-to-credit-hour conversion. At the heart of the clock-to-credit-hour conversion is the need for consistency. This is corroborated by three scenarios.

First, if it is mandated that a program be measured in clock hours because of state licensure wording, then it should apply to all programs, whether they are certificate or degree programs.

Second, the fact that a state refers to clock hours in the regulations does not automatically make all the programs in that state clock hour programs.

And lastly, if the state allows a school to measure in credit hours, the federal government should not have the ability to disagree and impose a clock hour limitation. As we all know, Title IV aid is based on the correct enrollment status. An inconsistency in how we
measure programs could have a negative impact on financial aid and on access to education for many students. When discussing the credit hour regulations, the Department of Ed regularly insists that it is not all about seat time, but that credit hour regulations are not meant to place limits on schools, but clock hours are all about seat time. None of the homework or other outside study or preparation required of students in certain programs counts if those programs must be measured in clock hours.

The Department's continuing effort to transform more and more programs into clock-hour programs is, indeed, an effort to place limits on schools and students. For academically-challenged certificate programs -- we have one, for example, practical nursing -- it is unfair to artificially force these programs to a clock-hour model where the students' extensive outside study, up to four to six hours of homework a night, are not accounted for in the calculation of the financial aid eligibility.
I would now like to move on and have a few brief comments about state authorization for distance education. There are two key issues that need to be addressed in connection with the regulatory changes regarding state authorization for distance ed.

The first issue has to do with licensing and fees associated with the number of students enrolled in distance ed programs. The value of distance ed is that it allows a greater number of students to have access to education, students who may not be able to pursue an education via the traditional method of traveling to a school.

To ensure that we can offer distance ed to as many students as possible, we recommend a cap on the number of licensing fees that an institution would have to incur. Without a cap, many institutions would have to limit the number of students in order to meet their budget constraints.

The second issue has to do with state requirements. Distance ed allows schools to
provide education to students who may reside in states in which the school doesn't have a physical presence. In these cases, the school would have to meet the educational requirements of the state in which the student resides. We agree with this regulation, but recommend that it be modified to allow the school to meet the educational requirements of the state in which the student resides at the time of enrollment.

Without this time of an enrollment modification, there is the potential for negative ramifications for a student who moves to another state before completing his or her education. Differences in educational requirements from state to state may result in students not being able to meet the licensing standards for which his or her curriculum had originally been planned. This will pose a hardship to many students, and for some it may prove to be a deterrent to pursuing their education.

I will briefly comment with regard to cash management disbursement of Title IV
funds. We believe that disbursement of Title IV funds by a debit card should be an option available to schools.

I would also like to move on and talk a little bit about gainful employment. We do not feel the Department should be readdressing gainful employment through negotiated rulemaking. Let this subject be addressed through reauthorization if Congress feels it needs to be incorporated into law.

Here, too, we feel that a focus on a level playing field is necessary. If debt-to-earnings ratios or repayment rates or other measures are needed to define successful programs, then they should be used to define all programs at all schools, degree or non-degree, regardless of whatever we call the excess left over after delivering our education, net income for-profits or surplus for not-for-profits, since we all have to generate revenue in excess of our expenses to remain viable and responsible institutions.

In fact, we already have a level
playing field metric. The cohort default rate is that measure. In loan repayments, loan repayment rates are at heart simply the inverse of default rates. If additional oversight is needed, why not strengthen and expand the cohort default rate calculations to look at the life of loan performance, rehabilitated loans, or loans paid in full after default, and the dollar amounts of defaults per school, instead of simply the number of defaulters?

We believe that the cohort default rate is one of the most misunderstood education metrics out there read about by the media and others due to measuring a very, very short period of time versus looking at the actual loan performance.

And as we have seen recently, the Department of Ed has actually just generated $51 billion of profit. We could call it surplus if you are not-for-profit or profit if you are for-profit.

In closing, I would like to conclude my remarks with one final thought about refining
and enforcing the regulations we currently have. 
I suggest that we can help schools remain in 
compliance and do the right things for their 
students by implementing periodic reviews, 
perhaps making them part of the annual audit 
process.

I believe that the last time that 
there was some talk and revisions was about 13 
years ago. Rather than add more regulations, 
just let's reinforce the ones that are on the 
books. 

Thank you and I am available for any 
questions. 

Hopefully, I did it in five minutes. 

MS. MAHAFFIE: You did great. 

Thank you. 

Christopher Barto. 

MR. BARTO: Thank you, and good 
afternoon. 

My name is Christopher Barto. I am 
the Assistant Vice President for Student Finance 
and Chief Compliance Officer at LIM College in 
Manhattan.
I bring to the discussion 23 years of administrative experience overseeing student financial aid programs at prestigious non-profit institutions prior to joining my current proprietary institution, which is a third-generation, family-owned college that is specializing in the business of fashion, bachelor's programs, master's programs. The institution was founded in 1939, and we currently enroll about 1500 students.

The college provides a well-rounded education through a combination of high-quality instruction in the traditional classroom setting along with hands-on experience in the business of fashion via required internships, a model that many public and non-profit institutions are increasingly pursuing in the form of co-op and other experiential education programs, a model that we have long employed to the success of our graduates.

In addition to the longstanding accreditation by Middle States, the strength of the college's curriculum and academic programs
were further affirmed in 2012 via accreditation of our undergraduate and graduate programs by the Accreditation Council for Business Schools and Programs, ACBSP. We are also a member institution of the New York Association of Proprietary Colleges.

In spite of difficult economic conditions that we are all familiar with the last several years, the employment rate of LIM College graduates has remained consistently high. For the class of 2011, 95 percent of graduates seeking employment were gainfully employed within 12 months, and over 90 percent were seeking employment within their fields and found, as I said, 95 percent found employment in their related fields within 12 months.

LIM College's most recent cohort default rate, for two-year, the cohort, the default rate was 5.2 percent; our 2009 three-year rate is 7.7 percent, both well below the national averages and significantly below the averages for proprietary institutions. Our graduation rate for freshmen is 54 percent and
for transfer students is 72 percent.

It is against this background and with a 74 year history of successfully educating students and preparing them to become gainfully employed in the retail fashion and related industries that we respectfully share our ongoing concerns regarding gainful employment provisions that the Department is continuing to propose further regulation for.

Let me first say we agree with the sentiments expressed by Representatives Kline, Foxx, Andrews, and others in their letter of April 18th to Secretary Duncan urging him to abandon what has amounted to costly failed regulatory efforts in both gainful employment and state authorization.

At LIM College, we have conservatively determined that we have spent at least 1500 man hours over the last three years working to understand and comply with the gainful employment rules. Yet, in spite of the tremendous added burden placed on affected institutions, an outpouring of public comments
addressing the flawed nature of these regulations, significant congressional opposition, and court rulings that have severely limited the ability of the Department to move forward on these already promulgated regulations, the Department proposes to essentially go back to the drawing table.

Given the rapidly changing environment of higher education in the U.S. and many other pressing national education policy concerns, many of which that have been discussed today, it appears quite stubborn, and perhaps foolhardy, of the Department to continue to devote public dollars in pursuing this agenda.

Perhaps a well-developed, thoughtful placement template for employment data that all colleges could adhere to might be better spent time. As I know, that is an agenda that has continued to be delayed by the Department.

Given your persistence in doing so, and thus, this hearing, we feel compelled to continue to comment as part of the public record.
on this matter of gainful employment.

HEA language originally focused in a limited way on the programs and schools that were identified as those that needed to result in gainful employment in a recognized occupation, primarily in the vocational and certificate programs, technical education, and other short-term non-degree programs.

HEA further changed the language to separate the definition, as many of us know, the designation of schools, into vocational and institutions of higher ed. Congress in 1992 amended the HEA to replace that vocational school categorization with two designations, proprietary institutions of higher ed, defined as for-profit, and postsecondary vocational institutions as those that the GE rule applied to.

Yet, in the application of the GE rules, the Department seems to ignore this definition change and continues to describes all degree programs of proprietary institutions as somehow vocational in nature, as evidenced by
the revised version of the PPA which required schools, proprietary institutions, recertifying or making any other updates, to register all existing degree programs and any new degree programs under the designation "vocational".

The Department seems to be ignoring the recognition by Congress that proprietary institutions offer instruction and programs of study that span all academic areas and degree levels, and that there is nothing inherent in their for-profit status that makes these programs vocationally-oriented.

The Department's 2010 NPRM refers to the GAO findings that, quote, "Occupation-specific training programs that lacked a general education component made graduates of for-profit proprietary institutions less versatile and limited their opportunities for employment outside their field." I believe the GAO was focusing their attention on vocational and technical certificate programs and other non-degree
programs.

Unfortunately, the Department appears to be assuming this assertion applies to all degree programs at proprietary institutions and ignores the fact, again, that a large number of colleges and universities in this sectors primarily offer degrees, or exclusively offer degrees, at associate, baccalaureate, and master's or professional degree levels, and have --

MS. MAHAFFIE: Could you wrap up your comments, please?

MR. BARTO: Okay. And have comprehensive liberal art core curriculum requirements.

I will just briefly also comment with regard to Judge Contreras' ruling in relation to the disclosure of gainful employment information. He stated that the government may require the commercial disclosure of purely factual and uncontroversial information as long as there is a rational justification for the means of disclosure and is intended to prevent
consumer confusion.

We would posit that, in order to ensure equal levels of transparency and avoid further consumer confusion, the application of GE disclosures and any renewed GE metrics must be uniform across all degree programs/areas of studies regardless of institution type. Otherwise, they could violate this principle.

We would also, lastly, posit that, if the Department continues to move forward in promulgating regulations in this area, that it be limited to the narrow scope that was intended with the original regulation, and that was a focus on certificate and vocational or technical programs.

Thank you very much.

MS. MAHAFIE: George Pruitt.

DR. PRUITT: Good afternoon.

I am George Pruitt, President of Thomas Edison State College of New Jersey.

Are you the guys, the Department representatives or your colleagues? You are it? You drew the short straws?
MS. MAHAFFIE: There are some other Department people in the audience.

DR. PRUITT: Can you raise your hands if you are here from the Department? I just want to see who you are.

(Show of hands.)


(Laughter.)

All right. I just wanted to know who I am talking with.

I am going to be brief. My intention is to speak to four points in five minutes and give you some of the time back.

I want to say that I know that the people, the staff of this Department, I know them to be honorable, good people, decent people of goodwill, professional educators that work very hard at serving the public interest. And I want to say that upfront.

I also want to say that you got it wrong this time, guys, on the institutional integrity rules, and we need to find a way to fix
them.

I want to speak specifically to two of the regulations and, then, two contextual comments. The first is on the credit-hour rule. Credit hour, since Bologna, has been a measure of academic substance and has never been a measure of seat time or clock hours or input. It is a fairly disruptive and un-useful distortion of that concept to link it to seat time and credit hour.

I believe that this is a matter that is appropriately left to the faculty and institutions at the campuses. There should not be a federal intrusion in everything in the academy, and I know that is a complaint that you guys hear all the time, that nothing should be a federal purpose. Well, there are things where there is a federal purpose, but credit hours should not be one of them. And I urge you to repeal that regulation in its entirety.

As to the state authorization, I have served in advisory capacities to four Secretaries of Education under three Presidents.
of both parties, and I have never seen a more destructive regulation promulgated than the state authorization rule. I know that was not the intent. I understand the purpose of it. But the impact of it has serious consequences for our country, and we need to revisit it.

I have heard other speakers refer to the work of the State Reciprocity Agreement, or SARA. I encourage you to read it and pay attention both to its spirit, but also its language. I think the quickest way to fix this thing is to adopt the definition of physical presence contained in the SARA report. If you were to do that, 98 percent of the controversy would go away.

The question in your notice is, how does a state regulate distance education from colleges and universities that have no physical presence in the state? The answer is you don't. You have to rely on the goodwill and offices of the state in which the institution is licensed and you have to rely on the credibility of the accrediting bodies that accredit it.
I hope you saw the story about the lawsuit that Barry University has filed against the State of Tennessee. This is just the beginning of thousands of such disruptors. For those of you that are looking puzzled, Barry University is a private institution in Georgia. It has no presence in the State of Tennessee, but it put a billboard up in Tennessee advertising its presence. The State of Tennessee said, "You've got to get licensed in Tennessee." Barry is suing Tennessee. I think a lot of people will be willing to join that suit. But we are going to have countless disruptions like that which are just counterproductive and disruptive if we don't fix that.

The two contextual things. I know this Department well. The Department needs to change its culture. The culture of the Department is regulatory compliance, template, and conformance.

One of the values of our system is the diversity of it. There are diverse institutions of high quality that deal with
diverse student bodies and produce wonderful results. You cannot create a template and have a compliance strategy without hurting the diversity of those institutions. If we do that, we will hurt public higher education in our country.

So, we need to change the culture. We need to have a culture in the Department that enforces accountability, but also supports innovation.

President Obama called for this nation to resume its role as the No. 1, for our citizens to be No. 1 in the world in the percentage of our students with college educations.

There was a Commission formed to respond to the President's call. I had the privilege of serving as one of the Vice Chairs of that Commission. I want the President to be successful. I want his call to the country to be successful. I want this Department to play a role in helping that happen. What I don't want is to have the Department to become an impediment
Finally, I didn't come here to curse the darkness; I came here to light a candle. There is a group of institutions that came together, public institutions, Thomas Edison State College, Empire State College, the University of Maryland-University College, Charter Oak College, Troy State College in Alabama. These public institutions were created to serve adult learning, were pioneers in distance education, prior learning assessment, military education.

And our record of quality and public service is unimpeachable. We are exemplars and field leaders in this area, and we honestly and openly come to you with our hand to say, "Let us help you." We want to work with you, figuring out rational, reasonable, effective solutions to the abuses that you are trying to respond to and the problems you are trying to solve.

We invited two other institutions to join us, Excelsior University and Western Governors. They are not public institutions,
but they were created by the public. Excelsior was created by the Regents of New York, and Western Governors was organized by six governors to try to do some very important things.

So, we want to help you. You have been beat up a lot. I have been a part of beating you up, not because I don't love you, but because I want you to do better.

(Laughter.)

So, we stand to assist you in any way we can. And I wish you well in this because the consequences in states are very high.

Thank you.

MS. MAHAFFIE: Marie Cini.

DR. CINI: Good afternoon.

When you are short, you have to just take things into your own hands.

(Laughter.)

Good afternoon.

I am Marie Cini, Provost for the University of Maryland University College. I want to thank you for the opportunity to address you today.
And I intend to speak briefly about the need to adjust the traditional measure of academic achievement, the credit hour, which is, at best, an indirect measure of academic achievement that equates the number of hours a student spends in a classroom with the level of learning that he or she attains.

Since 1947, UMUC has served adult students who seek to attain a college or graduate degree, but who did not have the means to do so or who would not finish or could not finish a traditional campus-based experience. With 94,000 students worldwide enrolled in programs of study and a median age of 31, our students are adults who have amassed significant knowledge and experience and who juggle family, career, community, and education.

Time in a classroom does not necessarily equate with a certain level of learning achieved. And UMUC respectfully requests that the Department consider a change in how student learning progress is measured to include direct learning assessments and that the...
federal financial aid rules be overhauled to align this new model of measuring academic achievement. And there are steps already moving in that direction, as we know.

Even for traditional age students who begin college immediately following high school and who are seeking and can afford a traditional campus experience, the idea that all college-level learning occurs in a classroom has been challenged for some time now, even for traditional-age students with limited life experience.

Many students learn a tremendous amount through internships, service learning, work study, and extracurricular leadership activities, such as writing for the school newspaper, heading student political organizations, or organizing a volunteer activity.

But, for adult students, the idea that all college-level learning occurs only in the classroom is even more unfounded. UMUC's adult students have learned on the job in a range
of career fields, as they raised children, as they took care of their elders, and as they improved their communities. This is real world learning, something we hope to prepare our younger undergraduates for through the traditional college experience.

In addition, UMUC is known for our service to the U.S. military in Europe, Asia, and the Middle East. These men and women are leading very adult lives, even if they are in the 18-to-22-year-old range. Their exposure to the world, to new cultures, to the ethics of life and death decisions, to the diversity of their peers, all contributes to learning that many traditional age undergraduates only learn from books.

As you know, the credit hour was established over 100 years ago by the Carnegie Foundation, primarily as a measure of workload, so that faculty could receive appropriate credit for retirement funding. It was never intended to measure student learning achievement.

Learning needs to be active,
interesting, and applicable to the individual's experience. It does not matter where the learning occurs as long as the conditions for learning are met.

We all know many learned individuals who have no college degree because they read veraciously, they discussed current events with family and friends, and they exposed themselves to new knowledge in the greater world.

And with a tip to Dr. Pruitt, Thomas Edison, one of the most innovative and influential individuals in our recent history, had no college degree. His learning was on the job, in his laboratory, and with others who shared his passions.

Similarly, the number of hours and the methods to achieve learning are secondary to its demonstration. The only measure by which we should trust that a person has achieved a certain level of learning is its demonstration.

An accounting student should be able to explain a balance sheet. A cyber security major should be able to prevent cyber-attacks to
an organization's computer network. A communications major should be able to develop a communication plan for a company.

Things are changing rapidly. The Carnegie Foundation is currently reexamining the Carnegie unit. The Department of Education has recently allowed for a process whereby federal financial aid can be granted for direct assessment achievement, rather than time spent in class.

Now is the time to take a hard look at the applicable regulations to see how else we can assess an individual's learning instead of counting time that she spends in the classroom as the only measure.

Thank you.

MS. MAHAFFIE: Thank you.

Russell Kitchner.

MR. KITCHNER: Good afternoon.

I am Russell Kitchner. I am the Vice President for Regulatory and Government Relations at American Public University System.

We are a for-profit university that was founded
in 1991 by a Marine Corps major specifically to serve the military, utilizing, taking advantage of the technology of the day to serve the educational interests of military students around the world who otherwise would be restricted from educational opportunities simply because of their duty stations and the change in duty responsibilities.

We currently serve 70,000-plus military students and veterans around the world, plus another 40,000 or so civilians. And we think that we do a very good job of it. So does the Sloan Foundation. So does the Gates Foundation. But not everyone is in agreement on that, and that is part of the reason that we are here, and that is part of the reason the Department of Education determined a number of years ago to establish some program integrity rules. They related to how institutions of higher education perform.

I had made a note to myself, when I signed up for one of these in the future, not to follow the President of Edison State. The man
said everything I was going to say, and said it well. That said I have five minutes. So, I am going to take them.

There are two topics that are close to our heart at this point. One of them is state authorization for programs offered through distance education and correspondence education. And the second is the matter of gainful employment.

Regarding state authorization, while the deadline for compliance recently has been moved back a year, my plea is simply that, whenever this provision is fully implemented, that all of higher education be expected to operate according to a common set of standards and practices that lack any substantive differentiation between sources of institutional funding.

In this regard, to the extent that the Department has the prerogative to mandate that the individual states establish and implement policies related to the certification, authorization, and/or approval
of distance education institutions, I would respectfully ask that the Department further stipulate that those state provisions be void of any regulatory distinctions based solely on funding models.

Furthermore, such state provisions should not be overly burdensome, either in terms of financial investment or regulatory complexity. The current regulatory landscape in this regard reflects a wide range of state-based initiatives, some of which, frankly, suggest questionable practices or ancillary objectives.

In particular, the practice of establishing measures ostensibly designed to protect the interests of residents who choose to take courses online from out-of-state institutions, while not invoking any such consumer protection prerogatives regarding residents who cross state lines to enroll in brick and mortar institutions, appears to be on its face a capricious exercise and somewhat specious reasoning.
The Department is well positioned, in my opinion, to provide useful guidance and appropriate guidelines in this regard. And I believe institutions and state agencies alike would welcome its engagement in this context.

On the matter of gainful employment, bipartisan congressional voices indicated nearly a year ago that they would welcome the option of working with the Secretary of Education and the Department in an effort to incorporate the spirit of institutional accountability that is inherent to gainful employment, and to do so in the context and during the process of the higher education reauthorization.

Having both the Congress and the Department devoting time and resources and duplicative efforts or, worse, conflicting efforts does not appear to serve any public interest. And moreover, that approach would likely further taint the already divisive political environment associated with institutional accountability, this plea for the
Department to defer to HEA reauthorization notwithstanding.

If it is determined to move forward in an effort to plant its own flag on the matter of postgraduate employment, I would respectfully recommend that it do so with a corresponding willingness to avoid recasting higher education as the simple pursuit of a paycheck.

Absent an institutional commitment to programs that are vocation-specific, I do not believe that American higher education was ever intended to be an exercise in preparing for gainful employment. The Department's past practice of considering proprietary higher education to be synonymous with career education does not reflect the reality of the whole cloth of the for-profit community, nor does it do justice to the thousands of students whose academic pursuits at for-profit institutions is substantively identical to those being pursued at traditional not-for-profit institutions.

In both contexts, the attainment of
an associate's or baccalaureate degree represents an individual journey of intellectual enlightenment and an expansion of both personal and cultural knowledge. In short, a personal preparation for a meaningful life with employment and career considerations being singular dimensions of that life, but not the sum total of its value or its purpose.

I will close with a final comment. The American Public University System has a longstanding commitment to providing access to high-quality higher education, and it can point to a correspondingly enviable record of success in that regard. Our interests are congruent with those of the Department. And in making that statement, I am also petitioning for internal consistency in matters of departmental policies and their supplement implementation.

Whatever policy initiatives associated with the concept of gainful employment, as the term has been or in the future may be defined by the Department, should be applied equally at all higher education
institutions, irrespective of the funding model.

Policies ostensibly designed to measure and ensure the quality and integrity of educational options themselves lack integrity if they incorporate discriminatory standards.

As a beneficiary of not-for-profit higher education, I expect my alma mater to be willing and able to demonstrate the same attributes of quality and integrity for which for-profit institutions are held.

In the context of an environment dominated by the somewhat ungainly concept of gainful employment, anything less than a level playing field is politically disingenuous and socially inequitable.

I thank you for the opportunity to speak with you.

MS. MAHAFFIE: Sophia Zaman.

MS. ZAMAN: All right. I like what the sister said before me. I am pretty short. So, I have got to take the microphone off.

So, good afternoon.
First, I would like to thank the Department for initiating the negotiated rulemaking process and allowing our organization to provide comments in today's hearing.

My name is Sophia Zaman, and I am the Vice President of the United States Student Association. We are the nation's oldest and largest student-run, student-led organization, representing over 4 million undergraduate, graduate, and professional students across the country.

We fundamentally believe that education is a right and have identified several recommendations around making college more affordable and accessible. Some of the areas to address in a negotiated rulemaking process include:

No. 1, financial literacy. Oftentimes, we hear from students that loan documents are pages and pages long with language that is difficult to comprehend in its entirety. Taking out a loan is one of the biggest financial
decisions a student will make upon entering college. We believe that the Department should facilitate a partnership with states and institutions of higher education to provide financial literacy support for students as well as addressing college affordability. This is a problem the federal government cannot solve alone.

Secondly, TRIO and Pell Grant programs. We have seen large reductions in the federal TRIO program, and USSA believes that there needs to be an increase from its current funding level. TRIO programs are geared toward serving students from under resourced communities, oftentimes students of color, providing them with a pathway to higher education.

Additionally, recent changes in eligibility for the Pell Grant program will limit low-income, minority students from under resourced communities from completing a higher education degree. This poses a large problem for many students across the country who rely on
the grant to afford a college education.

For example, a former University of California student, Karina Cyprien, was separated from her parents for over a decade and was raised by her grandmother. Under current regulations, Karina was not eligible for student aid because the Free Application for Federal Student Aid, or FAFSA, only considered her parents' income, despite the fact that she was raised by her grandmother. We need the Department to expand access for the neediest students and families across the country.

Thirdly, relief for current borrowers. USSA is concerned about the growing number of graduates who are unable to pay their student debt. Student debt in the U.S. currently stands at approximately $1.1 trillion. We believe that the expansion of the Income-based Repayment Program, loan modification, and refinancing options can help ease the burden for existing borrowers with unmanageable levels of debt.

Fourthly, gainful employment.
USSA appreciates the efforts the Department has taken to defend the rules in the courts. Like many other groups here today, we are urging the Department to provide a strong gainful employment rule to ensure career education programs receiving federal funding do not consistently leave students with debts they cannot pay.

And finally, unemployment for recent graduates. Unemployment rates for college graduates remain very high. This is an issue we look forward to working on with Members of Congress, and we hope that the Department can play a role in urging Congress to address this issue as quickly as possible. Our students are very eager to contribute and participate in our country's economic recovery.

USSA recognizes that, in addition to student debt relief, there must be adequate jobs available that enable students to deal with their debt. For instance, under IBR, if a borrower is unemployed, he or she will owe zero dollars per month. That is neither beneficial
for the borrower nor the federal government. Creating jobs for graduates is just as important as providing federal relief for borrowers with unmanageable student loan debt.

So, we understand that the jurisdiction to address these issues may fall largely within lawmakers on Capitol Hill. However, we look forward to working with the Department throughout the negotiated rulemaking process to strengthen regulations and to make strong recommendations to Congress.

Thank you for your time.

MS. MAHAFFIE: Paul Shiffman.

MR. SHIFFMAN: Good afternoon.

I am Paul Shiffman, Executive Director of the President's Forum at Excelsior College in Albany, New York, and I appreciate this opportunity to speak with you today.

The President's Forum at Excelsior College, now in its 10th year of operation, is a collaboration of accredited national adult serving institutions and programs which have embraced the power and potential of online
negotiated rulemaking higher education. the mission of the president's forum is to advance the recognition of innovative practice and excellence in online learning.

today i would like to address an issue of concern to the entire distance education sector, that being state authorization and the title iv requirements for institutional compliance.

as a result of the department's continued emphasis on state authorization, institutions must address an expanding patchwork of state statutes and rules regarding the authorization and regulation of higher education, most of which generally date to a period when instruction occurred only physically on a campus within state boundaries.

to complicate matters, no two states dictate the same approach to authorizing and regulating online higher education providers. today institutions require an efficient, cost-effective, and expeditious way to receive state approval for multiple states, and in the
case of my institution, from all states and territories.

And states need an efficient process to assure that institutions offering higher education to their residents are providing a quality program and that students are protected from substandard practices.

With the support of the Lumina Foundation for Education, the President's Forum, the Council of State Governments, the Commission on the Regulation of Postsecondary Distance Education, and the four existent Regional Higher Education Compacts -- the Midwestern Higher Education Compact, the New England Board of Higher Education, the Southern Regional Education Board, and the Western Interstate Commission for Higher Education -- have developed an effective framework to simplify and streamline the process for authorizing online degree programs that operate across state lines.

The State Authorization Reciprocity Agreement, SARA, a voluntary approach for both
states and institutions, was jointly drafted by these organizations. The State Authorization Reciprocity Agreement, or SARA, is being advanced by all of the leadership organizations that represent the breadth of American higher education.

The SARA agreement meets the Department's Title IV agenda to have institutions remain in full compliance with state law where they serve students. It encourages states and institutions to work together to address the existing patchwork of regulation across states while strengthening the state's consumer protection role in shielding students from unfair or illegal practices. And it is intended to streamline the regulatory process and increase access to higher education while effectively protecting education consumers.

The Department has indicated that it is willing to encourage and recognize interstate reciprocity for authorization agreements for the purposes of verifying institutional
compliance with state law for participation in Title IV federal student financial aid programs.

I strongly urge the Department to encourage and to recognize state authorization reciprocity agreements as a means to satisfy the requirements for institutional participation in Title IV student financial aid programs, and that the principles and structure for reciprocity embodied in the state-centered, voluntary SARA approach be incorporated within any forthcoming regulatory initiative for state authorization.

I am furnishing copies of the final report of the Commission on the Regulation of Postsecondary Education, which is a joint effort amongst the groups I have mentioned, called "Advancing Access through Regulatory Reform," that details both the principles and the structure for the state authorization reciprocity agreement. I hope that you will see fit to include this in any considerations that you have in the future.

Thank you.
MS. MAHAFFIE: Thank you.

Aristea Williams.

MS. WILLIAMS: Good afternoon, and thank you to the Department for allowing us to speak today.

My name is Aristea Williams, and I am here to greet you on behalf of Johns Hopkins University, which sounds really great, but I am here on behalf of the Johns Hopkins University School of Education.

We are all from different associations and different places, but one thing that we all have in common is that we all had a teacher. I am here to represent the teachers.

At the School of Education at Johns Hopkins University, we have a lot of people who are changing careers. We have a lot of people who are straight from undergrad, but we have a lot of people who have excelled in their industry and now want to reach and teach a lot of our underrepresented groups, like our Baltimore programs and our D.C. programs.

I want to offer for consideration
the change in the PLUS Loan Program. A lot of our students, because they did change careers or maybe because of the recession, they took a hit on their credit. So, we get calls all the time that we are like, "Okay, you might need this, but you may need to also apply for a PLUS Loan." And sometimes that just stops. So, it very much adversely affects the people who are trying to help the people who are trying to make the future better.

Also, it is not one of the topics that is addressed, but I want to make sure that through the process of negotiated rulemaking that we push to keep the TEACH Grant Program how it is. A lot of our students go into special education programs, and it is a great opportunity for us to offer aid in grants that, hopefully, they will continue in special education and it won't become a loan. That will help them to affect our neediest students, a lot of our students with special education issues.

Also, with state authorization, Johns Hopkins School of Education is expanding
our programs nationwide. A lot of our students who are not able to afford to come to Baltimore who live in Montana or live in Alabama or other places would still like to benefit from an education at the Johns Hopkins School of Education. We are setting everything up to make that available for them, but state authorization is somewhat of a barrier for us to be able to give a streamlined process and to be able to give them the certifications that they need for each state that they plan to teach in.

We also offer internship opportunities with our Baltimore education scholars that we would like to offer to students and teachers nationwide, but because of state authorization, we are not necessarily able to offer that program.

So, just those are the couple of things that I have on my plate. And next time you see a teacher, give them a hug because they are working really, really hard.

(Laughter.)

Thank you.
MS. MAHAFFIE: Thank you.

Elaine Neely.

MS. NEELY: Thank you.

Good afternoon.

I am Elaine Neely, the Chief Regulatory Officer for Medtech Colleges. We have 11 campuses located in the Midwest, the Southeast, and in the Washington, D.C. area. We serve approximately 4300 students in allied health and nursing programs.

I would like to thank the Department of Education for allowing the opportunity to provide my comments today concerning the proposed negotiated rulemaking sessions and the topics to be discussed.

As I have been fortunate to be a negotiator on numerous negotiated rulemaking panels, I understand -- and the most recent being the program integrity issues -- I am very familiar with the process.

I would like to encourage the Department to postpone the proposed negotiating rulemaking sessions until after Congress has had
the opportunity to reauthorize the Higher Education Act. As you know, the Act will expire at the end of 2013, and the reauthorization process is expected to be addressed by Congress within the next 18 months.

Based on the timeframe suggested by the Department for negotiated rulemaking and the requirements of the master calendar, rules negotiated by the proposed panels could not be implemented until July 1st, 2015 at the very earliest. This timeframe, along with the timeframe anticipated for the reauthorization of the Higher Education Act, could make the rulemaking process proposed useless, as Congress is likely to address many of the issues during reauthorization.

As you have heard already today, many Congressman have addressed both the state authorization and gainful employment regulations --

(Siren outside is interrupting the presentation.)

MS. MAHAFFIE: I will add a minute.
(Laughter.)

MS. NEELY: Okay. Well, I think I have it under five.

As a former negotiator, I know firsthand about the time and money and effort which is involved in the negotiated rulemaking process, and I appreciate all the efforts which the Department has allocated to this process, but I respectfully request that you delay the process and allow Congress to first address these issues, saving both time and money.

As you know, the final regulations have not yet been issued for either of the most recent rulemaking sessions. These sessions include the changes to the student loan process and to the TEACH Grant Programs.

I would like to suggest that, rather than engage in a new round of negotiated rulemaking, the Department finalize these previously negotiated rules.

In the event that you wish to proceed with negotiated rulemaking, renegotiating gainful employment, state authorization, and
clock-credit conversion rules will have little chance of success. During the program integrity rulemaking process which produced these rules, the negotiators were unable to reach consensus, which ultimately resulted in rules which are difficult to understand and implement and have caused controversy with institutions from all sectors of higher education and, also with state authorizing agencies.

Although repeated attempts have been made for clarification of the rules, the Department has not responded to these requests, leaving the question surrounding these rules unanswered. Also, two of the rules have successfully been challenged in court and are better left to Congress to address during reauthorization.

In the event that you proceed with the negotiated rulemaking, I suggest you limit the negotiations to the following topics:

First, include negotiations for the recently-authorized Violence Against Women Act,
as both consumers and educational institutions could benefit from a streamlined process for reporting and disclosures which will be required by the Act, as well as the Clery Act.

Second, address the adverse credit for PLUS borrowers, as many previously eligible borrowers are being denied loans based on the administrative process currently in place for evaluating the credit ratings of borrowers.

And finally, address the issues surrounding fraud and distance education, in particular, a collaborative effort between the Department and educational institutions to easily identify suspected violators through the use of technology.

In closing, I again want to thank you for the opportunity to speak today, and I look forward to working with the Department. I have limited my talk to five minutes. And if you have additional information you would like, I would be glad to clarify.

Thank you.

MS. MAHAFFIE: Thank you.
Steve Gunderson.

MR. GUNDERSON: I am Steve Gunderson, President and CEO of the Association of Private Sector Colleges and Universities. I am here today representing approximately 4 million students and the thousands of dedicated educators and staff who work at our member institutions. Our schools provide the full range of higher education programs to students looking for career-focused education.

Recently, we presented a comprehensive proposal for HEA reauthorization. Our proposal focuses on students and positive student outcomes, centered on three goals: simplicity, affordability, and transparency. We call upon both the Department and the Congress to recognize the need to move in this direction.

On behalf of our students and institutions, we encourage the Department to consider postponing new negotiated rulemaking sessions, particularly on the controversial topics likely to be impacted by reauthorization. It is our hope that the Department and the
Congress will work out complementary schedules for both reauthorization and the regulations to implement that reauthorization.

As the higher education sector seeks to maximize student service while holding down cost and confusion, it would be important for the Department and the Congress to collaborate. In challenging economic times, all institutions, you, the Department, and all colleges and universities should focus available funds on educating students and not on navigating the conflicting directions from the Legislative and Executive Branches.

Today none of us can predict what the House or Senate will do, but I believe it is safe to predict the focus will be on holding down costs, simplifying the process for students, and promoting transparency.

Our proposal calls for the Department to use its current existing authority for demonstration projects as a means for innovation in higher education. We strongly encourage this, recognizing no new regulations
are required for such initiatives.

If the Department chooses to proceed, however, we would urge you to carefully consider improvements in the rulemaking process.

First, implement the recommendations from the IG's final audit report.

Second, participants selected as negotiators must represent the viewpoints of all parties involved in postsecondary education.

And third, create more teams to address fewer issues and have the proper negotiators for the topics at hand.

Allow me to make some specific reference to some of the proposed topics that were suggested.

The promulgation of state authorization for programs offered through distance education or correspondence education as part of the program integrity rules is an example of the Department issuing rules that the negotiating committee was unable to fully
discuss because of time constraints and too many topics before one team. It is a prime example of rules the Department is issuing that the Congress may not support.

Since the state authorization for distance education provision was overturned by the courts, many states and organizations have taken the time to thoughtfully consider the best ways to approach this topic, including the Commission on the Regulation of Postsecondary Distance Education. Their recommendations propose a voluntary system of reciprocity with the states, reflecting existing state and federal structures.

We want to acknowledge our appreciation of the Department's decision to delay until 2014 the state authorization rules. Unfortunately, the guidance does not yet provide the information about which states are considered compliant by the Department. We ask the Department to take on this task and make the information and departmental decisions on state compliance public.
It has been almost two years since the clock-credit hours rules have been in effect, and we are still waiting for some guidance on the issue. At this point, the best outcome may be for the Department to leave determinations related to clock and credit hours to the accreditors who are also working on this issue with institutions.

On the PLUS Loan Program, a more common-sense approach during the initial review and approval process could result in substantially fewer denials and appeals, easing the burdens on the Department and anxiety for parents and students. We would encourage the Department to ensure deserving PLUS Loan applicants are being carefully considered and assisted before being denied.

I sincerely hope the Department chooses to spend its current time and resources working with institutions to help all of us reduce costs, reduce regulatory burdens, and advance innovative solutions to help all institutions serve all our students better.
Thank you for the opportunity.

MS. MAHAFFIE: Laura Dunn.

MS. BRODKSY: Hi. So, I am actually not Laura Dunn. I am Alexandra Brodsky. She was, unfortunately, unable to make it at the very last minute. So, forgive me for the full reading, but this is what she had hoped she would be able to say today.

"Good afternoon.

"My name is Laura Dunn."

(Laughter.)

"I am a survivor of campus sexual assault who filed a Title IX complaint against the University of Wisconsin-Madison back in 2007. Currently, I am a third-year law student at the Maryland Carey School of Law, where I am focusing on victims' rights and education law.

"I'm also a member of the IX Network, a growing national coalition of students working together to fight sexual violence at schools across the country, and the founder of SurvJustice.

"In 2011, I lobbied on Capitol Hill
for the passage of the Campus SaVE Act. As a survivor, I spoke behalf of the bill and stood by while Senator Patrick Leahy for a Senate Judiciary Committee press conference. I spoke again in 2013 with Minority Leader Nancy Pelosi and the House Democratic leadership in support of SaVE.

"This bill enjoyed my support for one main reason. It bridges the gap between Title IX and the Clery Act to ensure comprehensive federal obligations for schools to address campus sexual violence.

"In meeting with key congressional members, I continually pointed out the significance. The 2011 `Dear Colleague' letter by OCR set forth progressive standards for schools to address campus sexual violence in accordance with Title IX.

"However, these standards lacked the force of law needed to make a difference to survivors like me. Hence, the Campus SaVE Act was born.

"The Campus SaVE Act has the
potential to be a powerful tool to ensure colleges and universities comprehensively address sexual violence.

"My proposal is one the Department of Education needs to seriously consider: to create a joint task force to review any complaint regarding campus sexual violence under both Title IX and the Clery Act. A joint task force recognizes the importance of the Campus SaVE Act as a bridge between Title IX standards and the existing Campus Sexual Assault Victims' Bill of Rights under the Clery Act.

"This ensures proactive enforcement, since many victims are filing complaints on their own without legal guidance and are unaware of the overlapping federal obligations to address campus sexual assault under both Title IX and Clery.

"Additionally, it ensures thorough and consistent reviews and resolutions from the Department of Education, so schools are clear about all their federal obligations. Likewise, it unifies the two independent federal statutes
to model for universities the need to address sexual violence comprehensively, rather than through disjointed and separated processes.

"A joint task force will also maximize limited resources at the Department of Education. Since the 2011 'Dear Colleague' letter, there has been a significant increase in Title IX complaints, and after the Campus SaVE Act is enacted, the Department of Education should anticipate even more.

"Between increasing media attention on campus sexual violence and survivor-led groups such as the IX Network educating other students, there will be even more complaints, given the epidemic of sexual violence on campus.

"The Campus SaVE Act empowers the Clery Act by mimicking Title IX to ensure more procedural rights for victims. However, unlike Title IX, the Clery Act has intermediate sanctions, meaning the Campus SaVE Act will be a powerful tool to the Department of Education's hands to levy fines against offending and often unapologetic universities.
"For these reasons, the Department of Education decreed a joint task force as part of the implementation of the Campus SaVE Act to ensure its union of the Clery Act and Title IX obligations addressing sexual violence on campus.

"Thank you."

MS. MAHAFFIE: Gail daMota.

MS. daMOTA: Hi. My name is Gail daMota. I represent Education Finance Council, the association of non-profit and state agency student loan companies. Our public purpose mission is to increase postsecondary education access, affordability, and success.

Thank you for the opportunity today to speak on the topics for negotiated rulemaking. Ours are going to be focused on the definition of adverse credit history for the PLUS Loan Program.

EFC requests that, as part of any discussion to modify the credit criteria of the PLUS Loan Program, that the Department of Education also include the reporting of the
delinquency and default rates for the PLUS program as well as improve the transparency of the program through greater disclosures.

We believe it is imperative that the policymakers be aware of the performance of the existing portfolio before altering the credit standards for borrowers. Default and delinquency data can indicate whether the credit criteria should be eased or tightened. A PLUS Loan made to a borrower that does not have the ability to repay may or may not increases college access for their child, but at what cost to the family?

There are already indicators out there that are pointing to possible default problems in this program. One such indicator is the examination of the student loan debt held by senior citizens and retirees. The Federal Reserve Board of New York reported that, by the end of 2012, older Americans owed $43 billion in college debt and 12.5 percent of those seniors were 90 days or more delinquent.

In addition, The Wall Street Journal
"Smart Money" reported in August of 2012 that data they obtained from the Treasury Department revealed that from January through August 6th of 2012 the government had garnished Social Security payments of approximately 115,000 retirees in an effort to collect past-due student loan debt. The New York Times reported that, by the end of September that number had jumped to 119,000.

Social Security garnishments indicate that that debt is federal. However, the data does not identify whether it is a PLUS Loan or a Stafford. Without available default rate and delinquency data on the PLUS Loan Program, the Department of Education cannot make an accurate analysis of the current PLUS credit criteria, much less make an informed or intelligent modification to it.

These statistics on older federal loan borrowers are also an indicator that better disclosures for PLUS Loans are also necessary. Parents need to understand that the PLUS Loans do not have the same repayment options as found
in the Stafford Loan Program, and the interest rates and fees are higher. PLUS Loans are not held to the same transparency and disclosure standards as private education loans. Yet, in some cases the PLUS Loan is more costly and less flexible than other options, such as those offered by state-based and non-profit student loan organizations.

Parents have the right to fully understand the risks that are involved with borrowing under the federal PLUS Loan Program, and the disclosure and transparency disparity between federal and private loan program is unwarranted and should not exist.

In addition to our PLUS comments, EFC plans on submitting written comments to include a proposal to ease the preferred lender list rules to allow institutions to better inform borrowers of more affordable loan options.

Thank you for your time.

MS. MAHAFFIE: Thank you.

Don Mroz.
MR. MROZ: Thank you to the Department of Education for these hearings.

My name is Don Mroz, and I am the Provost and the Dean of the Malcolm Baldrige School of Business at Post University in Waterbury, Connecticut.

This past year we were fortunate enough to receive that name of Malcolm Baldrige for our Business School from the Baldrige family. As you probably know, our namesake, Malcolm Baldrige, was a successful business leader and, of course, Secretary of Commerce under the Reagan Administration.

Through his focus on quality, leadership, innovation, and integrity, the National Baldrige Quality Awards were founded. After receiving the name of Malcolm Baldrige and in speaking with family members, we found that one of the beliefs and practices of Mac, as he was often called, was to try to simplify the complex. And he was a man of few words, but when he spoke, people listened. And he was not afraid to roll up his sleeves and make things
happen quickly and efficiently. He also had a
great sense of humor, which I think maybe we
could use a little bit more of in education right
now.

I would like to pose that there is
another way to look at the issues being discussed
here today. If our goal is to provide better and
more options to students -- and I believe it
is -- then we need to approach this with a
holistic, consistent way of thinking about what
we are all trying to achieve.

Current regulations are unbalanced
in their approach, difficult to understand, and,
of course, difficult and costly to execute.
They also single out certain institutions over
others rather than address the underlying issues
we all face.

Our university, which is a small,
for-profit university, does take this all very
seriously, and we generate programs to that end.
We are not publicly-traded. We are not a
mom-and-pop organization. Rather, we are a 120
year old institution that was about to go
bankrupt and saved by private equity about eight years ago.

Private-equity-owned schools -- and there aren't many of us around -- do not take money out of the institution. Trust me, we don't have those high salaries that I heard quoted earlier. Instead, they reinvest the money into the school.

Our university has a now-thriving main campus and an online program. This school that was about to go bankrupt has had $40 million put back into the main campus, renovating dormitories that were not maintained; built a new multi-sport field to support our NCAA Division II teams; hired a team of scholar practitioners with advanced degrees and more than 1200 years of collective real-world experience in their fields; developed new outcomes-based educational programs; developed an honors program which now has 20 percent of our students engaged in it; totally redeveloped classrooms; established a faculty center, and continue to upgrade the entire campus. But we
have refused to engage in the traditional college campus arms race to build country club facilities that do not improve student learning.

At the same time, this year we made the decision to keep our campus tuition at the 2012 tuition levels and had a zero percent increase in tuition and room-and-board fees, and have among the lowest five-year tuition increase rate of any school in our state.

We have also built a reputation for high-quality, truly student focused, online programs specifically to meet the growing populations of working adults looking to earn undergraduate and graduate degree online programs.

In the fall of 2011, we were before the NEASC Commission for approval and accreditation of two new master-level degree programs. Toward the end of the hearing, one of the Commissioners, who happened to be a Senior VP of Research from MIT, said, "We all know you're one of the very best concerning online programs, and I am wondering how you are helping
other universities." You can imagine our surprise. Since that time, we have been supporting a number of other not-for-profit organizations with implementation of online programs, at their request.

The boundaries have changed when it comes to education. And as it has been mentioned, it is the adult population where the growth is for education and for a new technological environment.

It is our belief that students should have choice. Distance, for-profit, not-for-profit, community colleges, four-year institutions, technical schools -- the key should be quality programming, not where the student receives their education.

Just as all tall people don't play basketball, all for-profit universities are not the same. Painting them all with the same brush and subjecting them to costly, burdensome regulations is risky at best and irresponsible and discriminatory at worst.

Ninety percent of our students are
excluded from IPEDS calculations. So, the data being used to evaluate us and, also, being shared by more and more sites is completely misleading and not at all helpful to the very students it is meant to inform.

We respectfully ask the Department of Education to take a more balanced approach to ensure that all students have access to quality education options in a variety of formats from an array of colleges and universities.

I say all this to ask the Department to certainly put in guidelines for quality, just as Mac Baldrige would recommend, but also to not make blanket statements or regulations concerning only for-profits, but, rather, hold all higher education institutions to the same standards. These include gainful employment and state-by-state authorization.

State-by-state fees and regulations seem out of control. Or should I say there are no controls on what the states are now asking for? Having to meet various state regulations as they are disparate and very inconsistent is
not only expensive, but also very
time-consuming.

Thank you, and I look forward to
seeing a common-sense approach to ensuring all
schools support students in their pursuit of a
quality higher education. Thank you.

MS. MAHAFFIE: Neil Ridley.

MR. RIDLEY: Hello. I am Neil
Ridley from CLASP, Center for Law and Social
Policy.

Thank you for the opportunity to
speak today in support of negotiated rulemaking,
and specifically on the gainful employment
issue.

Last month we joined over 40 other
organizations in calling on the Administration
to quickly begin rulemaking, so that the
Department can better enforce the statutory
gainful employment requirement for career
education programs. We commend the Department
for including it as one of the additional topics
for the negotiated rulemaking committee to act
on and strongly support its inclusion.
As our coalition letter pointed out, a strong gainful employment rule is essential for curbing abuses in certain career education programs that routinely leave students with debts they cannot repay. The Department's gainful employment metrics, such as the loan repayment rate and the debt-to-income ratio, were a sound way to measure how former students, both completers and non-completers, fare financially after leaving a program.

The program data that the Education Department published last year demonstrate precisely why a strong gainful employment rule is so urgently needed. Sixty-five percent of the career education programs failed at least one of three minimal tests aimed at protecting students, and 5 percent, 193 programs at 93 different for-profit colleges, failed all three tests.

The Institute for College Access and Success, TICAS, has suggested several ways in which the Department could largely maintain the original gainful employment framework while
responding to the court's concerns. These include providing more incentives for improvement through intermediate consequences for programs that fail two out of three gainful employment tests. TICAS also recommends narrowing the population of students for which metric data must be collected.

We think the TICAS recommendations make sense as a way to move forward within existing legal constraints on the important question of how to effectively enforce the statutory gainful employment requirement. We especially support the idea that the enforcement goal could be met with less data collection by deeming programs to have met the gainful employment test if a majority of their students do not borrow to pay for college. This would also relieve a large administrative burden, the regulations imposed on institutions for which student debt burden is not a significant problem.

Beyond enforcing the gainful employment requirement, public reporting of...
employment and earnings outcomes and debt burdens for career education programs serves another important purpose. It helps prospective students and parents make informed choices about which programs represent the best value. The stakes are high, given the skyrocketing cost of college and a stubbornly-weak job market.

For this reason, CLASP supports collecting employment net earnings and debt burden information for a wider set of programs than those subject to the gainful employment provision of the Higher Education Act. Our recent paper for the Gates Foundation initiative, "Reimaging Aid Design and Delivery," makes a number of recommendations for improving metrics for higher education, including expansion of employment and earnings reporting for occupational programs.

This expansion could be accomplished either by direct data collection and matching by the federal government or by the federal government working with the states to
supplement existing data collection capabilities.

While this broader question of collecting and sharing higher education performance data is being sorted out, the Department, through the negotiated rulemaking committee, could move forward immediately on a strengthened gainful employment regulation. We encourage the Department and the Committee to do all that they can to address this important issue.

Thank you very much.

MS. MAHAFFIE: We are now going to take a 20-minute break until 2:40.

(Whereupon, the above-entitled matter went off the record at 2:19 p.m. and resumed at 2:39 p.m.)

MS. MAHAFFIE: Terrence Maher.

Did I butcher your name?

MR. MAHER: Maher.

MS. MAHAFFIE: Maher. Sorry.

MR. MAHER: No problem.

Good afternoon.
My name is Terry Maher. I am the General Counsel to the Network-Branded Prepaid Card Association, or the NBPCA.

The NBPCA is the primary trade association, and our members include the various payment networks, the banks or financial institutions which issue prepaid cards which hold the underlying funds, balances on the prepaid card, and which also are responsible for legal compliance and regulatory compliance with respect to the prepaid card programs; the program managers, which are retained by the banks for purposes of helping to market and manage the prepaid card programs, as well as the processors, which are involved in handling the data that is associated with the prepaid card account.

We appreciate this opportunity to speak with the committee today. We also will be submitting written comments with the Department on the negotiated rulemaking.

Network-branded prepaid cards are a convenient and safe means for consumers to
access funds with pricing that is in many cases less than that for similar financial tools.

Over the past two years, there have been several studies where prepaid cardholders have expressed significant satisfaction with their prepaid cards as well as with the fee structures that are associated with their prepaid card programs. And there have been other studies which show that the cost that the consumer incurs in connection with having a prepaid card account is often less than the same cost for maintaining a low balance checking account, because, again, a lot of banks are requiring fairly high deposit amounts or fairly high transaction activities to waive monthly fees, and so forth, as well as those consumers who don't have a bank account, and they are incurring fees for check-cashing, purchase of money orders, and also the cash and carry. They don't have the safety of having their funds in a financial institution.

Prepaid cards bear the logo of one of the payment networks, which includes American
Express, Discover, MasterCard, Visa. While they in many ways look or are similar to a checking account or to a debit card that is associated with a checking account, there are differences. Unlike credit cards, they are prepaid. There is no need to go through a credit application process. There are no subsequent payments required in connection with the account. You can only spend as much as what is preloaded into the prepaid card account, and you avoid the pitfalls of credit as well as payment of finance charges.

They are also different from debit cards. We have heard a lot of talk about debit cards today. A debit card is usually tied to a particular consumer account, such as a transaction account. We refer to them as a DDA, or a Demand Deposit Account, a checking account.

And in a prepaid card account, the funds are deposited into a pooled account at the financial institution which issues the card, and they qualify for FDIC pass-through deposit insurance to the full amount available to the
cardholders. And the cardholders do not incur NSF or overdraft fees because they can't overdraft their accounts. In fact, we are not aware of any prepaid card programs associated with campus cards which are assessing any type of overdraft or negative balance type of fees in connection with their prepaid cards for their campus cards.

Prepaid cards are issued by financial institutions, and they could be used by students to pay for purchases at the point-of-sale or online -- and we all know how important that is today -- to pay bills and to access cash at ATMs or even cash back at the point-of-sale that is frequently available from various retailers.

The financial institutions that issue prepaid cards are highly regulated. They are banks. You know, it is not an unbanked entity. And they are subject to the same types of consumer protections as are associated with a Demand Deposit Account. And in fact, the Treasury Fiscal Services Rule requires that, if
you are going to receive federal funds into a prepaid card account, you have to have pass-through deposit insurance available and consumer protections that are equivalent to those of Regulation E issued by the Federal Reserve Board.

They are also subject to FDIC Deposit Insurance requirements, as well as the banking regulators and the CFPB's requirements with respect to unfair, deceptive, or abusive acts or practices, as well as the privacy provisions of the Gramm-Leach-Bliley Act, and all the regulations that would apply under the Department of Education rules.

The banks which issue prepaid cards also have a significant obligation to oversee the program managers and processors that they engage in connection with the management and operation of their prepaid card programs.

The prepaid cards intended for use on campuses share all the same benefits and features as other prepaid cards, but offer significant additional benefits over other
types of financial relationships. Campus cards can serve as an effective financial management tool, a teaching tool for students, many who have no or limited experience with managing a bank account or financial management in general prior to entering college.

Campus cards allow students to place their wages, their Title IV funds and other funds into one device or one account, and they can monitor their balances on a real-time basis through apps that are available on their smartphones, text alerts, or other types of online access. And in fact, they offer a much broader array of products and services to allow real-time balances than what you would see with your traditional checking account.

As a result of these features and benefits, they promote financial literacy and they can serve as a stepping stone as the student progresses into further financial relationships, including mortgages, credit cards, or automobile loans.

The NBPCA does believe that students
should make fully-informed decisions about how they receive their student aid disbursements and the financial institutions with which they do business. We support complete transparency of the terms associated with both campus card programs as well as the other options made available to students to receive their Title IV fund refunds.

Ultimately, educational and financial institutions should market campus card programs so the students are aware of the benefits offered under the program, ensure that the terms of the programs are fully disclosed to the students and to the parents, and the student understands that the programs are not their only option to receive their Title IV fund refunds.

Turning to the rulemaking, we believe that many of the issues that are sought to be addressed in the rulemaking with respect to disbursement of Title IV funds, at least as they pertain to prepaid cards, are already adequately addressed.

And turning to the significant
protections required in such free access to funds underlying the account, as well as on-campus ATM access, the current regulations require the protection of prior authorization with full disclosure. Written authorization from a student or parent is required to obtain a campus card. Further, the written authorization comes only after full disclosure of all the terms and conditions applicable to the campus card program.

Under the Department's current regulations, and under Dear Colleague letters, holders of Title IV funds, including the providers of campus cards, are basically in the role of a fiduciary. They have to look out for the best interests of the student.

And the role the fiduciary imposes on these holders, they hold them to the highest standard of care possible in administering and accounting for the Title IV funds. And again, the funds are held in a financial institution which is examined by the banking regulators and subject to FDIC Deposit Insurance.
As far as the duty to disburse Title IV credit balances as soon as possible, but no later than two weeks from the date that the balance is determined, we believe that, as we found out with the IRS and some of their tax refund programs, sometimes when you speed things up, it creates opportunities for fraud. So, just be careful with that.

The universities, and so forth, need to make sure that, if you accelerate that two-week process that it doesn't lead to more opportunities for fraud in connection with the programs.

We thank you for the opportunity to provide the Committee with information on this important topic, and we look to answer any questions you may have. We also recommend that you review our comment letter when we submit it.

Thank you.

MS. MAHAFFIE: Thank you.

Karenann Carty.

DR. CARTY: Good afternoon, and thank you for the opportunity to speak today.
My name is Karenann Carty, and I have been an educator for 30 years. I have taught elementary and high school. In higher education, I have worked at a private, liberal arts, religious-affiliated college and at a proprietary college, Monroe College. And I just sent my younger of two daughters off to college last year. So, I am all too familiar with the joys and pitfalls of the college search and selection process.

You should know why I have chosen to make Monroe College my professional home. One simple reason, every conversation starts with a single question: What is best for our students?

As a professional, and especially as a mother, I have found this approach to education to be comforting, but, unfortunately, uncommon. I say "unfortunately" because all too often people in our profession lose track of what should be our highest priority, our students.

This year Monroe College celebrates its 80th anniversary of its founding. We began in 1933 in the Bronx by offering seven women the
opportunity to sharpen their skills to enter the workplace in the height of the Depression.

Today we educate nearly 7,000 students on two campuses in New York. Our main campus is still in the Bronx, and we have a thriving residential campus in New Rochelle.

Just a few facts about Monroe:

Seventy-six percent of our students receive Pell.

Our students' median family income is $21,000.

Monroe's main campus is in the 16th Congressional District in the Bronx, the poorest in the nation.

While our New Rochelle campus attracts hundreds of international students in addition to many students from the Northeast, the student body on our Bronx campus reflects the realities of its surrounding community, where we serve as an anchor institution.

Yet, despite the strained circumstances -- financial, personal, educational -- our college has had remarkable
success. We are ranked No. 1 in New York State in the number of undergraduate degrees awarded to Black and Hispanic students. Our graduates' placement rates are impressive, 85 percent for 2012. We place over 1600 interns each year in businesses, non-profit organizations, health facilities, and government agencies.

And despite the fact that we are surrounded, fully surrounded, by public and independent colleges, thousands of students choose us as the place to pursue their education. That is because they can feel the Monroe culture of care as soon as they walk in the door, and students know that we are with them every step of the way.

Often, a student faced with a choice of a program offered at Monroe and at a neighboring public institution, they choose Monroe, mostly because of the personalized service we provide.

From the beginning, Monroe has been actively engaged in the national conversation surrounding gainful employment. This will be
the focus of my remarks.

The gainful employment effort has been helpful to the extent that it provided us with data to craft better strategies for helping students finance their education, particularly with respect to student loans.

We have taken the opportunity to get a handle on over-borrowing, to intensify our student loan counseling, and implement a comprehensive financial literacy program. Additionally, data related to the debt-to-income measure by program has allowed us to examine our offerings and assure that students are aware before and during their studies of certain realities of the industry they plan to enter.

Much less helpful, however, were the repayment rates. These rates have simply told us that students of lower-economic status initially have more difficulty repaying their loans in the first few years out of college. The Department's own initial data demonstrated that almost all colleges serving a majority of
low-income students have a low repayment rate.

At Monroe College, our low repayment rate does not reflect the long-term repayment behavior of our students or the quality of our education. At 10 years out, our students have an 82 percent repayment rate.

For students, including my elder daughter who recently graduated, few of them have an easy time in the first couple of years out of college in terms of repaying their loans.

While the Obama Administration has taken positive steps to add options, such as Pay As You Earn and income-based repayment, these programs designed to assist students just like ours, the regulation is designed to penalize institutions when they take advantage of these options, when students take advantage of these options.

Ultimately, the great flaw of gainful employment was that it was not developed from the student's perspective. What do I mean?

Any measurement of the quality of an education should help perspective students and
their parents make an informed decision about college. If that measurement is not applied across the full range of institutions, then how could a student make an informed decision?

If the measurement is so complex that a prospective student can't understand it, then how can it contribute to an informed decision? If the student has no simple way of looking at the data, how can they make an informed decision? They can't.

However, there were two specific tools the Department provided to help us to be clear and transparent. The shopping sheet passes the test, right? The shopping sheet is a simple, standardized way to look at tuition and cost of attending an institution, graduation rates, average default rates, and loan amounts that graduates will incur, all contained on a single page. That was a worthwhile accomplishment.

The College Scorecard, provided by the Department to provide better information to students and parents about college
affordability and value, is another helpful tool. It provides meaningful information and is simple, clear, and consumer-friendly.

Another worthwhile step.

The gainful employment regulatory process has been a taxing one for us, and we have spent countless hours trying to understand the regulations and trying to figure out their impact. Despite the difficulty, we have felt that our college, which for 80 years has been focused solely on doing what is best for our students, has been heard at the federal level, and we are enormously grateful.

As we enter this new season of open hearings and negotiated rulemaking, if I were to offer advice, it would be simply this: before developing or enacting any new regulations, start by seeing their impact from the perspective of the students. Make it easier for students and families to make an informed decision about which college will serve them best. Doing so respects the great strength of our country's higher education system, its
expansive diversity, while also assuring clarity and transparency.

Monroe College would be happy to work in partnership with the Department on determining how any future regulations specifically impact institutions serving a majority of urban Pell-eligible students.

Thank you for the opportunity.

MS. MAHAFFIE: Thank you.

Diane Rosenfeld.

(No response.)

Diane Rosenfeld.

MS. BRODKSY: She says she is walking up the stairs right now. We are right after her.

MS. MAHAFFIE: Okay. Okay. Why don't you come up?

MS. BOLGER: Good afternoon.

I am Dana Bolger. I am a senior at Amherst College, where I work with fellow student activists to reform campus anti-violence policies and practices.

MS. BRODKSY: I am Alexandra
Brodsky. Actually, this time I am an incoming student at the Yale Law School and an alum of Yale College.

While an undergrad, I was a signatory on the 2011 Title IX complaint against the University.

We are both survivors and members of the IX Network, a coalition of students working together to fight sexual violence at schools across the country.

MS. BOLGER: When I left home for college four years ago, I thought I would be spending my days writing research papers and staying up late talking to friends. I didn't know that I would be raped, stalked, and harassed during my time there. I didn't know that my fellow survivors and I would spend every day fighting for our rights to an education.

The past few years have brought story after story of school administrations standing by while students endure rampant sexual violence on their campuses. Too often, when students turn to their universities for the
protections and accommodations to which they are legally entitled, they are, instead, ignored, silenced, pressured to drop out, or forcibly institutionalized.

In response, we are working with a group of survivor activists from across the country to develop Know Your IX, a campaign to educate students about their rights under the 1965 Higher Education Act, Title IX, the Clery Act, and the Campus SaVE Act.

Armed with this basic legal education, students will be empowered to pressure their colleges and universities to meet their legal responsibilities to combat sexual violence and to accommodate survivors' needs.

MS. BRODKSY: However, the burden of enforcing the law shouldn't rest on student shoulders. Department of Education, that's your job.

We are unspeakably proud of our partners across the country who, while juggling full course-loads and campus jobs, are making headlines with their anti-violence activism.
But every hour of studying a student has to sacrifice to fight his or her university's cruel policies is another reminder of how much more the Department of Education needs to do.

MS. BOLGER: If the Campus SaVE Act is to effect real change and make American campuses safer, the Department of Education must be proactive. Men, LGBTQ students, undocumented survivors, and young people of color are particularly unlikely to come forward with their stories of violence.

Given this reality, the government cannot rely on students to bring official federal complaints. Instead, the Department of Education must take the initiative to actively monitor schools and investigate dangerous environments.

The mainstream media is doing half the job already, researching and highlighting injustices across the country. But the Department too rarely responds to documented abuse with action.

You have read the horror stories
coming out of Amherst. Why haven't you done anything yet?

MS. BRODKSY: Further, the Department and its coordinated bodies must deliver real sanctions to schools out of compliance with the law. While the National Institute of Justice estimates that 63 percent of universities shirk their legal responsibilities to address sexual violence, and though the Department of Education has investigated dozens of these institutions, uncovering unambiguously illegal abuses, no school has ever faced serious repercussions.

In 2012, at the end of an extensive campus investigation, the Department's Office of Civil Rights admitted to my co-complainants and me that Yale had clearly been violating Title IX for years. However, the OCR refused to risk controversy by making an official finding of non-compliance, denying federal funding, or referring the case to the DOJ.

Over two years later, Yale is finally facing sanctions through the...
Department, a fine for violations of the Clery Act. While $165,000 is less than one student's tuition, the fine, I hope, represents a new spirit of enforcement within the Department.

Schools, like campus rapists, are repeat offenders. Those who have the power to stop their cruelties but do not are complicit in the abuse.

MS. BOLGER: We ask the Department to take the passage of the Campus SaVE Act as an opportunity to enforce new and old civil rights law alike with the necessary force and precision. We ask you to be courageous, so we can just be students.

As one Amherst alum wrote, "I went to Amherst to go to school, not to be a crusader."

MS. BRODKSY: Thank you.
MS. BOLGER: Thank you.
MS. MAHAFFIE: Diane Rosenfeld.
(No response.)
Daniel Carter.
MR. CARTER: Good afternoon.
I certainly had two very impressive
heroes of mine to follow.

Thank you for the opportunity to address you today. This is the third negotiated rulemaking process that I have had the honor of being a part of, focusing on campus safety issues.

I helped to develop the original Campus Sexual Assault Victims' Bill of Rights back in 1991, when I was a student, and the Campus Sexual Violence Elimination Act, as a professional both at Security on Campus, now the Clery Center for Security on Campus, and in my current position as Director of 32 National Campus Safety Initiative, a program of VTV Family Outreach Foundation.

The VTV Family Outreach Foundation is a national non-profit organization founded by the families of the victims and survivors of the April 16th, 2007 shooting tragedy at Virginia Tech. And the VTV Family Outreach Foundation and 32 NCSI was created for the purpose of creating a living legacy to enhance campus safety across the country.
And we were honored to be a part of a vast coalition of experts that came together to help develop and advocate for the passage of the Campus Sexual Violence Elimination Act as part of the Violence Against Women Act reauthorization.

I don't really think I can say more than what has already been said, but I do have a few technical details that I would like to address.

Really, the Campus SaVE Act, indeed, was intended to bridge the gap between Title IX and Clery, and the different implementation options that exist within the Clery Act. And it is also intended to provide a baseline for institutions of higher education to help them better respond and, most importantly, to prevent sexual violence in our nation's college and university campus communities.

I believe that, as we pursue the regulatory process, there are certain additional things that do need to be specified, but I hope -- and I hope this will be something
that will be well-received by the audience -- based on the comments I have heard today, we certainly need community flexibility. There is no one-size-fits-all.

There are certain things that should be guaranteed to survivors of sexual violence; for example, written notification of outcomes. But prevention initiatives may vary vastly, depending upon the type of institution, the type of audience, and institutions are going to need to have flexibility to fully embrace those principles in their own community.

But there are certain things that were left out of the statute, and I think largely left to the Department to address. And this includes defining certain critical terms. And for reference -- and we can speak to this more in detail as the process goes forward -- but the original legislation did define these terms: awareness programming; bystander intervention; significantly, primary prevention.

The Campus SaVE Act is an aspirational title to eliminate sexual
violence, and primary prevention is something adopted from the public health sector, where you try to eliminate the environment that is conducive to the adverse consequences, where you eliminate the tolerance for sexual violence to begin, so that you don't have more victims; you have less victims. You don't have more young ladies like who just spoke before me have to go through what they have gone through, as brave as they are, and as honored as I am to know them and have had the chance to work with them. You know, it is a sad circumstance that that has had to be.

The definition of results of conduct proceedings can largely be adapted from existing FERPA guidelines, but I would hope that Clery regulations would formally fold that in, so that they are fully integrated and adapted into this context.

Define risk reduction. And in conjunction with existing Title IX guidelines, define what it means to be prompt, fair, and impartial, as well as to explain the overlap with the burden of proof required for conduct cases,
which the Office for Civil Rights currently
defines to be the preponderance of the evidence
standard.

The Campus SaVE Act requires that
institutions disclose the standard used, and
there should be care taken to ensure that there
is consistency between the two interpretations.

I would also encourage the
Department to explore what is meant by written
notification in a world where there is an
electronic communication.

And I would also encourage the
Department of Education to include in their
negotiated rulemaking process the
anti-retaliation statement which is also a part
of the new amendments to the Clery Act. When the
original anti-retaliation statement was
included in 2008, there was no formal regulation
to implement it. There was also no regulation
implemented to address the new Memorandum of
Understanding requirement. And I would hope
that this might afford us an opportunity to
address both of those two.
And on behalf of all of us at VTV and 32 NCSI, I greatly appreciate this opportunity again and look forward to working with the Department and everyone in this room to help keep our nation's campuses safe.

Thank you.

MS. MAHAFFIE: Thank you.

Diane Rosenfeld.

(No response.)

Okay, she is lost.

Bethany Little.

MS. LITTLE: My name is Bethany Little, and I am a managing partner at the non-profit organization America Achieves.

Results for America, a key initiative of America Achieves, is committed to ensuring that taxpayer dollars are strategically invested in programs and initiatives that yield their intended results. As such, Results for America urges the Department to move swiftly to promulgate an even stronger gainful employment rule that will be more effective in weeding out predatory
institutions of higher education to protect
students and taxpayers.

Prior to joining America Achieves,
I spent three years as the Chief Education
Counsel of the United States Senate Health,
Education, Labor, and Pensions Committee. In
this role, we undertook an investigation of the
for-profit college sector, resulting in
hundreds of pages of findings and documents that
are available online at harkin.senate.gov.

Perhaps more disturbing than any of
the cold facts that have been recounted today and
that can be read; there are the countless
students, veterans, faculty, and recruiters who
spoke to us of the outright fraud and abuse
perpetrated by predatory institutions.

When we launched the investigation,
we were told time and again that these stories
were the exception, the result of only a few bad
apples in the barrel. But it became evident
after tabulating millions of numbers and sorting
through millions of pages of documents that
included recruitment training manuals exhorting
employees to use the pain points of potential students to get them to enroll, and pointing out that mothers on welfare and victims of abuse are particularly ripe targets for enrollment, was that the core of this business model is rotten.

The financial markets love this model because the federal largesse makes the dollars bottomless and easily captured. There are some institutions that may operate differently, but, by 2009, at least 76 percent of students attending for-profit colleges were enrolled in a college owned by either a company traded on a major stock exchange or a college owned by a private equity firm.

So, why does that matter? Because the fiduciary duty of these corporations is not to the students or the taxpayers, but to the stockholders. As a result, there is no reason for them to shut down or improve a program that ruins lives with debt, but no diploma, so long as that program can continue to recruit new students, relieve them of their Pell Grant, student loans or GI benefits, and send them off
with debt but no diploma.

Congress has failed to create any counterincentive to this drive for profit. It is my understanding that some today have suggested that Congress is the appropriate place to handle this. You only hear that suggestion from those who have millions of dollars to spend on campaign contributions and lobbying to ensure that nothing, in fact, happens in Congress.

The most intense, pervasive, and manipulating lobbying I have seen in 20 years of federal policy work was on this issue. And I think that the expectation that Congress in this particular congressional environment is going to take this on in a meaningful way is laughable.

There is today almost no meaningful check on a business model that victimizes millions of Americans, absent a gainful employment rule that finally pushed some institutions to improve their practices or shut down the worst programs, a rule that must be designed to be stronger and tighter than before.

Another revelation of this Senate
investigation was the length that some companies are going to manipulate cohort default rates and 90/10 calculations. These practices are unconscionable and must be added to your agenda for regulation.

I know that you will hear stories from the other side as well, some likely told by people who worked hard for the degree from a for-profit college and who are rightly proud to have earned it. But the point is that it is not this Administration’s job to decide which stories are more compelling or even more prevalent. It is the Department of Education’s responsibility to ensure that taxpayer dollars and student debt are not accruing to programs that do not meet the statutory requirement of preparing students for gainful employment.

You have developed metrics to measure that expectation, and specific changes can be made to ensure that these metrics are more viable in a new rule. You have the advantage this time around of additional information unearthed by the Senate investigation, the DOJ,
the CFPB, and myriad state attorneys general.

The program data yielded by the short lived application of the rule offers one of the most critical points. There were schools miserably failing by wide margins, two of the three tests, and yet, they were untouched in their operation.

You should not offer a "nine strikes before you are out" approach again and should address extremely low performing programs earlier, with interim steps to push program improvement. Because, at the end of the day, that is the point of the gainful employment rule, to apply data to weed out or force improvement for those programs that are consistently leaving almost all who enroll unable to repay the debts they incurred for a substandard education. Those programs quite clearly are not preparing students for gainful employment.

In the absence of the gainful employment rule, more taxpayer dollars will be spent without yielding any real benefit for students or contributing to the development of
a skilled American workforce. And those few improvements for students that have been made in the past few years will likely slip away.

Thank you for the opportunity to speak in support of protecting students and taxpayers through regulations that must include a stronger gainful employment rule and protections from cohort default rate manipulation and 90/10 manipulation.

Thank you.

MS. MAHAFFIE: We are going to take a five-minute break, and we will come back at 3:18.

(Whereupon, the above-entitled matter went off the record at 3:12 p.m. and resumed at 3:24 p.m.)

MS. MAHAFFIE: Diane Rosenfeld.

MR. ROSENFELD: Is it on?

MS. MAHAFFIE: I think it is on.

MR. ROSENFELD: Is this thing on?

This is like one of my classes where everybody sits in back and I make them all come to the front, like "No, no, you're still going
to get called on back there."

(Laughter.)

There are plenty of seats in front if anybody would like to come up. Higher grades for those who sit in front.

(Laughter.)

Okay. You win.

Good afternoon.

I am Diane Rosenfeld. I am very happy to be here and sorry for being a little bit late. I actually got kicked out of a cab on the way here, which was an interesting experience. Otherwise, I actually love D.C. and was going to volunteer my services to help with implementation of this Act, but the next cab driver was much nicer. So, I think he has restored my faith.

But, on a more serious note, I am a lecturer on law and the Director of the Gender Violence Program at Harvard Law School. And for the past six years, I have taught a special seminar on Title IX that focuses explicitly on campus sexual assault and violence elimination,
and it is the only such seminar in the country. So, I have been at this for a long time.

I want to congratulate the Department for its groundbreaking work to promote the civil rights of all students through this new Campus SaVE Act.

I have had the honor of working with former Assistant Secretary Russlynn Ali over the past few as she worked on her legal policy development, and I also served as the senior counsel to the Office of Violence Against Women in the Clinton Administration.

So, I think it is fair to say I am pretty familiar with these issues. I currently provide legal policy advice to schools and to students across the country.

I can say that this is a complex problem with which I have dealt from inside the government and outside government. And it is a problem that has particular sensitivity around all of its dimensions. So, it requires really, really thoughtful approaches and innovation if we are actually going to effectively stop sexual
violence on campus. And I firmly believe that this new Act is our best hope and strongest tool for making that happen.

The effectiveness of this new law will depend upon its enforcement and thoughtful implementation. Anticipating this, the Act calls for the Secretary of the Department of Education to seek counsel and guidance from both the Department of Justice and the Department of Health and Human Services. Each of these agencies, in my opinion, is critical to the successful effort to eliminate sexual violence on campus.

Among the actions that schools need to undertake immediately to prepare for compliance by March 2014 is to perform due diligence with their policies and procedures. An effective response will have to be reality based, meaning schools have to really look at the problem, as it is no longer acceptable or compliant with Title IX to try to bury your head in the sand and pretend that the problem doesn't exist at your school.
We must, instead, confront the reality that one in five or one in four women will be sexually assaulted during her time in school. So, it is happening often on every campus. Most of us think our campuses are unique, and we don't confront the reality of that statistic. We think it happens elsewhere to other schools, to other people. It is happening at your school. So, we need a really thoughtful response, and this Act gives us a very clear roadmap about how to achieve that.

All educational institutions receiving federal funds should exercise this due diligence to prevent sexual harassment, protect its targets and victims, and punish its perpetrators, including by promptly investigating all reports, however informal, and by providing effective remedies for all resulting harms.

In conducting this due diligence, schools should be mindful of pre-hostile environments, school cultures that breed the type of contempt for women that we see acted out.
in cases such as Steubenville.

Schools play an enormously important role in shaping campus culture and must intervene affirmatively to teach gender equality and sexual respect. Moreover, rules should be instituted and clearly communicated regarding post-assault retaliation.

The lack of school action to prevent retaliation and gossiping among students has had tragic consequences in cases such as Lizzy Seeberg, who was assaulted by an athlete and threatened by one of his teammates, and Audrie Pott, who committed suicide in the wake of multi-perpetrator sexual assault, otherwise known as a gang rape. And I personally have been seeing more and more and more of these fact patterns cross my desk.

Schools should learn, moreover, how to investigate cases using social media. As an aside, we shouldn't have to rely on Anonymous to get at social media to prove rape cases that we should know how to investigate.

I think that schools currently seem
to miss critically important evidence in their collections and their investigation when they don't know what they are doing with social media. But kids know how to investigate social media. My students can do an investigation in one hour and come up with things that could prove a case. So, I want schools to know how to do this, to get smart about what we don't know and what we need to know.

The most promising practice, in my opinion, will involve a top-down, bottom-up approach. You need presidential leadership. I have spoken to college presidents across the country in groups and individually. You need a really committed president who makes a statement and means it and backs it up.

You need trained administrators who know how to receive a case and who know what to do with it, who know how to give resources, who know how to do the administrative things that a student will need in order to help her stay in school, for example.

And you need to listen to the
students. The students know what is going on in their culture. They know whether they are safe or not.

We are all on the same page, I would venture to say, on not wanting our students to get harmed. Students are in school to receive an education. We all want that to happen. We all want to create an environment that is as safe and healthy and thriving, promotive as possible. We want our students to succeed. And eliminating sexual harassment, eliminating sexual violence is the best way to have that happen.

So, schools educate. That is the most important thing that schools do. And we can use our role as educators to really stop sexual violence through changing the culture and really talking honestly, facing honestly and plainly and clearly without the kind of blinders what is going on in our sexual culture.

And I think that there is some anxiety among schools right now concerning compliance with the new Act, but I think that the
government can easily provide guidance to allay the schools’ concerns. Here is one way of looking at the issue:

The three things, the three critical components that make up an effective Title IX policy are mandatory preventative education, strong support services, and academic accommodations for survivors, and prompt and equitable adjudication for cases of sexual misconduct.

And interestingly, these areas map onto the three agencies who are charged with implementation of the Act, and there is some overlap between the agencies as well.

So, for mandatory preventative education, that is the Department of Education primarily. And they are the best suited to provide guidance on education policies that ensure equal access to educational opportunities.

This was quite evident in the Dear Colleague letter that Vice President Biden announced to the world at the University of New
Hampshire in April of 2011. That was an outstanding guidance to schools about what they should do. It clarified a great deal.

And now, the Department of Education, in conjunction with the Department of Justice and HHS, should produce another guidance on the implementation of this new Act.

Regarding support services for survivors and academic accommodations, the Department of Health and Human Services can be especially helpful in teaching us about rape trauma syndrome in an academic context. We know about rape trauma syndrome, and there are lots of studies about it, but there are not correlative studies on how it affects a survivor at school. It is really a different world, as we in the academic world -- we have all been in the academic world, but we know that there is a time warp, first of all, because you live your life in semesters.

And there is also the very serious problem that, if a young woman has been assaulted and she is in this closed, confined universe with
her perpetrator, then she is experiencing re-trauma every time she sees him in the dining hall or in a classroom or crossing the quad. So, we have to be very mindful of that. That is the kind of information that we can get from HHS. That is where they can be extremely valuable; also, in doing a public awareness campaign.

So, it is a little analogous to the problem of having to salute to one's perpetrator in the military context, as is currently being discussed in other rooms in Washington right now.

So, the time constraints in an educational context are more intense because of the semester, academic calendar, and the responses by the school should be calibrated as such, which brings us to prompt and equitable adjudication.

Based on my experience, I would say that this is where schools have the most difficulty figuring out how to comply. And it is also my observation that this is not brain surgery. This is not rocket science. This is
really fairly simple.

And if you have a good, solid policy that you have created with a large group of people, like the top-down, bottom-up approach that I was talking about, if you have a good policy, you know the rules of the road, it is not going to be so hard to implement. And some schools are doing it already quite well.

The area is problematic for schools because they often operate out of fear of liability. Therefore, a sound investigation and adjudication policy is in the best interest of all schools. All claims should be investigated promptly and taken as extremely serious violations because they are.

The theory of "He said/she said" should be replaced by "He said/they said," a term developed by a colleague of mine, Tom Tremblay, who was the Director of Public Safety for the State of Vermont.

And there is lots of evidence that exists to prove by a preponderance of the evidence whether or not a sexual assault has
happened. And, remember -- and I will probably say this several times, although I am almost done -- this is a civil rights context. And everybody who is concerned with this Act has to take that as the starting point.

While the behavior might well also constitute criminal violations, what we are concerned with here is school-based behavior is an educational context where you have a civil right to equal access to educational opportunities.

The Campus SaVE Act is the strongest civil rights law in an educational context to date. For this reason, it is essential that the Department of Justice Civil Rights Division and the Office for Civil Rights of the Department of Education establish a clear, open channel of communication to foster the most effective enforcement policy.

And having worked at Justice, I can say that that collaboration would present us with the best chance of real enforcement of this act, of true realization of civil rights on
campus. I see this collaboration as incredibly critical.

The three Departments should convene to produce a clear guidance to schools on the implementation of the Act's provisions. Just as schools need to let students know the rules of the road on sexual misconduct, so, too, should the government guide schools about the rules and how to best implement them.

Likewise, the government should let schools know what the consequences will be for violating the civil rights of students by tolerating, permitting, and failing to eliminate a hostile environment.

In conclusion, I stand ready to assist the Department in any way possible. Along with my students, my law students in the Gender Violence Program at Harvard, we have great resources and a depth of knowledge that we are very happy and ready to share with the Department, should you request it. And I think that we could be a valuable asset in moving forward to make equal access to educational
opportunities a reality for all.

Thank you.

Okay. Do I take questions or anything?

Thank you.

MS. MAHAFIE: We are expecting two other speakers who are not here yet. So, we are going to break until they come. We will be here until four o'clock. If anybody else is interested in speaking, please let Amy know at the front table.

Thank you.

(whereupon, the above-entitled matter went off the record at 3:39 p.m. and resumed at 3:50 p.m.)

REP. DAVIS: Well, thank you very much. Let me, first of all, thank the hearing offices for giving us the opportunity to be here and holding this until we were able to make it.

We always are a bit afraid whenever we have something timed because generally it doesn't work quite the way we timed it, and especially if there are going to be some votes.
(Laughter.)

But I am delighted to be here this afternoon. I am Representative Danny Davis from the 7th District of Illinois, but I also serve as Co-Chair of the Congressional Black Caucus' Task Force on Education.

The PLUS Loan Program was established to expand college access by providing low-cost loans to graduate and professional students and the parents of undergraduate students. Unfortunately, the 2011 decision by the Department of Education to reinterpret the definition of adverse credit has resulted in a profound disproportionate impact on Historically Black Colleges and Universities and the African American students they educate and graduate.

Without conducting an impact analysis or seeking stakeholder comment, the PLUS Loan changes denied this critical federal aid to 14,616 HBCU students. In addition to the personal hardship inflicted on these students with suddenly attempting to find the dollars to
stay in school, this change resulted in revenue losses of approximately $5 million per HBCU.

We know that once the student leaves college, he or she is very unlikely to return. Indeed, the Department's own figures indicate that only about 80 percent of students whose families are denied PLUS Loans remain in school.

I am deeply troubled by the extreme negative effects this decision is having on low-income and minority students and institutions. As HBCUs and Predominantly Black Institutions prepare for the 2013-2014 academic year, I and my colleagues in the Congressional Black Caucus are profoundly concerned that the current policy will continue to deny the college dreams of thousands of students. Therefore, the Congressional Black Caucus strongly recommends the following:

That the Department review all PLUS Loan applications for the current and upcoming academic year while new eligibility criteria is studied under the 2013 negotiated rulemaking process.
That the Department consider fair and flexible credit criteria for the PLUS Loans under the negotiated rulemaking. The criteria should not penalize families who have been impacted by the recession and the housing crisis.

In addition, the Department should consider regulations that do not rely solely on credit history to determine eligibility, but take into consideration other factors, such as current credit status, income, and employment.

In the absence of data that the previous process for PLUS Loans was broken, there should be no attempt to simply fix it. The changes in the market included in the recession argue for making it easier for parents who have rebounded from the adversity and are now on financially-sound, should-be-presumed creditworthy.

The entire parent PLUS pipeline prior to the shift in regulatory interpretation, 2013 to 2017, should have their loans evaluated using the pre-2011 criteria. Regulations

should be promulgated to ensure our federal loan programs expand access to higher education and the goal of American adults attaining a two- or four-year college education by 2020.

We realize that there is no simplicity in trying to arrive at what we would call an adequate fix for these students and for these processes, but we also know that, without some profound changes, changes that actually result in the ability of these students to attend the colleges and universities of their choice, not only are the students going to be denied an opportunity for higher education, but also the institutions who are already hanging by threads in many instances will be severely financially impacted.

So, once again, we thank the hearing offices for giving us the opportunity to be here. We recognize that there are some tough decisions and tough choices to make. But we believe, in the end, there are solutions to be found, and they will be found. And these individuals can, in fact, continue to dream what for many has been
the impossible dream, and they will, in fact, be able to experience the goodness and greatness that this great country we call the United States of America has to offer.

So, I thank you very much, and we really appreciate the opportunity.

MS. MAHAFFIE: Thank you.

Congressman Richmond.

REP. RICHMOND: Well, first of all, let me thank you for having us here as we have this hearing.

In an attempt to not to repeat everything that Congressman Davis just said, then I will adopt all of his remarks as my own remarks. So, everything he said, I will echo that.

But I will take just a different slant, and I know that the Department, through this process, and many advocacy groups, we have talked about four key stakeholders in this process, the taxpayer, the student, the school, and the parent. And I would like to focus—in on those four things.
And I would start with the school. We have to make sure that not only our HBCUs which get an impact of about 28,000 students, but all of our colleges -- and you are talking about 400,000 students that in the future could be jeopardized. The fixed costs at universities don't change much in terms of a fiscal plan and all those things. So, to take a hit in terms of students, and then to prepare, properly prepare, and have strategic plans for universities, you need some stability and you need to know what the rules are going to be, and you need to be able to adequately plan.

So, for our schools, both HBCUs and non-HBCUs, we need to make sure that we have something that is predictable, something that is fair, and something that does not hurt them.

Second, if we go on to the student, which I think is the most important part of this equation and the most important factor should be what is best for the student. And we all agree that education is the best path out of poverty, and having successful members participating in
the economy is a plus for everyone.

So, the goal should be to make sure that we as a Department, we as a government, that we are doing everything we can within our ability to make sure that a student has the ability to go to school.

And a lot of times we talk about, and especially with this process, when a kid gets into college and he makes the grades to matriculate to the next level, but can't get there because of funding, then that is a failure on us and that is a failure on government, in my opinion, because he has done what we have asked him to do, and finances should not be a reason why an otherwise matriculating student should not be able to matriculate to the next level.

And we have to remember that it is more than just numbers and facts and data; that at the end of the day, we have to remember that it is still about purpose and fulfilling a dream and making sure that you contribute to society; make sure that you change the world. And you can't do that without a proper education.
The third thing is parents, and I know a lot of people in here are worried about the parents, and people come from both sides. But I think we are all concerned on the financial burden that we are putting on parents. And I will just give you my two cents on that from a person whose mother is from the poorest place in the country, who did take out PLUS Loans so that both of her sons could go to Morehouse College at the same time. And we are worrying about their ability to pay it back, their ability to not go into bankruptcy.

But I will tell you that my mother would have went into bankruptcy 10 times if it meant both of her sons would graduate from Morehouse because that is a generational change. That changed our family for years to come.

So, I know oftentimes, especially for people who may not have all the finances, us educated people like to think for them. But, in this case, I would say that we can't always think for other people. So, the fact that some parents who may be on the borderline of being
able to afford it or not afford it, the decision should be up to them because the only thing that I know that was important to my mother and to my grandparents was that both my brother and I graduate from college. Because she knew that, if we graduated from college, no matter what financial difficulty she was in, she would be okay because her children were going to graduate from a great institution, get jobs, and be able to take care of her.

So, I am not saying that we shouldn't at all factor in the debt that parents are saddled with, but we shouldn't insert our judgment for theirs, once they make the decision that this is a priority.

And with that, as Congressman Davis talked about, the things we look at in determining whether someone should get a loan, I would also say that we should look at, in terms of credit history and all of those things, we should look at their credit history in some specific ways. So that if they have demonstrated making education loans a priority,
and they may be late on other bills or other things, but they paid the high school tuition and they didn't default on that -- so, if a person has a demonstrated ability of prioritizing spending on education or on their mortgage, I think that should bear more weight because nowadays some high school tuitions are close to college tuitions, especially in the HBCU area. So, if a parent has a track record of paying that tuition at a high school, then I think that should be used as the No. 1 indicator that they value education; they put it as a priority, and they will make their PLUS Loans, too.

And then, the last factor is the taxpayer. This is where it is going to take a lot of different opinions, but I will just tell you, from being in a state legislature for 11 years, Chair of Judiciary, and very involved in criminal justice reform, that we can take a chance on a student and some parents right now. And you can take a chance on them. We can assume any arbitrary you want, and this is purely an arbitrary number, but you could take a chance on
them for $30,000, and we may lose. But if we
don't take a chance on them, it is $30,000 a year
to incarcerate someone.

So, when we start talking about the
numbers and the fact that we will have some
people default, and we will, the question
becomes what is a better investment. Do we try
to stop it on the front end? Do we try to produce
a great taxpaying citizen with a bright future
who contributes to society and maybe find that
cure to cancer? Or do we take the very cautious
approach, hold our resources, and pretty much
push someone into other decisions and other
challenges?

And not all people will go to
college. Some will be very successful without
going to college.

But we should err on the side of
making sure we are as inclusive as possible
because, for every default, there is going to be
more and more costs that we pay other places.

So, if we are going to start comparing, let's
make sure we look at a global picture to make sure
that, as a Department, as a government, we are
doing everything we can to give everybody every
opportunity to succeed.

    So, once again, I will adopt the
recommendations made by both Congresswoman
Corrine Brown and Danny Davis.

    And thank you again for allowing me
to testify.

    MS. MAHAFFIE: This concludes our
hearing.

    Thank you very much for coming.

    (Whereupon, the above-entitled
matter went at 4:05 p.m.)